



# TOWN OF ITHACA NEW YORK

## 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 Town 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 607-273-1721.

# General Notice of COBRA Continuation Coverage Rights

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

### ***Introduction***

You're getting this notice because you have coverage under the Town of Ithaca 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 (Human Resources Manager).

**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.

If you're 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, or
- Your employment ends for any reason other than your gross misconduct.

If you're 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;
- 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;

- 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.”

*Retirees*

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to Town of Ithaca, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary. The retired employee’s spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

***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;
- Death of the employee;
- Commencement of a proceeding in bankruptcy with respect to the employer; 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 Plan Administrator within 60 days after the qualifying event occurs. You must provide this notice to: Human Resources Manager**

***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. The Town of Ithaca is insured under the Greater Tompkins County Municipal Health Insurance Consortium which is formed under NYS Insurance Law Article 47. Article 47 entities are required to provide 36 months of COBRA in place of the Federal COBRA of 18 months.**

***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***

***What is the Health Insurance Marketplace?***

The Marketplace offers “one-stop shopping” to find and compare private health insurance options. In the Marketplace, you could be eligible for a new kind of tax credit that lowers your monthly premiums and cost-sharing reductions (amounts that lower your out-of-pocket costs for deductibles, coinsurance, and copayments) right away, and you can see what your premium, deductibles, and out-of-pocket costs will be before you make a decision to enroll. Through the Marketplace you’ll also learn if you qualify for free or low-cost coverage from [Medicaid](#) or the [Children’s Health Insurance Program \(CHIP\)](#). You can access the Marketplace for your state at [www.HealthCare.gov](http://www.HealthCare.gov).

Coverage through the Health Insurance Marketplace may cost less than COBRA continuation coverage. Being offered COBRA continuation coverage won't limit your eligibility for coverage or for a tax credit through the Marketplace.

***When can I enroll in Marketplace coverage?***

You always have 60 days from the time you lose your job-based coverage to enroll in the Marketplace. That is because losing your job-based health coverage is a "special enrollment" event. **After 60 days your special enrollment period will end and you may not be able to enroll, so you should take action right away.** In addition, during what is called an "open enrollment" period, anyone can enroll in Marketplace coverage.

To find out more about enrolling in the Marketplace, such as when the next open enrollment period will be and what you need to know about qualifying events and special enrollment periods, visit [www.HealthCare.gov](http://www.HealthCare.gov).

***If I sign up for COBRA continuation coverage, can I switch to coverage in the Marketplace? What about if I choose Marketplace coverage and want to switch back to COBRA continuation coverage?***

If you sign up for COBRA continuation coverage, you can switch to a Marketplace plan during a Marketplace open enrollment period. You can also end your COBRA continuation coverage early and switch to a Marketplace plan if you have another qualifying event such as marriage or birth of a child through something called a "special enrollment period." But be careful though - if you terminate your COBRA continuation coverage early without another qualifying event, you'll have to wait to enroll in Marketplace coverage until the next open enrollment period and could end up without any health coverage in the interim.

Once you've exhausted your COBRA continuation coverage and the coverage expires, you'll be eligible to enroll in Marketplace coverage through a special enrollment period, even if Marketplace open enrollment has ended.

If you sign up for Marketplace coverage instead of COBRA continuation coverage, you cannot switch to COBRA continuation coverage once your election period ends.

***Can I enroll in another group health plan?***

You may be eligible to enroll in coverage under another group health plan (like a spouse's plan), if you request enrollment within 30 days of the loss of coverage.

If you or your dependent chooses to elect COBRA continuation coverage instead of enrolling in another group health plan for which you're eligible, you'll have another opportunity to enroll in the other group health plan within 30 days of losing your COBRA continuation coverage.

***Can I enroll in Medicare instead of COBRA continuation coverage after my group health plan coverage ends?***

In general, if you don't enroll in Medicare Part A or B when you are first eligible because you are still employed, after the Medicare initial enrollment period, you have an 8-month special enrollment period<sup>1</sup> to sign up for Medicare Part A or B, beginning on the earlier of

- The month after your employment ends; or
- The month after group health plan coverage based on current employment ends.

If you don't enroll in Medicare and elect COBRA continuation coverage instead, you may have to pay a Part B late enrollment penalty and you may have a gap in coverage if you decide you want Part B later. If you elect COBRA continuation coverage and later enroll in Medicare Part A or B before the COBRA continuation coverage ends, the Plan may terminate your continuation coverage. However, if Medicare Part A or B is effective on or before the date of the COBRA

election, COBRA coverage may not be discontinued on account of Medicare entitlement, even if you enroll in the other part of Medicare after the date of the election of COBRA coverage.

If you are enrolled in both COBRA continuation coverage and Medicare, Medicare will generally pay first (primary payer) and COBRA continuation coverage will pay second. Certain plans may pay as if secondary to Medicare, even if you are not enrolled in Medicare. For more information visit <https://www.medicare.gov/medicare-and-you>.

***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).

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***

Town of Ithaca

Human Resources Manager

215 N. Tioga Street

Ithaca, NY 14850

607-273-1721

Updated 08.2021

1. <https://www.medicare.gov/sign-up-change-plans/how-do-i-get-parts-a-b/part-a-part-b-sign-up-periods>.

## **Important Notice from Town of Ithaca About Your Prescription Drug Coverage and Medicare for 2022**

**Please read this notice carefully and keep it where you can find it. This notice has information about your current prescription drug coverage with Town of Ithaca 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. Town of Ithaca has determined that the prescription drug coverage offered by the GTCMHIC Medicare Supplement Plan is, on average for all plan participants, expected to pay out as much as 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.**
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### **When Can You Join A Medicare Drug Plan?**

You can join a Medicare drug plan when you first become eligible for Medicare and each year from October 15<sup>th</sup> to December 7<sup>th</sup>.

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 a Medicare drug plan, your current Town of Ithaca coverage will be affected. For those individuals that elect Part D coverage, coverage under the Town of Ithaca's plan will end for the individual and all covered dependents.

If you do decide to join a Medicare drug plan and drop your current Town of Ithaca coverage, be aware that you and your dependents will 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 Town of Ithaca 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 Or Your Current Prescription Drug Coverage...**

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 Town of Ithaca changes. You also may request a copy of this notice at any time.

**Contact Information: Judith Drake, Human Resources Manager, 607-273-1721 x115**

**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 [eeoc.gov](http://eeoc.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.