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Health Policy Brief

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Workplace Wellness Programs. The Affordable Care Act will expand the ability of employers to reward workers who achieve health improvement goals.

WHAT'S THE ISSUE?

The poor health habits of many workers, growing rates of chronic disease, and the rising cost of health benefits have created new interest in workplace wellness programs. Employers value these programs as a way to reduce absenteeism and employee turnover, and to offer a benefit that is appealing to many current and prospective employees. Some evidence also suggests that comprehensive wellness programs may pay off for employers by reducing their expenditures for employees' health care.

At the same time, there's debate over how best to structure wellness programs. Should programs offer "carrots"—financial rewards for participating in wellness programs? Should they come with "sticks," or penalties for not participating in them? Should either carrots or sticks be tied to an individual's success in meeting health goals, such as managing blood pressure or losing weight?

The Affordable Care Act of 2010 will, as of 2014, expand employers' ability to reward employees who meet health status goals by participating in wellness programs—and, in effect, to require employees who don't meet these goals to pay more for their employer-sponsored health coverage. Some consumer advocates argue that this ability to differentiate in health coverage costs among employees is unfair and will amount to employers' policing workers' health.

This brief explains trends in wellness programs, details changes in the law starting in 2014, and highlights issues to watch.

WHAT'S THE BACKGROUND?

Most employers who provide health insurance also provide some type of wellness benefit. The 2011 Kaiser Family Foundation and Health Research and Educational Trust annual survey of employer health benefits found that 67 percent of companies with three or more employees that offered health benefits also offered at least one wellness program. Slightly more than half (52 percent) also offered wellness benefits to spouses or dependents of employees.

The larger the company, the more likely it was to offer a wellness program; in fact, almost all companies with 1,000 or more employees offered one. Larger employers usually run wellness programs themselves. For small companies, wellness programs are typically run by the same firms that administer the employer's health benefits plan or by another entity referred to as a third-party administrator.

WELLNESS PROGRAM CONTENT: Typical features of wellness programs are health-risk assessments and screenings for high blood pressure and cholesterol; behavior modification programs, such as tobacco cessation, weight management, and exercise; health education, including classes or referrals to online sites for health advice; and changes in

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67%

Companies with wellness programs
Two-thirds of companies with three or more employees that offer health benefits also offer at least one wellness program.

the work environment or provision of special benefits to encourage exercise and healthy food choices, such as subsidized health club memberships (Exhibit 1).

The research literature indicates that wellness programs reduce health care costs. A review of 36 peer-reviewed studies of wellness programs in large firms found that average employer medical costs fell $3.27 for every dollar spent on wellness programs, and costs for days that employees were absent fell an average of $2.73. Similarly, a 2005 meta-analysis of 56 published studies of health promotion programs at organizations of all sizes resulted in an overall reduction of about 25 percent in sick leave, health plan costs, and workers compensation and disability costs.

INDUCEMENTS TO PARTICIPATE: Although almost all workplace wellness programs are voluntary, employers are increasingly using incentives to encourage employee participation. These incentives range from such items as t-shirts or baseball caps to cash or gifts of significant value. Studies indicate, moreover, that financial incentives do prompt more employees to participate in wellness programs.

Employers are also linking participation in wellness programs to employees' costs for health coverage—for example, by reducing premium contributions for workers who are in wellness programs, or by reducing the amounts they must pay in deductibles and copayments when they obtain health services. Another trend among employers who offer multiple health plans is to allow participation in a comprehensive plan only to those employees who agree to participate in the wellness program. Those employees who do not participate in a wellness program are offered a less comprehensive plan, or one that requires them to pay more in premiums or cost sharing.

One 2011 survey of about 600 large US employers found that nearly half already use or plan to implement financial penalties over the next three to five years for employees who don't participate in wellness programs. More than 80 percent of those who use or plan to use penalties say they will do so through higher premiums.

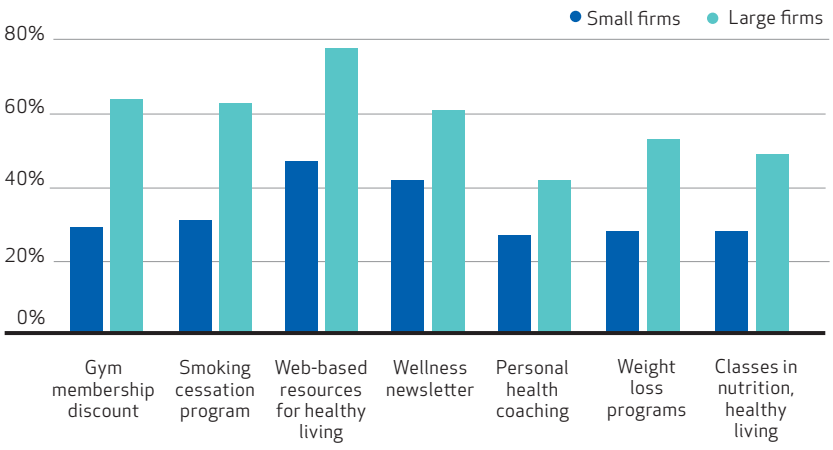
Although these incentives and disincentives do prompt workers to participate in wellness programs, the evidence is mixed on whether the result is real improvements in health outcomes. And to date, there have been no published, independent studies on how changes in premiums or cost sharing affect health outcomes.

