January 16, 2014

New York City Human Rights Law Expands Duty to Accommodate Pregnant Employees

On January 30, an expansion to the New York City Human Rights Law to include pregnancy discrimination will go into effect. Under the new law, NYC employers with four or more employees will have a duty to provide reasonable accommodations to pregnant women and those who suffer medical conditions related to pregnancy and childbirth. Examples of reasonable accommodations listed in the bill include assistance with manual labor, bathroom breaks, disability leave for a reasonable period of time arising from childbirth, breaks to facilitate increased water intake and periodic rest breaks for those who stand for long periods of time.

The Legislative Intent section of the bill suggests that when an employee requests a reasonable accommodation in order to maintain a healthy pregnancy, it generally is not reasonable for the employer to place that employee on an unpaid leave of absence. Although the New York City Commission on Human Rights and the New York courts have not yet interpreted or applied this new law, the Legislative Intent section suggests that employers may have a duty to accommodate pregnant employees with medical restrictions by providing such employees modified job duties, assistance to perform certain job duties or alternative job duties.

An employer is required to provide such accommodations that would permit the employee to perform the "essential requisites of the job," unless (i) the employer is unaware that the employee is pregnant, has given birth or has a related medical condition; (ii) providing the accommodation will result in an undue hardship for the employer; or (iii) the employee would not be able to perform the essential requisites of the job even with the accommodation.

NYC employers will be required to provide written notice of these new pregnancy and childbirth accommodation rights to new employees at the start of their employment and to existing employees within 120 days of the law's effective date of January 30, 2014. In addition to providing each individual employee with written notice of these rights, employers also should post in a conspicuous location the poster provided by the New York City Commission on Human Rights. The poster is available here.

Employees who believe their employers have violated the new law will have the ability to file a claim with the New York City Commission on Human Rights or pursue a private right of action in court without first exhausting administrative remedies. Remedies for violating the law include back pay, front pay, compensatory damages, punitive damages, attorney fees and costs.