



Wellness Programs & the ACA

The Affordable Care Act (ACA) can be difficult to navigate. Here are some quick tips in regards to the ACA, tobacco cessation and wellness programs.

If your wellness program is outcome-based, you need to have a “reasonable alternative standard”.

The most common outcome-based programs are for weight and tobacco use. If you offer rewards for achieving a certain weight goal or smoking status, including charging a surcharge on health insurance, you need to offer an alternative way to attain the reward.

From the Regulation:

“For **outcome-based wellness programs**, which generally provide rewards based on whether an individual has attained a certain health outcome (such as a particular body mass index [BMI], cholesterol level, or non-smoking status, determined through a biometric screening or health risk assessment), **a reasonable alternative standard must be provided to all individuals who do not meet the initial standard**, to ensure that the program is reasonably designed to improve health and **is not a subterfuge for underwriting or reducing benefits based on health status.**”ⁱ

So what should you offer as a “reasonable alternative standard”?

You have a lot of flexibility here, but you’ll want to pick a program that is designed to help participants meet the defined wellness goal. For example, if you’re giving a discount on health insurance for employees that do not smoke, your “reasonable alternative standard” might be for smokers to complete an evidence-based smoking cessation program like SmartQuit. Once you have verified program completion, you then give that individual the same discount.

From the Regulation:

“The program must be **reasonably designed to promote health or prevent disease**. For this purpose, it must have a reasonable chance of improving the health of, or preventing disease in, participating individuals, and **not be overly burdensome**, not be a subterfuge for discriminating based on a health factor, and **not be highly suspect in the method chosen** to promote health or prevent disease.”ⁱⁱ

ⁱ 77 FR 70625 "HIPAA and the Affordable Care Act Wellness Program Requirements." 14 Sep. 2016 <<https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/caghipaaandaca.pdf>>

ⁱⁱ "78 FR 106 pgs. 33158-33192 - Incentives for ... - Federal Register." 2013. 20 Jul. 2016 <<http://www.federalregister.com/Browse/Document/usa/na/fr/2013/6/3/2013-12916>>