Guidance for Health Contingent Outcome-Based Wellness Incentive Programs

July 22, 2015
Diane Andrea, RD,LD
Wellness Consultant
Facts

- Health care costs have risen 3% per year for the past several years
- 2013 employers spent more than $9810 per active employee on health care coverage
Modifiable Health Risks

- Healthy weight
- Physical activity
- Good nutrition
- Zero tobacco
Employee Wellness Programs
Disclaimer
Incentive-Based Wellness Programs
Wellness Incentives

<table>
<thead>
<tr>
<th>Description</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Require employees to complete a health risk appraisal and/or biometric screening to be eligible for other financial incentives</td>
<td>35%</td>
<td>42%</td>
<td>54%</td>
<td>75%</td>
</tr>
<tr>
<td>Require employees to validate participation in healthy lifestyle activities in order to receive a reward or avoid a penalty</td>
<td>-</td>
<td>23%</td>
<td>33%</td>
<td>59%</td>
</tr>
<tr>
<td>Reward or penalize based on smoker, tobacco-use status</td>
<td>30%</td>
<td>35%</td>
<td>42%</td>
<td>62%</td>
</tr>
<tr>
<td>Reward or penalize based on biometric outcomes other than smoker, tobacco use status</td>
<td>12%</td>
<td>10%</td>
<td>16%</td>
<td>47%</td>
</tr>
<tr>
<td>Apply rewards or penalties to employees and spouses alike</td>
<td>19%</td>
<td>23%</td>
<td>31%</td>
<td>59%</td>
</tr>
</tbody>
</table>
62% in 2014

35% in 2012
10% in 2012

47% in 2014
Health Insurance Portability and Accountability Act

- health status
- medical condition, including both physical and mental illnesses
- claims experience
- receipt of health care
- medical history
- genetic information
- evidence of insurability
- disability
HIPAA Final Wellness Rules
January 1, 2014
Before Implementing

- Careful review of potential risks
- Careful review of potential benefits
- Thorough evaluation from legal counsel
Wellness Programs

Participatory

Activity-Only

Health-Contingent

Outcome-based
Reward

- A reward
  - Discount or rebate of premium or contribution
  - Waiver of all or part of a cost-sharing mechanism
  - An additional benefit
  - Any financial or other incentive

- A penalty
  - Surcharge
  - Financial or nonfinancial disincentive

- Recommended to communicate rewards, not penalties
Participatory
Participatory Wellness Programs

- “...programs that are made to all similarly situated individuals and that either do not provide a reward or do not include any conditions for obtaining a reward that are based on an individual satisfying a standard that is related to a health factor.”
Participatory Wellness Programs

- Fitness center membership reimbursement
- Reward for attending a no-cost health seminar
- A health risk assessment that provides a reward for participation and does not base any part of the reward on outcomes.

- Permissible under the HIPAA nondiscrimination rules.
- Not required to meet the five requirements applicable to health-contingent programs.*
Health-Contingent

Activity-Only

Outcome-based
Health–Contingent Wellness Programs

- “...programs that require individuals to satisfy a standard related to a health factor in order to obtain a reward.

- Activity-only wellness programs
- Outcome-based wellness programs
**Health – Contingent Wellness Programs**

- Activity-only wellness programs
  - Individual is required to perform or complete an activity related to a health factor in order to obtain a reward. Do not have to attain or maintain a specific health outcome
  - Walking, diet, exercise program
Health – Contingent Wellness Programs

- Outcome-based wellness programs
  - Individual must attain or maintain a specific health outcome (such as not smoking or attaining certain results on biometric screenings) in order to obtain a reward.
Health – Contingent Wellness Programs

- Outcome-based wellness program
  - A program that imposes a premium surcharge/discount based on tobacco use.
  - A program that provides rewards to employees identified as within a normal or healthy range for biometrics.

- Activity-only and outcome-based need to meet five requirements
Requirements for Health-Contingent Wellness Programs

- Individuals must be offered an opportunity to qualify for the reward under the program at least once per year.
- Reward for activity-only wellness program together with reward from other health-contingent programs must not exceed 30% (50% if the program is designed to prevent or reduce tobacco use) of the total cost of coverage under the plan.
- Reasonably designed
- Uniform availability and reasonable alternative standards
- Notice of availability of reasonable alternative standard
Requirements for Activity-Only Wellness Programs

- Individuals must be offered an opportunity to qualify for the reward under the program at least once per year.
Requirements for Health-Contingent Wellness Programs

- Total amount of all rewards contingent on satisfying a health standard must not exceed 30% of the total cost of coverage with an increase of an additional 20% (to 50%) for health-contingent programs designed to prevent or reduce tobacco use.
Requirements for Health-Contingent Wellness Programs

- Employer portion = $4,500 and employee portion = $1,500
  
  $4,500 + $1,500 = $6,000

- Tobacco wellness upper limit 50% of $6,000 = $3,000

- Non tobacco wellness upper limit 30% of $6,000 = $1,800
Requirements for Health-Contingent Wellness Programs

