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When "No" Costs Millions: Mishandling Pregnancy Accommodation Requests

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Earlier this year, a Hamilton County, Ohio, jury delivered a verdict that should command employers' attention. The case began with what should have been a straightforward pregnancy accommodation request: an employee in a high-risk pregnancy asked to work from home after emergency surgery and a physician's order for bed rest.

The employer denied the request because the doctor's note lacked enough detail and an end date. When the employee returned with a more specific letter explaining that remote work was needed "to prevent further complications with her high-risk pregnancy," the employer denied the request again and offered unpaid leave instead. Unable to lose her income and health insurance, the employee returned to the office. Two days later, she was hospitalized and delivered at 20 weeks. Her baby did not survive.

In a grim irony, the employer approved the work-from-home request the same day she went into labor — but only after an HR manager at her husband's workplace warned that the denial appeared improper. The executive who reversed course reportedly replied, "Thank you. You just saved us a lawsuit." It was too little, too late.

What followed was not a typical accommodation lawsuit with familiar limits and predictable

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remedies, but a wrongful death claim that dramatically expanded the stakes. For employers, the lesson is direct: delay, rigid process, and poor documentation can turn a routine HR decision into costly legal, operational, and reputational exposure.

A Routine Workplace Decision Becomes an Uncapped Tort

The baby's estate brought a wrongful death claim, alleging that the employer's negligent denial of a reasonable accommodation proximately caused the premature birth and death. The jury awarded $25 million in total compensatory damages and apportioned 90% of the fault to the employer, resulting in a net judgment of roughly $22.5 million. Because the court declined to award punitive damages, the judgment was compensatory and uncapped.

The 90% apportionment reflects the jury's conclusion that the denial, rather than the underlying medical condition, was a primary driver of the outcome. Equally significant is the theory itself: the case suggests that a company may owe a duty of care not only to its employee but also to the employee's unborn child, when it is on notice that a workplace decision bears directly on the health and safety of a pregnancy.

Why the PWFA Changes the Analysis

The Pregnant Workers Fairness Act (PWFA) should be the starting point for pregnancy accommodation requests. Unlike the Americans with Disabilities Act (ADA), the PWFA does not require an employee to show that a pregnancy-related limitation rises to the level of a disability. It requires reasonable accommodation of known limitations related to pregnancy, childbirth, and related medical conditions — even when those limitations would not qualify as disabilities under the ADA. That distinction is critical for HR professionals and managers because they should not approach

pregnancy-related requests by asking first whether the employee is “disabled.”

The statute also has practical limits for day-to-day HR decision-making. It generally forbids forcing an employee onto leave when another reasonable accommodation would let her keep working, and it expects a fact-specific, individualized assessment. When a healthcare provider identifies a workplace change needed to protect a high-risk pregnancy, brushing the request aside can create risks that extend well beyond a conventional statutory claim.

The ADA may still be relevant where pregnancy complications substantially limit a major life activity, but employers should not wait for that analysis before responding. In practical terms, once an employee connects a workplace change to pregnancy, childbirth, or a related medical condition, the safest next step is to begin the interactive process promptly and evaluate what can be done to keep the employee working safely.

Where Employers Go Wrong

The mistakes that create exposure in pregnancy accommodation matters are familiar: the reflexive “no,” the insistence on a note that says exactly the right words, the delay while documentation is debated, and the decision to send the employee home rather than consider how she can keep working safely. Each appears in the story above.

Forcing leave when work was possible. Offering unpaid leave in place of a workable accommodation is not a safe harbor; under the PWFA, it can be a violation outright.

Fighting over documentation. Treating the first note as deficient because it lacked a magic word or end date turned a medical need into a clerical dispute. The better course is to ask for specific information while granting an interim accommodation when appropriate.

Delay. Every day an urgent pregnancy accommodation request lingers is a day of accumulating risk. Here, a two-day delay proved fatal.

Blanket policies applied without thought. Rigid in-office or attendance rules that leave no room for medically documented pregnancy-related needs invite both statutory claims and, now, tort exposure — especially where remote work has been allowed before.

Careless internal communications. Every email about an accommodation request may one day be read to a jury. Document the good-faith process in neutral, professional terms, and assume every word may be scrutinized.

What Thoughtful Engagement Looks Like

None of this requires saying yes to every request. It requires taking pregnancy accommodation requests seriously the moment they arrive. HR and management should:

- Acknowledge the request promptly.
- Focus on the work limitation and requested accommodation, not whether the condition qualifies as a disability.
- Ask only for documentation needed to understand the pregnancy-related limitation and potential accommodation.
- Consider interim accommodations, remote work, schedule changes, light duty, temporary job modifications, or other practical alternatives.
- Keep the employee working whenever that can be done safely and reasonably, rather than defaulting to leave.
- Document each step in neutral, professional language and escalate high-risk or time-sensitive requests quickly.

Handled this way, pregnancy accommodation decisions often resolve quietly and cheaply. The expensive part is usually not the accommodation; it is the delay, rigidity, poor documentation, or default to leave when work remains possible. Treat medically supported pregnancy accommodation requests as time-sensitive, keep the employee working when it can be done safely and reasonably, and assume the internal record may one day matter.

The Bottom Line

The question is no longer simply whether a denied pregnancy accommodation might draw an EEOC charge or a statutory discrimination suit. As this case shows, an improperly handled denial may trigger consequences no one anticipated. In an era where the PWFA, the ADA in appropriate cases, and common-law tort theories may operate in parallel, the margin for error has narrowed.

Employers that engage in good faith to accommodate documented pregnancy-related needs do more than reduce legal risk. They protect their people, their culture, and their bottom line. Train managers, involve counsel early when a pregnancy accommodation request carries real medical weight, and remember that the cheapest risk management available is a prompt, genuine, well-documented conversation.

Akerman's Labor & Employment Group is available to assist employers with accommodation requests, interactive process decisions, and the defense of related claims.

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without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.