

Benefits Hodgepodge: GINA affects Wellness Plans beginning in 2016, and Compliance and Legislative Updates from a NAHU/Federal perspective

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What is a Wellness Program?

- We commonly associate a wellness program as being designed to promote health and prevent disease
- Examples commonly include:
 - health fairs
 - blood pressure, sugar and cholesterol screenings
 - additional biometric testing
 - health risk assessments
 - smoking cessation programs
 - weight-loss programs

What is a Wellness Program?

- If a company offers a disease management program, it might target individuals who have high blood pressure and make case managers (sometimes licensed) available to them to monitor compliance with medication protocols
- Wellness and disease management programs are often structured to provide a financial reward for participating

HIPAA Nondiscrimination Rules

- HIPAA prohibits group health plans from discriminating against persons based on their health status
 - Cannot deny individuals eligibility for benefits because of a health factor
 - Cannot charge individuals more for coverage because of a health factor

Wellness Program Exception to HIPAA Nondiscrimination Rules

- HIPAA nondiscrimination rules don't prevent group health plans from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for participation in wellness programs
- Two types of wellness programs allowed by HIPAA:
 - Participatory Wellness Programs
 - Standard-Based Wellness Programs

HIPAA: Types of Wellness Programs

- Participatory Wellness Programs:
 - Require employees who are enrolled to participate in a health related activity
 - The reward is not attached to the results of participation
 - Examples:
 - Reimbursement for health club membership
 - Diagnostic testing program that rewards participation, not results
- Standard-Based Wellness Programs
 - The reward is generally based upon various factors including meeting a designated health related standard
 - Must meet five requirements
 - Examples:
 - Premium reduction for participants who quit smoking
 - Diagnostic testing program that provides rewards for good results

HIPAA: Standard-Based Wellness Programs

- Under HIPAA:
 - Maximum reward of 30% of cost of coverage;
 - Reasonable design: Must be designed to promote health or prevent disease;
 - Annual opportunity: Must give individuals an opportunity to qualify for reward at least once a year;
 - Required disclosure; and
 - Reasonable alternative standard: Must disclose that alternative standards or waivers are available.

GINA Title I Considerations

- Prohibits GHPs from:
 - Discriminating against individuals on the basis of their genetic information
 - Collection of genetic information prior to or in connection with enrollment or at any time for underwriting purposes
- Scope extends to wellness programs
 - Thompson Publishing

GINA: Definition of Genetic Information

- Genetic Information includes information about:
 - An individual's genetic tests or that of a family member;
 - The manifestation of a disease or disorder in an individual's family member (i.e., family medical history); and
 - An individual's request for, or receipt of, genetic services.
- Thompson Publishing

GINA: Definition of Underwriting Purposes

- “Underwriting Purposes” include:
 - Rules for and determination of eligibility;
 - Computation of premium and contribution amounts; and
 - Application of broader preexisting condition exclusions.
- Broad definition, includes:
 - Changing deductibles or other cost-sharing mechanisms;
 - Providing discounts, rebates, or payments in kind; and
 - Other differential mechanisms in return for completing an HRA or participating in a wellness program
- [Thompson Publishing](#)

GINA Title I: Interaction with HIPAA Wellness Program Rules

- Wellness programs that provide rewards for completing HRAs that request genetic information, including family medical history, violate the prohibition against requesting genetic information for underwriting purposes although the rewards comply with the applicable HIPAA requirements.
 - Thompson Publishing

GINA Title II Considerations

- Wellness programs seeking medical information must be “voluntary”
 - Same as ADA wellness program requirement
 - Voluntary only if employer neither requires participation nor penalizes employees who do not participate
 - Title II regulations indicate that offering a \$150 financial inducement for wellness program participation is permissible
 - [Thompson Publishing](#)

Legislative and Compliance

- Cadillac Tax
- Medical Device Tax
- Marketplace enrollments, specifically SEPs
- NDT testing
- IRS Reporting & Employer mandate
 - Delays and increased penalties for both

Errors & Omissions

- Separate materials

Agency revenue

- Fee-for-service vs. commissions
 - Consultant license
 - Can you get both?
 - How much are you worth?
 - How do you start?
 - Time study

ACA education for clients

- Resources
- E & O
- Waivers

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