

Facts for Employers

2014 PPACA Changes to Wellness Incentive Programs



Federal Health Care Reform, the **Patient Protection and Affordable Care Act** (“PPACA”), makes changes to the rules for employer-sponsored **wellness incentive programs**. The changes will go into effect on January 1, 2014.

Under HIPAA, group health plans can establish premium discounts or other financial incentives for employees who participate in Wellness Incentive Programs. There are two types of such programs: participation programs and standards-based programs. *Participation programs* include incentives such as reimbursing gym membership costs, taking a health risk assessment, or participating in some other wellness-related activity without looking for a required outcome. *Standards-based programs* include things such as offering a premium discount for a low cholesterol count or body-mass index, where the employee must meet specific criteria.

There are no special rules for participation programs; however, for a standards-based program to satisfy HIPAA’s nondiscriminatory requirements, it must meet the following criteria:

1. The reward or discount for satisfying the criteria of the program cannot exceed 20% of the cost of employee-only coverage under the plan. On January 1, 2014, this will increase to 30% of the cost of employee-only coverage under the plan.
2. The program must be reasonably designed to promote health or prevent disease.
3. Employees must have the opportunity to qualify for the reward or discount at least once per year.
4. The reward or discount must be available to all employees. Employees who have a medical condition that prevents them from qualifying for the reward or discount, or for whom it is “medically inadvisable” to qualify for the reward, must be given a “reasonable alternative standard.”
5. The “reasonable alternative standard” must be disclosed in the Plan’s written materials.

Plans can require employees who seek a waiver from a standards-based program based on a medical condition to provide verification of their condition. But, in doing so, employers should be careful not to violate other anti-discrimination laws such as the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or other state or federal laws prohibiting discrimination based on age, gender, race, or other protected categories.

In addition to the changes coming in 2014 as a result of PPACA, the new Massachusetts Payment Reform Law has several provisions regarding Wellness Incentive programs. These include:

- A “Seal of Approval” process for wellness programs. The Division of Insurance together with the Department of Public Health will issue regulations with the criteria for the Seal of Approval.

- A premium discount for employers based on criteria to be determined by the Division of Insurance, one of which will be employee participation in wellness programs.
- A tax credit for individuals and small groups who follow a wellness program that has a Seal of Approval. The Department of Public Health, in collaboration with the Division of Insurance, will issue regulations with the criteria to determine eligibility for this credit.

As more regulations or guidance are issued, HNE will provide updates to this Fact Sheet.