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**Sent:** Friday, October 16, 2009 4:16 PM

**To:** EBSA, E-OHPSCA - EBSA

**Cc:** David J Berger

**Subject:** Comments on "Interim Final Rules Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans"

To whom it may concern:

I am writing to express my objection to certain requirements within the proposed rules referenced in the subject line above. Specifically, I **object to the GINA requirement that essentially eliminates the use of an HRA that asks for family medical history as a requirement for enrollment in a Wellness program that offers financial incentives. The inclusion of an HRA helps create awareness among participating employees enrolled in our voluntary wellness program.**

Controlling rising medical cost is key to survival for any organization that provides health benefits for their employees. The most effective way to reduce health care cost growth is to support and encourage a workforce that exercises regularly and practices good nutrition. Promoting personal responsibility for health is vital in any cost-management strategy. Fortunately, some employees engage in personal wellness with little or no encouragement provided from a plan sponsor. But, the majority of employees do not have this "self-starter" mentality, and as such we, **as an employer that pays the "lions share" of our employee medical bills, have created financial incentives to encourage employees to take greater personal responsibility for their health.** We offer these incentives through our voluntary wellness program. These incentives include discounts off a participant's monthly contribution amount for health benefit coverage if they attain certain measured levels of health. Additionally, we provide other economic incentives for simply enrolling in the program. Enrolling in the program requires that an individual complete an HRA (which does gather information about family history, and based upon that information provides immediate feedback to the individual about how to lower their risk of disease), document the completion of an activity once per year and allow the collection of certain biometric data. The program is designed to identify individual risk factors (hence the need for the familial information), provide measured feedback on progress and get the participant exercising. The HRA data is not, to my knowledge, used by our TPA for any other purpose and the collected information is not available on an individual basis to the Plan Sponsor. Given the fact that we're a self-funded health plan, it seems reasonable to assume that inappropriate influence on the "underwriting" process is greatly minimized.

The proposed regulations would, in my view, significantly minimize the amount/accuracy of the feedback given to the employee about their particular risk factors that they automatically receive after completing the online HRA. **This information can, and I believe has, along with the biometric data, provided significant incentives for those choosing to participate in the wellness program to take action to improve their overall health.**

It seems reasonable to create further exclusions within the proposed rule. Specifically, I **suggest that any wellness program that includes an HRA that asks for family history, where participation in the program is voluntary, be exempted from GINA, especially if the related health plan is self-funded, where underwriting influence is greatly minimized.** Without such exemption, enactment of this proposed rule will essentially "gut" our wellness program and will, in my view, make it much more difficult to manage health care cost growth going forward. And, I don't think that anybody wants to make the control of health cost more difficult.

What I'm asking is not unreasonable. Please give my suggestion due consideration.

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