

Winning With Wellness



U.S. CHAMBER OF COMMERCE



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Dear Reader:

American businesses are the largest providers of health coverage in the United States—approximately 148 million Americans receive private-sector employment-based coverage. Although there is no silver bullet for controlling health care costs, workplace wellness programs help improve our nation's health. These programs take many forms—on-site clinics and fitness centers, chronic disease management, nutrition seminars, and health risk assessments.

The U.S. Chamber of Commerce has been a leader in promoting workplace wellness and health programs. It has shared best practices in several publications such as *Leading by Example* and *Healthy Workforce 2010 and Beyond*.

Much conjecture and misunderstanding exist about how well-designed workplace wellness programs operate. This publication, *Winning With Wellness*, demystifies health promotion initiatives. Chapter 1 delineates the attributes of successful and effective workplace wellness activities. Chapter 2 reviews how workplace wellness can be a win-win for both employers and employees. Chapter 3 outlines the legal and regulatory parameters businesses should be aware of when designing and implementing these programs.

Small businesses reading this report may, at first blush, think that wellness programs seem very complex and difficult to implement. However, I would like to make it clear that this is not the case. While this publication delves into nuances surrounding health promotion programs, there are many simple steps that small businesses can take to develop their own tailored wellness initiatives. These were laid out by the Chamber in an earlier publication, *Workplace Wellness Programs: Promoting Better Health While Controlling Costs*, with an online toolkit (www.uschamber.com/issues/health-care/workplace-wellness). There are also other useful resources, which can be found at the end of this publication.

I would like to thank our facilitator, Anne Marie Ludovici-Connolly, for spearheading this publication, and Jessica Coady for providing research support. I would also like to thank Michael Billet, Laurie Frankel, and Walter Mullan on the Chamber team for their hard work and dedication to the project.

The Chamber will continue to champion the importance of workplace wellness programs. The bottom line is that when done right, workplace wellness programs work.

We hope that you join us in our efforts.

Sincerely,



Randel K. Johnson
Senior Vice President
Labor, Immigration & Employee Benefits
U.S. Chamber of Commerce



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Introduction

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Compelling evidence exists that wellness programs work and prevention pays off when done well and in the right ways.^{1,2} This publication delineates the attributes of successful and effective workplace wellness programs, discusses how workplace wellness can be a win-win for employers and employees, and outlines the legal and regulatory parameters associated with such programs. Significant converging financial, political, and cultural trends drive the importance and the urgent need for more pervasive employer-driven, evidence-based workplace wellness initiatives.

I. Financial Trends

Today's health care cost crisis in the United States is largely a consequence of poor health. The economic burden of the growing health risks that lead to chronic illnesses in our population is daunting. As of 2012, 117 million Americans have one or more chronic illnesses, which account for 75% of all health care costs and 70% of deaths in the United States.^{3,4}

In fact, 96% of all Medicare expenditures are spent on chronic conditions that have lifestyle health risk factors.⁵ Effective workplace wellness strategies could potentially help maintain the sustainability of government programs like Medicare, Medicaid, and Social Security by keeping more people healthy, productive, and actively employed, even as we witness the "silver tsunami" of our aging workforce. The impact would be net contributor workers (continuing to fund the programs), rather than increasing the number of those out of work (straining the financial viability of those programs)—and then having healthier retirees enroll in Medicare.^{6,7,8}

Michael Roizen, M.D., chair of the Cleveland Clinic Wellness Institute, has determined that there are five behaviors that mitigate chronic disease: (1) walking 30 minutes a day, (2) eating healthy, (3) not smoking, (4) having a waist size that is less than half of your height, and (5) drinking alcohol only in moderation. If an individual engages in these five behaviors, they typically spend 33% to 50% less on health care costs compared with people who have health risks. Currently, only 4% of Medicare beneficiaries possess these five health behaviors. If 75% of all Americans had these characteristics, more than \$600 billion and perhaps up to \$1 trillion per year could be saved.^{9,10,11,12}

A fundamental issue regarding the business value of better health is that health affects work and work impacts health. Employers are therefore looking for ways to decrease total health-related costs. One of the strategies is to invest in evidence-based, well-designed, and comprehensive workplace wellness programs.

