



# Tompkins County Department of Human Resources

125 East Court Street, Ithaca, NY 14850 | P: (607) 274-5526 | F: (607) 274-5401 | [www.TompkinsCountyNY.gov](http://www.TompkinsCountyNY.gov)

*Inclusion through Diversity*

August 1, 2019

## Additional 2019 Legal Notices:

- Family and Medical Leave Act (FMLA)
- General Notice of COBRA Continuation Coverage Rights
- Medicare Part D Creditable Coverage Notice
- Genetic Information Nondiscrimination Act (GINA)
- The Uniformed Services Employment and Reemployment Rights Act (USERRA)
- New York State Election Law Section 3-110 (Employee Time Off to Vote)

Enclosed in this packet, please find details about the aforementioned notices which pertain to your rights as an employee. Please note that FMLA applies to full-time employees with a year or more of service; COBRA applies to employees enrolled in a County health insurance plan; Medicare Part D Creditable Coverage Notice applies to employees and retirees who are Medicare eligible or soon to become Medicare eligible; GINA applies to all employees; USERRA applies to past and present members of the uniformed services; and NYS Election Law Section 3-110 applies to all employees.

Please contact the Human Resources Department with any questions at 607-274-5526.

## Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

### COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

### ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer*;
- Has worked for the employer for at least *12 months*;
- Has at least *1,250 hours* of service for the employer during the 12 month period immediately preceding the leave\*; and
- Works at a location where the employer has at least *50 employees within 75 miles*.

\* Special hours of service eligibility requirements apply to airline flight crew employees. See Fact Sheet 28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

### LEAVE ENTITLEMENT

Eligible employees may take up to **12 workweeks** of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to **26 workweeks** of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. *See Fact Sheets 28F: Qualifying Reasons under the FMLA and 28M: The Military Family Leave Provisions under the FMLA.*

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

## **NOTICE**

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. *See Fact Sheet 28E: Employee Notice Requirements under the FMLA .*

Covered employers must:

- (1) Post a notice explaining rights and responsibilities under the FMLA. Covered employers may be subject to a civil money penalty for willful failure to post. For current penalty amounts, see [www.dol.gov/whd/fmla/applicable\\_laws.htm](http://www.dol.gov/whd/fmla/applicable_laws.htm);
- (2) Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;

- (3) When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and
- (4) Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

See Fact Sheet 28D: Employer Notice Requirements under the FMLA.

## **CERTIFICATION**

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. See Fact Sheet 28G: Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, See Fact Sheet 28M(c): Qualifying Exigency Leave under the FMLA; Fact Sheet 28M(a): Military Caregiver Leave for a Current Servicemember under the FMLA; and Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA.

## **JOB RESTORATION AND HEALTH BENEFITS**

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. See Fact Sheet 28A: Employee Protections under the Family and Medical Leave Act .

## **OTHER PROVISIONS**

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an eligible employee's use of FMLA leave.

## **ENFORCEMENT**

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any

proceeding, related to the FMLA. *See* [Fact Sheet 77B: Protections for Individuals under the FMLA](#) . The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

**For additional information, visit our Wage and Hour Division Website:**

**<http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)

**General Notice Of COBRA Continuation Coverage Rights**  
**(Tompkins County)**

07/31/2019

**\*\* Continuation Coverage Rights Under COBRA\*\***

**Introduction**

You're getting this notice because you recently gained coverage under a group health plan (the Plan). This notice has important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. **This notice explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect your right to get it.** When you become eligible for COBRA, you may also become eligible for other coverage options that may cost less than COBRA continuation coverage.

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you and other members of your family when group health coverage would otherwise end. For more information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

**You may have other options available to you when you lose group health coverage.** For example, you may be eligible to buy an individual plan through the Health Insurance Marketplace. By enrolling in coverage through the Marketplace, you may qualify for lower costs on your monthly premiums and lower out-of-pocket costs. Additionally, you may qualify for a 30-day special enrollment period for another group health plan for which you are eligible (such as a spouse's plan), even if that plan generally doesn't accept late enrollees.

**What is COBRA continuation coverage?**

COBRA continuation coverage is a continuation of Plan coverage when it would otherwise end because of a life event. This is also called a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage at the full rate in existence at the time plus any administrative costs associated as well as any increases in cost for the duration of coverage.

