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AARP Challenges New Federal Wellness Rules Allowing Employers to Penalize Employees for Keeping Private Health Information Private

Suit filed in Federal District Court in DC vs. EEOC

WASHINGTON, D.C. — AARP has sued the Equal Employment Opportunity Commission (EEOC) to invalidate provisions of new federal wellness rules that allow employers to penalize workers for keeping health information private. The suit – seeking a preliminary injunction against the rules – was filed Monday in the U.S. District Court for the District of Columbia.

Earlier this year, the EEOC reversed its long-standing policy protecting individual employees from being pressured into revealing confidential medical and genetic information to their employers. Over the protests of AARP and a broad range of other organizations, the EEOC issued regulations last May that – in an about face – make employees vulnerable to discrimination.

“Contrary to statutory law, the rules effectively enable employers to make employees ‘offers they can’t refuse,’” said William Alvarado Rivera, Senior Vice President for Litigation at AARP Foundation, which represents AARP in the federal suit. “These rules are likely to have an immediate, negative impact on workers who will have to face a lose-lose choice between sacrificing their civil rights and suffering financial hardship,” said Rivera.

AARP alleges that workers exercising their rights to keep their medical and genetic data private could face penalties that double or triple their health insurance costs. Among other things, the lawsuit argues that the EEOC failed to explain and justify its abrupt policy reversal and that the new rules are contrary to federal laws that protect personal health information.

Two major federal laws – the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) – generally forbid employers to ask employees about personal and family health information. This sensitive information can range from physical health issues such as cancer, diabetes, and heart disease to mental disabilities such as depression and bipolar disorder. The ADA and GINA permit narrow exceptions to the non-disclosure rule for voluntary wellness programs, but those exceptions only apply when the workers genuinely volunteer their information.

The EEOC’s rules “seriously undermine” the critical protections insured under the two laws, according to the AARP suit.

AARP has vigorously opposed the EEOC’s efforts to change the rules, first by filing comments earlier this year with the EEOC when the agency proposed the rules and then by speaking out against the infringement of workers’ rights.

“These rules veer from the EEOC’s important role of protecting against discrimination,” Rivera said. “AARP believes strongly that these rules violate the law, harm workers’ privacy rights, and must be changed.”

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About AARP

AARP is a nonprofit, nonpartisan organization, with a membership of nearly 38 million that helps people turn their goals and dreams into 'Real Possibilities' by changing the way America defines aging. With staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, AARP works to strengthen communities and promote the issues that matter most to families such as healthcare security, financial security and personal fulfillment. AARP also advocates for individuals in the marketplace by selecting products and services of high quality and value to carry the AARP name. As a trusted source for news and information, AARP produces the world's largest circulation magazine, AARP The Magazine and AARP Bulletin. AARP does not endorse candidates for public office or make contributions to political campaigns or candidates. To learn more, visit www.aarp.org or follow @aarp and our CEO @JoAnn_Jenkins on Twitter.

About AARP Foundation

AARP Foundation works to ensure that low-income older adults have nutritious food, affordable housing, a steady income and strong and sustaining bonds. We collaborate with individuals and organizations who share our commitment to innovation and our passion for problem solving. Supported by vigorous legal advocacy, we

create and advance effective solutions that help struggling older adults transform their lives. AARP Foundation is the charitable affiliate of AARP.

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