Research published in the *Journal of Occupational and Environmental Medicine* demonstrated that when health-related productivity costs were measured along with medical and pharmacy costs, the top two chronic health conditions driving these overall health-related costs for employers were depression and obesity.¹³ In fact, more than one-third of Americans are overweight or obese.¹⁴ Due to an obesity crisis, the Centers for Disease Control and Prevention (CDC) estimates that nearly 29 million Americans have diabetes and 86 million have prediabetes. Yet less than 10% of people with prediabetes are aware of their condition.¹⁵

Improving health can control expenses as well as protect, support, and enhance human capital. Business leaders are realizing that the status of their workforce is related to the bottom line.

For example, a study published in 2013 is the first to track the stock market performance of publicly traded companies that had documented strong health, safety, and environmental programs. The research found that companies previously recognized for their outstanding approaches to health and safety by the American College of Occupational Medicine's Corporate Health Achievement Award significantly outperformed the Standard & Poor's 500 for the 1997–2012 time period—with excess annual returns ranging from 3.03% to 5.27%. Although correlation is not the same as causation, the results of this study consistently suggest that companies focusing on the health and safety of their workforce can yield greater value for their investors, including a competitive advantage in the market.¹⁶

Because the majority of Americans spend most of their time at work, employers are uniquely positioned to build a culture of health in the workplace and be a positive influence on the health and well-being of their workers. The attributes of successful evidence-based wellness initiatives are explained by Dr. James Prochaska and Dr. Louise Short in Chapter 1. In Chapter 2, Dr. Dee Edington and Anne Marie Ludovici-Connelly review how workplace wellness can be a win-win for the employer and the employee.

II. Political Trends

In addition to financial underpinnings, other trends emphasize health and wellness from a political perspective. The Affordable Care Act (ACA) is transforming the landscape of the health care system. The law created a National Prevention Council to establish a national prevention strategy. The ACA and market-driven influences have also promulgated Accountable Care Organizations (ACOs) and Patient-Centered Medical Home (PCMH) pay-for-performance initiatives that focus on the triple aim of better health and health care at the best value (higher quality and lower cost). Employers are increasingly in the enviable position of holding the ACOs/PCMHs accountable.

In fact, workplace wellness programs have become a common benefit that employers offer. According to the PricewaterhouseCoopers' 2015 Health and Well-being Touchstone Survey, 87% of employers are committed to workplace wellness and 73% offer a program.¹⁷ Workplace wellness programs often consist of weight loss programs, biometric screenings, gym membership, discounts or on-site exercise facilities, smoking cessation, lifestyle or behavioral coaching, classes in nutrition or healthy living, Web-based resources, an employee assistance program, and/or a wellness newsletter. Large firms, defined as those with more than 200 workers, are more likely to offer at least one of the listed wellness programs than are small firms (81% vs. 49%, respectively).¹⁸

To encourage employee participation, companies may provide financial incentives to employees and/or spouses who participate. According to the survey, 16% of firms that have wellness benefits offer a financial incentive to encourage workers to participate in or complete wellness programs.¹⁹

The health care reform law provided guidance on workplace wellness programs and the use of both participation-based and outcomes-based incentives. However, there are legal and regulatory issues that employers should consider when designing and implementing wellness programs, as J.D. Piro identifies in Chapter 3.

III. Cultural Trends

Cultural trends increasingly influence interest in wellness, prevention, and better health. In many ways, wellness is the new green. Just as society embraced a cultural commitment to improving the sustainability of our external environment, a growing interest exists in improving our internal, personal environment as an emerging sustainability strategy.

As people live longer, the prevalence of chronic diseases has profound implications. Even more disheartening is that many, if not most, of those medical conditions could be avoided or significantly delayed—if only we could turn back the hands of time and alter the thousands of small but significant choices that led to those unintended consequences. The harsh reality is that in the 21st century how we live largely dictates how we die.