If you are an employee, you'll become a qualified beneficiary if you lose your coverage under the Plan because of the following qualifying events:

- Your hours of employment are reduced to the point at which you are no longer health insurance benefit eligible, or
- Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you'll become a qualified beneficiary if you lose your coverage under the Plan because of the following qualifying events:

- Your spouse dies;
- Your spouse's hours of employment are reduced to the point at which you are no longer health insurance benefit eligible;
- Your spouse's employment ends for any reason other than his or her gross misconduct;
- Your spouse becomes entitled to Medicare benefits (under Part A, Part B, or both); or
- You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because of the following qualifying events:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced to the point at which the parent-employee, and therefore the dependent, is no longer health insurance benefit eligible;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the Plan as a "dependent child."

### **When is COBRA continuation coverage available?**

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. The employer must notify the Plan Administrator of the following qualifying events:

- The end of employment or reduction of hours of employment to the point at which the employee, beneficiary and/or qualified dependents are no longer health insurance benefit eligible;
- Death of the employee; or
- The employee's becoming entitled to Medicare benefits (under Part A, Part B, or both).

**For all other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the Tompkins County Human Resources Office in writing within 60 days after the qualifying event occurs. Tompkins County Human Resources, 125 E. Court St., Ithaca, NY 14850. You may then be contacted by our third-party provider, Lifetime Benefit Solutions, who may ask you to provide additional information.**

### **How is COBRA continuation coverage provided?**

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered

employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage that generally lasts for 18 months due to employment termination or reduction of hours of work. Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.

There are also ways in which this 18-month period of COBRA continuation coverage can be extended:

***Disability extension of 18-month period of COBRA continuation coverage***

If you or anyone in your family covered under the Plan is determined by Social Security to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to get up to an additional 11 months of COBRA continuation coverage, for a maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of COBRA continuation coverage. **You must notify the Tompkins County Human Resources Office in writing within 60 days after the qualifying event occurs. Tompkins County Human Resources, 125 E. Court St., Ithaca, NY 14850. You may then be contacted by our third-party provider, Lifetime Benefit Solutions, who may ask you to provide additional information.**

***Second qualifying event extension of 18-month period of continuation coverage***

If your family experiences another qualifying event during the 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if the Plan is properly notified about the second qualifying event. This extension may be available to the spouse and any dependent children getting COBRA continuation coverage if the employee or former employee dies; becomes entitled to Medicare benefits (under Part A, Part B, or both); gets divorced or legally separated; or if the dependent child stops being eligible under the Plan as a dependent child. This extension is only available if the second qualifying event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.



## **Are there other coverage options besides COBRA Continuation Coverage?**

Yes. Instead of enrolling in COBRA continuation coverage, there may be other coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options (such as a spouse's plan) through what is called a "special enrollment period." Some of these options may cost less than COBRA continuation coverage. You can learn more about many of these options at [www.healthcare.gov](http://www.healthcare.gov).

## **If you have questions**

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under the Employee Retirement Income Security Act (ERISA), including COBRA, the Patient Protection and Affordable Care Act, and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa). (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.) For more information about the Marketplace, visit [www.HealthCare.gov](http://www.HealthCare.gov).

## **Keep your Plan informed of address changes**

To protect your family's rights, let the Plan Administrator know about any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

## **Plan contact information**

Tompkins County Human Resources  
COBRA Plan Administrator  
125 E. Court Street  
Ithaca, NY 14850  
607-274-5528



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*Inclusion through Diversity*

TO: Tompkins County Employees and Retirees

DATE: August 01, 2019

NAME OF ENTITY/SENDER: Tompkins County

CONTACT: Sarah Thomas, Benefits Administrator

ADDRESS: Human Resources Department, 125 East Court Street Ithaca, New York 14850

PHONE NUMBER: (607) 274-5528

This notice applies to Tompkins County employees and retirees who are eligible for Medicare. Tompkins County is obligated to disclose on an annual basis the Medicare Part D creditable coverage status of their prescription drug coverage to Medicare participants or those who will soon become eligible for Medicare. Tompkins County is legally obligated to send this notice to all employees and retirees on an annual basis.

