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**Subcommittee on Civil Rights and Human Services  
Committee on Education and Labor  
U.S. House of Representatives**

**“Long Over Due: Exploring the Pregnant Workers’ Fairness Act (H.R. 2694)”**

**October 22, 2019**

Thank you Chair Bonamici, Ranking Member Comer, and Members of the subcommittee for the opportunity to testify today.

Almost 41 years ago, Congress passed the Pregnancy Discrimination Act to guarantee millions of working women could “assume their rightful place, and make a full contribution in our Nation’s economy.”

Yet despite the promise of the PDA, pregnancy discrimination remains rampant in America and a key barrier to gender equality. One very common form, *especially* impacting women in low wage and physically demanding jobs—predominately women of color— is when pregnant workers are fired or forced out, rather than provided temporary job modifications that would allow them to keep working.

Women, often a family’s primary breadwinner, face an impossible choice: stay on the job and risk their health or lose their paycheck when they need it most.

Unfortunately, at A Better Balance, we have heard hundreds of these stories from workers we've spoken with over the years.

Women like our former client Betzaida Cruz Cardona, a cashier from upstate New York, who was told she should just “stay home, take care of [her] pregnancy, and rest” after handing in a doctor’s note with a 25 pound lifting restriction—even though she could have easily been accommodated and wanted to work. To make matters worse, the company later claimed she quit, preventing her from receiving unemployment insurance. With no paycheck, Betzaida wound up homeless and had to rely on family and friends for shelter, moving from couch to couch as she prepared to become a mom.

The economic well-being of most American families is dependent on working mothers. When women like Betzaida lose out on critical income, they not only suffer in the short term, they forfeit other long-term benefits earned on the job, contributing to their economic inequality over the long run and exacerbating the wage gap.

When pregnant women are denied workplace accommodations, their health suffers too.

I’ll never forget one pregnant cashier who was told she could not carry a water bottle on the job. She wound up in the ER due to severe dehydration after fainting and collapsing on the retail floor. Other health risks associated with failure to accommodate include urinary tract infections, fainting, pre-term birth, low birth weight, and even miscarriage, as evidenced by the experience of A Better Balance’s client, Tasha Murrell, who was featured in a front page *New York Times* story last year.

These options—risk your health or lose your paycheck—reinforce the stereotype that pregnancy, motherhood, and employment are irreconcilable and *defy* the purpose of the Pregnancy Discrimination Act.

In 2015, the Supreme Court addressed the application of the PDA to workplace accommodations in the case *Young v. UPS*. Unfortunately, the multi-step evidentiary framework established by the Court’s majority—particularly the unique burden on pregnant workers to produce a wide range of evidence of other “non pregnant comparators” to prove their employer’s intention was discriminatory—has made it difficult, often impossible, for pregnant workers to succeed in court post-*Young* and get the accommodations they need to remain healthy and on the job. This standard is also tone deaf to the realities of the American workplace, where pregnant workers typically lack access to their co-workers’ accommodation requests or personnel files and also simply lack the luxury of time and resources to sort out these questions.

The ADA, by contrast, offers workers with disabilities the explicit right to reasonable workplace accommodations absent undue hardship. They can completely bypass this burden of proving that a coworker was accommodated first. However, most pregnant women with medical needs are not deemed “disabled” under the ADA and fail to trigger its protection.

There is a solution. The Pregnant Workers Fairness Act would address this gap in the law and fulfill the intent of the PDA. Specifically, the PWFA would require employers to make reasonable accommodations for employees who have limitations stemming from pregnancy, childbirth or related medical conditions, unless the requested accommodation would impose an undue hardship on their employer—the same familiar process in place for workers with disabilities. The PWFA would also ensure that a worker cannot be forced to take leave if another accommodation can keep her working and healthy.

The PWFA, like the ADA, would encourage a productive, informal dialogue between employee and employer, rather than stressful and time-consuming litigation. As we know first-hand, this is *precisely* what most pregnant workers want and need. After all, many low-wage women are afraid to request accommodations due to fear of retribution. They need clear rights and an immediate solution that allows them to follow their doctor’s orders and stay attached to the workforce. Requiring pregnant workers to jump through legal hoops to get a medically necessary accommodation is a fundamental deterrent to justice and equality.

Thankfully, a growing number of business leaders recognize that accommodations are not just the smart thing to do, they're the right thing to do for their bottom line.

State legislators on both sides of the aisle have recognized that accommodating pregnant workers is smart public policy as well— and are taking action. There are now 27 states from New Jersey to Kentucky with explicit protections for pregnant workers in need of accommodation.

At A Better Balance, we see these laws are working. For example, thanks to New Jersey's law, public employee Takirah Woods was quickly able to follow her doctor's orders and return to work in a temporary light duty position.

Yet while states have improved workplace conditions for thousands of women, job protection and a healthy work environment should not depend on luck or location.

The PWFA would finally ensure that pregnant workers in every corner of the country stand on equal footing in the workplace. No one should have to choose between her job and the health of her pregnancy. It's time for Congress to step up and pass this critical legislation. It's long overdue.