



## AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

May 23, 2016

### Quick Links

[MA-ACA Website](#)



These Updates, published by the Executive Office of Health and Human Services (EOHHS) in consultation with the other state agencies involved in ACA implementation, will bring you news related to the implementation of provisions of the ACA here in Massachusetts.

### Grants and Demonstrations

The ACA provides funding opportunities to transform how health care is delivered, expand access to care and support healthcare workforce training.

### Grant Activity

For information about ACA grants awarded to and grant proposals submitted by the Commonwealth, visit the Grants page of the **Massachusetts National Health Care Reform website** at: [www.mass.gov/eohhs/gov/commissions-and-initiatives/healthcare-reform/national-health-care-reform-plan/grants-and-demonstrations.html](http://www.mass.gov/eohhs/gov/commissions-and-initiatives/healthcare-reform/national-health-care-reform-plan/grants-and-demonstrations.html)

### Guidance

**5/16/16 The U.S. Equal Employment Opportunity Commission (EEOC) issued two final rules that describe how Title I of the Americans with Disabilities Act (ADA) and Title II of the Genetic Information Nondiscrimination Act (GINA) apply to wellness programs offered by employers that request health information from employees and their spouses.** The two rules provide guidance to both employers and employees about how workplace wellness programs can comply with the ADA and GINA consistent with provisions governing wellness programs in the Health Insurance Portability and Accountability Act, as amended by ACA §1201.

According to the agency, the final rules permit wellness programs to operate consistent with their stated purpose of improving employee health, while including protections for employees against discrimination. Many employers offer workplace wellness programs intended to encourage healthier lifestyles or prevent disease. These programs sometimes use medical questionnaires or health risk assessments and biometric screenings to determine an employee's health risk factors. Some of these programs offer financial and other incentives for employees to participate or to achieve certain health outcomes.

The final rule provides that wellness programs that are part of a group health plan and that ask questions about employees' health or include medical examinations may offer incentives of up to 30% of the total cost of self-only coverage. The final GINA rule provides that the value of the maximum incentive attributable to a spouse's participation may not exceed 30% of the total cost of self-only coverage, the same incentive allowed for the employee. No incentives are allowed in exchange for the current or past health status information of employees' children or in exchange for specified genetic information (such as family medical history or the results of genetic

tests) of an employee, an employee's spouse, and an employee's children.

The ADA and GINA generally prohibit employers from obtaining and using information about employees' own health conditions or about the health conditions of their family members, including spouses. Both laws, however, allow employers to ask health-related questions and conduct medical examinations, such as biometric screenings to determine risk factors, if the employer is providing health or genetic services as part of a voluntary wellness program.

The final rules, which are effective in 2017, apply to all workplace wellness programs, including those in which employees or their family members may participate without also enrolling in a particular health plan.

Read the ADA final rule question-and-answer document at: <https://www.eeoc.gov/laws/regulations/qanda-ada-wellness-final-rule.cfm>

Read the GINA final rule question-and-answer document at: <https://www.eeoc.gov/laws/regulations/qanda-gina-wellness-final-rule.cfm>

Read the ADA final rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-05-17/pdf/2016-11558.pdf>

Read the GINA final rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-05-17/pdf/2016-11557.pdf>

**5/16/16 HHS/CMS issued a notice under the Paperwork Reduction Act of 1995 (PRA) seeking comments on the extension of a currently approved information collection activity related to Issuer Reporting Requirements for Selecting a Cost-Sharing Reductions Reconciliation Methodology.**

ACA §1402 and §1412 provide for reductions in cost sharing on essential health benefits (EHB) for low- and moderate-income enrollees in silver level qualified health plans (QHP) on individual market Exchanges. It also provides for reductions in cost sharing for Indians enrolled in QHPs at any metal level. According to HHS, these cost-sharing reductions are intended to help eligible individuals and families afford the out-of-pocket spending associated with health care services provided through Exchange-based QHP coverage.

