

EEOC Issues Proposed Regulations on Wellness Programs and GINA

November 6, 2015

On October 30, 2015, the U.S. Equal Employment Opportunity Commission (the “**EEOC**”) issued proposed regulations amending previously issued proposed regulations under Title II of the Genetic Information Nondiscrimination Act of 2008 (“**GINA**”) regarding employer wellness programs. Among other items, the proposed regulations explain that wellness programs that request or require employees (or their covered spouses) to provide genetic information as part of health or genetic services (e.g., through a health risk assessment (“**HRA**”) involving a medical questionnaire or medical examination) must be reasonably likely to promote health or prevent disease. Furthermore, the proposed regulations clarify that GINA does not prohibit employers from offering limited inducements to employees whose spouses (who are covered under the employer’s group health plan) complete an HRA under which genetic information is provided, subject to the requirements that the provision of such information by the spouse is voluntary and that prior written authorization is obtained from the spouse. The proposed regulations can be found [here](#). A question and answer document can be found [here](#). A fact sheet for small businesses can be found [here](#).