



Legal Update: Pregnancy Discrimination

by Peggy Mattimoe Sturegon and Colleen L. Maloney

The Ohio Supreme Court recently held that companies that mandate a minimum length of service before allowing employees time off are not engaging in discrimination if they fire pregnant workers who can not meet the requirement.

In *McFee v. Nursing Care Management of America, Inc.*, Tiffany McFee was fired by Nursing Care Management of America, Inc. (NCMA), in February 2004 because she took medical leave for a pregnancy related condition less than a year into her employment. To support the termination, NCMA cited its employment policy that allowed up to 12 weeks of leave only after an employee had been working for a year.

The Ohio Civil Rights Commission ruled that NCMA's policy discriminated on the basis of pregnancy against pregnant workers. The case made its way through the lower courts and up to the Ohio Supreme Court. The Court noted that for employment-related purposes, Ohio law provides that pregnant employees must be treated the same as employees who are

Offices

Toledo Office:

One Seagate, 24th Floor
P.O. Box 10032
Toledo, Ohio 43699-0032
Telephone: 419-241-6000
Fax: 419-247-1777

Columbus Office:

100 E. Broad Street, Suite 600
Columbus, Ohio 43215
Telephone: 614-564-1445
Fax: 614-280-1777

Findlay Office:

510 S. Main Street
Findlay, Ohio 45840
Telephone: 419-424-5847
Fax: 419-424-9860

Novi Office:

28175 Haggerty Road
Novi, Michigan 48377
Telephone: 248-994-7757
Fax: 248-994-7758

www.eastmansmith.com

About the photo: Attorneys in the Labor and Employment Practice Group.

not pregnant but who are similar in their ability or inability to work. The court held that “the phrase ‘treated the same’ in (Ohio law) ensures that pregnant employees will receive the same consideration . . . thus the statute does not provide greater protections for pregnant employees than nonpregnant employees.” Because Nursing Care Management’s leave policy was uniformly applied, the court found that McFee was treated the same as every other employee who had not met the length of service requirement before taking leave. As such, the Court found that her termination for failure to comply with the company’s policy was not evidence of gender discrimination.

Based on the decision of the Ohio Supreme Court, employers can impose an employment leave policy that mandates a minimum length of service before allowing time off, as long as employers apply the policy equally to all employees.



Ms. Sturgeon is a member who represents employers before federal and state courts, as well as federal and state administrative agencies. Her practice also includes counseling of employers regarding a wide variety of employment matters.



Ms Maloney, an associate, concentrates her practice in the areas of labor, employment and workers' compensation. She and Ms. Sturgeon may be reached at our Toledo office (419-241-6000).

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