Barbara W. Schaefer
Senior Vice President - Human Resources
and Corporate Secretary

November 20, 2009

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration, Room N-5653
United States Department of Labor
200 Constitution Avenue, NW
Washington D.C. 20210

Attention: RIN 1210-AB27

Ladies and Gentlemen:

Union Pacific Corporation (UP) appreciates the opportunity to respond to the Request for Information on Title I of the Genetic Information Nondiscrimination Act of 2008 (GINA). The request was published by the Department of Labor, Health and Human Services, and the Treasury in the *Federal Register* on October 7, 2009. We write to express our serious concerns about the adverse impact of the interim final rules on UP's sponsored wellness and disease management programs. **Of particular concern is the prevention of financial incentives for individuals who complete health assessments that include questions on family medical history.**

UP is one of America's premier transportation companies operating in 23 states in the western two-thirds of the country and employing 45,000 employees. Our employees are committed and dedicated to running a safe railroad, and the Company is dedicated to providing a healthy, safe work environment. We encourage our employees to become actively involved in a healthy lifestyle, to make healthy decisions and to be accountable for understanding their health risks. Our Wellness Programs are just one way to help our employees stay healthy. As a Fortune 200 company, we know the importance of providing top-notch programs that are so beneficial to our employees and to our competitiveness.

Integral to the success of our Wellness Programs is the use of our voluntary health assessments that help people identify their health risks and offer programs and benefits that will reduce these risks. A key element of the health assessment is a series of questions designed to gather family medical history. Often individuals are not aware that their family medical history has a huge impact on their health status. Questions about one's family medical history are often a key driver in helping individuals identify whether they are at higher risk for cardiovascular disease, some cancers, diabetes or other major chronic conditions and could benefit from intervention to stave off debilitating disease, the development of other risk factors, or even death.

Completion of a health assessment provides opportunities for referral to preventive care, disease management programs, health promotion and other behavioral change initiatives. All of these programs are critical in slowing the rising cost of health care by making certain that care is matched to what will work best for each and every patient and in motivating people to proactively maintain and improve their health.

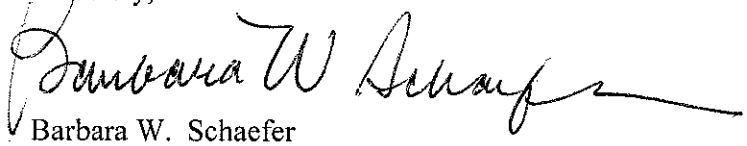
All individual information collected in the health assessment remains confidential and is never shared with UP, as required by the Health Insurance Portability and Accountability Act.

Impact of the regulation: UP provides financial incentives to encourage its employees to participate in the health assessments. Our extremely high participation rates are a direct result of providing these incentives. The use of incentives provides a key motivational trigger to encourage employees to participate in a program of healthy living. The interim final regulation under Title I of GINA would destroy our wellness programs by precluding our ability to provide financial incentives to individuals who complete health assessments requesting family medical history.

In conclusion: As you know, President Obama's Administration has expressed a great deal of interest in bringing down healthcare costs; to do so, promoting wellness has to be a factor. Our view is that the best way to get health care costs down is to reduce consumption. Educating your workforce, getting them involved and helping them make good health decisions is an ongoing journey toward achieving this goal. Wellness, prevention and disease management programs are some of the few avenues available to help employers control our increasing health care costs. Our employees are enthusiastic about these programs, and are appreciative that the Company provides tools that enable employees to live a healthy lifestyle. Making our tasks in this regard more difficult -- such as preventing the use of financial incentives to obtain family medical history in a health assessment -- seems counter to our nationwide health care reform efforts. Implementing the rules in their current form will have serious unintended consequences.

Thank you again for your consideration of these important issues.

Sincerely,



Barbara W. Schaefer
Sr. Vice President Human Resources & Corporate Secretary
Union Pacific Corporation

cc: The Honorable Timothy Geithner, Secretary, U.S. Department of Treasury
The Honorable Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services
The Honorable Hilda Solis, Secretary, U.S. Department of Labor
Stuart J. Ishimaru, Acting Chairman, U.S. Equal Employment Opportunity Commission
Robert Kocher, MD, Special Assistant to the President, National Economic Council, The White House
Ezekiel Emanuel, MD, Special Advisor for Health Policy, Office of the Director, Office of Management and Budget