



Workplace Wellness Programs

Understanding Programs and Incentives Guidelines



PLEASE NOTE: The information and materials contained herein are for informational purposes only. This information is not intended to provide, and should not be relied on for, tax, legal, or accounting advice. You should consult your own tax, legal, and accounting advisors for specific advice regarding the legal and tax implications of wellness programs and incentives.



Introduction

Workplace wellness programs offer many benefits. For employees, these programs encourage an optimum quality of life. For the employer, an effective workplace wellness program is a valuable enhancement to employee benefits and increases employee productivity, morale, and retention. A solid workplace wellness effort shows employees that their employer values and supports their well-being.

Workplace wellness programs have also become part of a national public health strategy to combat rising healthcare costs. Companies have felt the effects of unhealthy lifestyles for decades. As a result, they're choosing to implement workplace wellness initiatives now more than ever.

One of the most effective long-term ways to mitigate the rising cost of healthcare is to offer a thoughtful workplace wellness program. This encourages your employees to practice good health habits and provide them with the tools and resources needed to make good healthcare decisions for themselves and their families.

Incentives are one part of a workplace wellness strategy. When offered strategically, they can increase participation and morale. When incentives are included in a workplace wellness effort, there are federal laws and mandates that come into play.

In this whitepaper, we'll define the types of wellness programs available and summarize federal laws that regulate these programs. We'll also provide best practice strategies for you to consider with your current wellness offerings and suggest changes you can make to improve future programs.

Types of Wellness Programs

Because wellness programs can look different from one company to the next, it's important to understand the various types of wellness programs that you can offer your employees.

The types of programs include:

- Health Education and Participation-only programs (not related to the health plan)
- Participation-only programs (related to the health plan)
- Health-contingent Activity-only programs (related to the health plan)
- Health-contingent Outcomes-based programs (related to the health plan)

Health Education and Participation-only

Health education programs and services provide general health information, but they don't require or reward people for accessing the information. Programs and services that fall into this category include newsletters, lunch-and-learns, and posters that promote general health and wellness.

Participation-only programs that aren't related to the health plan provide more than just health education. They are usually voluntary and involve employees participating in an activity, and they may or may not include a reward that isn't related to the health plan. While these programs are intended to educate, they are also intended to encourage employees to make healthy choices. Examples include a walking path near your office, free flu shots, or individualized health coaching—all with no reward attached to participation.

For participation-only programs, if a reward is offered, then the reward must **not** be linked to the health plan, nor can the reward be available only to those enrolled in the health plan. Examples of participation-only rewards include reimbursement for gym memberships or a \$60 gift card for attending three health coaching sessions.

Health education and participation-only wellness programs are subject to fewer federal laws and regulations.

Participation-only (related to the health plan)

For a program to qualify as participation-only and related to the health plan, it includes the following elements:

- The program is available only to health plan participants; and/or
- The reward is tied to the health plan; and
- The ability to earn the reward is **not** based on a health outcome.

Examples of a participation-only program that is related to the health plan include a premium incentive for completing a health risk assessment, a deductible buy-down for participating in a biometric screening, or a premium incentive for attending a tobacco cessation program.

Health-contingent Activity-only (related to the health plan)

Health-contingent activity-only programs require an individual to perform or complete a specific activity related to a health factor in order to earn a reward. In this type of program, the reward is tied to the health plan and/or only available to those enrolled in the health plan. Examples include walking, diet, or exercise programs.

Health-contingent Outcomes-based (related to the health plan)

Outcomes-based programs reward individuals based on achieving health-related metrics. The most commonly assessed health risk factors are body mass Index (BMI), tobacco use, cholesterol, blood pressure, and glucose. These health risk factors are indicators of chronic conditions such as diabetes, heart disease, and cancer. These conditions can be positively impacted through lifestyle changes. In an outcomes-based program, participants earn the reward by testing within a healthy range or showing improvement toward a healthy range.

This type of program is health plan-related because it applies only to employees enrolled in the company health plan, and the reward is tied to the health plan. The reward in this case could be a premium incentive, deductible buy-down, or health savings account (HSA) contribution. These programs are outcome-based because they require the individual to meet a health-related standard in order to receive the reward. Regulation for outcomes-based programs are stricter than for other types of wellness programs.

