



NAVIGATING HEALTHCARE REFORM

March 25, 2014

ACA In The News: Wellness Programs

The final regulations regarding wellness programs under ACA were released on May 29, 2013 and affected all group plans on January 1, 2014. The government believes that appropriately-designed wellness programs “have the potential to contribute importantly to promoting health and preventing disease”. The intention of the final regulations is that, regardless of the type of wellness program, every participant is able to earn the full amount of any reward or incentive, regardless of his/her current health status.



Types of Wellness Plans

ACA recognizes two broad categories of wellness programs:

- **Participatory wellness programs** provide an incentive or reward without regard to a health factor. For example, taking part in a biometric screening event, regardless of the results of the screening, would be considered a participatory wellness program. Other participatory programs include discounted gym memberships or attending seminars. The differentiating aspect to participatory wellness programs is that they are unrelated to any health standard or outcome.
- **Health contingent wellness programs** tie the reward to a health factor. In the previous example, taking part in a biometric screening event would only be rewarded if the results of the screening satisfied a health standard such as BMI or levels of cholesterol, blood glucose, or blood pressure. Under ACA, in the event that the health standard was unmet, the employer must provide a reasonable alternative for the individual to earn the reward. There are two types of health-contingent wellness programs, activity only and outcome based.
 - **Activity only health contingent wellness programs** require the participant who did not meet the health standard to perform an activity such as attend a seminar related to the issue. The activity does not require a specific outcome. Simply participating in the activity earns the participant the same reward as meeting the health standard.
 - **An outcome-based health contingent wellness program** generally has two tiers. The first tier is a measurement, test or screening that evaluates a medical condition or risk factor. The second tier is an activity related to the outcome of the first tier and must take into account the individual’s circumstances. Examples include weight loss or smoking cessation programs. The second tier activity must allow a realistic period of time in which to satisfy the health standard, such as a year, and must be paid by the employer. In the case of a weight loss program, the program itself must be paid by the employer, but the food is the participant’s responsibility. Individuals may request compliance with their personal physician’s recommendations to satisfy the requirements of a health contingent wellness program.

The Reward or Incentive

The regulations define the reward as either obtaining a reward/ incentive or avoiding a penalty. It must be available to all participants at least once per year. In addition, as described previously, there must be an alternative standard for those with adverse health factors that do not meet the standard requirements. Notice regarding the alternative standard is required only in the case of health-contingent wellness programs.

Examples of rewards include:

Reward/Incentive

- Discount or rebate of a premium contribution
- Additional benefit such as time off
- Financial incentive
- Waiver of all or part of cost sharing (e.g. deductible, copay, coinsurance)

Avoiding a Penalty

- Premium surcharge
- Other financial or non-financial disincentive

The amount of the reward/ incentive or penalty is limited and varies with the intent of the wellness program. It is limited to no more than 30% (50% for smoking) of the total cost of the premium, in addition to the current employee contribution amount. This includes both the employer and the employee contributions to the premium.

Example 1: The wellness program is offered employees, not dependents

<u>Employee Only</u>	<u>Monthly</u>	<u>No Wellness</u>	<u>Tobacco Usage</u>
Total Premium (EE + ER)	\$400	\$400	\$400
EE Portion	\$50	\$170	\$250
ER Portion	\$350	\$230	\$150
Explanation of EE cost:		30% of \$400 is \$120, plus the \$50 monthly cost.	50% is \$200, plus the \$50 monthly cost.

<u>Employee + Spouse</u>	<u>Monthly</u>	<u>No Wellness</u>	<u>Tobacco Usage</u>
Total Premium (EE + ER)	\$850	\$850	\$850
<i>(Total Premium if EE Only)</i>	<i>\$400</i>	<i>\$400</i>	<i>\$400</i>
EE Portion	\$250	\$370	\$450
ER Portion	\$600	\$480	\$400
Explanation of EE cost:		30% of \$400 (EE Only) is \$120, plus the \$250 monthly cost.	50% of \$400 is \$200, plus the \$250 monthly cost.

Example 2: The wellness program is offered to employees and spouses.

<u>Employee + Spouse</u>	<u>Monthly</u>	<u>No Wellness</u>	<u>Tobacco Usage</u>
Total Premium (EE + ER)	\$850	\$850	\$850
EE Portion	\$250	\$505	\$675
ER Portion	\$600	\$345	\$175
Explanation of EE cost:		30% of \$850 is \$255, plus the \$250 monthly cost.	50% is \$425, plus the \$250 monthly cost.

Wellness programs must be carefully structured to comply with both state and federal laws. To avoid noncompliance, employers should have their legal counsel review their wellness programs before they are rolled out to employees.