In addition, the ACA directs QHP issuers to notify the HHS Secretary of cost-sharing reductions made under the statute for qualified individuals, and directs the HHS Secretary to make periodic and timely payments to the QHP issuer equal to the value of those reductions. Furthermore, the ACA permits advance payment of the cost-sharing reduction amounts to QHP issuers based upon amounts specified by the HHS Secretary. Under established HHS regulations, QHP issuers will receive advance payments of the cost-sharing reductions throughout the year and each issuer will then be subject to one of two reconciliation processes after the year to ensure that HHS reimbursed each issuer the correct advance cost-sharing amount. According to HHS, this information collection request establishes the data collection requirements for a QHP issuer to report to HHS which reconciliation reporting option the issuer will be subject to for a given benefit year.

Comments are due June 15, 2016.

Read the notice at: <https://www.gpo.gov/fdsys/pkg/FR-2016-05-16/pdf/2016-11499.pdf> (see item #3)

**5/16/16 HHS/CMS issued a notice under the Paperwork Reduction Act of 1995 (PRA) seeking comments on the extension of a currently approved information collection activity related to Long Term Care Hospital (LTCH) Continuity Assessment Record and Evaluation (CARE) Data Set.**

ACA §3004 authorized the establishment of quality reporting program for LTCHs. Beginning in FY 2014, LTCHs that failed to submit quality measure data may have been subject to a 2% point reduction in their annual update to the standard federal rate for discharges occurring during a rate year.

According to CMS, the LTCH CARE Data Set was developed specifically for use in LTCHs for data collection of pressure ulcer measures beginning October 1, 2012, with the understanding that the data set would expand in future rulemaking years with the adoption of additional quality measures.

Comments are due June 15, 2016.

Read the notice at: <https://www.gpo.gov/fdsys/pkg/FR-2016-05-16/pdf/2016-11500.pdf> (see item #1)

**5/13/16 Office for Civil Rights (OCR)/ Office of the Secretary, HHS issued the final rule called "Nondiscrimination in Health Programs and Activities."**

The final rule implements ACA §1557 which prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities. The final rule clarifies and codifies existing nondiscrimination requirements and sets forth new standards to implement §1557, particularly with respect to the prohibition of discrimination on the basis of sex in health programs other than those provided by educational institutions and the prohibition of various forms of discrimination in health programs administered by HHS and entities established under Title I of the ACA.

In addition, the final rule describes how the agency will apply the standards of §1557 to HHS-administered health programs and activities. In general, the final rule is effective July 18, 2016.

Read the final rule (which was published in the Federal Register on May 18, 2016) at: <https://www.gpo.gov/fdsys/pkg/FR-2016-05-18/pdf/2016-11458.pdf>

Prior guidance can be found at: [www.hhs.gov/healthcare/index.html](http://www.hhs.gov/healthcare/index.html)

---

Bookmark the **Massachusetts National Health Care Reform website** at: [National Health Care Reform](#) to read updates on ACA implementation in Massachusetts.

Remember to check the Mass.Gov website at: [Dual Eligibles](#) for information on the "**Integrating Medicare and Medicaid for Dual Eligible Individuals**" initiative.



Follow **MassHealth** on YouTube!



Follow **MassHealth** on Twitter!

---

To subscribe to receive the ACA Update, send an email to: [join-ehs-ma-aca-update@listserv.state.ma.us](mailto:join-ehs-ma-aca-update@listserv.state.ma.us). To unsubscribe from the ACA Update, send an email to: [leave-ehs-ma-aca-update@listserv.state.ma.us](mailto:leave-ehs-ma-aca-update@listserv.state.ma.us). Note: When you click on the sign up link, a blank e-mail should appear. If your settings prevent this, you may also copy and paste [join-ehs-ma-aca-update@listserv.state.ma.us](mailto:join-ehs-ma-aca-update@listserv.state.ma.us) into the address line of a blank e-mail. Just send the blank e-mail as it's addressed. No text in the body or subject line is needed.