



Insight

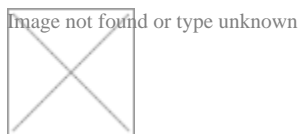
Do Pregnant Workers Need Greater Labor Market Protection?

BEN GITIS | JUNE 25, 2015

Young v United Parcel Service, Inc., a recent Supreme Court case dealing with workplace treatment of pregnant employees, focused attention on whether current workplace protections are strong enough. A review of the data reveals that women who want to work during their pregnancy tend to struggle in the labor market. In light of the *Young v United Parcel Service Inc.* case, one option to help pregnant women in the labor force is enhancing their workplace protections, such as the recently introduced [Pregnancy Discrimination Amendment Act](#) to ensure pregnant and non-pregnant workers are treated equally.

In the Supreme Court case, Peggy Young, a driver for United Parcel Service, Inc. sued claiming discrimination when she became pregnant. Her lawsuit cited a section of the Pregnancy Discrimination Act that orders employers to treat pregnant workers the same as others who are similar in their ability or inability to work. While the Supreme Court ruled in favor of Young, the case suggested that current law may lack the clarity needed to ensure workplace protections for pregnant women.

An examination of labor market data suggests that despite the existing Pregnancy Discrimination Act pregnant workers may indeed still face discrimination in today's workplace. For instance, pregnant women are more likely to be let go from their job than other workers. According to a Census Bureau report, from 2006 to 2008 4.7 percent of working women who were pregnant with their first child were fired.^[1] That is drastically higher than the economy average. Job Openings and Labor Turnover Survey (JOLTS) data reveal that during that same time period on average only 1.4 percent of all employees in the country were let go from work. Even more striking is that while the firing rate of all workers remained flat from 1996 to 2008, for first-time pregnant women it more than doubled.^[2]



At the same time that pregnant women are more likely to lose their jobs than everyone else, data suggest that those who desire to return to the labor force soon after giving birth have a more difficult time securing a job. A separate Census Bureau report found that in 2012 of the 2,554,489 women in the labor force (ages 15 to 50) who had given birth within the previous 12 months, 361,089 were unemployed.^[3] This suggests that in 2012 working women who just gave birth in the last year had an unemployment rate of 14.1 percent. That was significantly higher than the 10.3 percent unemployment rate for all women ages 15 to 50 and the 8.1 percent rate for the entire labor market in 2012.^[4]

These labor market trends may contribute to the fact that women who had just given birth in 2012 were almost twice as likely to be in poverty as the entire United States. In 2012, 27.9 percent of all women who gave birth within the previous 12 months were in poverty.[5] That is almost double the percentage of all Americans (15 percent) who were in poverty in 2012.[6]

Since the statute governing the legally required accommodations of pregnant women is not totally clear in the wake of the Supreme Court's decision, legislation to address these concerns should be carefully considered. One approach is the Pregnancy Discrimination Amendment Act, introduced by Representative Tim Walberg and Senator Lisa Murkowski. It would amend the Pregnancy Discrimination Act to more clearly state that pregnant women in the labor market must be treated the same as other workers in their *temporary* ability or inability to work. The bill specifically adds the word "temporary" to indicate that employers are prohibited from treating pregnant workers differently from other workers who, for instance, temporarily cannot work due to health reasons other than pregnancy. This type of a clarification could help reduce the rate at which pregnant workers lose their jobs. The bill also clarifies that this standard applies to both applicants and employees of an employer. As a result, the bill indicates that an employer must treat pregnant applicants in the same way it would treat other applicants who temporarily cannot perform certain or all functions at work. This explicit clarification would ensure legal protection to women in the job market during or after their pregnancy.

The case of *Young v United Parcel Service, Inc.* highlighted that the current Pregnancy Discrimination Act lacks clarity for how pregnant workers are protected by the law. As a result, pregnant women may indeed lack adequate protection as the data reveal that they are let go more often and have a higher unemployment rate than the rest of the labor market.

[1] "Maternity Leave and Employment Patterns of First-Time Mothers: 1961-2008," Census Bureau, October 2011, <https://www.census.gov/prod/2011pubs/p70-128.pdf>