A review of 17 studies by researchers at Oxford University found no difference in outcomes among participants in a smoking cessation program between those who received a financial reward and those who did not. Another group of researchers in the United Kingdom reviewed nine randomized controlled trials of obesity treatment and found no significant effect of the use of financial incentives on weight loss or maintenance of weight loss at 12 and 18 months.

On the other hand, a series of studies conducted by researchers at the University of Pennsylvania showed positive results associated with programs using financial rewards. One study found that financial incentives were effective in producing weight loss, but the results were not fully sustained seven months after the program ended. In another study, financial rewards significantly increased rates of smoking cessation among 878 employees of a large U.S. company. The group receiving the financial incentives also had a higher participation rate in the smoking cessation program.

EXHIBIT 1

Percentage of Companies Offering a Particular Wellness Program to Their Employees, by Firm Size, 2011



SOURCE Kaiser Family Foundation and Health Research and Educational Trust, "Employer Health Benefits: Annual Survey 2011," September 27, 2011. **NOTE** "Small firms" are those with 3–199 workers; "large firms" are those with 200 or more workers.

WHAT'S IN THE LAW?

Employer wellness programs must comply with a number of federal and state requirements, such as the Americans with Disabilities Act of 1990, the Genetic Information Nondiscrimination Act of 2008, and the Health Insurance Portability and Accountability Act of

1996 (HIPAA). The issues discussed in this brief relate mostly to HIPAA provisions that prohibit employer health benefit plans from discriminating against individuals based on any factor connected with their health status.

For example, employers offering a health plan must allow all qualified employees to enroll and may not require larger premium contributions from enrollees who have medical conditions. HIPAA does allow employers to provide rewards for employee participation in a wellness program. Wellness programs that are separate from the employer health plan may be subject to other state and federal nondiscrimination laws, such as the Americans with Disabilities Act, but are not subject to the HIPAA nondiscrimination rules.

25%

Reduction in sick leave, costs
Health promotion programs cut sick leave, health plan costs, and workers compensation and disability costs by about 25 percent.

TWO PROGRAM TYPES: HIPAA regulations, finalized in 2006, categorize wellness programs into two groups. The first consists of those programs that are available to all similarly situated individuals and do not require a participant to meet any standard related to health status to receive a reward. These programs do not need to meet any other HIPAA nondiscrimination requirements. Examples include gym memberships or tobacco cessation programs offered by an employer without regard to whether participants actually lose weight or quit tobacco use.

The second category includes programs that require an individual to meet a health status standard to obtain a reward. Rewards may be in the form of premium discounts or rebates, lower cost-sharing requirements, the absence of a surcharge, or extra benefits. These programs must meet the following five conditions.

"Most employers who provide health insurance also provide some type of wellness benefit."

- The total of all rewards offered to an individual under the program cannot exceed 20 percent of the total cost (employer and employee portions) of individual employee health benefits coverage (comparable rules apply for family coverage).

- The wellness program must be designed to improve health or prevent disease and must not be overly burdensome.

- Individuals must be given a chance to qualify for the reward or rewards on at least an annual basis.

- The full reward must be available to all similarly situated individuals, and a reasonable alternative must be provided for those with a medical condition that makes it unreasonably difficult to meet the standard.

- The availability of the alternative must be disclosed in wellness program materials.

Whether rewards for participating in a wellness program are viewed by employees as incentives or penalties may depend on how the program is structured. For example, an employer who currently offers health benefits with a $100 per month employee contribution requirement may offer a carrot in the form of a $50 monthly rebate for those who participate in the wellness program. On the other hand, if that same employer instead increased the employee contribution to $200 per month and offered a rebate of $100 per month for meeting wellness program requirements, the change might be more likely to be perceived as a stick, or penalty.

An example of a wellness program permissible under HIPAA is an employer health plan that asks enrollees to certify that they have not used tobacco during the previous year. Enrollees who do not provide the certification are assessed an annual surcharge of $1,000 (20 percent of the $5,000 cost of employee-only coverage under the plan). Materials describing the terms of the wellness program must state that a reasonable alternative standard will be available to those for whom it is unreasonably difficult, or medically inadvisable, to meet the requirement.

