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EMPLOYER NEWSLETTER
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ACCOMMODATIONS FOR PREGNANT EMPLOYEES
Do your policies discriminate against pregnant employees?

On March 25, 2015, the U.S. Supreme Court ruled that an employee, who was denied light-duty work to accommodate her lifting restrictions during her pregnancy, could proceed with her lawsuit to determine if her employer violated the Pregnancy Discrimination Act ("PDA") because it treated pregnancy differently than other short-term disabilities.

CASE FACTS

Peggy Young, a part-time UPS delivery driver, was required to lift packages weighing up to 70 pounds. When she became pregnant, her medical provider restricted her from lifting more than 20 pounds for the first five months of her pregnancy, and no more than 10 pounds thereafter. Young presented the note to UPS and requested a light-work duty assignment as an accommodation. UPS denied Young's request, citing its policy of assigning light-duty only to employees with restrictions due to work-related injuries. Because she was no longer able to perform the regular duties of her job, UPS did not allow Young to work at all. She exhausted all her FMLA leave time and took an extended unpaid leave of absence, during which her medical benefits eventually expired. When Young eventually returned to work at UPS, she filed suit against the company for damages, including her loss of income and benefits, alleging that UPS violated the PDA by denying her employment during the time of her restriction instead of assigning her to light-duty.

SUPREME COURT'S RULING

The issue before the Supreme Court was whether UPS' light-duty policy violated the PDA by treating pregnancy differently than other work-restricting conditions. In a 6-3 decision, the Court ruled that an employee should be allowed to provide evidence in court that an employer accommodated "a large percentage of non-pregnant workers while failing to accommodate a large percentage of pregnant workers." The Court found that Young had shown there was a real question as to "whether UPS provided more favorable treatment to at least some employees whose situation cannot reasonably be distinguished from hers." Consistent with the decision, the Supreme Court sent the case back to the Fourth Circuit court to decide if UPS's policy for assigning light-duty in effect imposes a burden on pregnant employees and to determine if the reasons cited by UPS for the policy are insufficient to justify the burden.

TAKEAWAY FOR EMPLOYERS

Employers should review any policy (especially their leave of absence, sick, vacation, disability, and light-duty policies) that could treat pregnancy differently than other conditions or that could impose a burden on pregnant employees. Also, in revising and applying their policies, employers should explore reasonable accommodations for pregnant employees who can perform the essential functions of their jobs or of positions that are made available to other employees. If a policy makes accommodations for some workers but not others, Employers are prudent to consider what accommodations might be made for pregnant employees to avoid violating the PDA.