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HR Policy Asks Agencies to Reconsider GINA Regulations' Restrictions on Wellness Programs

Employers Invited to Comment on Concerns and Constraints

HR Policy Association, in collaboration with other business groups, weighed in today against significant restrictions on health risk assessments (HRA) and wellness programs in the interim final regulations implementing the Genetic Information Nondiscrimination Act (GINA), which became effective on December 7, 2009.

The programs, which are generally encouraged by federal policymakers, would improve employee health and decrease health insurance costs. The regulations, issued by the Departments of Health and Human Services, Labor and Treasury, interpret GINA to permit group health plans to either include family medical history questions on an HRA or offer an incentive to complete the HRA, but not both.

HR Policy Association's comments point out that as a result, "Plans are forced to sacrifice the accuracy of risk assessment by not requesting family medical history or forgo greater participation in HRAs by not offering rewards. The effect of the Rules is to significantly undercut the effectiveness of HRAs for improving health and reducing costs."

Meanwhile, since the regulations were supposed to be issued on May 21, 2009, but were not actually released until October 7, 2009, many employers released HRA questionnaires this fall before having any knowledge of the regulations. Thus, the Association requested that the agencies adopt a policy of non-enforcement for the 2010 plan year, adopt a good-faith compliance standard, and provide guidance on how employers could correct any impermissible "collection" of family medical history done prior to the issuance of the regulations.

The Association is collecting brief comment letters from its members outlining the concerns and the constraints that these regulations would place on employer-sponsored wellness programs.

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HR Policy Association brings together the chief human resource officers of more than 280 of the largest corporations in the United States who are concerned about the direction of HR public policy and practices in the United States and globally. Representing nearly every major industry, HR Policy members have a combined market capitalization of more than \$7.5 trillion and employ more than 18 million employees worldwide. For more information visit www.hrpolicy.org.