

Genetic Information Nondiscrimination Act (GINA)

On Wednesday, May 21, 2008, President Bush signed into law the Genetic Information Nondiscrimination Act (GINA). The new law, which has been called "the first civil rights law of the 21st Century," would prohibit discrimination against individuals on the basis of their genetic information in both employment and health care. This legislation is vital to all individuals who have, or whose family member may have, a genetic condition such as celiac disease.

The employment provisions of GINA become effective in November 2009, or 18 months after the President signed the bill, and the provisions pertaining to group health plans become effective in May 2009, or one year after the date of enactment.

Health Plans

This landmark law bars insurance companies from requiring individuals to undergo genetic testing and bars insurance companies from using an individual's genetic information in setting insurance premiums for a group plan or an individual health insurance plan.

It is very important to note that the new law does not prevent insurers from declining to offer coverage, based on an individual's current health status. Meaning, if you know you currently have celiac disease, even though this is a genetic condition, an insurance company can refuse to offer you insurance. It also does not require an insurance plan to pay for genetic tests.

A chart detailing what the new law does and does not do, has been prepared by the Genetics & Public Policy Center at Johns Hopkins University.

Employment

GINA will prohibit an employer from discriminating against an individual in the hiring, firing, compensation, terms, or privileges of employment on the basis of genetic information of the individual or family member of the individual. GINA defines a family member as the: (1) spouse of the individual; (2) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or (3) parent, grandparent, or great-grandparent.

GINA also forbids an employer from requesting, requiring, or purchasing genetic information of the individual or family member except (1) where the employer inadvertently requests or requires the information, (2) for genetic services offered by the employer (including wellness programs), (3) for purposes of complying with the Family and Medical Leave Act, and (4) where the employer purchases documents that are commercially available.

What GINA does:	What GINA does not do:
Prohibits use of an individual's genetic information in setting eligibility or premium or contribution amounts by group and individual health insurers.	Does not prohibit medical underwriting based on current health status. Does not mandate coverage for any particular medical tests or treatments.

<p>Prohibits health insurers from requesting or requiring an individual to take a genetic test.</p>	<p>Does not interfere with the ability of a treating health care professional to request that an individual or family member undergo a genetic test. Nor does it limit the authority of a health care professional who is employed by or affiliated with a health plan or issuer from notifying an individual about genetic tests or providing information about a genetic test as part of a wellness program.</p>
<p>Prohibits use of an individual's genetic information by employers in employment decisions such as hiring, firing, job assignments, and promotions.</p>	<p>Does not subject employers to remedies and procedures that are any different from those in other civil rights laws such as Title VII and the Americans with Disabilities Act.</p>
<p>Prohibits employers from requesting, requiring, or purchasing genetic information about an individual employee or family member.</p>	<p>Does not prohibit workplace collection of genetic information for toxic monitoring programs, employer-sponsored wellness programs, administration of federal and state Family and Medical Leave laws, and certain cases of inadvertent acquisition of information. However, individual genetic information may not be used or disclosed by the employer.</p>

-compiled by Susannah Baruch, Genetics & Public Policy Center