- **If you are covered under the Tompkins County prescription drug coverage, you do not need to enroll in Part D. Your prescription drug coverage is better than Part D.**
- **Below is a letter of creditable coverage (proving Tompkins County's prescription plan is better than Part D) for prescription drugs. Please keep this notice for your records.**
- **Should you, at any point in the future, cancel your coverage through Tompkins County and then choose to enroll in Part D, you will need to present this notice to Medicare as evidence that you had "creditable coverage" while under the Tompkins County Prescription/Healthcare Plan. Your letter of creditable coverage will help you make a smooth transition to Part D without incurring any Medicare enrollment penalties.**

## **Important Notice from Tompkins County About Your Prescription Drug Coverage and Medicare:**

Please read this notice carefully and keep it where you can find it. This notice has information about your current prescription drug coverage with Tompkins County and about your options under Medicare's prescription drug coverage. This information can help you decide whether or not you want to join a Medicare drug plan. If you are considering joining, you should compare your current coverage, including which drugs are covered at what cost, with the coverage and costs of the plans offering Medicare prescription drug coverage in your area. Information about where you can get help to make decisions about your prescription drug coverage is at the end of this notice.

## **There are two important things you need to know about your current coverage and Medicare's prescription drug coverage:**

1. Medicare prescription drug coverage became available in 2006 to everyone with Medicare. You can get this coverage if you join a Medicare Prescription Drug Plan or join a Medicare Advantage Plan (like an HMO or PPO) that offers prescription drug coverage. All Medicare drug plans provide at least a standard level of coverage set by Medicare. Some plans may also offer more coverage for a higher monthly premium.
2. It has been determined that the prescription drug coverage offered by Tompkins County is, on average for all plan participants, expected to pay out as much or more than standard Medicare prescription drug coverage pays and is therefore considered Creditable Coverage.

Because your existing coverage is Creditable Coverage, you can keep this coverage and not pay a higher premium (a penalty) if you later decide to join a Medicare drug plan.

### **When Can You Join A Medicare Drug Plan?**

You can join when you first become eligible for Medicare and each year from October 15th through December 7th. However, if you lose your current creditable prescription drug coverage, through no fault of your own, you will also be eligible for a two (2) month Special Enrollment Period (SEP) to join a Medicare drug plan.

### **What Happens To Your Current Coverage If You Decide to Join A Medicare Drug Plan?**

If you decide to join, your current Tompkins County prescription coverage will not be affected. If you decide to drop your current Tompkins County coverage, be aware that you and your dependents may not be able to get this coverage back.

### **When Will You Pay A Higher Premium (Penalty) To Join A Medicare Drug Plan?**

You should also know that if you drop or lose your current coverage with Tompkins County and don't join a Medicare drug plan within 63 continuous days after your current coverage ends, you may pay a higher premium (a penalty) to join a Medicare drug plan later. If you go 63 continuous days or longer without creditable prescription drug coverage, your monthly premium may go up by at least 1% of the Medicare base beneficiary premium per month for every month that you did not have that coverage. For example, if you go nineteen months without creditable coverage, your premium may consistently be at least 19% higher than the Medicare base beneficiary premium. You may have to pay this higher premium (a penalty) as long as you have Medicare prescription drug coverage. In addition, you may have to wait until the following October to join.

### **For More Information About This Notice**

Contact the person listed below for further information. **NOTE:** You'll get this notice each year. You will also get it before the next period you can join a Medicare drug plan, and if this coverage through Tompkins County changes. You also may request a copy of this notice at any time.

### **For More Information About Your Options Under Medicare Prescription Drug Coverage**

More detailed information about Medicare plans that offer prescription drug coverage is in the "Medicare & You" handbook. You'll get a copy of the handbook in the mail every year from Medicare. You may also be contacted directly by Medicare drug plans. For more information about Medicare prescription drug coverage:

- Visit [www.medicare.gov](http://www.medicare.gov)
- Call your State Health Insurance Assistance Program (see the inside back cover of your copy of the "Medicare & You" handbook for their telephone number) for personalized help Call 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048.

If you have limited income and resources, extra help paying for Medicare prescription drug coverage is available. For information about this extra help, visit Social Security on the web at [www.socialsecurity.gov](http://www.socialsecurity.gov), or call them at 1-800-772-1213 (TTY 1-800-325-0778).

**Remember: Keep this Creditable Coverage notice. If you decide to join one of the Medicare drug plans, you may be required to provide a copy of this notice when you join to show whether or not you have maintained creditable coverage and, therefore, whether or not you are required to pay a higher premium (a penalty).**



The Genetic Information Nondiscrimination Act of 2008 (GINA) is a federal law that protects individuals from genetic discrimination in health insurance and employment. Genetic discrimination is the misuse of genetic information. This resource provides an introduction to GINA and its protections in health insurance and employment. It includes answers to common questions and examples to help you learn.