Five lifestyle behaviors (physical inactivity, poor nutrition, smoking, alcohol use, and nonadherence to medications) and five chronic medical conditions (diabetes, heart disease, lung disease, mental illness, and cancer) drive 75% of all deaths worldwide. The CDC has reported that approximately one in three deaths from heart or cerebrovascular (stroke) disease could have been prevented; the same is true for just more than one in five cancer deaths. Remarkably, the researchers found that 91,757 Americans die unnecessarily of heart disease each year, with an additional 84,443 dying prematurely of cancer and 16,973 by preventable strokes.²⁰

Even though people usually know what they should do to improve their health, this is easier said than done. Embedding behavior change theories, processes, and techniques into wellness programs and interventions to reach people in “all stages of change” is critical to engaging individuals, as covered in Chapter 1.

Consumer engagement is key not only to personal health improvement but also to financial improvement. Some employers are shifting the cost of health insurance and health care services to their employees and families through consumer-driven plans with higher deductibles, co-pays, and premiums. Given that employees have more skin in the game, workers have a financial interest in staying healthy.

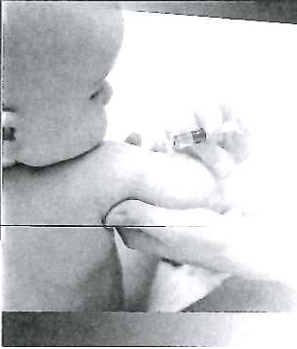
Internet searches for health issues leave consumers information rich but knowledge poor. The business community must strive to link trusted clinical advisers to help translate the information into knowledge and then empower the consumer to drive further action and engagement, which will yield better results.

Today's reality is that health is a performance driver—for employers and employees. Employers following best practices are showing that the way to ultimately control health care costs is by investing in their most important asset—their people (or human capital)—as “corporate athletes” and improving their health and well-being.

Imagine the increased availability of financial and clinical resources, the enhanced capacity of physicians and hospitals, and the strengthened safety net throughout our health care ecosystem if we could reduce the burden of illnesses and health risks that lead to the epidemic of chronic illness in our society.

One of the most significant outcomes of a heightened awareness about workplace wellness would benefit individuals—helping them avert a personal crisis, preventing a chronic illness, and adding not only a greater quantity of years to their life but a higher quality of life.

For these reasons and more, there is increasing attention to better health, not just better health care. In fact, the United States is on the threshold of witnessing a transformation of our nation's illness-based, reactive-oriented “sick” care system to a wellness-based, more proactively oriented true “health” care system built from a cornerstone of workplace wellness and on the pillars of prevention.



Chapter 1

A Review of Employer Best Practices and Well-Designed Workplace Wellness Programs

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I. Introduction

This chapter covers the fundamentals of workplace wellness programs, including evidence-based critical components such as developing a plan, creating a culture of wellness, cultivating employee engagement, applying behavior change methodologies, understanding the role of defined methodologies to measure success, and harnessing the importance of innovation in ameliorating the health care cost growth rate.

II. Fundamentals of a Well-Designed Workplace Wellness Program

There is no one-size-fits-all wellness program. When designing a program, employers should rely on evidence-based best practice strategies and tailor interventions to their populations. When developing a well-designed workplace wellness initiative, consider the following evidence-based components that spell out **IDEAS**:²¹

- **I**nfrastructure
- **D**ata
- **E**valuation and Planning
- **A**EI Programming
- **S**uccess

Infrastructure: Build an internal foundation to sustain wellness initiatives. An internal foundation includes senior leadership support and wellness champions and teams. A focus on well-being encompasses policy and environmental interventions designed for the workplace.

Data: Collecting baseline data is important to build a targeted workplace wellness program tailored to the population.

Evaluation and Planning: After putting in place the workplace wellness infrastructure and collection of baseline data, evaluate the information collected and then move to craft a customized strategic work plan.

