



## Incentives in workplace wellness programs

Organizations establish workplace wellness programs to reduce healthcare insurance costs over the long term. Their goal is to increase employee productivity, enhance engagement, retain staff and attract talent. They believe healthier employees yield a healthier bottom line for organizations.

### **Employers use a range of incentives to motivate participation in wellness programs. Incentives fall into two major categories.**

- First, participation-based incentives are awarded for completing wellness program activities that are not related to health status.
- Second, health-contingent incentives are awarded for meeting health goals, like maintaining a certain body mass index or reducing weight by a certain amount.

Multiple federal laws set different requirements for programs with incentives, depending on whether incentives are participation-based or health-contingent activities associated with the incentives.

**This report offers an update on the use of incentives in workplace wellness programs, including:**

- Federal rules and regulations related to the use of incentives in wellness programs
- Advantages and disadvantages of incentives in wellness programs for the following:
  - Participating in wellness and health promotion activities
  - Completing health appraisals (HA)
  - Achieving health outcomes

## Federal rules and regulations related to the use of incentives in wellness programs

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Genetic Information Nondiscrimination Act of 2008 (GINA) and Employee Retirement Income Security Act of 1974 (ERISA) contain key elements that impact the use of incentives in wellness programs.

### HIPAA

Employers that offer a workplace wellness program as part of a group health plan for employees that offers certain incentives or rewards related to group health plan benefits, such as reductions in premiums or cost-sharing amounts, must comply with HIPAA. Employers that offer workplace wellness programs directly and not in connection with a group health plan are not within scope for HIPAA, but other Federal and state laws may apply regarding the collection of employee health information.

Under the Affordable Care Act (ACA) and the HIPAA nondiscrimination provisions there are five requirements for health-contingent wellness programs.<sup>1</sup>

1. The program must give individuals eligible to participate the opportunity to qualify for the reward at least once per year.
2. The total reward for all the plan's wellness programs that require satisfaction of a standard related to a health factor is limited – generally, it must not exceed thirty (30) percent (or fifty (50) percent for programs designed to prevent or reduce tobacco use) 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 thirty (30) percent (or fifty (50) percent) of the cost of the coverage in which an employee and any dependents are enrolled.
3. The program must be reasonably designed to promote health and prevent disease.
4. The full reward must be available to all similarly situated individuals. This means the program must allow a reasonable alternative standard (or waiver of the otherwise applicable standard) for obtaining the reward for any individual for whom it is unreasonably difficult due to a medical condition to satisfy the otherwise applicable standard.
5. The plan must disclose in all materials describing the terms of the program, the availability of a reasonable alternative standard (or the possibility of a waiver of the otherwise applicable standard).

### EEOC, GINA and the ADA

On May 17, 2016 the U.S. Equal Employment Opportunity Commission (EEOC) issued a final rule to amend their Regulations by implementing Title I of the Americans with Disabilities Act (ADA) as they relate to employer wellness programs. The final rule required that employees be provided a notice and limitations on incentives when the health program asks employees to respond to disability-related inquiries and/or undergo medical examinations. The ADA prohibits discrimination against individuals on the basis of disability and requires that employers make reasonable accommodations to enable individuals with disabilities to have equal access to benefits, like wellness programs, offered to individuals without disabilities.<sup>2</sup> GINA prohibits discrimination in insurance and employment on the basis of genetic information. GINA protects against the disclosure of information about genetic information and about the manifestation of a disease or disorder in family members of the individual. Under the EEOC regulation, employers could implement incentives –penalties or rewards- of up to thirty (30) percent of the cost of self-only coverage to encourage employees to disclose ADA and GINA-protected information without causing disclosure to be deemed involuntary.

Effective January 1, 2019 the incentive section of the EEOC's wellness regulations which allowed disability-related inquiries and medical exams that are part of a voluntary wellness program were vacated by the U.S. District Court for the District of Columbia. The limit on incentives was arbitrary and did not ensure participation was voluntary. Although the provisions regarding size of incentives were rescinded, all other aspects of the final regulations remained in effect.

