
THE GROUP BENEFIT NEWS BULLETIN

“JUST A REMINDER: GINA (GENETIC INFORMATION NONDISCRIMINATION ACT)”

On November 9, 2010, the Equal Employment Opportunity Commission released final regulations under Title II of the Genetic Information Nondiscrimination Act. GINA prohibits covered entities from requesting, requiring, or purchasing an individual’s genetic information and making employment decisions based on such data. A “covered entity” is defined as an employer, union, employment agency, or joint apprenticeship program.

Calendar year plans had to start complying with GINA beginning January 1, 2010. However, based on recent conversations with some HR professionals, we thought a brief reminder might be helpful.

Under the EEOC rules, sponsors of Volunteer Wellness Programs are strictly prohibited from offering financial incentives for an individual to supply genetic information (family medical history).

GINA makes exceptions on a limited basis for information inadvertently collected by an employer. For example, information gathered during “water cooler” conversations and in responses to employer’s request for medical data under the “Family Medical Leave Act” and “American Disabilities Act”. However, the regulations emphasize that an employer must warn healthcare providers responding to the employer’s FMLA or ADA information that these requests should not give the employer data regarding an individual’s genetic information.

If the employer does receive individual’s protected genetic information, the aforementioned information must be kept private and confidential in a “separate” file from the individual’s personnel file.

Although the final regulations were issued almost a year ago, studies show that many employers may not have taken the steps necessary to avoid the “collection”, and/or “provide protection” of genetic information.

As always, TBPG will continue to monitor the updates and keep you informed of any pertinent information. If you have any questions, please contact your TBPG representative.



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