

Employer-Based Wellness Programs

A number of provisions in the Patient Protection and Affordable Care Act (ACA) seek to emphasize illness prevention and healthy lifestyle. In addition to requiring many private insurers to cover certain preventive services rated with an “A” or “B” by the U.S. Preventive Services Task Force (USPSTF), the ACA would encourage employers to develop preventive care and wellness programs for their employees. As chronic disease rates and health care costs continue to rise, many employers have established wellness programs for their employees. Wellness programs may include gym memberships, smoking cessation treatment, nutrition counseling and other incentives to push employees to adopt healthier lifestyles.

What do ratings “A” and “B” mean?

- An “A” rating means that the service is recommended and that there is a high level of certainty that it will yield substantial benefit to the patient.
- A “B” rating indicates that the service is recommended and that there is a high level of certainty that the services will yield at least a moderate benefit to the patient.

How does the ACA incentivize wellness programs for employers and their employees?

Prior to enactment of the ACA, insurers were permitted to provide a financial reward of up to 20 percent of the value of the insurance premium to enrollees who met certain health status standards. Beginning in 2014, the ACA expands the allowable amount of the reward to 30 percent of the cost of coverage and if the Secretaries of Treasury, Health and Human Services (HHS), and Labor approve, the ceiling may be increased to 50 percent of the insurance premium.

Do any other rules apply?

In order for a wellness program to offer a reward based on meeting a health status standard, the program must have a reasonable chance of improving an enrollee’s health status, cannot be overly burdensome, and cannot result in discriminating an enrollee based on health status, among other requirements. The ACA also requires that insurers report on wellness and health promotion programs. The federal government recently released proposed rules regarding employer wellness programs. ACP’s comments on the rule are linked in the “Additional Resources” section.

Following the tragic shootings in Newtown, CT and Aurora, CO, HHS issued a letter clarifying that physicians were permitted to alert law enforcement, family of the patient, or other people if they “have information about a patient that indicates a serious and imminent threat to health or safety.” The Obama Administration also stated that physicians were allowed to discuss gun ownership status and safety with patients.

The Administration’s actions were in response to confusion about a provision in the ACA regarding wellness programs and firearm ownership data, as well as concerns that reporting potentially violent behavior would violate the Health Insurance Portability and Accountability Act Privacy Rule.

Additional Resource

- *FAQs About the HIPAA Nondiscrimination requirements (for requirements established prior to health reform law).*

http://www.dol.gov/ebsa/faqs/faq_hipaa_ND.html

- *American College of Physicians: public comments regarding the proposed rule on wellness programs in group health plans.*

http://www.acponline.org/advocacy/where_we_stand/insurance/wellness.pdf

- *The White House: Now Is the Time: The President's Plan to Protect Our Children and Communities by Reducing Gun Violence.*

http://www.whitehouse.gov/sites/default/files/docs/wh_now_is_the_time_full.pdf

- *HHS: Letter clarifying physician's ability to report a patient's potentially dangerous behavior.*

<http://www.hhs.gov/ocr/office/lettertonationhcp.pdf>