This online resource was created by Genetic Alliance, the Genetics and Public Policy Center at Johns Hopkins University, and the National Coalition for Health Professional Education in Genetics through funding by The Pew Charitable Trusts. May 2010.

## **Genetic Information**

### **What is genetic information and why is it important?**

The genetic information protected by the law includes family health history, the results of genetic tests, the use of genetic counseling and other genetic services, and participation in genetic research.

### **Why is genetic information important to me?**

Genetic information helps you know and understand health conditions that run in your family, as well as your risk for developing certain health conditions or having a child with certain conditions. This information can help you make healthy lifestyle choices and important life and medical decisions. It also helps your doctor in providing you the best care possible.

### **How does GINA help me?**

With GINA's protections, you can feel comfortable talking about family health history with your family and healthcare providers. You may choose to use genetic testing and other services to learn about health risks without fear of genetic discrimination.

## **GINA & Your Health Insurance**

GINA makes it against the law for health insurers to request, require, or use genetic information to make decisions about:

- Your eligibility for health insurance
- Your health insurance premium, contribution amounts, or coverage terms

***This means it is against the law for your health insurer to use a genetic test result or family health history as a reason to deny you health insurance, or decide how much you pay for your health insurance.***

In addition, GINA makes it against the law for your health insurer to:

- Consider family health history or a genetic test result as a pre-existing condition
- Ask or require that you have a genetic test
- Use any genetic information they do have to discriminate against you, even if they did not mean to collect it

## **GINA & My Health Insurance (questions and examples)**

### **Does GINA apply to my health insurer?**

GINA's protections apply to *most* health insurers. GINA applies to the health insurance plan you receive through your employer (a group plan) as well as health insurance you purchase on your own (an individual plan) for you and your family. GINA also applies to Medicare supplemental policies for individuals who have insurance through Medicare.

The health insurance protections of GINA *do not* apply to

- Members of the US military who receive their care through the Tricare military health system
- Veterans who receive their care through the Veteran's Administration
- The Indian Health Service
- Federal employees who get care through the Federal Employees Health Benefits Plans

These groups have policies in place that provide discrimination protections similar to GINA.

### **Does GINA mean that a health insurer can't raise my premiums or deny me coverage if I have already been diagnosed with a genetic condition?**

No. GINA does not stop health insurers from basing their decisions about eligibility, coverage, or premiums on current symptoms or diagnosis of a health condition (also known as "current health status" or "manifest disease"). This is true even if the condition is a genetic disease or was diagnosed in part by a genetic test.

The March 2010 Health Reform law will help individuals, including those diagnosed with conditions, get access to insurance coverage for healthcare.

Example:

Huntington disease provides a good example for understanding how GINA applies to those at risk to develop a condition, but not those who are diagnosed with a condition. Huntington disease affects the brain and results in uncontrolled movements, as well as emotional (mood) and thinking (cognition) problems. If a person inherits a mutation in the Huntington disease gene, they will develop the disease sometime in their life (usually by age 30 or 40). Until age 30 or 40, they may have no signs of the disease.

There is a genetic test that can tell a person if they inherited a gene mutation that causes Huntington disease. A person can have this test before he or she has symptoms of the condition, and if they do, their insurer cannot use the information to make decisions about their eligibility, coverage, or premiums for health insurance. The genetic test result is protected by GINA. However, when a person begins to show signs and symptoms of Huntington disease and is diagnosed with the disease, GINA does not stop health insurers from using that information to make decisions about the person's eligibility or rates for health insurance.

**I just had (or I am considering) a genetic test. Can my health insurer deny me health insurance or raise my premiums because of the results?**

No. Under GINA, health insurers *cannot* use genetic information, including results of predictive genetic tests, to make eligibility and coverage decisions. Predictive genetic test results cannot be considered a pre-existing condition.

Example:

A woman has a family history of breast and ovarian cancer. She talks with her doctor about a genetic test to determine if she has a gene mutation that increases her risk of breast and ovarian cancer. She has testing and learns she has a mutation in the BRCA1 gene, confirming her increased risk to develop those cancers.

Her health insurer cannot request, require, or use her genetic test results to make decisions about her eligibility for coverage or the amount she pays for her health insurance.

