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Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans

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Interim Final Rules Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans

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General Comment

Interim final regulations implementing Title I of the Genetic Information Nondiscrimination Act (GINA) will go into effect on December 7, 2009. While GINA serves the very important purpose of prohibiting many forms of discrimination based on genetic information, the recently issued interim final regulations have an unintended consequence that is likely to limit the effectiveness of your health and wellness programs. Here's how:

- The regulation prohibits the collection of family medical history as part of a health risk assessment that provides an incentive for completion. As we know, removing incentives will significantly decrease participation in HRAs, but removing family history questions will mean employees get less accurate risk information and will be less motivated to make needed changes in behavior.
- The regulation also prohibits the collection of family medical history as part of an HRA even without incentives if it is before the first date of coverage. This means HRAs during open enrollment may not contain family medical history questions even without incentives.
- Regardless of the presence of an incentive, the regulation does not allow use of an HRA that collects family medical history to match individuals with appropriate chronic disease management services. Highmark uses family history to identify patients at high risk for heart attacks and cancer. Early interventions can diminish the risk.

If these regulations go into effect as scheduled, they threaten to decrease the participation in and effectiveness of employer-sponsored wellness and prevention programs. They could limit the ability of employer-sponsored wellness and prevention programs to improve employee health and decrease health care costs.