Compliance Regulations

There are several federal laws and regulations that govern how these various programs and incentives can be administered. These laws aim to protect individuals from discrimination and unaffordability, are intended to help improve the health of the American workforce, and help mitigate the rising cost of healthcare for employers.

Here, we'll briefly talk about the key issues and regulations that govern workplace wellness programs. The legalities of workplace wellness programs occasionally change, and plans need to be updated to remain compliant with laws and regulations. The summaries below are not intended to be a comprehensive list of all applicable legal requirements, nor is this document a substitute for independent legal advice. We strongly recommend consulting with your legal counsel to ensure that your workplace wellness program is compliant with current law and regulations.

Participatory and Health Education Programs

For participatory programs, such as programs that only ask employees to complete a health risk assessment (HRA) or attend a smoking cessation class, these regulations indicate that wellness programs must be available to all similarly situated individuals, and incentives are available regardless of a health factor.

Health-contingent Programs

Wellness programs that are part of an employer-sponsored group health plan may offer incentives for health-contingent wellness programs. These programs offer rewards to employees who perform activities (such as walk 10,000 steps a day) or achieve certain health outcomes (such as lowering their blood pressure). These programs may also impose penalties if participants don't perform an activity or fail to achieve a particular outcome. Health-contingent wellness programs are more closely regulated than participatory programs.

The following is a summary of a few key issues that must be addressed when crafting a workplace wellness program, as outlined in the Affordable Care Act (ACA).

Nondiscrimination

For health-contingent wellness programs, the following five nondiscrimination guidelines must be met:

- 1. Frequency to qualify:** The program must give individuals who are eligible to participate the opportunity to qualify for the reward at least once per year.
- 2. Size of the reward:** The total reward is limited for all the plan's wellness programs that require completion of a health-related standard. Generally, the reward must not exceed 30 percent of the cost of employee-only coverage under the plan. If dependents (such as spouses and/or dependent children) may participate in the

wellness program, the reward must not exceed 30 percent of the cost of the enrolled employee and any dependents' coverage.

An additional 20 percent can be applied to a wellness program designed to prevent or reduce tobacco use (up to 50 percent total when including tobacco programs).

3. Reasonably designed to promote good health or prevent disease: The program will satisfy this standard if it:

- has a reasonable chance of improving the health of participating individuals;
- has a reasonable chance of preventing disease in participating individuals;
- is not overly burdensome;
- is not discriminatory based on a health factor; and
- is not highly suspect in the method chosen to promote health and prevent disease.

A program consisting of a measurement, test, screening, or collection of health-related information without providing results, follow-up information, or advice designed to improve the health of participating employees is not reasonably designed to promote health or prevent disease. That is, unless the information collected is used to design a program that addresses at least a subset of the conditions identified.

4. Available to all similarly situated individuals and reasonable alternative standard: The wellness program must be available to all similarly situated individuals. For example, a reward could be offered only to employees and not retirees, or only to employees and spouses and not dependent children.

The wellness program must also provide a reasonable alternative standard for obtaining the reward for certain individuals. This alternative standard must be available for individuals for whom it's unreasonably difficult due to a medical condition to satisfy the otherwise applicable standard, or for whom it's medically inadvisable to attempt to satisfy the otherwise applicable standard.

Please note that the program doesn't need to establish the specific reasonable alternative standard before the program begins. You may determine a reasonable alternative standard once a participant informs you that it's unreasonably difficult to satisfy the general standard due to a medical condition. A waiver can also be used to fulfill the requirement.

5. Disclose alternative: You must disclose the availability of a reasonable alternative standard (or the possibility of a waiver) in all materials describing the terms of the program.

Utilizing Health Risk Assessment (HRA) and Biometric Screenings

Title I of the Americans with Disabilities Act (ADA) aims to protect individuals by prohibiting employers from discriminating against individuals on the basis of disability. Because many wellness programs offer health risk assessments and/or biometric screenings as “required” elements to earn a reward, the ADA sets restrictions on health information collected by those means under more stringent guidelines.

