

Wellness Programs in 2018 – Clear as Mud

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Since 2016, employers that offered wellness programs to their employees have had to juggle two sets of conflicting and confusing rules: The Affordable Care Act (ACA) on the one hand, and the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) on the other. The ACA governs the design of wellness programs offered in connection with a group health plan, while the ADA and GINA govern voluntary wellness programs that ask disability-related questions or involve a medical exam.

Under ACA rules, an employer that offers a health-contingent wellness program in connection with a group health plan must comply with a five-factor test that—among other requirements—limits the number of incentives provided under the program. These rules restrict incentives to 30 percent of the total cost of coverage for the group health plan of which the employee is a member. The limit is 50 percent for tobacco cessation programs.

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