



MORE DELAY FOR ADA AND GINA REGS

The long awaited release by the EEOC of its new regulations for the Genetic Information Nondiscrimination Act (GINA) and the Americans with Disabilities Act (ADA), previously announced as June, 2010 for GINA and July, 2010 for the new ADA regulations, again appear to have been overly optimistic.

In a public session before the District of Columbia Bar's Labor and Employment Committee on Wednesday, May 26, EEOC Commissioner Victoria Lipnic said she didn't believe the ADA regulations would be published this summer in large part because of the agency's large regulatory load and the need for the new EEO Commissioner appointees to become familiar with the material and have an opportunity to participate in the regulatory drafting process. Presumably, the same delay will affect the GINA regulations as well.

For employers, this further delay is not necessarily good news. It will likely further forestall some potential litigants who don't want to state their cases without knowing just what the regulations say. Also, employers will continue to be unable to review and rewrite policies and otherwise take steps to ensure continued compliance with these laws.

For employers with wellness programs, further delay is especially frustrating. In light of the apparent conflict between GINA's text and statements from the EEOC regarding the disclosure of family medical history, many wellness programs have been in a lengthy holding pattern, hoping that the GINA regulations would clarify just what medical information could be requested, under what terms, with what inducements, and so forth. This holding pattern appears likely to continue for at least awhile longer.



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