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Wellness Efforts Face Hurdle

Asking Workers About Family Health History Can Clash With U.S. Genetics Law

By CARI TUNA

Companies' efforts to reduce health-care costs by nudging employees into wellness programs are clashing with a federal law designed to prevent discrimination based on genetics.

Many employers offer workers cash incentives or insurance-premium reductions to fill out health surveys and some use that information to offer health advice or direct at-risk employees to disease-management programs. But the Genetic Information Nondiscrimination Act, which took effect last year, restricts employers' and health insurers' ability to collect and disclose genetic information. That includes not only genetic-test results, but family medical history, too.

Some employers say the law is stymieing their efforts to promote employee wellness because it bars them from offering workers financial incentives to complete health surveys that ask about family history. Generally, the law prohibits insurers and employers from using genetic information for coverage and employment decisions, such as hiring, firing and promotion.

Employers say financial incentives are needed to boost participation in wellness programs, which can reduce overall health-care costs. Roughly 70% of employers offer such programs, and 64% of those offer employees incentives—like cash, gift cards or premium discounts—to complete health-risk questionnaires, according to a 2009 survey by PricewaterhouseCoopers LLP. Wellness programs also can include smoking-cessation, weight-loss and disease-prevention programs.

Some supporters of the law say the financial incentives improperly encourage employees to disclose genetic details. "People should not have to choose between their pocketbooks and participating in a wellness program or a health-risk assessment, particularly in this economy," says Jeremy Gruber, executive director of the Council for Responsible Genetics, a Cambridge, Mass., advocacy group.

The clash comes as Washington encourages wellness and preventive-care programs amid the health-care-policy debate.

"This is not a small issue," says William Bunn, vice president of health, safety, security and productivity at Navistar International Corp.

He says that for decades the truck maker has encouraged employees to complete voluntary health-risk appraisals. In 2007, it began offering financial incentives—like premium reductions or cash. More than 60% of nonunion employees completed assessments in 2009, twice as many as before the rewards.

Dr. Bunn says greater participation in wellness and preventive-care programs helped Navistar cut health-care costs 7% last year. "We're seeing fewer doctor visits," he says.

But because of the new rules, Dr. Bunn last year dropped questions about family medical history from Navistar's health questionnaire. That means Navistar can no longer direct employees to programs for managing diabetes or cardiac and respiratory ailments based on family history. "If your parents had a history of early cardiovascular disease, that's important to know," he says.

Larry Harvey, executive vice president of human resources at Sparks Nugget Inc., which runs John Ascuaga's Nugget casino resort in Sparks, Nev., is trying to "work around" the new rules.

Since 1992, the company has offered reduced premiums to employees who complete a health screening. With that carrot, Mr. Harvey says, roughly 98% of the company's 1,100 eligible workers participate. "I'm not going to get rid of the incentive," he says.

Instead, nurses who screen employees at the company's annual health fair this year will fill out two forms: one that includes family-history questions and one that doesn't. Nurses will give the first form to employees to take to their next doctor visit. They'll submit the second form to the company's benefits department.

In a November letter to U.S. agencies responsible for administering the law, more than 250 medical and advocacy groups, including the American Medical Association and American Heart Association, endorsed the law and urged regulators not to exempt wellness programs from restrictions on collecting genetic information. Wellness programs "need not collect and retain private genetic information to be effective," the letter said.

But Paul Billings, director and chief scientific officer at the Genomic Medicine Institute at El Camino Hospital in Mountain View, Calif., says using family-history information can "add another effective level of risk assessment and risk prevention" to wellness programs.

Still, Dr. Billings, whose research on genetics-based discrimination helped pave the way for the new law, warns that safeguards should be put in place to ensure that employees' genetic information isn't collected or used improperly.

He cites a 2001 case in which the Equal Employment Opportunity Commission sued Burlington Northern Santa Fe Corp. for allegedly testing the DNA of dozens of employees for a genetic marker that predicts some forms of carpal tunnel syndrome—without their consent—as part of a medical exam for workers who had filed claims of work-related carpal-tunnel injuries.

The EEOC didn't find that the railway had used the tests to discriminate against the workers, but the company agreed to stop the tests and pay up to \$2.2 million to the employees. "At no time did the company use, or intend to use, any genetic test to screen our asymptomatic employees," Burlington Chief Executive Matthew K. Rose said in a statement about the settlement in 2002.

The EEOC hopes to finalize rules for employers this year. EEOC attorney Peggy Mastroianni says the commission is aware of employers' concerns. "Everybody's thinking really hard about it," she adds. The U.S. Labor Department and other federal agencies are finalizing regulations for insurers.

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