

# Women's Guide to Pregnancy on the Job

## in the United States

**I**n the United States, there are federal and state laws that make it illegal for employers to fire or to refuse to hire a woman because she is pregnant.

The federal law fully protects U.S. citizens and permanent legal residents. Workers without a valid work permit are also protected under discrimination law, but may not be eligible for all public benefits programs.

The federal law considers pregnancy a "temporary disability." Under the law, employers with 15 or more workers must give pregnant workers the same benefits as it gives to workers with other temporary disabilities.

Some state laws protect workers of employers that have fewer than 15 employees. Many states require employers to give pregnant workers certain benefits regardless of whether they give them to other workers.

Depending on how many workers your employer has, you might be protected by federal or state laws or by both.

### Applying for a job during pregnancy

- It is against the law for an employer to refuse to hire a woman because she is pregnant.
- If you are pregnant at the time that you apply for a job, you do not have to tell the employer that you are pregnant.
- An employer may not normally ask you whether you are now pregnant or plan to become pregnant in the future.



### Am I protected?

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| <b>Federal law</b> | Yes, but only if your employer has at least 15 employees.                             |
| <b>State law</b>   | Yes, and some state laws protect you even if your employer has fewer than 15 workers. |

#### **What does “temporary disability” mean?**

- A temporary disability is a mental or physical condition that affects your ability to work only for a short time.
- It is NOT a long-term physical or mental condition, like blindness.
- For example, a worker who breaks a leg may need time off because he or she is temporarily disabled.
- Most states consider pregnancy to be a temporary disability.

#### **How long may I work during my pregnancy?**

- You have the right to keep working during your pregnancy as long as you are able to perform your job well.
- Your employer may not fire you, force you to take a lower paying job, or force you to take leave simply because you are pregnant.

#### **What if I need to take time off during my pregnancy?**

If your employer has allowed other employees to take time off during a temporary disability, then the employer must do the same for pregnant workers.

#### **Will I be paid during maternity leave?**

- Your employer is not required to pay you during maternity leave, if the employer allows leave at all.
- Your employer can insist that you use your sick leave for absences during pregnancy and after childbirth.
- BUT, if your employer provides temporary disability insurance, you may receive at least part of your wages during your absence.
- Some states require employers to allow pregnant workers a certain amount of time off whether or not the employer does the same for other workers. Check the laws in the state where you are working.

#### **What is temporary disability insurance?**

- Temporary disability insurance pays for medical expenses and lost wages while a worker is unable to work.
- Some employers provide workers with temporary disability insurance. Find out what your employee benefits are.
- ALSO, five states and Puerto Rico have temporary disability insurance programs. The states are: California, Hawaii, New Jersey, New York, and Rhode Island.
- This means that the state government pays part of your wages during temporary medical conditions, including pregnancy.

#### **What about larger employers?**

The Family Medical Leave Act (FMLA) is a federal law that requires larger employers to provide leave to workers who need to take care of certain family responsibilities. The law gives up to 12 weeks of unpaid leave during a 12-month period. If you take time off under this law, you have the right to get your same or an equivalent job back. The law may apply to you if:

- your employer has 50 or more employees;
- you have worked for your employer for at least 12 months and 1250 hours during the 12 months before you need leave;
- you have either given birth or adopted a child within the last 12 months;
- you have a serious illness or injury that has made you unable to work. If your doctor says you are sick and unable to work during your pregnancy, the law may apply to your situation; or
- you need to care for a spouse, child or parent who is seriously ill.

Both men and women are covered by FMLA.

### Does my employer have to give me my job back when I return from maternity leave?

- Federal law requires your employer to hold your job open for you if it does the same for other workers with temporary disabilities.
- You must be given the same position or another position with the same wages and benefits.
- Many states also require smaller employers to do the same.
- A few states protect pregnant workers' jobs during maternity leave even if employers do not give other workers the same protection.
- Remember: it is important to know the laws of the state where you are working.
- For more information, contact your state office for worker's occupational safety and health.