AEI Programming: Such programs encompass a blend of awareness, education, and behavior change interventions (AEI) that appeal to a wide variety of participants and to those who are at different levels of preparedness to change.²²

- Awareness programs—for example, a health risk assessment (HRA) or biometric screening—increase participants' cognizance of their own health status and of the benefits and risks of certain healthy lifestyle behaviors. They are beneficial to those who may not yet be ready to change and may help move them to think about change, prepare for change, and/or commit to action.
- Education programs teach participants about their health, lifestyle behaviors, and risks, as well as how to engage in healthy lifestyle behaviors. Education programs inform individuals about health risks and can enlighten participants about their health and well-being.
- Interventions are typically a six-to-eight-week health behavior change program designed to lead to sustained action and maintenance (e.g., weekly weight loss programs).

Success: Measuring, evaluating, and monitoring workplace wellness programs on a regular basis lead to success. Making regular adjustments to the program and the strategic plan helps improve engagement and outcomes.²³

These topics are organized in a simple step-by-step implementation plan for employers and expanded on throughout this chapter.

III. 10 Essential Steps in Designing a Workplace Wellness Program

1. Assess an Appetite for Wellness

To begin planning, an employer assesses the organization's readiness to adopt a workplace wellness strategy. Here are some crucial questions a business needs to ask: (1) Are there business plans or benefit plan designs in place that support or impede behavior change? (2) Is there a history of workplace wellness programs? If so, what are some lessons learned? (3) How can management and rank-and-file workers receive tailored communications? (4) Can the organization specify how healthy changes can improve the work environment? and (5) Is the company ready to financially invest in components of a wellness program and provide leadership support at all levels? Short surveys to targeted staff and focus groups may provide guidance on the organization's needs.²⁴

2. Develop a Multiyear Strategic Plan

Organizations need a well-thought-out strategy for implementing a wellness program. Creating a written plan is critical to success. A strategic plan outlines for the organization what it needs to do based on best practices—and why. Why is critical in gaining buy-in from senior leadership and also forms a basis for a cogent communications cascade. At a minimum, the plan should include the development of outcome measures for evaluation and cover at least three years. Such a time frame permits an organization to track participants while assessing both direct and indirect impacts.

Well-designed programs help keep low-risk people healthy with screenings and preventive care, assist moderate-risk people in proactively managing chronic conditions, and support high-risk people with

intensified monitoring and support. Simply completing a HRA can encourage people to get screenings or visit their doctors for chronic conditions.²⁵ Keep in mind that simple, healthy lifestyle changes can significantly improve the quality and length of life for all people on the health risk spectrum.

3. Create a Culture of Health and Wellness

Changing an organization's health and wellness culture is a journey that requires support from senior leadership as well as from all sectors of middle management to the employee base. Building a strategic multiyear plan helps lay the foundation of an effective program.²⁶

At the core, improving the health status of the workforce is primarily a business objective. Benefits include a reduction in health risks for participants and better job performance. By creating a culture of wellness, employers engage staff to join them on their path to health. Participation from executives in programming and communications reinforces the message of walk the walk. Ultimately, a healthy workforce is a happy workforce, which can benefit an organization's bottom line.

Adaptations and changes to a workplace environment and policies can also have a profound effect on supporting a culture of health and wellness. Examples include smoke-free/nicotine-free workplaces, healthy food guidelines, walking meetings, personal time off (PTO), and on-the-clock time to complete wellness activities approved by the organization.²⁷

4. Develop a Communications Campaign

A common expectation for employers is to experience immediate results. However, people are not inclined to take action to change their behaviors. Targeted and tailored communications plans and campaigns are crucial to building overall program support. Multiple modes of communications include email, mail, text, newsletters, social media, and the intranet. Over time, communications campaigns let employees know how they and their peers are progressing, which can increase intrinsic motivation to stay engaged.

