

# BENEFIT

## *Plan Developments*



A report covering plan design and legislative changes

Volume 51, Number 7

## Genetic Information Nondiscrimination Act Signed Into Law

The Genetic Information Nondiscrimination Act of 2008 (GINA), a law prohibiting employers and insurers from discriminating against individuals based on information about their genetic predisposition to disease, was signed by President Bush on May 21, 2008. The enactment of GINA has broad implications for employers, who have been advised to review their employment practices and health plans to ensure they are in compliance with the new law.

The law defines “genetic information” as any information about an employee or the employee’s family members that is related to genetic tests; the request for, or receipt of, genetic services; participation in clinical research that includes genetic services; or the manifestation of a disease or disorder among an

employee’s family members. “Family members” include the employee’s dependents, relatives up to the fourth degree, and a fetus or embryo.

Title I of GINA, effective for plan years beginning after May 21, 2009, amends the nondiscrimina-

tion rules under the Health Insurance Portability and Accountability Act (HIPAA), the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code (IRC) to prohibit discrimination on the basis of genetic information by group health insurance plans.

Under Title I of GINA, health plans are not permitted to request or require that an employee undergo genetic testing, and are barred from purchasing or otherwise collecting genetic information about an employee or an employee’s family members for underwriting purposes. While health plans are allowed to adjust contribution amounts or premiums upon the manifestation of a disease by a plan participant, they are prohibited from setting premiums based on genetic

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*GINA bars employers from taking into account an individual's genetic information in hiring and firing decisions, and in setting compensation or the terms and conditions of employment.*

information alone. Health plans and insurers are, however, permitted to use genetic test results to make determinations regarding payment.

Title II of GINA, which goes into effect on November 21, 2009, imposes broad restrictions on the collection, use, and disclosure of genetic information by employers with 15 or more employees. GINA bars employers from taking into account an individual's genetic information in hiring and firing decisions, and in setting compensation or the terms and conditions of employment. Like health plans, employers are not permitted to collect genetic information about an employee or an employee's family members, or to request or require disclosure of genetic information. Employers are further prohibited from taking retaliatory action against employees who oppose genetic discrimination.

If employers are in possession of genetic information about employees, they are barred under GINA from limiting, segregating, or classifying employees based on the information. Employers are further required to apply the same confidentiality protections to genetic information as to other types of medical information.

Under the new law, employers may, however, require employees to disclose their family medical histories in order to comply with the Family and Medical Leave Act (FMLA) or state medical leave laws. Employers may also legally purchase public or commercially available documents containing genetic information about employees and their family members, and are not penalized for inadvertent requests for genetic information. Certain other exceptions are also contained in GINA, including one that allows employers to collect genetic information for the monitoring of the biological effects of toxic substances in the workplace, or to offer employees genetic services as part of a wellness program.

Sen. Mike Enzi (R-WY), Ranking Member of the Health, Education, Labor and Pensions Committee, said GINA "will help fulfill the promise of genetic research to save lives and reduce health

care costs, by establishing basic protections that encourage individuals to take advantage of genetic screening, counseling, testing, and new therapies, without fearing that this information will be misused or abused."

The legislation "protects both employees and employers by setting a standard of conduct that is easy to understand and easy to follow," Enzi added. "We are far better off setting uniform, consistent rules of the road clearly and up front, rather than allowing them to be set piecemeal through litigation."

## Extra Benefits Help Commuters Cope With High Gas Prices

Many U.S. employers are responding to the sharp rise in gas prices by offering additional benefits to employees, such as telecommuting, flexible schedules, and higher mileage reimbursements, according to a survey conducted by the Society for Human Resource Management (SHRM).

The survey found that most employers are using new or expanded benefits, rather than increased pay, to help employees offset the higher cost of filling their gas tanks. Results showed that just 2% of the employers surveyed offered workers a cost of living raise related to higher gas prices, or stipends to employees with long commutes.

At the same time, however, 42% of the employers surveyed reported raising the mileage reimbursement to the IRS maximum for 2008, up from 13% in 2007. More than one-quarter (26%) of the companies polled said they offer flexible work schedules, 18% said they offer telecommuting, 14% reported providing workers with public transportation discounts, and another 14% said they reward employee performance with gas cards.

Results further revealed that 12% of employers assist employees in organizing carpools, 7% offer priority parking to employees who carpool, 4% provide new non-executive hires with help in finding

housing closer to the workplace, and 1% offer employees incentives for purchasing hybrid cars.

“Rising gas prices are cutting into everyone’s personal budgets, so employees are taking a closer look at benefits such as compressed work weeks and public transportation discounts to reduce their costs,” said Susan R. Meisinger, president and CEO of SHRM. “In addition, employers are offering extra help as a tool to retain employees and improve employee morale.”

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## Benefit Offerings Changed Significantly Over Past 10 Years

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Employee benefit offerings among U.S. employers have shifted substantially over the past decade, with some companies cutting back on their contributions to health care and retirement plans, while workplace flexibility programs show signs of growth, according to the findings of a study released by the Families and Work Institute.

