

SUMMARY OF IRS AND DOL WELLNESS PROGRAM REGULATIONS

Linda R. Mendel | Vorys, Sater, Seymour and Pease LLP | 614.464.8218 | irmendel@vorys.com

		Health-Contingent Wellness Programs	
	Participatory Wellness Programs	Activity-Only Wellness Programs	Outcomes-Based Wellness Programs
What is it?	A wellness program that provides either: <ol style="list-style-type: none"> 1. No reward; or 2. A reward that is not based on a health standard/outcome or an activity related to a health factor. 	A wellness program that provides a reward to an individual for performing or completing an activity related to a health factor.	A wellness program that provides a reward to an individual for attaining or maintaining a specific health outcome.
Examples	A reward for completing a health risk assessment or having a diagnostic test (without regard to outcome or further action).	A reward for completing a diet and/or exercise program.	A reward for normal body mass index (BMI) and/or not using tobacco products.
Requirements	The wellness program must be made available to all similarly situated individuals (regardless of health status).	<ol style="list-style-type: none"> 1. <u>Opportunity to qualify</u>: At least once per year. 2. <u>Size of the reward</u>: Limited to 30% of the cost of coverage. 3. <u>Reasonable design</u>: Program must not be overly burdensome or a subterfuge for discrimination based on health status. 	<ol style="list-style-type: none"> 1. <u>Opportunity to qualify</u>: At least once per year. 2. <u>Size of the reward</u>: Limited to 30% of the cost of coverage, <i>plus an additional 20% for non-tobacco use (for a maximum total of 50%)</i>. 3. <u>Reasonable design</u>: Program must not be overly burdensome or a subterfuge for discrimination based on health status. <i>In addition, the program must offer a reasonable alternative standard to qualify for the reward to <u>every</u> individual who does not meet the initial standard.</i>

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Requirements (continued)		<p>4. <u>Uniform availability</u>: An alternative to qualify for the full reward (or waiver of the standard) must be offered to individuals for whom the activity would be medically inadvisable or unreasonable due to a medical condition.</p> <ul style="list-style-type: none"> a. The plan is permitted to require verification from the individual's physician. b. If the alternative is an education program, the plan must arrange and pay for the program. c. The time commitment must be reasonable. d. If an individual's physician states that a plan standard is not medically appropriate for the individual, the plan must provide a reasonable alternative standard that accommodates the recommendations of the individual's physician. <p>5. <u>Notice of alternative standard</u>: The plan must provide notice of the availability of the alternative standard in all materials describing the program. The notice must include contact information and a statement that recommendations from the individual's physician will be accommodated.</p>	<p>4. <u>Uniform availability</u>: An alternative to qualify for the full reward (or waiver of the standard) must be offered to individuals who do not meet the initial standard.</p> <ul style="list-style-type: none"> a. The plan <i>is not</i> permitted to require verification from the individual's physician. b. If the alternative is an education program, the plan must arrange and pay for the program. c. The time commitment must be reasonable. d. If an individual's physician states that a plan standard is not medically appropriate for the individual, the plan must provide a reasonable alternative standard that accommodates the recommendations of the individual's physician. <p>5. <u>Notice of alternative standard</u>: The plan must provide notice of the availability of the alternative standard in all materials describing the program <i>and in disclosures informing an individual that he or she did not satisfy the initial outcomes-based standard</i>. The notice must include contact information and a statement that recommendations from the individual's physician will be accommodated.</p>

Notes: Model notice of alternative standard: “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.”

In addition to the IRS and DOL regulations summarized above, a wellness program must also meet the requirements in EEOC regulations under the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA).