

## Agencies Plan to Raise Threshold For Wellness Incentives to 30 Percent

The federal HIPAA portability agencies will propose raising the monetary wellness incentive threshold from 20 percent to 30 percent of coverage costs, according to guidance issued Dec. 22 by the U.S. Department of Labor (DOL).

The recent health reform law includes such a change, effective in 2014, but DOL and the U.S. Departments of Health and Human Services (HHS) and Treasury “intend to propose regulations that use existing regulatory authority under HIPAA to raise the percentage for the maximum reward that can be provided under a health-contingent wellness program to 30 percent before the year 2014,” according to a frequently-asked-questions document that also addresses mental health parity and health reform. *Page 2*

## EEOC GINA Rules' Ambiguity Creates Liability Risk for Employers

The genetic discrimination and privacy rules for employers recently finalized by the Equal Employment Opportunity Commission (EEOC) expand the set of protected information and tighten confidentiality requirements, while leaving ambiguities that could heighten employers' liability exposure, attorneys said in recent audio conferences.

“The burden of all of the ambiguities falls squarely on you, and there are many,” said Burton Fishman of Fortney & Scott, LLC. “This creates enormous opportunities for legal challenges.” The EEOC rules, issued in November 2010, implement Title II of the Genetic Information Nondiscrimination Act (GINA). *Page 3*

## HHS Explains Required Notices For Waivers of Annual Limits

Detailed notice requirements and deadlines for health plans with waivers from the health reform law's minimum annual dollar limits were imposed by HHS in recent guidance. The circumstances under which a group health plan with a waiver may change insurers were also addressed in a separate HHS document.

Group health plans and insurers offering “mini-med” or other limited benefit plans under HHS waivers must use model notice language specified by the agency, and display it clearly and conspicuously. HHS has issued more than 700 such waivers. *Page 4*

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### Update Pages

Health reform discussion updated in ¶110 and ¶240-¶245.
CHIPRA discussion updated in ¶414 and ¶440.
Wellness program discussion updated in ¶530 and ¶531.
Security discussion updated in ¶817.
Enforcement discussion updated in ¶830 and ¶831.

### Audio Conferences, Webinars

**March 9:** Form 5500 and EFAST2

**March 22:** Health Reform in 2011: Dealing With Present Challenges, Planning for Future Changes

**March 29:** Wellness on a Budget: No-Cost & Low-Cost Ways to Improve Employee Health

Go to <http://www.thompsoninteractive.com> for a complete list of upcoming audio conferences and webinars. Also, you can purchase these past audio conferences on CD:

- Participant Fee Disclosure
- Final GINA Regulations
- COBRA Compliance Made Easy

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