



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

January 28, 2015

Hon. Lamar Alexander
Chair, Committee on Health, Education, Labor and Pensions
455 Dirksen Office Bldg.
Washington, DC 20510

Hon. Patty Murray
Ranking Member, Committee on Health, Education, Labor and Pensions
154 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Alexander and Murray:

We submit this letter on behalf of the Consortium for Citizens with Disabilities (CCD) Rights Task Force for purposes of the HELP Committee hearing tomorrow concerning employer-based wellness programs. CCD is a coalition of national disability organizations working for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We applaud the Committee for focusing on wellness programs, which we believe can play an important role in improving health outcomes for employees with disabilities and others. It is important to acknowledge, however, that wellness programs can and should be conducted consistently with civil rights laws. While the Affordable Care Act (ACA) and the Health Insurance Portability and Accountability Act (HIPAA) set forth rules for the operation of wellness programs, other laws, such as the Americans with Disabilities Act (ADA), also apply to these programs. Indeed, the ACA did not supersede or eliminate the requirements of the ADA. Employer-based wellness programs should operate in ways that both promote better health outcomes and comply with the ADA's workplace protections. These protections do not conflict with the rules set forth in the ACA.

As you know, employment rates for people with disabilities have remained far below those for any other group tracked by the Bureau of Labor Statistics, and there is a particularly strong need for the EEOC to enforce the ADA's requirements and ensure that people with disabilities have full and fair opportunities to work. The disability community has always considered the EEOC's mission and work critically important. Overwhelmingly, people with disabilities want to work, and the EEOC's regulatory and enforcement activities have been tremendously significant in opening workplace doors and expanding opportunities for people with disabilities to become self-sufficient.

We support the EEOC's activities to enforce the rights of people with disabilities with respect to wellness programs. The EEOC's litigation in this area has focused on an issue of grave concern to us: punishing employees' failure to answer wellness program medical inquiries through penalties so steep that an employee's "choice" to answer the questions can hardly be considered voluntary. We believe that the Commission's enforcement activities in this area aim to safeguard a critical ADA protection, and they are also consistent with the ACA. Wellness programs can and should work well for all employees, including people with disabilities.

Sincerely,



Jennifer Mathis
Bazelon Center for Mental Health Law



Mark Richert
American Foundation for the Blind



Curt Decker
National Disability Rights Network



Sandy Finucane
Epilepsy Foundation of America

Co-Chairs, CCD Rights Task Force