

# EEOC's Final Pregnancy Accommodation Rules: 5 Things CHROs Need to Know

The EEOC issued final rules that spell out employer obligations regarding accommodating pregnant employees and job applicants. Under the rules, employers must provide reasonable accommodations for individuals experiencing a wide range of qualifying pregnancy-related conditions. The rules will go into effect June 18, 2024.

## Quick Background

The rules are part of the Pregnant Workers Fairness Act (PWFA), a law which was enacted by Congress in 2023. [The HRPA-supported law](#) requires employers to provide reasonable accommodations for pregnant employees and job applicants in a similar manner as employees with disabilities under the Americans with Disabilities Act. The law directed the EEOC to issue rules providing further specifics and requirements for the law. [The Association submitted comments](#) taking issue with certain aspects of the rules, including the length of the period during which employers must provide accommodations.

## Top 5 practical takeaways for CHROs:

### 1. Many different pregnancy-related conditions are covered, including abortion.

The rules define “pregnancy, childbirth, or related medical conditions” extremely broadly, including:

- Contraception
- Pregnancy termination (miscarriage, stillbirth, or abortion)
- Menstruation
- Infertility and fertility treatment
- Lactation issues
- Current, past, future pregnancies

### 2. Employers must accommodate employees who are unable to perform essential job functions – for potentially up to one full year.

Under the rules’ broad and vague definitions, employers may be required to provide accommodations for qualifying employees for up to a full year, even if they are unable to perform their job functions.

### 3. Otherwise healthy and pregnant employees may still require accommodations.

The rule requires employers to provide accommodations for any “known limitations” caused by pregnancy-related conditions. “Known limitation” is defined very loosely, meaning employees can seek accommodations for minor effects or for even simply seeking care for their pregnancy or related condition – employers cannot deny requests on the basis that limitations are not severe enough.

### 4. Employers can still deny accommodation requests.

Like the ADA, the rules clarify that employers can deny accommodation requests where they would impose too much of a burden (“undue hardship”) on operations. Factors to consider when determining whether a request would constitute an “undue hardship” include:

- The length of time the employee or applicant will be unable to perform the essential function
- Whether there is work for the employee or applicant to accomplish
- The nature of the essential function, including its frequency
- Whether the essential function can be postponed or remain unperformed for any length of time and, if so, for how long
- Whether you have provided other employees or applicants in similar positions who are unable to perform essential functions with temporary suspension of those functions and other duties
- Whether there are other employees, temporary employees, or third parties who can perform or be temporarily hired to perform the essential function in question, if needed

### 5. What reasonable accommodations look like.

The rules provided some potential accommodations for employers to consider, including:

- Job restructuring
- Schedule changes, part-time work, and paid and unpaid leave
- Frequent breaks
- Acquiring or modifying equipment, uniforms, or devices
- Making existing facilities accessible or modifying the work environment
- Allowing sitting or standing (and providing means to do so)
- Light duty
- Telework or remote work
- Providing a reserved parking space
- Temporarily suspending one or more essential function
- Adjusting or modifying workplace policies

## What’s next? Some specific steps to consider:

- Get your HR department up to speed.** make sure your HR teams know when they are required to provide reasonable accommodations, and what those accommodations might look like (see #5 above).
- Be prepared to adapt work patterns and schedules.** you may be required to accommodate employees who are unable to perform job functions for extended periods of time; make sure needed flexibility is in place ahead of time.
- Keep legal in the loop.** Make sure your legal team is integrated into accommodation decisions and understands the thresholds for where requests become unduly burdensome under the law.