

U.S. CHAMBER OF COMMERCE



## “What About Me?” Says the EEOC

Legal Uncertainty Regarding  
Workplace Wellness Programs

## Workplace Wellness Programs Legal Parameters....?

- What is permissible under the ACA?
- Long road for Tri- Agencies to decide that...
- “Oh wait, what about me?” says the EEOC!

## Workplace Wellness Programs: Permissible Incentives under ACA

- May vary premiums by 30% and up to 50% as provided by the Secretary (§2705)
- May not discriminate based on health factor, unless:
  - Favors individuals with adverse health status, or
  - Meets HIPAA wellness rules

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3

## Regulatory Implementation

- Tri-Agency Rules Proposed November 26, 2012
- Final Tri-Agency Regulations June 3, 2013
- Applicable for plan years after January 1, 2014

...clear?

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4

# EEOC Action: ACA Compliance Isn't Enough

- Litigation
  - Honeywell TRO
- Proposed Regulations
  - EEOC issued Proposed Rules on April 20, regarding ADA
  - More to Come....
    - GINA
    - Title VII
    - ADEA

*Thank You*

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