



Legislative Update

July 29, 2010

Wellness Gets a Boost

Beginning in 2014, under the new health reform law employers can offer increased incentives to employees who participate in a wellness program or who meet certain health status targets. In addition, effective in 2011 the reform law creates a program to provide grants to certain small employers with fewer than 100 employees for comprehensive workplace wellness programs.

Increased Wellness Program Incentive

Certain wellness incentives are currently allowed under the voluntary wellness program exceptions to the Health Insurance Portability and Accountability Act (HIPAA) nondiscrimination rules. Under these wellness programs, employers can provide a premium discount, rebate, or other reward for participation without violating the health status-related factor nondiscrimination rules under the following circumstances:

- If the reward *is not* based on the participant satisfying a health standard, the program is permitted if the reward is made available to all similarly situated individuals.
- If the reward *is* based on the participant satisfying a health standard, the program is permitted if:
 - The reward is not greater than 20% of the cost of the health plan's coverage (taking into account both employer *and* employee contributions to the coverage);
 - The program is reasonably designed to promote health or prevent disease;
 - Individuals eligible for the program have an opportunity to qualify for the reward at least once per year;
 - The full reward is available to all similarly situated individuals (including provision of reasonable alternatives for those unable to satisfy the health standard due to a medical condition); and
 - The availability of reasonable alternatives is disclosed in plan materials describing the terms of the program.

Under the new health reform law, these same rules that currently exist under HIPAA continue to apply. However, effective for plan years beginning on or after January 1, 2014, the new law raises the maximum incentive amount for wellness programs that provide the incentive based on achieving a health standard from the current 20% of plan coverage costs to 30% for those participating in the program. Employers are not permitted to raise the incentive to 30% until the increase goes into effect in 2014. The law also authorizes the agencies to increase the permissible allowance to as much as 50% of the cost of coverage, if deemed appropriate.

Grants to Small Employers to Establish Wellness Programs

Effective January 1, 2011, the Secretary of Health and Human Services (HHS) is authorized to award grants totaling \$200 million over five years for small companies that start wellness programs focused on efforts such as nutrition, smoking cessation, physical fitness, and stress management. The grants will be made available to eligible employers to provide employees with access to comprehensive workplace wellness programs. An employer is eligible if it employs fewer than 100 employees who work 25 hours or greater per week and did not provide a wellness program prior to March 23, 2010. Employers must submit applications (once available) that include a proposal for a program that meets requirements. HHS is required to develop specific program criteria that are based on and consistent with evidence-based research and best practices. A comprehensive workplace wellness program must be made available to all employees and include:

- Health awareness initiatives (including health education, preventive screenings, and health risk assessments)
- Efforts to maximize employee engagement (including mechanisms to encourage employee participation)
- Initiatives to change unhealthy behaviors and lifestyle choices (including counseling, seminars, online programs, and self-help materials)
- Supportive environment efforts (including workplace policies to encourage healthy lifestyles, healthy eating, increased physical activity, and improved mental health)

As new information is issued on health reform, Conner Strong will issue alerts and updates. Should you have any questions, **please contact your Conner Strong representative toll-free at 1-877-861-3220.**

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