Based on the results of a recent survey of 1,100 employers with 50 or more employees, the study found that 79% of employers now allow at least some workers to change their times of arrival and departure. By contrast, 68% of employers surveyed in 1998 offered flexible schedules. However, 47% of the companies polled in 2008 indicated they permit at least some employees to move from full-time to part-time work and back again, down from 57% of the employers surveyed in 1998.

The 2008 survey also showed that 53% of employers now offer some employees the option of phased retirement, or of reducing their work hours prior to taking full retirement, and 38% allow some employees to take unpaid sabbaticals of six months or more.

Moreover, 65% of the employers surveyed in 2008 indicated they sponsor employee assistance programs, compared with 56% of those polled in 1998; and

39% of employers surveyed in 2008 said they provide workers with access to information about services for the elderly, compared with 23% in 1998. In addition, 31% of respondents in the 2008 survey said they offer health benefits for domestic partners, up from 14% a decade ago.

Meanwhile, just 4% of the companies surveyed in 2008 said they pay all of the health plan premiums for family members of employees, down from 13% in 1998; and only 29% of respondents in the 2008 survey indicated they sponsor a traditional pension plan, compared with 48% in 1998. Results of the 2008 survey further showed more than one-third (35%) of health plan sponsors have increased premium co-pays over the past 12 months, and that employers are less likely to contribute to employees’ retirement plans than a decade ago.

“There has been surprising stability in many of the practices, policies, and programs of U.S. employers over the past 10 years,” said Ellen Galinsky, president and founder of the Families and Work Institute and lead author of the study.

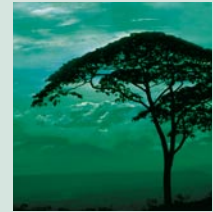
The study confirms that, even in the face of economic volatility, companies have generally held steady or reduced benefits that carry hard costs, Galinsky noted. “Yet in certain areas—including domestic partner benefits and access to information on support services—we are seeing an expansion of benefits,” she observed. “We find it particularly interesting that having an employee base composed of a greater percentage of women, or the presence of women and minorities in senior positions, is correlated with a more flexible workplace.”

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## The Benefits Of Volunteering

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With the cost of providing health care and other employee benefits rising, small businesses often find it difficult to compete with larger companies in attracting




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and retaining the most talented workers. Compared with other types of benefits, an employee volunteer program is relatively affordable, is easy to administer, and can go a long way toward improving employee morale, building employee skills, and boosting your company's standing in the community.

Regardless of the size of the organization they work for, employees tend to appreciate the chance to engage in charitable activities with the support of their employer. According to the Deloitte & Touche 2007 Volunteer IMPACT survey, 62% of Generation Y respondents indicated they prefer to work for companies that offer them opportunities to volunteer. Fortunately, there are many different ways to structure volunteer programs so that they meet the needs of employers, workers, and nonprofits alike.

When thinking about where to focus your efforts, there are three basic considerations that should be taken into account: the needs of the community, the skills and interests of employees likely to donate their time, and the resources of your organization. Before implementing a program, meet with a group of your employees to discuss what charities they would like to support, and what forms of volunteering are most practical given your employees' work and family responsibilities.

In some cases, a team of employees may take paid time off from work to volunteer for a charity. Volunteering as a group can promote team-building and encourage employees to get to know each other outside of the usual work environment. In other cases, employees may agree to take on occasional pro bono work for a nonprofit and incorporate the assignments into their normal workload. Selected appropriately, these pro bono assignments can challenge employees to broaden their skills. Full-time employees who normally

have little extra time to volunteer in the community may especially appreciate the chance to perform work that stretches them, both personally and professionally.

As well as providing employees with the good feelings that come with giving back to the community, volunteering can offer great networking opportunities, and enhance your company's image among potential customers and business contacts. You may also wish to encourage employees to recruit family members and friends to participate in volunteer projects, thus broadening the effort and enabling them to spend much-needed quality time with people they care about.

For an employee volunteer program to succeed, it is, of course, essential to have policies in place that clearly outline how employees are permitted to use their time when contributing to charity. These guidelines should include information about the types of organizations and activities employees may engage in with company support, and how employees will be compensated for the time they spend volunteering. Some companies provide workers with additional paid time off when volunteering, while others ask employees to use vacation, sick, or personal days to volunteer. Employees are typically also asked to submit requests to take time off for volunteering well in advance, so that coverage can be scheduled for these absences.

If you are uncertain whether your employees would be interested in volunteering, consider testing the waters by taking a day off as a company to participate in a volunteer activity. For example, instead of inviting employees to eat lunch at a restaurant, ask them to spend an afternoon planting trees or cleaning a beach in conjunction with a local environmental group, followed by a picnic. If the outing is well received, more ambitious volunteer programs could be developed.



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