- Example 1: annual rebate $600
  $6,000 \times 30\% = $1800

- Example 2: $80/m premium discount ($960/y)
  $6,000 \times 50\% = $3000

- Example 3: $40/m premium discount ($480/y)
  $6,000 \times 50\% = $3,000
Requirements for Health-Contingent Wellness Programs

- 30% reward for cholesterol level + 20% for tobacco cessation
  - compliant
- 10% reward for cholesterol level + 40% for tobacco cessation
  - compliant
- 10% reward for cholesterol level + 50% for tobacco cessation
  - not compliant
- 35% reward for cholesterol level + 15% for tobacco cessation
  - not compliant
Requirements for Health-Contingent Wellness Programs

- Reasonably designed
  - CDC’s Guide to Community Preventive Services
    - www.thecommunityguide.org
Requirements for Health-Contingent Wellness Programs

- Uniform availability and reasonable alternative standards
  - Reasonable alternative furnished upon request

- Activity-Only programs only
  - May seek verification from a physician
Requirements for Health-Contingent Wellness Programs

- Reasonable alternative standards
  - Completion of an educational program
    - Employer finds the program
    - Employer pays for program
    - Reasonable time commitment
    - Full reward provided even if the standard is completed mid-year
  - Personal physician recommendation
Requirements for Health-Contingent Wellness Programs

- Notice of availability of reasonable alternative standard
  - Sample:
    “Your health plan wants to help you take charge of your health. Rewards are available to all employees who participate in our Cholesterol Awareness Wellness Program. If your total cholesterol count is under 200, you will receive the reward. If not, you will still have an opportunity to qualify for the reward. We will work with you and your doctor to find a Health Smart program that is right for you.”
“Your plan offers a Health Smart program under which we will work with you and your doctor to try to lower your cholesterol. If you complete this program, you will qualify for a reward. Please contact us at [contact information] to get started.”
“Your health plan is committed to helping you achieve your best health. Rewards for participating in a wellness program are available to all employees. If you think you might be unable to meet a standard for a reward under this wellness program, you might qualify for an opportunity to earn the same reward by different means. Contact us at [insert contact information] and we will work with you (and, if you wish, with your doctor) to find a wellness program with the same reward that is right for you in light of your health status.”
Tobacco
“to help employers to implement programs that engage their workforce, improve employee health, and potentially reduce health care and other related costs over time while also protecting employees from discrimination and unaffordable coverage.”
Cultural Support Components

- Leadership support
- Wellness champions
- Healthy work environment
- Organizational policies that support a healthy workplace
- Health benefit design
Recommendations

- Screenings
- Health standards to measure
- Reasonably designed program
- Reporting
- Reasonable alternative standards
- Incentives
- Communications
Screening Programs

- Used to identify opportunities for improvement and interventions
- Relevant to risk factors for chronic disease
Screening Programs

- Guidelines
  - Consistent for all employees
  - Adhere to clinical guidelines
  - Referrals for individuals whose results are out of the normal range
  - Communication process to physician
Health Standards to Measure

- Weight
- Cholesterol
- Blood pressure
- Tobacco use

Modifiable through changes in health behavior
Reporting

- Third party
- Engagement
- Participation satisfaction
- Improvement
Incentives

- Consider nonmonetary incentive approaches first
Incentive Size

- Suggested amounts
  - $40 to $60 per month
Incentive Size

- Affordable Care Act 9.5% Rule
  - Unaffordable health coverage has been defined as coverage for which the contribution for employee only coverage is equal to or more than 9.5% of the employee’s combined household income.
  - Wages should be compared to the highest possible premium for the non-participant rate unless a lower premium is offered by earning a tobacco credit.
Applying the Incentive

- Use several health goals
- Use flexible goals
Pros

- Participation increases
- Provides the mechanism to fund programs at no net cost to employers or employees
- Reinforces healthy lifestyle
Cons

- Incentive may be the only reason for change
- May not fit in your culture
Communication Strategy Components

- Multiple communication channels
- Wellness program branding
- Regular program status updates to participants and senior management
- Health education resources
Communication Strategy Components

- What is the program?
- Why are we doing it?
- What are the goals?
- What is expected of the employee?
- What are the benefits of participation?
- What is the financial impact associated with the program?
- How will the information gathered be used and by whom?
- How will the information gathered *not* be used?
Questions to Ask

- What did it change?
- Who did it change?
- Did it change your wellness programming?
- How is it supported in the culture?
- Is this the most effective way to influence health behaviors?
EEOC

- August – October 2014
- January 2015
- April 2015
EEOC Proposed Guidelines

- Wellness programs must be reasonably designed to promote health or prevent disease.
- Wellness programs must be voluntary.
- Employers must offer limited incentives for employees to participate in wellness programs or to achieve certain health outcomes.
- Medical information obtained as part of a wellness program must be kept confidential.
- Employers must provide reasonable accommodations that enable employees with disabilities to participate and to earn whatever incentives the employer offers.
Beware of unintended consequences!

“I decided to start smoking because my employer is giving a bonus to everyone who can quit!”
Key to a Successful Program

- Culture
- Environment
Diane Andrea
J.W. Terrill

(314) 594-2704
dandrea@jwterrill.com