5. Establish Measurement Methodologies

To evaluate effectiveness, well-designed program metrics include both Return on Investment (ROI) and Value of Investment (VOI). ROI generally encapsulates specified wellness programming with medical plan costs to track if interventions produce qualitative changes.²⁸ VOI is broader than ROI in that it consists primarily of qualitative elements such as improved performance of the workforce, recognition as an employer of choice, and high employee retention. Although sometimes considered a soft savings, in most cases it can be discretely quantified with a combination of company metrics and health and wellness data. It is important to establish the data end points for ROI and VOI in advance to confirm properly measured multivariate change. If possible, wellness programs may collect the following information:

(1) participation; (2) health outcomes (e.g., changes in health risks); (3) cost impact, including ROI; (4) VOI; and (5) organizational support elements.

6. Provide Education Programs

When employees undergo a biomedical screening and/or fill out a HRA, they learn their numbers. The first step to behavior change is awareness. Next, education programs are necessary to prepare individuals to take action. Examples of education programs are as follows:²⁹

- Lunch and learns
- Newsletter articles
- Online health education modules and quizzes
- Promotional events focused on specific health-related topics such as celebrating Heart Month

7. Initiate Interventions

To decrease the risk of progressing or exacerbating chronic conditions such as hypertension, heart disease, and diabetes, businesses may opt to go to the next stage by establishing change-oriented health behavior components, commonly known as interventions. Interventions are behavior change programs that are either ongoing or last for several weeks (six to eight weeks) to allow sufficient time leading to behavior modification. Examples include the following:

- Weight management instruction
- Chronic condition management classes

8. Engage and Integrate

Engagement, one of the most difficult and critical challenges in wellness program design and management research, has shown that approximately 80% of the population is not ready to take action to change their health behaviors at any given time.³⁰ With this in mind, a well-designed workplace wellness program should offer programs for individuals in all stages of readiness (described in Section 3).

A well-designed program takes into account the needs of a population. Data used to leverage program components include the following:

- Demographics—age, gender, ethnicity, average income, and education
- Health care claims and pharmacy data to tailor programs for those with chronic health risks
- Lifestyle risk data—HRAs
- Undetected risks—biometric screenings
- Readiness to change—HRAs

9. Offer Incentives

A well-designed program may use incentives as a component. However, incentives alone do not constitute a wellness program. That said, incentives paired with targeted behavior interventions and programs can be a powerful lever to initiate and motivate change. Motivation can be intrinsic or extrinsic, so it is critical to use an incentive strategy that incorporates behavior modification theories to move employees along the continuum of change.³¹ Incentives include companywide recognition, company-branded products, gift cards, cash deposits into Health Savings Accounts, and discounts on insurance premiums. The most effective incentives are those that employees value.³² Evidence supports efficacy of incentives if deployed strategically in the short term.

10. Conduct Financial Analysis

Across the spectrum of health management programs, employers are more likely to achieve savings and a ROI by appealing to the entire continuum of health within a population. Chapter 2 discusses findings from key studies regarding the benefits of workplace wellness programs.

Establish a Baseline

Employers may use HRAs and/or biometric screenings to gauge the health risk stratification of their designated employee population. A HRA is a questionnaire or health risk intervention that is most often administered by a health plan provider or specialty health management vendor. A HRA helps identify the health risks and individuals' readiness to change their health behaviors. Biometric screenings include information on key health indicators—generally blood pressure, body mass index (calculated from height and body weight), cholesterol, and blood glucose or hemoglobin A1c levels for diabetes. Typically, HRAs and/or biometric screenings provide the basis for an employer to identify the needs of a defined population (target audience) and tailor the wellness program to meet those specific needs. Repeating the HRA and/or biometric screenings annually helps monitor progress and make necessary readjustments.

IV. The Science of Behavior Change: Moving Toward Action

Well-designed workplace wellness programs are based on theories from the behavioral and social sciences. The Transtheoretical Model (TTM) helps employers understand how to structure workplace wellness programs to create sustainable behavior change. TTM is based on the stages of change model, which defines behavior change as progress through a series of six stages:³³

Stage 1: Precontemplation

Individuals may want to change, but they do not intend to take action in the next six months. These individuals are often labeled unmotivated, resistant, or noncompliant and are omitted from programs based on action-oriented theories where interventions are designed to move people to take action or change quickly. They are excluded even though they often make up 40% of at-risk populations. They can be in this stage owing to a lack of knowledge of the consequences of their behaviors or demoralization by past failures.

