

114TH CONGRESS
1ST SESSION

H. R. 1189

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2015

Mr. KLINE (for himself, Mr. ROE of Tennessee, and Mr. WALBERG) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

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

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

23 (4) Congress has struck an appropriate balance
24 among employees, health care providers, and
25 wellness plan sponsors to protect individual privacy

1 and confidentiality in a wellness program which is
2 designed to improve health outcomes.

3 **SEC. 3. NONDISCRIMINATORY EMPLOYEE WELLNESS PRO-**
4 **GRAMS.**

5 (a) OFFERING OF PROGRAM REWARDS.—

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

1 (2) APPLICATION OF SUBSECTION.—With re-
2 spect to workplace wellness programs, or programs
3 of health promotion or disease prevention offered by
4 an employer or in conjunction with an employer-
5 sponsored health plan, described in section
6 2705(j)(1)(B) or section 2705(j)(2) of the Public
7 Health Service Act (42 U.S.C. 300gg-4(j)(1)(B) or
8 (j)(2)), this subsection shall apply if the reward with
9 respect to such programs is less than or equal to the
10 maximum reward amounts provided for by section
11 2705(j)(3)(A) of such Act (42 U.S.C. 300gg-
12 4(j)(3)(A)) (or any regulations promulgated with re-
13 spect to such section by the Secretary of Labor, the
14 Secretary of Health and Human Services, and the
15 Secretary of the Treasury).

16 (b) COLLECTION OF INFORMATION.—Notwith-
17 standing any other provision of law, the collection of infor-
18 mation about the manifested disease or disorder of a fam-
19 ily member shall not be considered an unlawful acquisition
20 of genetic information with respect to another family
21 member participating in workplace wellness programs, or
22 programs of health promotion or disease prevention of-
23 fered by an employer or in conjunction with an employer-
24 sponsored health plan, described in section 2705(j) of the
25 Public Health Service Act (42 U.S.C. 300gg-4(j)), and

1 shall not violate title I or title II of the Genetic Informa-
2 tion Nondiscrimination Act of 2008 (Public Law 110–
3 233). For purposes of the preceding sentence, the terms
4 “family members” and “manifestation” shall have the
5 meanings given such terms for purposes of title I or II
6 of the Genetic Information Nondiscrimination Act (Public
7 Law 110–233), or the amendments made by such titles,
8 as appropriate.

9 (c) RULES OF CONSTRUCTION.—

10 (1) RELATING TO THE ADA.—Nothing in this
11 Act shall be construed to limit or otherwise restrict
12 the application of section 501(c)(2) of the Americans
13 with Disabilities Act of 1990 (42 U.S.C.
14 12201(c)(2)) to any programs or arrangements de-
15 scribed in this Act.

16 (2) RELATING TO EMPLOYER DEADLINES.—
17 Nothing in the regulations referred to in subsection
18 (a) shall be construed to prevent an employer that
19 is offering a wellness program to an employee from
20 establishing a deadline of up to 180 days for em-
21 ployees to request and complete a reasonable alter-
22 native standard (or waiver of the otherwise applica-
23 ble standard). A reasonable alternative standard (or
24 waiver of the otherwise applicable standard) is pro-
25 vided for in section 2705(j)(3)(D) of the Public

1 Health Service Act (42 U.S.C. 300 gg-4(j)(3)(D))
2 (or any regulations promulgated with respect to such
3 section by the Secretary of Labor, the Secretary of
4 Health and Human Services, and the Secretary of
5 the Treasury).

6 **SEC. 4. EFFECTIVE DATE.**

7 This Act shall take effect as if enacted on March 23,
8 2010, and shall apply to the Americans with Disabilities
9 Act of 1990 (42 U.S.C. 12101 et seq.) and the Genetic
10 Information Nondiscrimination Act of 2008 (Public Law
11 110-233), including the amendments made by such Acts.

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