Voluntary

There are several requirements that must be met in order for an employee's participation in a wellness program that includes disability-related inquiries or medical examinations to be considered voluntary.

Specifically, as the employer, you:

- may not require any employee to participate;
- may not deny any employee who does not participate in a wellness program access to health coverage, or prohibit any employee from choosing a particular plan;
- may not take any other adverse action or retaliate against, interfere with, coerce, intimidate, or threaten any employee who chooses not to participate in a wellness program or fails to achieve certain health outcomes; and
- must provide a notice that clearly explains what medical information will be obtained, how it will be used, who will receive it, and the restrictions on disclosure. The Equal Employment Opportunity Commission (EEOC) offers a sample notice on their website: [EEOC.gov/laws/regulations/ada-wellness-notice.cfm](https://www.eeoc.gov/laws/regulations/ada-wellness-notice.cfm).

Incentive Limits

As an employer, you must also comply with regulated incentive limits. If a wellness program includes medical examination, the wellness program's incentives must not exceed certain thresholds—whether it is participatory or health-contingent. In addition, the term "incentives" includes both financial and in-kind incentives (such as reductions in insurance premiums, cash, paid time-off, prizes, and other items of value).

A significant difference between the ACA and the ADA rules regarding incentives is the 30 percent limit on a wellness program's financial incentive. Under the ADA rules, the total allowable incentive (financial or otherwise) cannot exceed 30 percent of the total cost of self-only coverage.

The ADA final rules limit the incentive to:

Who is the program offered to?	Is there a group health plan?	What is the incentive?
Only employees in the health plan.	Yes.	30 percent of the total cost of self-only coverage (including both the employee's and employer's contribution) of the group health plan in which the employee is enrolled.
All employees, regardless if they are enrolled in the health plan.	Yes.	30 percent of the total cost of self-only coverage under the covered entity's group health plan, where the covered entity offers only one group health plan and participation in a wellness program.
All employees, regardless if they are enrolled in the health plan.	Yes; more than one group health plan offered.	30 percent of the total cost of the lowest cost self-only coverage under a major medical group health plan where the covered entity offers more than one group health plan.
All employees.	No.	30 percent of the cost of self-only coverage under the second lowest cost Silver Plan for a 40-year-old nonsmoker on the state or federal healthcare Exchange in the location that the covered entity identifies as its principal place of business.

Incentive Limitations and Tobacco Cessation Programs

Programs that are designed to prevent or reduce tobacco use have an incentive cap of 30 percent of the cost of self-only coverage when the program includes a biometric screening. If the program does not include a biometric screening, the incentive cap is increased to 50 percent.

Spouse and Family Health Information

Some wellness programs are offering incentives for employees and their family members to answer questions about their health or to take medical examinations. Federal rules interpreting the Genetic Information Nondiscrimination Act restrict such elements of a workplace wellness plan. Specifically:

- An employer may offer a limited incentive for an employee's spouse to provide information about the spouse's current or past health status as part of a voluntary wellness program. This kind of information is usually provided as part of a health risk assessment, which may include a questionnaire or medical examination, such as a blood pressure test or blood test to detect high cholesterol or high glucose levels.

- The same incentive rules apply as outlined in the table on page nine. For example, if the wellness program is part of a group health plan, then the 30 percent of the total cost of self-coverage-only still applies (even if the employee is enrolled in a family plan **and** spouses are required to provide information about their health status).
- Employers must not deny access to health insurance or any package of benefits to, or retaliating against, any employee whose spouse refuses to provide information about his or her current or past health status to an employer wellness program.

Tax Issues

You should consult with your tax professional to discuss the tax implications to your organization of implementing a workplace wellness program. A discussion of the tax issues associated with such programs is beyond the scope of this whitepaper, but your organization should be aware of the need to ensure tax compliance in conjunction with your workplace wellness program.

Why Choose Health-contingent Wellness Incentives?

There are a lot of reasons why employers choose to use health-contingent wellness incentives as a strategy to motivate their employees. In many cases, employers are paying the majority of the cost for their employees' health insurance premiums. This gesture also comes with strong feelings about the importance of personal accountability in managing one's health. When shifting greater costs to the employee, the intent is to demonstrate the direct connection between their ability to manage their health and the cost associated with poor health.