**Can health insurance companies discriminate against me if a family member has been diagnosed with a health condition?**

No. GINA makes it against the law for health insurers to use information about diagnosed conditions in an individual's family members.

GINA defines family member as a first- (child, sibling, parent), second- (grandchild, uncle or aunt, niece or nephew, grandparent), third- (cousin, great grandparents, great grandchildren), or fourth-degree (second cousin, great-great grandparents, great-great grandchildren) relative.

Example:

Your doctor asks you about health conditions in your family. You share that your mother's mother (maternal grandmother) died of colon cancer, your mother has heart disease, your father and his father have high cholesterol, and your brother has hypothyroidism. Your doctor will use this information to help understand and talk with you about what conditions you may be at increased risk to develop, and what to do about those risks. This information cannot be used by your health insurer to discriminate against you.

### **Does GINA apply to other types of insurance?**

As of the date this resource was written (May 2010), GINA's protections for insurance apply only to health insurance. They *do not* apply to life, long-term care, or disability insurance. Some state laws may apply to these types of coverage. Check with your state insurance commissioner's office for more information.

## **GINA & My Genetic Services (questions and examples)**

### **Does GINA mean that my health insurer has to pay for my genetic test or genetic counseling?**

No. Health insurers can still make decisions about whether or not they will pay for services based upon your medical need for those services.

### **Can my health insurance company ask me to have a genetic test or ask to see my genetic test results?**

In general, it is against the law for health insurers to ask for, require, or obtain genetic information about applicants or the individuals that they cover. An exception is that your health insurer can ask for genetic information to make a decision about whether or not they will pay for a requested test, treatment, or procedure, in order to determine the medical need for the service. In these situations, GINA only allows the insurer to ask for the minimum amount of information they need to make a decision. Once they have the information, GINA prevents them from using the information to discriminate against you.

Example:

If you decide to have a genetic test because you have a family history of colon cancer, your health insurer may need to know that your family history meets certain criteria in order to pay for your test.

If you have the test and are found to have a mutation that increases your risk, and you need a treatment or procedure based on the test result, your insurer may ask for information about why you need the treatment.

In these examples, according to GINA, the insurer may ask for only the minimum amount of information required to determine if the test or treatment are medically necessary.



## GINA & Your Job

GINA makes it against the law for employers to use your genetic information in the following ways:

- To make decisions about hiring, firing, promotion, pay, privileges or terms
- To limit, segregate, classify, or otherwise mistreat an employee

***This means it is against the law for your employer to use family health history and genetic test results in making decisions about your employment.***

It is also against the law for an employer to request, require, or purchase the genetic information of a potential or current employee, or his or her family members. There are a few exceptions to when an employer can legally have your genetic information. If an employer does have the genetic information of an employee, the employer must keep it confidential and in a separate medical file.

## Common Questions About GINA and Employment

### **Does my employer have to comply with GINA?**

GINA applies to all employers with 15 or more employees, regardless if it is a not-for-profit organization or a corporation.

GINA's protections in employment do not extend to the US military or employees of the federal government. In 2000, President Bill Clinton signed Executive Order 13145 into law, which protects federal employees from genetic discrimination in employment. The US military has its own policies in place that may protect members of the military from genetic discrimination.

### **When is it legal for my employer to know my genetic information?**

There are some exceptions to GINA that determine when an employer can legally have your genetic information. Some of the more common situations may include:

- **Inadvertent knowledge:** In some cases an employer may learn about an employee's genetic information accidentally. If he or she overhears a conversation about an employee's sick parent, for example, the employer has not violated GINA.
- **Publicly available information:** An employer may learn the genetic information of an employee or the employee's family members if it is available in the newspaper or other publicly available information sources. If the employer learns of an employee's genetic information this way, the employer has not violated GINA.
- **Voluntary health services:** Some employers offer voluntary health or genetic services, including employee wellness programs. If specific requirements are met and participation in the service is voluntary, then forms, questionnaires, or health care



professionals treating employees as part of the service may request family health history or other genetic information.

- **Family and Medical Leave Act (FMLA):** Forms that employees must fill out as part of asking for time off from work to care for a sick family member may include questions about genetic information. Employees may need to provide this information for extended leave to be approved.

In all the above instances, it is against the law for employers to use the genetic information collected to discriminate against employees.

