masuda funai

News & Types: 雇用／労働法／福利厚生関連情報

妊娠中の従業員を軽作業から除外することは、必ずしも妊娠差別禁止法に違反せず

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An employer can lawfully require pregnant employees with lifting and other restrictions to go on leave and deny temporary light duty work available to workers injured on the job. On August 16, 2022, the Seventh Circuit Court of Appeals upheld Wal-Mart Stores East, L.P.'s (Walmart) “Temporary Alternate Duty” Policy (TAD Policy) that offers light duty only to those workers injured on the job. Equal Employment Opportunity Commission v. Wal-Mart Stores East, L.P., (2022 WL 3365083).

In September 2018, the Equal Employment Opportunity Commission (EEOC) filed a class action lawsuit against Walmart, claiming that the denial of light duty to pregnant women violated the Civil Rights Act of 1964 and the Pregnancy Discrimination Act. Under the TAD Policy, Walmart offered light duty to workers injured on the job who wanted to keep working and earning their full wages while complying with relevant medical restrictions. Walmart claimed the TAD Policy was designed to comply with Wisconsin’s worker’s compensation laws and reduce overall costs while improving employee morale. Walmart did not offer light duty, under the TAD Policy or otherwise, to pregnant workers or workers who were injured off the job.

The Pregnancy Discrimination Act amended Title VII to provide “women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes ... as other persons not so affected but similar in their ability or inability to work.” Id. (emphasis added). The Court found that Walmart established a legitimate, non-discriminatory reason for the TAD Policy, and excluding pregnant employees and all other workers was not discriminatory. The Court rejected the position that pregnant workers are entitled to “most-favored-nation” status. The Seventh Circuit distinguished this case from prior cases, including one involving United Parcel Service (UPS), where UPS denied light duty to a pregnant driver. The facts in the UPS case were that UPS not only accommodated drivers who had become disabled through on-the-job injuries but also those who had lost federal Department of Transportation certifications, and those who had disabilities covered by the Americans with Disabilities Act of 1990.

Nevertheless, employers should consult with their employment law advisors when implementing policies that apply exclusively to specific groups of employees or before responding to requests for accommodations by pregnant employees.