

Mental Health During Pregnancy and Postpartum: Your Workplace Rights

This guide gives an overview of your legal rights and options at work when you are experiencing mental health conditions related to pregnancy and childbirth.

For help, contact our free legal helpline: 415-703-8276

You're Not Alone. Mood and anxiety conditions are among the most common pregnancy complications. [Research shows](#) roughly 1 in 5 women will experience a mental health condition during pregnancy or in the year after birth.

- Have you experienced the “baby blues” or symptoms of mental health conditions such as [anxiety](#) or depression [during](#) or [after](#) pregnancy?
- Are you receiving treatment for mental health conditions such as: anxiety or panic disorders; perinatal or postpartum depression; postpartum psychosis; or complicated grief after perinatal loss?
- Not sure what to call the symptoms you're experiencing such as sadness, anger, difficulty sleeping or concentrating, fear, or despair?

You may have workplace rights that make it easier to do your job or to get the mental health support you need, even if you don't have a formal diagnosis.

Most workers have a legal right to receive changes at work or time off that they need for their mental health and emotional wellbeing during pregnancy, after giving birth, and following pregnancy loss or abortion.

Getting Changes at Work:

Under a national law called the Pregnant Workers Fairness Act, **if your employer has 15 or more employees, you have a right to reasonable accommodations if you need them because of pregnancy-related symptoms, complications, and conditions—including mental health issues.** “Reasonable accommodations” are changes to how, when, and where your job is done. These changes must be provided unless they would cause an “undue hardship” (a significant difficulty or expense).

How to access reasonable accommodations:

- (1) Start by reflecting on what would be best for you.** Consider your needs and how to best meet them. If you are receiving mental health support from a doctor, counselor, or other trusted person, discuss your needs or difficulties at work and changes that might make things easier.

The changes you need may be different than other pregnant or postpartum employees—and that's OK. Examples of reasonable accommodations:

- Time off to attend therapy sessions
- Temporarily moving your workstation to a more private or less distracting space
- Working from home (telecommuting)
- Modified work schedule or hours

- (2) To get accommodations you will need to speak with your supervisor or human resources.** Tell them you need changes under the Pregnant Workers Fairness Act because of a need you have related to pregnancy, childbirth, or a related medical condition. Put this in writing, if possible.



For a step by step guide to requesting accommodations, see [Talking to Your Boss About Your Bump](#).

(3) Your employer may ask you for a medical note or to have your healthcare provider fill out a form. Or you may want to provide a medical note to support your request.

- There are limits to when your employer can ask for medical documentation, and to what information it can legally request. To learn more, check out our FAQ on medical paperwork.
- Many people are nervous about submitting notes because of worries about sharing private information related to their mental health. That is understandable. You should know:
 - The note or form can be from a doctor, midwife, therapist, psychologist, doula, or any other health care provider. It does not have to be the same healthcare provider who is treating you for your mental health issues. A telehealth provider is fine.
 - The medical paperwork does not have to say that you have mental health symptoms. It does not have to give a diagnosis. You may ask your healthcare provider to fill out our medical certification form, which gives your employer the required information, but nothing more.
 - Federal law requires employers with 15 or more employees to keep your medical information confidential. This means your employer should not tell your coworkers that your workplace changes are being given for a condition related to pregnancy.
 - When you provide your medical paperwork, you may want to say in writing: “Please keep this private, protected medical information confidential, and do not share it with my coworkers, supervisor, or anyone else who does not have a legitimate reason to know it. If you need to share it beyond Human Resources for any reason, please contact me first. Please keep this information separate from my general employee records, as may be required by state and federal law. Thank you for protecting my privacy.”



For more information on what medical information you are required to give your employer, [contact our free helpline](#) or check out: [Frequently Asked Questions: Doctors Notes and Medical Paperwork](#)

(4) Your employer must respond to your request. They must grant your request or have a conversation with you to understand your needs and identify an accommodation that will effectively meet them. Your employer does not have to provide an accommodation that causes them an “undue hardship,” meaning it would be very difficult or expensive for them to provide. But your employer is required to work with you to find an accommodation that works for you.

Time Off Work

You may need time off work to attend mental healthcare appointments or because your condition makes you unable to work, even with accommodations. **If your employer has 15 or more employees, you have a right to receive time off as a reasonable accommodation under the Pregnant Workers Fairness Act**, unless it would be significantly difficult or expensive for your employer. You may also have rights under other laws.

- You can still have a right to take leave under the Pregnant Workers Fairness Acts *even if you are not eligible for leave* under the Family and Medical Leave Act (FMLA).
- There is no set amount of time you can take off under the Pregnant Workers Fairness Act. Your employer must give you time off for your mental health needs related to pregnancy and childbirth, so long as it is not significantly difficult or expensive to do so.

- Your employer is not required to pay you during your leave, but they may be required to allow you to use any paid leave you already have available, including PTO, sick days, and/or vacation. Your employer may also be required to let you choose whether to use paid leave or unpaid leave. Your employer must continue providing your health insurance benefits to the same extent it does so for employees in a similar leave status.
- Additionally, you may have a right to receive pay during your time off from your state's temporary disability program, family and medical leave program, and/or from your employer's temporary disability benefits plan. Ask HR and/or your [state agency](#) for more information.
- The Family and Medical Leave Act (FMLA) gives covered employees a right to take up to 12 weeks of leave in a year for pregnancy and childbirth, including for related mental health conditions. Learn more about the FMLA and whether you are eligible [here](#). Some states provide more than 12 weeks of leave for pregnancy/childbirth and cover more people. Keep in mind that time you take off work under the Pregnant Workers Fairness Act may reduce any time you have available under the Family and Medical Leave Act. Call us for help understanding how these legal protections overlap.

Have questions about your rights at work or need assistance talking to your employer? Contact our free and confidential legal helpline:

✉ hotline@worklifelaw.org

☎ (415) 703-8276

Need more support? The National Maternal Mental Health Hotline is available 24/7 by text or phone and offers free and confidential support **1-833-852-6262.**

Check out our additional resources:

- [Pregnancy, Childbirth, and Related Medical Conditions: Common Workplace Limitations and Reasonable Accommodations Explained](#) lists reasonable accommodations that can help with a wide range of conditions and needs.
- [Talking to Your Boss About Your Bump](#). This fact sheet provides information on laws that apply to workers nationwide who need pregnancy-related changes at work.
- [Talking to Your Boss About Your Pump](#). Learn more about your rights to pumping breaks and space and other changes at work for lactation.
- [Frequently Asked Questions: Doctors Notes and Medical Paperwork](#) explains your rights when your employer asks you to provide medical paperwork.
- [Medical Certification Form](#) that your healthcare provider can fill out to support your accommodation request.
- [For medical providers: Guidelines for Drafting Work Accommodation Notes for Pregnant and Postpartum Patients](#). Give this guide to your healthcare provider when you ask for a work note.