**If my employer finds or collects my genetic information legally, what measures must she take to ensure my information is kept private?**

Under GINA and the Health Insurance Portability and Accountability Act (HIPAA), all medical information collected by an employer, including genetic information, must be kept in a confidential, separate medical record.

## How GINA Works

GINA was signed into law on May 21, 2008 by President George W. Bush. It is now in effect. At the time this resource was written (April 2010), the federal agencies responsible for enforcing the law are finalizing the regulations that specify how the law will be enforced.

### How will GINA be enforced?

The Department of Labor, the Department of the Treasury, and the Department of Health and Human Services all have specific responsibilities in enforcing the health insurance protections of GINA. The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing the employment protections of GINA.

Remedies for individuals who feel they have been discriminated against in either health insurance or employment include corrective action and monetary penalties. Under Title II of GINA, individuals may also have the right to pursue private litigation.

### How does GINA interact with state law?

GINA provides a “floor” or minimum level of protection against genetic discrimination. If a state has a law against discrimination that is stronger than GINA, the state law applies. For example, some states don’t allow health insurers to make decisions about whether or not a person qualifies for health insurance or how much they should pay for health insurance based upon current health status. Check with your state health insurance commissioner to learn about your state’s protections against health insurance discrimination.

GINA requires that state health insurance regulations match GINA’s protections as of May 21, 2009. If states do not offer GINA’s level of protections, the federal government can step in and enforce GINA.

### What if I got a genetic test before GINA was signed into law, or before it went into effect? Is that genetic information protected by GINA?

GINA protects you from genetic discrimination in employment and health insurance regardless of when you had a genetic test done, when you received the results, or when you used genetic counseling or other genetic services.

However, GINA is not retroactive. This means that GINA does not apply to acts of discrimination that occurred before GINA went into effect.

Example:

A woman had a genetic test that determined she has a mutation increasing her risk for breast and ovarian cancer. Regardless of when she had the test, if she were discriminated against by her health insurer or employer before GINA went into effect, GINA’s protections would not



apply. However if the discrimination occurred after the law was in effect, the protections would apply.

### **Who should I contact if I feel I have been discriminated against?**

**Health insurance discrimination:** Start with your state insurance commissioner's office. GINA requires that state health insurance regulations match GINA's protections as of May 21, 2009 and that they enforce the law themselves. If states fail to provide GINA-level protections, the federal government will enforce these protections and fine the health insurer.

**Employment discrimination:** Individuals first must file a claim with the Equal Employment Opportunity Commission (EEOC) in order to later file a claim in state or federal court. The EEOC will assign an investigator to your case, contact your employer, and attempt to resolve the situation through mediation. If the EEOC finds reasonable cause for discrimination, it will attempt to resolve the matter through informal conciliation. If at the end of the process a meritorious claim is found to exist, the EEOC will give you a notice of Right to Sue or may actually file a civil suit on your behalf. Visit [eoc.gov](http://eoc.gov) for more information.

## **GINA Terms and Definitions**

### **Family Member**

GINA defines family member as a first- (child, sibling, parent), second- (grandchild, uncle or aunt, niece or nephew, grandparent), third- (cousin, great grandparents, great grandchildren), or fourth-degree (second cousin, great-great grandparents, great-great grandchildren) relative.

### **Genetic Information**

GINA defines genetic information as including the following:

- An individual's genetic tests or the genetic tests of the individual's family members, and the manifestation of a disease or disorder in the individual's family members
- Genetic information also includes the request or receipt of genetic services or participation in clinical research that includes genetic services, for both the individual and the individual's family members

Information regarding an individual's sex or age is NOT protected genetic information under GINA

### **Genetic Services**

GINA defines genetic services as receipt of genetic testing, genetic counseling, genetic education, or participation in a research study.

### **Genetic Test**

GINA defines a genetic test as the analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes.

Under GINA, a genetic test does not include the analysis of proteins or metabolites directly related to the manifestation of a disease that could reasonably be detected by a healthcare professional with appropriate training and expertise in the field of medicine involved.

Examples of tests covered by GINA:

- Tests for BRCA1/BRCA2 (breast cancer) or HNPCC (colon cancer) mutations; tests for Huntington's disease mutations, carrier screening for conditions such as cystic fibrosis and fragile X syndrome, and classifications of genetic properties of an existing tumor to help determine treatment. Newborn screening tests for genetic conditions are covered by GINA, however the diagnosis of the genetic condition following confirmatory testing is not covered by GINA.

