



Florida Health Care Coalition



"Quality First, Always!"
Celebrating 25 Years of Quality 1984 - 2009

BOARD OF DIRECTORS

Board Chair
Carolyn Aldorfer
Lakewood Martin

Vice Chair of Programs
Tracy L. Swanson
West Disney World

Vice Chair of Purchasing
Melissa Miller
Florida Power & Light

Vice Chair of Membership - Central
Dorothy Richards
Orange County Government

Vice Chair of Membership - South
Dildra Martin-Ogoun
Broward County Public Schools

Treasurer
Ana Palenzuela
City of Orlando

Secretary
Sue Stock
Universal Orlando

AAA

Brevard County / BCC

Broward Community College

Broward County Government

City of Lakeland

City of Miami

Darden Restaurants

Florida Institute of Technology

Greeter Orlando Aviation Authority

Harris Corporation

HD Supply

IAP World Services

Independent Colleges & Universities
Benefits Association

JM Family Enterprises Inc

LYNX

Macy's

Miami Dade College

Miami-Dade County

Miami-Dade County Public Schools

Orange County Public Schools

Orlando Utilities Commission

Palm Beach County Government

Palm Beach County School District

Polk County Government

Polk County School Board

Publix Super Markets Inc

Rinker Materials

Siemens

SunTrust Bank

Chairman Emeritus
John B. Hanson
Orange County Public Schools

President/CEO
Becky J. Charney

November 2, 2009

Timothy Geithner
Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Room 639G
Washington, DC 20201

Hilda Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretaries Geithner, Sebelius and Solis:

I write on behalf of the Florida Health Care Coalition (FHCC) in regard to recent interim final regulations issued by your departments. We are a 25 year old Coalition that represents many large Florida employers. The regulations seek to implement Title I of the Genetic Information Nondiscrimination Act (GINA) to prohibit discrimination based on genetic information. We respectfully request an immediate moratorium on the implementation and enforcement of these regulations. We further request the creation of a special joint-agency panel to review and understand the impact of these regulations on the use of wellness and chronic disease management programs.

FHCC supports the intent of Title I of GINA to prohibit group health plans and health insurers from taking the following actions: 1) increasing group premiums or contribution amounts based on genetic information; 2) requesting or requiring individuals or their family members to undergo a genetic test; and 3) requesting, requiring or purchasing genetic information prior to or in connection with enrollment, or at any time for underwriting purposes.

However, FHCC believes the definition of "underwriting" included in the interim final regulations far exceeds Congressional intent and will have dramatic and unintended consequences on programs designed to support at-risk and chronically ill individuals

As noted, GINA's intent was to prohibit group health plans and insurers from collecting genetic information 1) prior to or in connection with enrollment; and 2) for underwriting purposes. The final interim regulations broadly define "underwriting purposes" to mean rules for determining eligibility (including enrollment and continued eligibility), computation of premium or contribution amounts, and application of pre-existing condition exclusions. This definition includes changing deductibles or other cost-sharing mechanisms, or providing discounts, rebates, payments in kind, or other premium differential mechanisms in return for activities such as completing a health risk assessment (HRA) or participating in wellness programs. The new regulations clarify that offering reduced premiums or other reward for providing genetic information is an impermissible "underwriting" activity.

4401 Vineland Road Suite A-10 • Orlando, Florida 32811 • 407-425-9500 • Fax 407-425-9559
9250 W Flagler St HR-GO • Miami, Florida 33174 • 305-559-2070 • 305-552-4607

www.fhcc.com

584241

EXEC. SECRETARIAT
SEC. OFFICE
DEPT. OF LABOR
WASHINGTON, DC

2009 NOV 12 AM 11:40

RECEIVED

Further, the interim final regulations state that a wellness program that provides rewards for completing an HRA that requests family medical history would violate the prohibition against requesting genetic information for underwriting purposes, even if the rewards or incentives are not based on the outcome of the assessment. The interim final regulations provide no exception to this rule, regardless of the amount of the reward or incentive or whether the HRA meets the HIPAA wellness plan requirements.

Finally, and most troubling, the interim final regulations prohibit the use of an HRA to determine whether a participant is eligible for a disease management program if the HRA collects family medical information. This prohibition holds even if the HRA does not otherwise contain a financial reward or incentive.

The prohibition on collecting genetic information for underwriting purposes as defined in the interim final regulations severely impacts the use of HRAs by employers, health plans and population health management organizations, labor unions and others. The HRA is an essential, proven tool to identify individuals who are at-risk for or currently managing chronic illness. The use of sophisticated HRA tools enables targeted programs designed to benefit these individuals and provide services and support based on current health status. It is important to recognize that these tools have been shown to improve health care status and quality and reduce health care costs.

As written, the interim final rule leaves health plans, employers and others with two unworkable options

- end incentives for completing an HRA that collects genetic information (including family medical history) or
- remove questions about genetic information from the HRA.

In the former case, participation in wellness and disease management programs will decline, as studies have shown incentives significantly improve wellness program participation; in the latter, the effectiveness of the HRA will be severely diluted, as family history and other genetic information are valuable indicators of chronic disease risk.

The Florida Health Care Coalition believes wellness and disease management programs and the tools they use, such as HRAs –are consistent with the Administration's health care reform goals of improved quality and reduced costs. As such, the Title I GINA interim final rules directly contradict those goals and should not be permitted to move forward to implementation or enforcement without closer examination and adherence to original Congressional intent.

FHCC stands prepared to work closely with your agencies, other Administration officials and Congressional leaders to ensure a mutually agreeable solution to these issues.

Sincerely,



Becky J. Cherney
President/CEO

USA FIRST CLASS PERMIT NO. 1234



ORLANDO FL 328

06 NOV 09 PM 2 L



Florida Health Care Coalition
4401 Vineland Road Suite A-10
Orlando, Florida 32811

Hilda Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

