

AMENDATORY SECTION (Amending WSR 19-17-041, filed 8/15/19, effective 9/23/19)

WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodations? (1) An employer must provide employees who are pregnant or have a pregnancy-related health condition a reasonable pregnancy accommodation (~~(for reasons as required in RCW 43.10.005-)~~), which includes the following:

(a) Providing more frequent, longer, or flexible restroom breaks;
(b) Modifying a no food or drink policy;
(c) Providing seating or allowing an employee to sit more frequently if the job requires standing;

(d) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express breast milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs;

(e) Job restructuring, part-time or modified work schedules, re-assignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;

(f) Providing a temporary transfer to a less strenuous or less hazardous position;

(g) Providing assistance with manual labor and limits on lifting;

(h) Scheduling flexibility for prenatal visits; and

(i) Any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the employee's attending health care provider.

(2) An employer cannot require an employee who is pregnant or has a pregnancy-related health condition to take leave if another reasonable pregnancy accommodation can be provided.

(3) The employer is not required to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

AMENDATORY SECTION (Amending WSR 19-05-056, filed 2/15/19, effective 3/29/19)

WAC 357-26-040 When may an employer deny a reasonable pregnancy-related accommodation? The employer may deny a reasonable pregnancy-related accommodation based on undue hardship, which means an action requiring significant difficulty or expense, to the employer's program, enterprise or business for pregnancy accommodations listed in WAC 357-26-035 (1)(d) through ~~((h))~~ (i). The employer may not claim undue hardship for the pregnancy accommodations listed in WAC 357-26-035 (1)(a) through (c) or for limits on lifting over seventeen pounds.

AMENDATORY SECTION (Amending WSR 19-05-056, filed 2/15/19, effective 3/29/19)

WAC 357-26-045 When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation what documentation may the employee be required to submit?
When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation, the employee may be required to submit written certification from their licensed physician or health care professional for those pregnancy accommodations listed in WAC 357-26-035 (1) ~~((d))~~ (e) through ~~((h))~~ (i). An employee is not required to submit written certification for pregnancy accommodations listed in WAC 357-26-035 (1)(a) through ~~((e))~~ (d) or for limits lifting over seventeen pounds.