

In Focus

Avoiding Pitfalls When Designing Wellness Incentives

Unfortunately, the "Field of Dreams" mantra of, "If you build it, he will come" is not usually true for wellness programs. Most employees need a little bit of nudging to engage in healthier behaviors. A 2008 survey of over 500 employers conducted by the Integrated Benefits Institute found that 73% of employers use incentives and 19% use disincentives to encourage healthy behaviors and discourage unhealthy ones.

Sounds simple enough, right?

Not so fast. There are a number of issues to consider before setting up your incentive structure.

First you must decide whether to tie the incentives to your health plan. Reduced contributions and co-pays are generally considered to be effective incentives, but if you choose to go this route and want to reward outcomes (versus participation), you must comply with HIPAA wellness rules.

In December of 2007, HIPAA "Nondiscrimination and Wellness Programs in Health Coverage in the Group Market; Final Rules" were published in the Federal Register. These rules apply to wellness programs that are (1) linked to the health plan and (2) provide a reward (or penalty) based on a health outcome (or "health factor" as described in the rules) such as achieving a target weight level or refraining from smoking. Yes, the Feds consider nicotine addiction a health factor. If the incentives (e.g. cash or prizes) are not linked to the health plan, the rules do not apply. Likewise, if the incentive rewards participation only, the rules do not apply.

If you are offering a different rate on health insurance premiums, co-pays, co-insurance or deductibles based on a health outcome, then the program must meet these 5 requirements:

1. The total of all incentives may not exceed 20% of the total cost of coverage offered
2. Be reasonably designed to promote health and prevent disease
3. Provide opportunity to qualify for the reward at least once per year
4. Allow a reasonable alternative standard (or waiver of initial standard) for obtaining the reward to any individual for whom it is unreasonably difficult due to a medical condition, or medically inadvisable, to satisfy the initial standard
5. 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 initial standard). *We have found that this requirement is sometimes overlooked by employers.*

For more details about the HIPAA wellness rules, see our [April, 2007 In Focus](#).

As indicated above, programs requiring participation to qualify for a reward/penalty are not subject to the HIPAA Wellness Rules. However, per the EEOC, providing incentives for participation in a biometric screening and/or health risk assessment (HRA) that may reveal a disability *may* violate the Americans with Disabilities Act (ADA).

EEOC guidance says the ADA allows employers to conduct voluntary medical examinations and activities, including voluntary medical histories, as part of an employee health program if participation in the program is voluntary and several other conditions are met. Per the EEOC, "A **wellness program is "voluntary"** [bold provided by EEOC] as long as an employer neither requires participation nor penalizes employees who do not participate." Providing a monetary incentive may deem the program as involuntary, thus violating the ADA if the examination or history may reveal a disability. Even if a third party administers the wellness program, there could still be a violation (Employee Benefit Plan Review, March, 2008). The EEOC has not issued a formal opinion about this, so employers should proceed cautiously. The ADA Amendments Act will be effective January 1, 2009, and the EEOC will be evaluating the impact of these changes on its enforcement guidances and other publications addressing the ADA. Stay tuned for more information on this topic.

In closing, we want to emphasize that in most cases, financial incentives alone will not change behavior. Cost is usually not the primary barrier to behavior change. This fact may well limit the impact of incentives, including value-based insurance designs

They said it:

"People are having to choose between gas, meals and medication", Dr. James King, Chairman of the American Academy of Family Physicians.

"Don't tell my wife, but if I have 30 days worth of pills, I'll usually stretch those out to 35 or 40 days. You're trying to keep a house over your head and use your money to pay all your bills", Martin Schwarzenberger, accounting manager for the Boys and Girls Clubs of Greater Kansas City and Type 1 Diabetic.

This article is not an attempt to discuss all the legal issues concerning providing incentives for wellness programs. There are also tax considerations and other laws that impact wellness incentives.

(VBID). Consider these examples:

- | Many employers reduced the co-insurance for drugs that treat chronic conditions but adherence is still low. A study found that cost was the primary reason for non-adherence to prescription drug therapy *only 17% of the time* (The Boston Consulting Group and Harris Interactive, 2003). The most common reason named was people forgot to take the medicine. A 2008 CVS Caremark study finds that an even smaller percentage of people site cost as a reason for non-adherence.

- | The number of women getting mammograms is low even though most employers removed the deductible and co-pay for this service. In fact, several studies have found a reason many women do not get screened is because they underestimate their risk for breast cancer and do not understand that the risk of breast cancer increases with age.

The list of reasons people avoid healthy behaviors will vary widely for each person and each behavior.

So what should you do?

Incentives can have a big role in improving health, but don't expect them to be "silver bullets." People have many different reasons other than cost for avoiding or engaging in healthy behaviors and health and wellness program should identify and address as many of them as possible. A comprehensive health and wellness program should include incentives and a supportive organizational culture, environmental polices that reinforce health and wellness goals, programming, and a benefit plan that encourages preventive services and appropriate treatment for chronic conditions.

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