Examples of tests NOT covered by GINA:

- Routine tests such as routine blood counts, cholesterol tests, and liver-function tests

### **Manifest Disease**

In GINA, the term “manifest disease” means that an individual has been or could reasonably be diagnosed with a disease, disorder, or pathological condition by a health care professional not based mainly on genetic information (for example, the results of a diagnostic test). More specifically, a disease is “manifest” when an individual is experiencing signs or symptoms of the condition.

### **Additional Resources**

#### **About GINA**

GINA & You Information Sheet developed by Genetic Alliance, National Coalition for Health Professional Education in Genetics, and The Genetics and Public Policy Center at Johns Hopkins University, PDF available on [www.GINAHelp.org](http://www.GINAHelp.org) at bottom of the homepage

A Guide to the Genetic Information Nondiscrimination Act  
<http://www.geneticfairness.org/ginaresource.html>

Genetics and Public Policy Center GINA Resources  
<http://www.dnapolicy.org/gina/>

Equal Employment Opportunity Commission (EEOC) GINA Fact Sheet  
<http://www.eeoc.gov/laws/types/genetic.cfm>

National Human Genome Research Institute (NHGRI) Genetic Discrimination Fact Sheet  
<http://www.genome.gov/10002328>

GINA Resources for Healthcare Providers  
[http://www.nchpeg.org/index.php?option=com\\_content&view=article&id=97&Itemid=120](http://www.nchpeg.org/index.php?option=com_content&view=article&id=97&Itemid=120)

#### **State Resources**

National Conference of State Legislatures (NCSL)  
<http://www.ncsl.org/>

National Association of Insurance Commissioners  
[http://www.naic.org/state\\_web\\_map.htm](http://www.naic.org/state_web_map.htm)

## The GINA Legislation and Regulations

The Genetic Information Nondiscrimination Act of 2008

<http://www.gpo.gov/fdsys/pkg/PLAW-110publ233/pdf/PLAW-110publ233.pdf>

Title I: Document for Federal Regulations Regarding Insurance

<http://edocket.access.gpo.gov/2009/pdf/E9-22504.pdf>

The Departments of Health and Human Services, Labor, and the Treasury have published in the Federal Register its proposed regulations for Title I of the Genetic Information Non-Discrimination Act (GINA).

Title II: Document for Federal Regulations Regarding Employment

<http://edocket.access.gpo.gov/2009/pdf/E9-4221.pdf>

The Equal Employment Opportunity Commission (EEOC) has published in the Federal Register its proposed regulations for Title II of the Genetic Information Non-Discrimination Act (GINA).

## About This Resource

This online resource was created by Genetic Alliance, the Genetics and Public Policy Center at Johns Hopkins University, and the National Coalition for Health Professional Education in Genetics through funding by The Pew Charitable Trusts. May 2010.

Organizational Websites:

Genetic Alliance

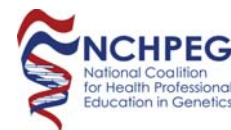
<http://www.geneticalliance.org>

Genetics and Public Policy Center

<http://www.dnapolicy.org>

National Coalition for Health Professional Education in Genetics

<http://www.nchpeg.org>





# YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

**USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.**

## REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

## RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

## HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

## ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its website at <http://www.dol.gov/vets>. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.



**U.S. Department of Labor**  
1-866-487-2365



**U.S. Department of Justice**



**Office of Special Counsel**



**1-800-336-4590**

Publication Date — April 2017

## New York State Election Law

§ 3-110. Time allowed employees to vote. 1. A registered voter may, without loss of pay for up to three hours, take off so much working time as will enable him or her to vote at any election.

2. The employee shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.

3. If the employee requires working time off to vote the employee shall notify his or her employer not less than two working days before the day of the election that he or she requires time off to vote in accordance with the provisions of this section.

4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.



# Attention All Employees

## Time Allowed

### Employees to Vote on Election Day

N.Y. Election Law Section 3-110<sup>i</sup>

- As a registered voter, you may take off up to 3 hours, without loss of pay, to allow you time to vote.
- You may take time off at the beginning or end of your working shift, as your employer may designate, unless otherwise mutually agreed.
- You must notify your employer not less than 2 days before the day of the election that you will take time off to vote.

Rev 04.19.2019

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<sup>i</sup> Employers: Not less than ten working days before any Election Day, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this law. Such notice shall be kept posted until the close of the polls on Election Day.