Stage 2: Contemplation

Individuals aim to take action in the next six months, but they are profoundly ambivalent about the pros and cons of change. The rule of thumb for the pros and cons of change is—when in doubt, do not act. These individuals' strong tendency to delay means that they often do not participate in action-oriented programs, even though they typically make up to an additional 40% of at-risk populations.

Stage 3: Preparation

Individuals are motivated and ready to take action and are preparing by evaluating program options and alternatives, among other things.

Stage 4: Action

Individuals in the past six months have reached a public health criterion, but they may be at high risk for relapsing, so continuous behavior change efforts are critical.

Stage 5: Maintenance

This is defined as maintaining new behavior for at least six months and should be designed to help people cope with long-term risks for relapse, such as times of stress or distress.

Stage 6: Termination

TTM defines this as the final stage of change. Termination occurs when the original problematic health behavior is no longer a temptation and the healthy behavior is now the norm.

A well-designed workplace wellness program appeals to all stages of change.

Matching Programs to Stages of Change

Table 1 provides a juxtaposition between the stages of change and seven wellness component examples from well-designed programs. This matching illustrates that certain components, like traditional HRAs and biometrics, are likely to be most useful to employees in precontemplation and contemplation and to those who may not be sufficiently aware of their range of risks. Termination is not included in Table 1, because change has ended and no wellness components are needed.

HRAs that assess the stage of change for each risk can be helpful across all stages, especially if they include feedback on steps that encompass instructions to progress from one stage to the next. Health coaching that is action oriented and designed for participants who are motivated or ready to take action matches participants in the preparation and action stages. Incentives for outcomes are best matched to those who are in the preparation and action stages.

Table 1

Wellness Components	STAGES OF CHANGE				
	Precontemplation	Contemplation	Preparation	Action	Maintenance
1. HRA	→				
2. HRA Based on Stages of Change	→				
3. Biometrics	→				
4. Health Coaching (stage based)	→				
5. Health Coaching (action based)		→			
6. Outcome Incentives		→			
7. Participation Incentives	→				

V. Conclusion—Future State of Wellness: Keep Raising the Bar—Beyond Health to Thriving

Innovation

Innovation plays an ever-present role in health and wellness programming. Electronic medical records and Web-based health education enable providers to improve their care, support educated health care consumerism and patient satisfaction, and provide opportunities to save costs—all in line with the triple aim of reduced costs, improved quality, and patient satisfaction. Other technologies that are popular in wellness include fitness trackers, smart glucometers, and wellness-centered social networks. In addition, telemedicine, expert medical opinion services, and health concierges, among other services, are becoming more popular employer offerings.

Behavioral health economics is the science behind understanding what motives and incentives influence behavior change. Beyond the use of financial incentives, employers can provide an additional wellness incentive if, for example, a department reaches an 80% completion rate on a HRA—employing teamwork as an additional motivator.


A great proliferation of wellness solutions exist in the marketplace, particularly in the health information technology sector. These solutions include online engagement platforms and apps. IBM, Google, Apple, and others are investing billions, and today there are close to 100,000 mobile health apps. Millions of consumers engage in their health through wearable devices, including exercise trackers. The most sophisticated involve data integration from several sources such as claims, biometrics, and HRAs to create tailored and targeted messaging and solutions. These integration platforms have expanded capability to engage, coach, integrate data, administer incentives, provide challenges, and leverage social features designed to change behavior and improve health.

