Prudential

K. Andrew Crighton, MD
Vice President and Chief Medical Officer
Human Resources - Health & Wellness
213 Washington Street, Newark NJ 07102
Tel 973 802-9670 Fax 973 802-2276
kandrew.crighton@prudential.com

November 25, 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: Regulatory Information Number 1210-AB27

As Chief Medical Officer of Prudential Financial and Chair-elect of the Health Enhancement Research Organization (HERO), I am writing to express Prudential's concern over the proposed rules in the Genetic Information Nondiscrimination Act (GINA) which restrict requesting family medical history information in health risk assessments where employers provide incentives to complete them.

Comprehensive personal health risk assessments are a critical part of our employee wellness benefits at Prudential. They provide important data to our employees which encourage the proactive management of their own care. The inclusion of family medical history in these assessments is vital to creating an accurate and useful summary of an employee's health risks and options for mitigating those risks.

Additionally, in the aggregate (data is never personally identifiable to a specific employee), these assessments contain information that enables us to create relevant and cost-effective employee health strategies and related programs.

Our own experience has shown us that incentivizing the completion of health risk assessments not only dramatically drives voluntary participation but is greatly valued by our employees. We give employees who complete our Health Quotient (HQ) assessment through WebMD $150.00 and have a 70% participation rate.

We understand and appreciate the Department of Labor's and the Equal Employment Opportunity Commission's concerns about the potential for abuse of incentives and the irresponsible management of personal health data. We believe that these concerns can be appropriately addressed if an approach similar to Prudential's is used and incorporated into the GINA rules.

At Prudential, we clearly communicate to our employees that we are incenting them to complete a health risk assessment. There is no incentive to share it. Personally identifiable health risk assessment data is 100% owned by the employee and it is not accessible to anyone else. The only way that anyone will see an employee's personal health risk data is if that employee provides a copy of it to someone.

We encourage the adoption and articulation of similar constraints about what can and cannot be incented regarding health risk assessments and restricting ownership of personal health risk data to the employee.

Please contact me if you have any questions about our position or if you would like to discuss this further.

Sincerely,

cc:

The Honorable Timothy Geithner
The Honorable Kathleen Sebelius
The Honorable Hilda Solis
Stuart J. Ishimaru
Robert Kocher, MD
Ezekiel Emanuel, MD