

United States Senate

WASHINGTON, DC 20510-3205

September 9, 2021

The Honorable Charlotte Burrows
Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Dear Chair Burrows,

Following repeated reports of the mistreatment of pregnant employees, I write to request that the Equal Employment Opportunity Commission (EEOC) take all appropriate steps to investigate substantial and credible allegations that Amazon systematically denies reasonable accommodations for pregnant employees at its fulfillment centers. In particular, I ask the Commission to investigate Amazon's (1) failure to provide adequate modification of job duties with regard to physically strenuous workplace duties that may threaten the health and safety of pregnant workers; and (2) failure to allow pregnant workers to take time off without punishment for pregnancy-related medical needs, both of which may violate the Pregnancy Discrimination Act (PDA) and/or Americans with Disabilities Act (ADA).¹

Nationwide, Amazon operates roughly 110 fulfillment centers. The physically demanding working conditions in these facilities have been well-documented. Many duties require long periods of standing, walking, and heavy lifting, exacting a significant physical toll on employees. The nature of these duties, in concert with Amazon's electronic monitoring of fulfillment center employees through its "Time Off Task" metrics and punitive attendance policy, create a fast-paced, physically strenuous workplace environment that sees an annual employee turnover rate of 150 percent.² As you well know, physically demanding work of this type may present a hazard to the health and safety of pregnant employees. Physically strenuous labor can not only pose increased risks of injury for pregnant individuals, but may increase the likelihood of miscarriage or preterm birth. Such risks have been clearly acknowledged by the Centers for Disease Control's National Institute for Occupational Safety and Health in the context of physically demanding job duties.³

Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act (42 U.S.C. §§ 2000e *et seq.*), requires employers to provide pregnant employees with the same workplace accommodations that they provide other employees "similar in their ability or inability to work." In addition, the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) requires employers to provide pregnant employees with reasonable accommodations "for limitations resulting from

¹ Pregnant individuals may also be entitled to pregnancy accommodations under state and local pregnant worker fairness laws (see <https://www.abetterbalance.org/resources/pregnant-worker-fairness-legislative-successes/>), many of which are enforced by the EEOC pursuant to work-sharing agreements with state agencies.

² <https://www.nytimes.com/interactive/2021/06/15/us/amazon-workers.html>

³ <https://www.cdc.gov/niosh/topics/repro/physicaldemands.html>

pregnancy-related conditions that constitute a disability or for limitations resulting from the interaction of the pregnancy with an underlying impairment.”⁴ Records show that Amazon routinely places injured workers unable to perform their regular job functions on light duty, with the company logging nearly 25,000 instances of reassignment to light duty following an injury across its facilities since 2017.⁵ On some occasions, injured Amazon workers have been reassigned to jobs designed to account for restricted mobility, such as tagging photos on a computer.⁶ Given those accommodations, Amazon is obliged to provide equivalent modifications to similarly impaired pregnant employees who request them. Furthermore, Amazon must reasonably accommodate the modification needs of employees with a disabling pregnancy-related condition or limitations caused by their pregnancy interacting with a disability.

However, in recent years, several reports have surfaced detailing the mistreatment of pregnant Amazon employees seeking to exercise their right to adequate modification of duties. Between 2015 and 2019, former Amazon employees filed at least seven lawsuits alleging that Amazon wrongfully terminated them during their pregnancies and failed to accommodate rudimentary requests such as more frequent bathroom breaks and fewer continuous hours on their feet.⁷ While Amazon settled several of these suits outside of court, a repeated pattern of publicly-reported pregnancy discrimination and pregnancy-related disability discrimination complaints has emerged at Amazon fulfillment centers as a product of the strenuous demands of the fulfillment center model.

I cannot help but draw your attention, for instance, to the case of Michelle Posey, an Amazon employee in Oklahoma City, who filed a complaint with the EEOC in 2020 about her treatment at Amazon’s OKC1 facility. Michelle’s harrowing account details her treatment during her high-risk pregnancy, in which Amazon allegedly denied her repeated requests for a transfer to a more suitable position, penalized her for pregnancy-related absences, and engaged in unauthorized contact with her doctor in an attempt to change her work restrictions.⁸ A Better Balance, the legal advocacy group that represented Michelle, indicated that it believed that Amazon’s treatment of its client “highlight[ed] broader issues with Amazon’s policies and practices.”⁹

In July, Patty Hernandez, a former packer at Amazon’s OAK4 fulfillment center in Tracy, California, came forward with her story. Patty said that when she learned she was pregnant, she submitted a doctor’s note and repeatedly asked Amazon for lighter duty, but was denied. She continued to be assigned to lift bins filled with merchandise that weighed up to 50 pounds for hours at a time. Patty miscarried at seven weeks.¹⁰

Michelle and Patty’s stories are emblematic of what appears to be a concerning pattern of mistreatment of pregnant employees at Amazon fulfillment centers. Accordingly, I ask that you take all appropriate steps to investigate and address Amazon’s systemic failure to provide adequate accommodations, including modification of job duties and time off for pregnancy-related medical

⁴ <https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues>

⁵ <https://thesoc.org/wp-content/uploads/2021/02/PrimedForPain.pdf>

⁶ <https://revealnews.org/article/how-amazon-hid-its-safety-crisis/>

⁷ <https://www.cnet.com/features/amazon-fired-these-7-pregnant-workers-then-came-the-lawsuits/>

⁸ <https://www.abetterbalance.org/resources/pregnancy-and-disability-discrimination-charge-with-the-eeoc-against-amazon-michelle-posey>

⁹ <https://www.abetterbalance.org/a-better-balance-files-pregnancy-and-disability-discrimination-charge-with-the-eeoc-on-behalf-of-oklahoma-amazon-worker/>

¹⁰ <https://www.vice.com/en/article/g5g8eq/amazon-denied-a-worker-pregnancy-accommodations-then-she-miscarried>

needs, under the Pregnancy Discrimination Act and Americans with Disabilities Act in the interest of the health and safety of pregnant workers.

Sincerely,



KIRSTEN GILLIBRAND
United States Senator



BERNARD SANDERS
United States Senator



ROBERT P. CASEY, JR.
United States Senator



RICHARD BLUMENTHAL
United States Senator



SHERROD BROWN
United States Senator



ELIZABETH WARREN
United States Senator