

Rules Would Establish a De Minimis Limit for Wellness Incentives Under the ADA and GINA

On Jan. 7, 2021, the Equal Employment Opportunity Commission (EEOC) issued two proposed rules on wellness programs under the [Americans with Disabilities Act](#) (ADA) and the [Genetic Information Non-Discrimination Act](#) (GINA). These proposed rules were issued in response to a federal court decision that vacated a portion of EEOC regulations describing the incentives that an employer could offer as part of a wellness program in certain circumstances.

Prior regulations established a 30% limit on the permissible incentives a wellness program may offer under both the ADA and GINA. These proposed rules would establish a limit generally allowing de minimis incentives to be offered as part of wellness program participation. Exceptions allowing larger incentives would apply to health-contingent wellness programs that are part of, or qualify as, group health plans under the ADA rules.

These proposed rules have not been finalized and may not be relied upon. The EEOC is requesting comments on the provisions in the proposed rules. Comments on the proposals are due 60 days after the proposed rules are published in the Federal Register.