

# Workplace Wellness Plan Design – Legal Issues

Employers that offer health benefits to their employees may decide to implement wellness plans as a way to help control health plan costs and encourage healthy lifestyles. However, there are a number of legal compliance issues that are involved with designing workplace wellness plans. Wellness plans must be carefully structured to comply with both state and federal laws.

The three main federal laws that impact the design of wellness plans are:

- ✓ **The Health Insurance Portability and Accountability Act (HIPAA)**
  - HIPAA's nondiscrimination rules apply to wellness plans that are offered in connection with group health plans.
  - There are different rules for participatory and health-contingent wellness programs.
  - HIPAA's nondiscrimination rules for wellness plans. Link: [nondiscrimination rules](#)
  - Notice: Health-contingent Wellness Plans: Must disclose the availability of a reasonable alternative standard to qualify for the reward (and, if applicable, the possibility of waiver of the otherwise applicable standard) in all plan materials describing the terms of a health-contingent wellness program. For outcome-based wellness programs, this notice must also be included in any disclosure that an individual did not satisfy an initial outcome-based standard. (Participatory Wellness Plans: No notice requirement.)
- ✓ **The Americans with Disabilities Act (ADA)**
  - Wellness programs cannot discriminate against individuals with disabilities.
  - If a wellness program involves medical exams or disability-related inquiries, it must satisfy certain requirements.
  - EEOC's final ADA rule for wellness programs that include disability-related inquiries or medical exams. Link: [final ADA rule](#)
  - Notice: Employers must provide employees with a notice that describes what medical information will be collected, who will receive it, how the information will be used and how it will be kept confidential. The EEOC has provided a [sample notice](#) to help employers comply with this ADA requirement.
- ✓ **The Genetic Information Nondiscrimination Act (GINA)**
  - GINA's restrictions apply to a wellness program when it requests genetic information—for example, family health history.
  - [Interim final regulations](#) under GINA regarding permissible wellness plan designs
  - Notice: Must obtain employee authorization when a wellness program requests genetic information (family medical history). Authorization form must be written in an understandable way, must describe the type of genetic information that will be obtained and the general purposes for which it will be used, and it must describe the restrictions on disclosure of genetic information.