DNA Determinations

Is discrimination now down to a science?

June 4, 2018 By Kate Ferguson

Should companies be able to use biological tests to deny folks life insurance coverage?

Before you submit to a DNA test, you'd better cross your fingers and hope that the results won't ever be shared because under the provisions of the Genetic Information and Nondiscrimination Act (GINA), which passed in 2008, individuals are protected against genetic discrimination only when they seek health insurance coverage. According to the National Institutes of Health, GINA does not safeguard against such bias with regard to life, disability or long-term care insurance.

The passage of GINA also stopped employers from hiring, terminating or promoting employees based on their genetic information. But the legislative bill HR 1313, also known as the Preserving Employee Wellness Programs Act (PEWPA), which the full House of Representatives is pondering, would allow companies to offer substantial health insurance premium rebates to workers who sign up for company wellness programs. The problem is that employers could use DNA tests to assess the health risks of those enrolled. And employees who don't sign up could face higher premiums.

The legislation would permit businesses to collect health information from employees enrolled in the programs and enable companies to discriminate against workers based on the results of their genetic exams. (Right now, under GINA, genetic information collected from workplace wellness programs can be shared only with care providers.)

In addition, these evaluations generate medical records that life insurance companies may examine to determine whether they'll approve someone for a policy or charge higher rates if a DNA test reveals a genetic marker for a serious illness.

Can life insurance companies ask applicants to share genetic test results? In the past, insurers didn't require such disclosures. But "that is likely to change now with advances in genetic testing and its ability to predict health risks," advises Tatiana Kadetskaya, an insurance attorney with her own law firm in Philadelphia. "In response to these changes, life insurance companies may change their applications for coverage and may require applicants to disclose their genetic test results."

What's more, genetic testing may one day be mandatory for those who apply for life insurance. "Since there is no current legislation against genetic discrimination by life insurers, they have even more leverage to make the first move," observes Cliff Pendell, a licensed insurance agent

and managing partner and cofounder of JRC Insurance Group in San Diego.

RH tip: Keep watch on PEWPA.

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