On January 7, 2021 the EEOC proposed new rules regarding the incentives employers can provide their employees as part of a wellness program without violating the ADA or GINA. However, the proposed rules were withdrawn on February 12, 2021. With the withdrawal of those rules, employers have little guidance in terms of what incentives, if any, they may offer employees.

## ERISA

ERISA is a federal law that sets minimum standards for most voluntarily established employee retirement and health benefit plans in private sector employment. ERISA offers protections to participants in the plan by requiring that employers provide participants with information about the plan's terms and funding, meet fiduciary standards of conduct, establish a grievance and appeals process, and grant participants the right to sue for benefits and breaches of fiduciary duty.

In general, if a wellness program provides medical care, it will be considered a health plan subject to ERISA. Programs including the following services are ERISA-covered plans:<sup>3</sup>

- Counseling services from trained professionals
- Physical examinations
- Biometric screenings, such as blood pressure or cholesterol level
- Flu shots or other immunizations

However, wellness programs that only consist of educational services or merely encourage healthy living habits (such as healthy cooking classes or exercise programs) do not provide medical care, and are not covered by ERISA.<sup>4</sup>

## Advantages of incentives in wellness programs

Financial incentives continue to play an important role in encouraging employees to participate in well-being programs. While most incentives are for physical health initiatives, fifteen (15) percent of incentive payments are now tied to programs that address mental, financial and emotional health. Incentives include contributions to a health savings account, premium reductions and direct payments to program participants.<sup>5</sup>

According to a presentation at the 2021 Creating Healthy Work Environments virtual conference, "Implementing Evidence-Based Workplace Wellness Strategies to Increase Employee Participation:"<sup>6</sup>

- After establishing the Workplace Wellness Program (WWP) infrastructure and implementing targeted interventions there was a forty (40) percent increase in Annual Health Appraisal (AHA) completion rates.
- The increase in the AHA completions strongly correlated to an increase in the percent of physically active employees from seventeen (17) percent pre-intervention to fifty-one (51) percent post-intervention.
- There was a sixteen (16) percent increase in the number of employees reaching the highest level of WWP engagement.
- There was an increase of six (6) percent in employee productivity and a decrease of six (6) percent in employee turnover.

## Disadvantages of incentives in wellness programs

Low participation rates severely limit the effectiveness of physical activity promotion programs, in particular if they occur among high-risk groups.<sup>7</sup>

Sponsoring a comprehensive wellness program can prove costly. Wellness programs can increase operational costs for management and lessen the chances for effectiveness within the organization.<sup>8</sup>

Most large employers sixty-one (61) percent say that financial incentives are either “not at all effective” or only “somewhat effective” in encouraging employee participation in wellness programs, or they don’t know if incentives are effective.<sup>9</sup>

Workers may opt out of participating in wellness programs to protect the privacy of their health information, because they don’t find the program convenient or for other reasons.<sup>10</sup>

### Participating in wellness and health promotion activities

Most firms offering health benefits offer programs to help workers identify and address health risks and unhealthy behaviors. Fifty-three (53) percent of small firms and eighty-one (81) percent of large firms offer a program in at least one of these areas: smoking cessation, weight management, and behavioral or lifestyle coaching. Among large firms offering at least one of these programs, forty-four (44) percent offer workers an incentive to participate in or complete the program.<sup>11</sup>

As health screenings and wellness programs become more complex, incentives have become more sophisticated and may involve participating in or meeting goals in different programs. Researchers asked firms that had incentives for any of these programs to estimate the maximum incentive for a worker across all of their screening and promotion programs combined. Among large firms with any type of incentive, twenty (20) percent have a maximum incentive of \$150 or less, while twenty (20) percent have a maximum incentive of more than \$1,000.<sup>12</sup>