Future Directions

The World Health Organization defines health as the state of complete physical, mental, and social well-being, not merely the absence of disease. As more wellness programs add measures of well-being, the concern becomes whether there are evidence-based interventions to enhance well-being.³⁴

There is initial evidence that measures such as stage-based programs and interventions can not only change multiple health risk behaviors but also increase multiple domains of well-being.³⁵ This includes enhancing life evaluations, which assess how good a person's life currently is (from best possible to worst possible) and how good it is expected to be in a few years. Scores on life evaluation can be used to identify individuals who are suffering, struggling, or thriving. Helping people increase scores on life evaluations can help them move from suffering to struggling and from struggling to thriving. Progressing to thriving leads to increased physical and emotional well-being, focused engagement on work tasks, and lower health care costs. More evidence on the importance of thriving is presented in Chapter 2.

Our mission and goals are clear. We need to keep raising the bar for our wellness and well-being programs. We need to increase impacts by reducing multiple health risk behaviors. At the same time, we need to recognize that by decreasing risks, we can enhance elements of well-being. Our goal is to help more individuals, families, companies, and communities thrive.

A black and white photograph of a person's legs and feet in motion, playing tennis on a court. The person is wearing shorts and sneakers, and a tennis racket is visible in the background.

Chapter 2

Workplace Wellness Programs: A Win-Win Strategy

Dee Edington, Ph.D., Professor Emeritus, University of Michigan, and Founder and CEO of Edington Associates, LLC and Anne Marie Ludovici-Connolly, M.S., President, AMLC Corporate Health & Behavior Change Consulting, LLC

I. Introduction

Do workplace wellness programs benefit both the business and the participant? From a business perspective, the employer's engagement should be consistent with the values of the organization and the financial value of the investment. However, when the investment is for the company's most important resource, its people, there are additional benefits beyond financial returns.^{36,37} This chapter summarizes existing case studies and other data regarding an employer's and an employee's return on investment (ROI), whether financial or other.³⁸

Workplace wellness programs have developed and evolved over the past several decades, and organizations have learned to develop and refine such programs to benefit their employees. Research, experience, and observations have shown that programs with high financial ROIs are high quality, well designed, and comprehensive.^{39,40,41} Globally, the validity of financial analyses, especially ROI calculations, has been questioned, and more realistic methods have been recommended.⁴² In the United States, employers provide health care benefits, whereas in other parts of the world, health care costs are borne by other payers.

Do workplace wellness programs *really* benefit both the employer and the employee? The answer is obvious—it depends. This may sound like an evasive answer. However, it certainly *does depend on the context, purpose, design, and quality of the program*. Such programs include strong organizational leadership and an environment that supports employee health and well-being.^{43,44}

Much has been written regarding the methodologies used to measure and assess outcomes. Consensus exists in the industry that evidence-based measurement approaches are necessary to ensure that employers can report credible program outcomes.⁴⁵ Appropriate methodologies gauge program success.⁴⁶ Assuming that a high-quality program has been well designed, implemented, and measured, these programs can result in a wide range of direct and indirect improvements.⁴⁷ Direct costs include possible reductions in health care and related costs; indirect costs include improved morale, lower turnover, and improved focus and engagement at work.

High-quality, well-designed programs are a win-win for both employers and employees.⁴⁸ A rationale for an employer's commitment is that well-implemented programs exert a positive influence on the number of health risks and behaviors, biometric measures, and health care costs occurring over time.⁴⁹

Not all organizations require a financial analysis. Some, especially small and medium-size companies, provide an environment fostering healthy behavior because it is the right thing to do. In these organizations, management and employees realize and appreciate the value of health. To measure employee success, these organizations solicit employee feedback about the workplace. They measure company success by its loyal and engaged employees, coupled with social outcomes.

II. Employers Win: The Financial Value to the Employer

Businesses are under continuous pressure to recruit and retain valued employees. Successful wellness and well-being strategies for recruitment and retention are often unique to each company. When investing in programs, employers should ensure that such initiatives pay off in assisting employees with their well-being and in terms of the organization's financial gain.