Another reason why employers may engage in this type of strategy is to fund their wellness program through a cost-neutral mechanism. While the ACA regulations provide clarification on how these incentives can be structured, it's still voluntary. Individuals can choose to pay the higher premium if they don't wish to engage. Furthermore, there will always be a handful of participants who don't meet the criteria set and will subsequently be subject to the higher premium. All of this can funnel funding into an existing wellness program.

When implemented correctly, health-contingent wellness incentives will help employees understand and appreciate their health benefits, and in turn will also encourage them to take action to improve their health. This happens when leadership engagement efforts, well thought-out wellness programs, a solid health culture, and engaged employees come together.

Understanding Best Practice Strategies

Before getting started, it's crucial for employers to take best practices into account. The following should be taken into consideration prior to engaging in a health-contingent wellness program.

Connecting the Dots

Engaging employees in their health by financially rewarding them for meeting health outcomes is becoming a more favorable strategy to employers. The idea is to connect the dots for individuals to recognize that their health and future health directly impacts healthcare costs for themselves and their employer. The thought is that employees who are both physically and emotionally healthy will work at peak performance and thus positively impact the employer's bottom line, which is the overall goal.

Incentives and Programs Don't Change Behavior

There's so much emphasis on incentives and using them to drive behavior change. The reality is they may drive participation, but incentives alone don't create behavior change. When you think about what motivates individuals to make long-lasting behavior changes, consider the following examples:

- intrinsic and extrinsic motivators
- environment
- confidence levels
- skill sets
- support systems
- access to resources
- financial considerations
- self-efficacy

Some or all of these factors must be in place for an individual to engage in their health and make sustainable health behavior changes.

Programs are great ways to get individuals to engage in a health behavior for a specific period of time, to learn about a specific subject, or to participate in a group activity that includes camaraderie and support. However, programs also fall victim to blame for unsuccessful wellness initiatives. Health and wellness programs have a place in any workplace wellness initiative, but programs should be tailored specifically to address the goals and objectives of the overall wellness initiative, and targeted based on the employee population's needs.

There's a Long Road Ahead

Commitment to a long-term plan for overall health improvement is vital when it comes to maintaining ongoing efforts and reaching optimal outcomes. Knowing that effective programming doesn't always translate into immediate cost savings, wellness should be a part of an organization's overall strategic goals and objectives. The shift in health behaviors, perceptions, culture, and outcomes takes time. Remember, the overall goal is for healthier employees, which will only happen when the many parts and pieces of successful wellness programs are working together. This means all key stakeholders are engaged, people feel supported, strategies are based on overall goals, and objectives are derived from real data. There also needs to be a driving force behind making wellness happen every day and in all aspects of company business.

Phase in Wellness Efforts for Effective Outcomes

Most organizations that are ready to implement a health-contingent wellness program have been promoting health, prevention, and wellness in their company for years. Designing a health-contingent wellness initiative is definitely a next-step—not a first-step—approach. The most important aspect of a successful wellness program launch is having a workforce that has been thoroughly prepared for it. Employees should already work in an environment that's conducive to healthy behaviors, are engaged in the program, and know that the incentive structure is just a part of the overall culture.

Make the Healthy Choice the Easy Choice

The culture of a work environment plays a major role in individuals making sustainable behavior change. When you take the focus off of the individual and place it on the

environment, making healthy choices becomes the social norm. The direct influence of peers and environment has been shown to be powerful predictors of human behavior. Continuously evaluating and addressing the multiple levels of influence within our workplace ecosystem—including the macro, micro, and perceptual environments—will allow for greater engagement. Furthermore, perception about what's available and accessible often predicts how employees engage in the wellness program and, more importantly, their own personal health. Macro environmental factors, such as policies around healthy behaviors, and micro factors, such as the access to healthy foods, bike racks, and showers, often affect employees' health without them really being aware of it. Both healthy and unhealthy behaviors spread through social avenues—in and out of the workplace. Surrounding your employees with a culture that is conducive to making healthy choices is a win-win for everyone.