The alternative standard requires an individual to participate in a smoking cessation program, but does not require that the individual actually quit smoking. This program meets the five HIPAA requirements, since nicotine addiction is a medical condition. Because $1,000 is the maximum amount allowed in this case, this wellness program may not impose any other rewards or penalties related to health status factors.

The Affordable Care Act gives these HIPAA regulations the weight of law and also makes one significant change: The limit on the total allowed amount of wellness program rewards is increased from 20 percent of employee health benefit costs to 30 percent, effective in 2014. Therefore, using the above example, beginning in 2014, the maximum surcharge on enrollees who do not participate in the wellness program could be as high as $1,500. The law also gives the secretaries of the departments of Health and Human Services, Treasury, and Labor the discretion to raise

this amount to a level as high as 50 percent of employee health benefit costs.

In 2010 the secretaries indicated that they intend to use their regulatory authority to raise the limit to 30 percent prior to 2014, accompanied by additional consumer protections to prevent discrimination against employees. However, to date, no additional information or regulations have been issued.

WHAT ARE THE CONCERNS?

There is widespread support for wellness initiatives in the workplace among both employers and employees. At the same time, there is conflict over programs that tie rewards or penalties to individuals achieving standards related to health status—and especially over those arrangements that affect employee health insurance premiums or cost-sharing amounts.

In general, business groups want employers to have maximum flexibility to design programs with rewards or penalties that will encourage employees to not only participate but also to achieve and maintain measurable health status goals, such as quitting tobacco use or reducing body mass index. They argue that individuals should bear responsibility for their health behavior and lifestyle choices and that it is unfair to penalize an employer's entire workforce with the medical costs associated with preventable health conditions as well as the costs of reduced productivity.

Unions, consumer advocates, and voluntary organizations such as the American Heart Association are generally wary of wellness initiatives that provide rewards or penalties based on meeting health status goals. They are concerned that, rather than improving health, such approaches may simply shift heath care costs from the healthy to the sick, undermining health insurance reforms that prohibit consideration of health status factors in determining insurance premium rates.

They argue that such incentives are unfair because an individual's health status is a result of a complex set of factors, not all of which are completely under the individual's control. For example, genetic predisposition plays a significant role in determining many health status factors, including such attributes as excess weight, blood pressure, blood sugar, and cholesterol levels. Consumer advocates also caution that poorly designed and implemented wellness initiatives may have unintended consequences, such as coercing an individual with a health condition to participate in an activity without adequate medical supervision.

BARRIERS TO WELLNESS: Concerns also have been raised that, by instituting programs designed to alter employees' behavior, employers may be crossing the line with regard to privacy issues. Another concern is that tying the cost of insurance to the ability to meet certain health status goals could discriminate against low-income individuals or racial and ethnic minorities. These individuals are more likely to have the health conditions that wellness programs target and also may face more difficult barriers to healthy living.

These barriers may include some that are work related, such as having higher levels of job stress; job insecurity; and work scheduling issues, including shift work. Barriers outside of work may include personal issues, such as financial burdens, and environmental factors, such as unsafe neighborhoods, poor public transportation, and lack of access to healthy food.

In addition, some critics warn that wellness program requirements may be used to discourage employees from participating in their employers' health benefits plan by making their participation unaffordable. Employers might use a system of rewards or penalties totaling thousands of dollars annually to coerce employees who cannot meet health status goals to seek coverage elsewhere, such as through a spouse's plan; a public option, such as Medicaid; or a separate private plan purchased through the new health insurance exchanges.

There are provisions in the Affordable Care Act to discourage such employer behavior; for instance, companies with more than 50 employees are subject to penalties if even one employee obtains subsidized health insurance through an exchange. However, the extent to which these provisions will be effective is not yet known.

WHAT'S NEXT?

Several issues related to insurance coverage and employer wellness programs will need to be addressed through regulations. For example, under the Affordable Care Act, employees who have access to employer-provided coverage may not purchase coverage through exchanges, and receive federal subsidies to offset some of the costs, unless the premiums they pay toward their employer-sponsored cover-

30%

Reward percentage
The limit on the total allowed amount of wellness program rewards is 30 percent of employee health benefit costs.

"Employers are also linking participation in wellness programs to employees' costs for health coverage."

age exceed 9.5 percent of family income. Regulations will be needed to clarify how wellness program rewards or surcharge amounts will be counted in computing the total amount of premiums that employees are paying to calculate whether their total premiums do exceed this income threshold.

In addition, regulations will need to spell out how wellness-related increases in deductibles or copayments will affect requirements that large employers cover at least 60 percent of the average costs of benefits. Regulations will also need to address how wellness penalties or rewards may jeopardize the standing of "grandfathered" health care plans—those that were in existence at the time the Affordable Care Act was implemented in March 2010 and which are exempt from most health reform provisions.■

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