

Wellness Programs

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Reference Number:
MTAS-1245

On May 17, 2016, the U.S. Equal Employment Opportunity Commission (EEOC or the Commission) issued a final rule to amend the regulations implementing Title II of the Genetic Information Nondiscrimination Act (GINA) as they relate to employer wellness programs. A notice of proposed rulemaking (NPRM) was previously issued on October 30, 2015. The final rule says employers may provide limited financial and other inducements (also called incentives) in exchange for an employee's spouse providing information about his or her current or past health status as part of a wellness program, whether or not the program is part of a group health plan.

The term "wellness program" generally refers to health promotion and disease prevention programs and activities offered to employees. Some wellness programs are part of an employer-sponsored group health plan, and other wellness programs are not tied to group health plans.

EEOC's GINA regulations say that "genetic information" includes, among other things, information about the "manifestation of a disease or disorder in family members of an individual." (The term "past or current health status" is used in these questions and answers, rather than the term "manifestation of disease or disorder.") Family members include certain blood relatives, like parents, grandparents, and children, but also include spouses and adopted children.

There is an exception to GINA's general prohibition against acquiring genetic information of applicants or employees where employers offer voluntary health or genetic services to employees or their family members. Some employers want to offer inducements for employees and their family members to answer questions about their health or to take medical examinations as part of a wellness program. This rule clarifies that an employer may offer a limited incentive for an employee's spouse to provide information about the spouse's current or past health status as part of a voluntary wellness program.

This rule applies only where a portion of the inducement offered within a wellness program is for an employee's spouse to answer questions about his or her current or past health status or to take a medical examination. GINA does not apply to inducements made available in exchange for an employee's spouse engaging in certain activities that do not require obtaining information about current or past health status, such as attending a weight loss or nutrition program or exercising a certain amount each week.

(Excerpted from: <https://www.eeoc.gov/laws/regulations/qanda-gina-wellness-final-rule.cfm> [1])

Links:

[1] <https://www.eeoc.gov/laws/regulations/qanda-gina-wellness-final-rule.cfm>

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