

- PRESS
- Press Releases

AARP Scores Federal Court Victory for Workers in Challenge to Workplace Wellness Rules

Rules Allow Employers to Penalize Employees for Exercising Their Civil Rights to Keep Private Health Information Private

WASHINGTON, DC—A federal court has handed workers a major victory in an AARP suit against the Equal Employment Opportunity Commission (EEOC) challenging recent workplace wellness rules that allow employers to penalize employees for keeping health information private.

U.S. District Judge John D. Bates ruled that wellness rules were invalid because the EEOC failed to justify them.

“This is a tremendous victory for workers,” said Lisa Marsh Ryerson, President of AARP Foundation. Attorneys from AARP Foundation’s litigation team are representing AARP in the lawsuit. “No one should be coerced into revealing personal health information in the workplace under a wellness program.”

Last year, the EEOC, in an about face, changed its long-standing policy protecting individual workers from being pressured into revealing confidential medical and family health information to their employers. Over the protests of AARP and many other organizations, the EEOC issued regulations last year that make employees vulnerable to discrimination.

AARP said in the suit that workers exercising their federal civil rights to keep their medical and genetic data private could face penalties that would double or triple their health insurance costs—a fact that the court noted in its decision. AARP also argued that the EEOC failed to explain and justify its new policy and that the new rules are contrary to federal laws protecting personal health information. The court agreed.

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, the AARP suit argued.

AARP has consistently opposed the EEOC’s efforts to change the workplace wellness rules, first by filing comments last year when the EEOC first proposed the rule changes last year and then by suing to protect workers’ rights.

Judge Bates said in his ruling that it would be too “disruptive” to immediately eliminate the rules and instead gave the EEOC a chance to “address the rules’ failings in a timely manner.”

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About AARP

AARP is the nation’s largest nonprofit, nonpartisan organization dedicated to empowering Americans 50 and older to choose how they live as they age. With nearly 38 million members and offices in every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, AARP works to strengthen communities and advocate for what matters most to families with a focus on health security, financial stability and personal fulfillment. AARP also works for individuals in the marketplace by sparking new solutions and allowing carefully chosen, high-quality products and services to carry the AARP name. As a trusted source for news and information, AARP produces the world’s largest circulation publications, AARP The Magazine and AARP Bulletin. To learn more, visit www.aarp.org or follow @AARP and @AARPadvocates on social media.

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 affiliated charity of AARP. Learn more at aarpfoundation.org.

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