

EEOC issues guidance on employee wellness programs

On May 17, 2016, the Equal Employment Opportunity Commission (EEOC or the Commission) issued a final rule to amend the Regulations and the accompanying Interpretive Guidance (also known as the Appendix) implementing Title I of the Americans with Disabilities Act (ADA) as they relate to employer wellness programs. These regulations provide guidance on wellness programs that use incentives to encourage employee participation and that either make disability-related inquiries or require a medical examination. The regulations apply to wellness programs whether they are offered in connection with the employer's group health plan or as a stand-alone benefit program. In contrast to wellness program regulations previously issued under the Health Insurance Portability and Accountability Act (HIPAA) and Affordable Care Act, the EEOC's regulations require an employer to provide employees with a written notice describing the type of medical information that will be obtained in connection with a disability-related inquiry or medical examination. The final rule says employers may provide limited financial and other incentives in exchange for an employee answering disability-related questions or taking medical examinations as part of a wellness program, whether or not the program is part of a health plan. These incentive rules are similar to, but not entirely consistent with, the HIPAA wellness program regulations. The EEOC has issued questions and answers on the new regulations, available here: [EEOC's Final Rule on Employer Wellness Programs and Title I of the Americans with Disabilities Act](#). Also on May 17, 2016, the EEOC issued a final rule amending the regulations implementing Title II of the Genetic Information Nondiscrimination Act (GINA). This rule says that employers may offer limited inducements (incentives) for an employee's spouse to participate in a wellness program. The EEOC has also issued questions and answers on these regulations, available here: [EEOC's Final Rule on Employer Wellness Programs and Title II of GINA](#). On June 16, 2016, the EEOC released a sample wellness program notice, available here: <https://www.eeoc.gov/laws/regulations/ada-wellness-notice.cfm>. These rules are complex. If you have questions about them, contact [Heath Hoobing](#) or any attorney in our employment group. This article is intended to provide general recommendations and is not intended to be legal advice. You should always consult your attorney for advice unique to you and your business.