

Completion of Health Risk Assessment On Enrollment Would Violate ADA

Requiring completion of a health risk assessment (HRA) as a condition for enrollment would violate the Americans with Disabilities Act (ADA), because the HRA is neither voluntary nor job-related, according to the U.S. Equal Employment Opportunity Commission (EEOC).

***Example.** An employer requires participation in an HRA as a requirement to obtain coverage under its self-funded group health plan. The HRA includes answering a short health-related questionnaire, taking a blood pressure test and providing blood for use in a blood panel screen. Information from the HRA goes directly and exclusively back to the employee; the employer receives only the aggregated data.*

In the introduction to HIPAA's 2006 final nondiscrimination rules, the three HIPAA agencies noted that group health plans also still must meet the ADA's separate requirements, which the EEOC enforces. In addition to prohibiting disability-based discrimination, the ADA also restricts employers' use of disability-related inquiries and medical examinations.

The HRA is not voluntary "because individuals who do not participate in the assessment are denied a benefit (i.e., penalized for non-participation)

as compared to employees who participate in the assessment," the EEOC stated. Moreover, requiring all employees to take an HRA as a prerequisite for obtaining health insurance coverage does not appear to be job-related and consistent with business necessity, and therefore would violate the ADA.

Punitive triggers, such as higher premiums or deductibles for employees who do not cooperate in programs such as disease management, would seem to be penalties rendering participation in the program involuntary, according to the EEOC.

What This Means For Counties

Counties making inquiries of employees which may include questions likely to elicit information about a disability, must be job related and consistent with business necessity. These rules apply to all employees, whether or not they have an ADA-recognized disability.

For more information, contact CTSI at 303-861-0507.