### Completing health appraisals (HA)

Among firms offering health benefits, forty-two (42) percent of small firms and sixty (60) percent of large firms provide workers the opportunity to complete a health risk assessment. A health risk assessment includes questions about a person’s medical history, health status and lifestyle. Fifty-two (52) percent of large firms with a health risk assessment program offer an incentive to encourage workers to complete the assessment. Incentives may include: gift cards, merchandise or similar rewards; lower premium contributions or cost sharing; and financial rewards, such as cash, contributions to health-related savings accounts or avoiding a payroll fee.<sup>13</sup>

One study, “The Role of Incentive Design, Incentive Value, Communications Strategy, and Worksite Culture on Health Risk Assessment Participation,” found that incentive value, company wellness culture, and a strong communication strategy had significant impact on health risk assessment participation rates. Of these, incentive value had the strongest influence.<sup>14</sup>

### Achieving health outcomes

In order to drive real change, successful workplace wellness programs understand and address the complete picture of an employee’s health—including medication, nutrition, fitness, and other factors impacting wellness like sleep and mental health. The 2020 Chronic Care Action Index found that exercise (fifty-one (51) percent), eating healthier (forty (40) percent) and getting more sleep (thirty-eight (38) percent) were the changes people most wanted to make in relation to their health—but found most difficult. Further, nearly one-third of respondents (twenty-nine (29) percent) cited motivation as a barrier to following their doctor’s guidance. If a program connects the dots between all facets of health and provides continued support, it will drive change in health outcomes.<sup>15</sup>

A company whose employees use wearable devices experience a positive return on investment. Also, these benefits extend beyond revenue. Wearable-based wellness programs increase productivity, employee loyalty and time spent on the job. Effective wellness programs can reduce absenteeism while simultaneously promoting productivity.<sup>16</sup>

A study from the Health Enhancement Research Organization (HERO) titled, “Influence of Incentive Design and Organizational Characteristics on Wellness Participation and Health Outcomes,” identified four (4) common patterns in incentive design with varying levels of success in participation and outcomes.<sup>17</sup>

### **Participation-focused incentives**

These reward individuals for participating in a biometric screening, health risk assessment, health intervention, or completing a health intervention. Sixteen (16) percent of organizations in the study favored a participation-focused incentive design.

### **Outcomes-focused incentives**

These designs reward individuals for achieving targets or improving health-related outcomes including BMI, weight, blood pressure, cholesterol, tobacco use and glucose. Forty-four (44) percent of organizations in the study favored an outcomes-focused incentive design.

### **Combination (participation and outcomes-focused incentives)**

In this type of plan, rewards were available for participating in or completing an activity and achieving targets or making improvements in health-related outcomes. Seventeen (17) percent of organizations in the study favored a combination approach to their incentive design.

### **Participation-to-outcomes**

Twenty-four (24) percent of organizations began with a participation-focused incentive design and shifted the program to include rewards for achieving targets or making improvements in health-related outcomes.

Results from the study indicate wellness incentives influence health outcomes. The combination approach showed the most promising outcomes in terms of participation and population-level health improvements.

The research suggests incentives along with a supportive workplace health culture can increase wellness participation and gain favorable health outcomes. Companies that combined participation and outcomes-focused incentives achieved these results:<sup>18</sup>

- The most improvement in blood pressure and cholesterol risk
- A significant improvement in glucose risk
- A non-significant increase in obesity risk

Employers understand that long-term focus on health and wellness in the workplace reduces their health associated costs because of fewer illnesses. Bringing more focus on wellness also helps employees to reduce the chances of experiencing a major illness or chronic disease.<sup>19</sup>

Results from research, “Organizational-level determinants of participation in workplace health promotion programs: a cross-company study,” indicates a key factor for program success is a leadership team that not only encourages program participation through role model behavior, but also establishes a corporate culture that prioritizes health. Corporate health programs that are just implemented to ‘Check the box’ of investing in corporate health management are set up for failure.<sup>20</sup>

According to a study on “The Impact of Wellness Programs on Job Satisfaction,” employees satisfied with their workplaces have better relationships with co-workers because their employer-sponsored wellness programs also help create opportunities to interact on a personal level through participation in the programs. The result provided more opportunities for increased employee job satisfaction.<sup>21</sup>

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