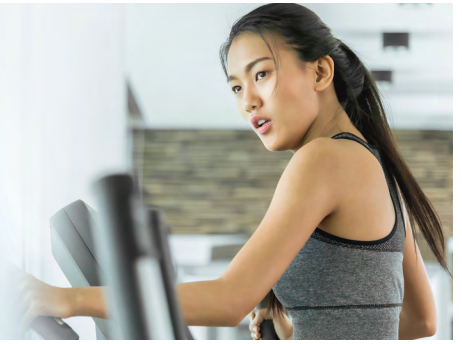


Are Wellness Plans Allowed Under HIPAA's Nondiscrimination Rules?



The nondiscrimination rules apply to wellness plans in two ways. First, if none of the conditions for obtaining a reward under a wellness plan are based on an individual satisfying a standard related to a health factor, or if no reward is offered, the plan complies with the nondiscrimination requirements (assuming participation in the plan is made available to all similarly situated individuals). Examples of plans that comply in this way include:

- A program that reimburses all or part of the cost of membership in a fitness center.
- A diagnostic testing program that provides a reward for participation rather than outcomes.
- A program that encourages preventive care by waiving the copayment or deductible requirement for the costs of, for example, prenatal care or well-baby visits.
- A program that reimburses employees for the costs of smoking cessation programs without regard to whether the employees quit smoking.



The regulations make it clear that the Health Insurance Portability and Accountability Act (HIPAA) nondiscrimination provisions are intended to generally prohibit group health plans from charging similarly situated individuals different premiums or contributions or imposing different deductible, copayment, or other cost-sharing requirements based on a health factor. However, wellness plans that do not condition a benefit under the plan on the attainment of a result are not subject to the nondiscrimination provisions since the benefit is not contingent on achievement.

The second format covered by the regulations is wellness plans that condition a reward or incentive on an individual satisfying a standard related to a health factor. In such situations, to be legally compliant, the plan must meet five requirements to comply with the nondiscrimination rules.

What are the five requirements for wellness plans which base a reward on satisfying a standard related to a health factor?

1. The total reward for all the employer's wellness plans that require satisfaction of a standard related to a health factor is limited. The reward must not exceed 30 percent of the cost of employee-only coverage under the plan. If dependents (such as spouses and dependent children) may or are required to participate in the wellness plan, the reward must not exceed 30 percent of the cost of the coverage in which an employee and any dependents are enrolled. The percentage increases to 50 for programs designed to prevent or reduce tobacco use.
2. The program must be reasonably designed to promote health and prevent disease.
3. The plan must give individuals eligible to participate the opportunity to qualify for the reward at least once per year.
4. The reward must be available to all similarly situated individuals. The plan must allow a reasonable alternative standard (or waiver of the standard) for obtaining the reward to any individual for whom it is unreasonably difficult to satisfy the initial standard due to a medical condition, or because obtaining the reward would be medically inadvisable.
5. The plan must disclose in all materials describing the terms of the plan the availability of a reasonable alternative standard (or the possibility of a waiver of the initial standard).


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With wellness plans becoming a common component in employer cost containment initiatives, it's important for employers to be aware of how to administer such plans without violating the requirements of HIPAA under the nondiscrimination provisions.

MRA's HR Hotline can help you!

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