Covered Entities
Title I of the Americans with Disabilities Act of 1990 (P.L. 101-336) applies to covered entities. Covered entities are private employers, state and local governments, employment agencies, labor unions, and joint labor management committees with 15 or more employees.

Guidelines for Employee Health Plans
Title I permits disability-based distinctions in employer health plans as long as covered entities do not use them as subterfuges (ploys or deceptions) to evade Title I requirements.

A covered entity cannot make decisions based on concerns about the impact of an individual’s disability or his/her dependent’s disability on the covered entity’s health plan.

A covered entity must provide employees with disabilities equal access to the health benefits it provides to employees without disabilities.

Disability-based Distinctions
A disability-based distinction singles out a particular disability, a discrete group of disabilities, disability in general, or a single procedure or treatment of a particular disability or discrete group of disabilities. Examples of illegal, disability-based distinctions include the following:

• Coverage limits on the treatment of any pre-existing blood disorders, if the plan does not exclude other pre-existing conditions; and

• Exclusion of a drug used only to treat AIDS.

Examples of permissible, non-disability-based distinctions include the following:

• Different levels of coverage for physical conditions and mental/nervous conditions;
• Different levels of coverage for vision care and medical care;
• Pre-existing condition clauses;
• Coverage limits on medical procedures that are not exclusively, or nearly exclusively used in treating a particular disability (e.g., limits on the number of x-rays the plan will pay for); and

• Lifetime or annual caps on plan benefits.

Permissible Disability-based Distinctions
Title I permits health plans to make a disability-based distinction as long as it is not a subterfuge. A distinction is not a subterfuge when it is justified by the risks or costs associated with the disability. Determining whether a disability-based distinction is permissible is a case-by-case process. Examples of permissible disability-based distinctions include the following:

• A cap on a particular catastrophic disability if the health plan treats all similarly catastrophic conditions the same way;

• A disability-based distinction based on legitimate actuarial data or actual or reasonably anticipated experience, and that the health plan treats conditions with comparable actuarial data and/or experience in the same fashion;

• A disability-based distinction for the treatment of a discrete group of disabilities would have been so expensive as to cause the plan to become insolvent;

• A disability-based distinction to prevent a drastic alteration in the scope of coverage or level of benefits provided to all employees; and

• Exclusion of a particular treatment because it can prove that the treatment does not have any medical value.

ADA Information
Visit the EEOC web site to see the Title I regulations and related guidance at eeoc.gov.