### What can I do if an employer discriminates against me because I am pregnant?

- If an employer discriminates against you because of your pregnancy, you may be able to file a complaint with the Equal Employment Opportunity Commission (EEOC).
- You can reach the EEOC at: 1-800-669-4000.
- Most states have human rights or civil rights offices that can also help.

For more information see [Guide to Employment Discrimination Laws in the United States](#).

### Will my employer pay for my prenatal health care?

- If your employer does not offer health insurance, the law does not require the employer to provide it to pregnant workers alone.
- If your employer provides health insurance that covers temporary disabilities, then the employer must choose a plan that also covers pregnancy.
- If you are a farm worker with a valid work permit, there are many migrant health clinics in the United States where you can get prenatal care.



### Getting prenatal care

#### Migrant health clinics

- Migrant farm workers, including legal permanent residents and workers without a valid work permit, can get free prenatal care at one of the migrant health clinics throughout the country.
- The federal government considers childbirth to be an “emergency service.” That means that the cost of childbirth will still be paid for anyone in the U.S. who cannot afford to pay for it.

#### Medicaid

- Permanent legal residents (except elderly and disabled persons) who arrived in the U.S. after 1996 can no longer receive Medicaid. Medicaid is the government health insurance program for the poor.
- In most states, most temporary legal residents and undocumented workers do not qualify for Medicaid.
- BUT, in California and Washington they can receive prenatal care during at least part of their pregnancy.

### Safety of pregnant workers

- Federal and state laws require employers to maintain a healthy and safe work environment for all workers, including pregnant workers.
- Your employer cannot force you to work in an environment that is a danger to your health and safety.
- For more information, see [Guide to On-the-Job Safety and Health in the United States](#).

### Breastfeeding

In two states (Georgia and Minnesota), employers must provide break time and a private place for mothers who need to breastfeed their infants or to express breast milk.

### Physical labor

- Your employer does NOT have the right to discriminate against you as a pregnant worker, even if your job requires you to do physical labor.
- If you are still able to perform your job well, then you have a right to keep working.
- Your employer may not dismiss you or force you to take leave unless you agree that it is necessary for your safety and the safety of your unborn child.

**Remember:** you have the right to ask your boss to put you in a less demanding job or to give you lighter duties if your employer has done the same for other workers with temporary disabilities.

- Farm workers are generally protected by federal and state employment discrimination laws.
- Undocumented workers are also protected by federal and state laws.

### Farm workers: Tips for a safe and healthy pregnancy

#### Pesticides

- Being around pesticides while you are pregnant can be very dangerous to both you and your unborn baby. Make sure you read and follow all pesticide labels and warning signs.
- Wash your hands each time you use the bathroom and before eating to avoid getting germs or pesticides inside your mouth.
- For more information on how to protect yourself from pesticides, see [Guide to Pesticide Safety in the United States](#).

#### Dehydration

- Dehydration can be dangerous to the health of your unborn child, especially if you work with pesticides.
- Dehydration is a loss of water and other important fluids in the body. Half of a woman's weight is made up of water. The body needs to maintain a certain amount of water to work properly.



- Working outside in the sun for long periods of time without drinking water can easily cause dehydration.
- You must drink plenty of water throughout the day for a healthy pregnancy.

#### Diet

- Remember to eat a well-balanced diet, especially foods that have a lot of iron in them.
- Make sure you take the iron tablets that your doctor gives you. This will help you feel less tired.

#### Prenatal care

- It is important to visit the doctor often during your pregnancy.
- If you are a farm worker you can get free health care for yourself and your children at a migrant health clinic.
- There are 400 migrant health clinics in 42 states and Puerto Rico.
- To locate the clinic nearest to you, contact "Call for Health" at: 1-800-377-9968. English and Spanish are spoken.



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