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Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans

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Interim Final Rules Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans

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General Comment

Re: RIN 1210-AB27

Interim Final Rules Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group health Plans

Employee health is a vital matter to employers as it directly affects attendance and day to day performance and productivity of employees. Health Risk Assessments (“HRA”) are a tangible way an employer can demonstrate its concern about employee health and well-being. HRAs, which are offered through an employer’s health plan or other third party, give employees convenient access to getting information on their own health risks. Beyond simple information about their weight, blood pressure and smoking or exercise habits, it is commonly accepted that health information about blood relatives adds depth to any risk assessment. Ideally, doctors, and not employer sponsored health plans would drive HRAs, but the role of the health plan is evolving to be that of an educator and glue between disparate parts of the healthcare system given limitations on doctor availability and resources, particularly in Massachusetts, due to state health reform efforts. Health plan HRAs are still at a development stage, but without family medical history questions, they will have lost a significant amount of value to the employees.

John Hancock had set up its HRA program in 2007; we are just completing the third year. From the beginning we

have made sure that only the health plans had access to the information in the HRAs and the plans contacted employees directly about available lifestyle or disease management opportunities. Since 2007 we have offered a \$50 gift certificate in an effort to drive voluntary, annual completion of the HRA as an incentive for participation. Participation in 2007 was 16%, in 2008 was 12% and in 2009 through September 30, 25%. There are 7 lifestyle management conditions the HRA identifies and the health plan offers programs to address. The de-personalized 2009 analysis so far shows 40% of the population has one condition, 18% have two conditions and 6% have three conditions. This data shows that opportunities exist to educate employees about their conditions, and to assist the employee in making changes and improving their health.

Wellness programs and HRAs are ways to address individual and corporate health costs that can be directly affected by employers and employees. These programs can help by identifying health habits or states before they become disease or chronic conditions. Controlling costs through improving employee health and productivity is a key objective for John Hancock, as the more costs are controlled – health care or otherwise – the more assets are freed up for other productive uses, such as growing the company, hiring more employees etc.

At John Hancock we value privacy, our customers' privacy and our employees' privacy. But GINA regulations are too restrictive and deprive employers and employees of good programs that have great potential, and have resulted in innovation in the health care marketplace for cost saving measures. Prohibiting discrimination in hiring and promotion, in underwriting by insurers or self-insured plans and not allowing mandatory HRAs for enrollment are reasonable limits that can co-exist with HRAs containing family history questions and robust wellness programs if procedures and separation of information at the employer or insurer/health plan is maintained.

The current health care reform initiative encourages preventive care and early detection and intervention as tools in lowering health care costs. Lifestyle and disease management program opportunities coming out of employer sponsored HRA programs would support, and are consistent with, the country's efforts at health care cost control.

John Hancock respectfully requests that you rescind the regulations published October 7, 2009 and reissue them in a form that does not prohibit family medical history questions and reasonable incentives, but rather requires health plans and employers to keep information separated and walled off from improper uses and allow HRAs and the disease management and early intervention programs to develop as a resource for employees.