



The Preserving Employee Wellness Programs Act (H.R. 1313)

Rep. Virginia Foxx (R-NC), chairwoman of the Education and the Workforce Committee introduced the *Preserving Employee Wellness Programs Act* (H.R. 1313). H.R. 1313 allows critical anti-discrimination laws such as the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) to be circumvented in employer-provided wellness programs. Specifically, the *Preserving Employee Wellness Programs Act* would:

- **Shift costs to workers**
 - While wellness programs can provide a tool to create a healthier work environment, [their effectiveness is questionable](#). The use of massive rewards to incentivize participation must be weighed against program efficacy and the impact that financial penalties can have on health care affordability.
 - If a worker is not comfortable disclosing health status information – because he or she is in fact unhealthy or perhaps struggling with mental illness – employers would be allowed to increase his or her premium, making health care less affordable.
 - If the end goal of wellness programs is to promote health and well-being, we must ensure that all workers – including those who do not want to disclosure sensitive and private health information – can access them.
- **Weaken key anti-discrimination and privacy protections**
 - H.R. 1313 undermines protections enshrined in the ADA and GINA, both of which contain general prohibitions against the non-voluntary collection of certain medical information from employees without justification.
 - H.R. 1313 would allow employers to penalize workers for not providing sensitive medical and genetic information and leave workers vulnerable to workplace discrimination.
 - H.R. 1313 exempts all wellness plans offered through employer-sponsored health plans from the ADA, thereby giving unscrupulous employers permission to discriminate or retaliate against employees with disabilities.
 - H.R. 1313 fails to provide any safeguards on how collected information can be used or where it could be sold.
- **Undermine effective enforcement of civil rights laws**
 - H.R. 1313 would inhibit the EEOC's ability to fulfill its statutory obligations and undermine the EEOC's authority to protect workers by setting a dangerous precedent that allows so-called wellness programs from being exempted from civil rights laws.
 - H.R. 1313 chips away at the safe harbor provision in the ADA law exempting employer wellness plans from the law – thereby circumventing reasonable accommodation or retaliation protections.
 - H.R. 1313 would have the effect of amending GINA by empowering employers to collect the genetic information of children and other family members as a condition for an employee to participate in an employer-sponsored wellness plan that encourages healthy eating and exercise.