Choose Health Targets Wisely

If you're ready to start rewarding people for meeting health-contingent outcomes, the next big question is where to set the parameters. So, how do employers choose the most effective approach in implementing a health-contingent wellness program?

Most employers pick health outcomes they want their employees to achieve based on what other employers are doing or what the national standards are for various risk factors. Employers should pick health outcomes related to their workforce health status.

What does that mean? Data should be collected to determine the aggregated health status of the employee population, and then this data should be used to determine which health outcomes to measure and where to set the parameters so that individuals will be successful. For example, it's unrealistic and unfair to expect a morbidly obese individual to obtain a BMI in a healthy weight range within the limited duration of a wellness program. It would be more realistic for them to have a goal to decrease their weight by five percent, or by one BMI point.

It's also wise to not overwhelm your employees with meeting multiple health outcomes right from the start. A simple approach—and one which is likely to be well received—is to start with one health outcome, such as tobacco use. Based on the data you collect, set realistic goals, develop interventions, and evaluate results at the end of the year.

Another significant consideration is tying incentives to rigid health outcomes based on national health standards. Of course, there are clinical guidelines recommended by agencies like the National Institutes of Health, the American Diabetes Association, and others; however, these guidelines may be too strict for your workforce, and a heavy-handed approach may do more harm than good. A great deal of thought and guidance from professionals should be put into the selection of the most appropriate and effective health targets to engage individuals and not discourage them. The goal is to have metrics that are within reach for the majority of the population, have meaningful reasonable alternative standards, and truly engage people and support them in their efforts to improve their health.

Positive, Simple Communication

Engaging your employee population early in the implementation of a new or upcoming incentive structure will be crucial to the success of the program. An effective communication plan will include multiple opportunities and platforms for employees to learn more. This should be a natural next step to an incentive design that you're already providing.

Transparency about why the incentive structure was selected will allow the employees to gain trust in the process and will allow them to feel like they are a part of the solution. When you engage them in the idea early on, they will have more of a vested interest in this global initiative to improve the health of the entire population. It's advised against rolling out programs that are seemingly invasive to populations that may not be ready. For example, if morale is low due to lay-offs, restructuring, or political issues, it's best to stay away from anything that may seem punitive.

If the employee population is primed for this type of incentive design, it's advised to take into consideration the simplicity of enrollment and the positive message that it sends. Employees will feel less threatened if the enrollment process is easy to do and understand. It will take work to ensure the communication is succinct yet comprehensive. The final employee communications about your incentive plan should be very easy to follow with positive messages. A positive approach includes words like incentives, voluntary, supportive, engagement, and motivation. Avoid messages that induce fear and anxiety, such as penalties, mandatory, must, required, and comply.

When employees feel valued and have a supportive environment, engagement occurs. This comes by way assessing your employees' needs and interests, but also their current perception of what is or is not in place.

A Word of Caution

Health-contingent wellness program incentives are receiving both positive and negative press. As employers are eager to find the magic wand, they should take heed in such a progressive approach. This isn't a one-size-fits-all solution. This is one of many strategies that can increase participation, but should be encapsulated into a much broader scope.

Healthcare advocacy group leaders from several industries reviewed literature, regulations, and case studies, and then released a joint consensus statement, which noted:

"Incentives alone may not be a practical tactic for sustained improvements in population health. The evidence suggests that long-term lifestyle modification or risk factor management requires more than financial motivation. The key to a successful workplace wellness program capable of sustaining behavior change is the creation of a culture and environment that supports health and wellness."

—Joint Consensus Statement, July 2012



Conclusion

Workplace wellness programs have evolved over the years from a programmatic approach to one that allows employers to reward health-contingent outcomes. Incentives must be supported by workplace culture programming, tools, resources, and opportunities for employees to practice healthy behaviors. At the end of the day, while the Affordable Care Act and the Departments of Health and Human Services, Department of Labor, and the Internal Revenue Service rulings have opened many doors for employers to offer incentives that encourage participation and reward positive health outcomes, it's important to remember that this strategy is one piece of a larger wellness puzzle. When implemented thoughtfully and strategically, a workplace wellness initiative can help mitigate employee healthcare costs, increase productivity, and increase employee morale.

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47CLB 112016