

114TH CONGRESS  
1ST SESSION

# S. 620

To clarify rules relating to nondiscriminatory employer wellness programs as such programs relate to premium discounts, rebates, or modifications to otherwise applicable cost sharing under group health plans.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2, 2015

Mr. ALEXANDER (for himself, Mr. ISAKSON, Mr. HATCH, Mr. SCOTT, Mr. ROBERTS, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To clarify rules relating to nondiscriminatory employer wellness programs as such programs relate to premium discounts, rebates, or modifications to otherwise applicable cost sharing under group health plans.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Employee  
5 Wellness Programs Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) Congress has a strong tradition of pro-  
2           tecting and preserving employee workplace wellness  
3           programs, including programs that utilize a health  
4           risk assessment, biometric screening, or other re-  
5           sources to inform and empower employees in making  
6           healthier lifestyle choices;

7           (2) health promotion and prevention programs  
8           are a means to reduce the burden of chronic illness,  
9           improve health, and limit the growth of health care  
10          costs;

11          (3) in enacting the Patient Protection and Af-  
12          fordable Care Act (Public Law 111–148), Congress  
13          intended that employers would be permitted to im-  
14          plement health promotion and prevention programs  
15          that provide incentives, rewards, rebates, surcharges,  
16          penalties, or other inducements related to wellness  
17          programs, including rewards of up to 50 percent off  
18          of insurance premiums for employees participating  
19          in programs designed to encourage healthier lifestyle  
20          choices; and

21          (4) Congress has struck an appropriate balance  
22          among employees, health care providers, and  
23          wellness plan sponsors to protect individual privacy  
24          and confidentiality in a wellness program which is  
25          designed to improve health outcomes.

1 **SEC. 3. NONDISCRIMINATORY EMPLOYEE WELLNESS PRO-**  
2 **GRAMS.**

3 (a) OFFERING OF PROGRAM REWARDS.—

4 (1) IN GENERAL.—Notwithstanding any other  
5 provision of law, workplace wellness programs, or  
6 programs of health promotion or disease prevention  
7 offered by an employer or in conjunction with an  
8 employer-sponsored health plan, described in section  
9 2705(j) of the Public Health Service Act (42 U.S.C.  
10 300gg-4(j)), shall not violate the Americans with  
11 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)  
12 or title I or II of the Genetic Information Non-  
13 discrimination Act of 2008 (Public Law 110-233)  
14 because such program provides any amount or type  
15 of reward (as provided for in section 2705(j)(3)(A)  
16 of the Public Health Service Act (42 U.S.C. 300 gg-  
17 4(j)(3)(A))) to program participants if such program  
18 complies with such section 2705(j) (or any regula-  
19 tions promulgated with respect to such section by  
20 the Secretary of Labor, the Secretary of Health and  
21 Human Services, and the Secretary of the Treas-  
22 ury).

23 (2) APPLICATION OF SUBSECTION.—With re-  
24 spect to workplace wellness programs, or programs  
25 of health promotion or disease prevention offered by  
26 an employer or in conjunction with an employer-

1 sponsored health plan, described in section  
2 2705(j)(1)(B) or section 2705(j)(2) of the Public  
3 Health Service Act (42 U.S.C. 300gg-4(j)(1)(B) or  
4 (j)(2)), this subsection shall apply if the reward with  
5 respect to such programs is less than or equal to the  
6 maximum reward amounts provided for by section  
7 2705(j)(3)(A) of such Act (42 U.S.C. 300gg-  
8 4(j)(3)(A)) (or any regulations promulgated with re-  
9 spect to such section by the Secretary of Labor, the  
10 Secretary of Health and Human Services, and the  
11 Secretary of the Treasury).

12 (b) COLLECTION OF INFORMATION.—Notwith-  
13 standing any other provision of law, the collection of infor-  
14 mation about the manifested disease or disorder of a fam-  
15 ily member shall not be considered an unlawful acquisition  
16 of genetic information with respect to another family  
17 member participating in workplace wellness programs, or  
18 programs of health promotion or disease prevention of-  
19 fered by an employer or in conjunction with an employer-  
20 sponsored health plan, described in section 2705(j) of the  
21 Public Health Service Act (42 U.S.C. 300gg-4(j)), and  
22 shall not violate title I or title II of the Genetic Informa-  
23 tion Nondiscrimination Act of 2008 (Public Law 110-  
24 233). For purposes of the preceding sentence, the terms  
25 “family members” and “manifestation” shall have the

1 meanings given such terms for purposes of title I or II  
2 of the Genetic Information Nondiscrimination Act (Public  
3 Law 110–233), or the amendments made by such titles,  
4 as appropriate.

5 (c) RULES OF CONSTRUCTION.—

6 (1) RELATING TO THE ADA.—Nothing in this  
7 Act shall be construed to limit or otherwise restrict  
8 the application of section 501(c)(2) of the Americans  
9 with Disabilities Act of 1990 (42 U.S.C.  
10 12201(c)(2)) to any programs or arrangements de-  
11 scribed in this Act.

12 (2) RELATING TO EMPLOYER DEADLINES.—  
13 Nothing in the regulations referred to in subsection  
14 (a) shall be construed to prevent an employer that  
15 is offering a wellness program to an employee from  
16 establishing a deadline of up to 180 days for em-  
17 ployees to request and complete a reasonable alter-  
18 native standard (or waiver of the otherwise applica-  
19 ble standard). A reasonable alternative standard (or  
20 waiver of the otherwise applicable standard) is pro-  
21 vided for in section 2705(j)(3)(D) of the Public  
22 Health Service Act (42 U.S.C. 300 gg–4(j)(3)(D))  
23 (or any regulations promulgated with respect to such  
24 section by the Secretary of Labor, the Secretary of

1 Health and Human Services, and the Secretary of  
2 the Treasury).

3 **SEC. 4. EFFECTIVE DATE.**

4 This Act shall take effect as if enacted on March 23,  
5 2010, and shall apply to the Americans with Disabilities  
6 Act of 1990 (42 U.S.C. 12101 et seq.) and the Genetic  
7 Information Nondiscrimination Act of 2008 (Public Law  
8 110–233), including the amendments made by such Acts.

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