In determining efficacy, organizations should consider the following: (1) track multiple outcomes to assess impact; (2) ensure that sufficient time has passed—typically over three years—to capture long-term results; and (3) disclose full transparency in the methodology of measurement and evaluation.⁵⁰

III. Health Care Costs

Some reports and case studies demonstrating employee satisfaction and social or financial ROI for workplace wellness programs follow:

Medium-Size Business

Midwest Utility Company

A long-term study used four different groups of employees during four time periods from 1999 to 2007 measuring health care and time away from work data from a comprehensive worksite health program at a Midwest utility company.⁵¹ Two different analytic approaches were used: time period and historical trend. Both approaches compared program participants with nonparticipants. In the time period analysis, the authors examined four time periods: 1999–2001, 2002–2003, 2004–2005, and 2006–2007.

The historical trend analysis captured a retrospective statistical approach of active employees who worked for the company and were covered by the company's health care benefits from 2000 to 2007. The distinction between the time period and historical trend analysis is that the time period analysis captured distinct periods, whereas the historical trend analysis followed 2,753 employees over an extended period of time.

The study classified the employees in the time period analysis into two groups: continuous and sporadic. Continuous participants were those who participated in the program for all four time periods, and sporadic participants were those who participated in either one, two, or three of the time periods. The study showed that the historical trend analysis demonstrated a ROI of \$1.58 for continuous participants and \$1.57 for sporadic participants. For the time period analysis, from the start of the program in 1999 to the end of 2001, 2003, 2005, and 2007, the cumulative ROI was \$1.29, \$1.54, \$1.58, and \$1.66, respectively.⁵²

Large Employers

PepsiCo Inc.

An evaluation of PepsiCo's wellness program, Healthy Living, over seven years (from 2002 to 2011 including two baseline years of data collection) determined the cost impact of its lifestyle and disease management programs. The study revealed that after seven years of continuous participation in either the lifestyle or disease management program, Pepsi had an average reduction of \$30 in health care costs per member per month.⁵³ The authors concluded that "workplace wellness programs may reduce health risks, delay or avoid the onset of chronic diseases, and lower health care costs for employees with manifest chronic disease."⁵⁴ The authors also urged employers and policymakers not to take for granted lifestyle management components, as they can head off future risk, reduce health care costs, and lead to net savings, particularly over time.⁵⁵

Johnson & Johnson

In 2011, an evaluation of Johnson & Johnson's health programs compared a matched cohort sample of the 31,823 employees with similar companies with an equal number of employees. The findings showed that from 2002 to 2008, "Johnson & Johnson experienced a 3.7% lower average annual growth in medical costs compared to the comparison group."⁵⁶ Research demonstrated that Johnson & Johnson's wellness programs produced a ROI of \$3.92 for every dollar spent. With a higher, yet still conservative, annual program cost per employee of \$300, the ROI is a \$1.88 cost savings per every dollar spent. Overall, these programs delivered a positive ROI between \$1.88 and \$3.92 for each dollar invested.⁵⁷

Workplace Wellness Programs Study: Final RAND Report

A RAND report found that while it may be unclear if health-related behavior will, in fact, directly lead to reduced health care costs, there is solid evidence to be optimistic. More than 60% of survey respondents reported that workplace wellness programs reduced their organizations' health care costs. Respondents reported reductions in inpatient costs making up 68% of the total cost reduction, compared with 28% of outpatient costs, and a decrease of 10% in prescription drug costs. Respondents also reported an overall decrease in health care service utilization, which, in turn, reduced the health care cost burden. Finally, the study found significant "clinically meaningful" and long-lasting improvements in employees' weight, smoking status, and physical activity.⁵⁸

Journal Articles

Workplace Wellness Programs Can Generate Savings

In a critical meta-analysis, Harvard economists reviewed the literature on costs and savings associated with workplace wellness programs. Their findings concluded that money spent on well-designed programs led to a ROI of approximately \$2.73 for every dollar spent. The economists acknowledged that there is a need for further exploration on the broad application of these programs, but wider adoption of well-designed programs could be beneficial for other health and business outcomes.⁵⁹

Do Workplace Health Promotion (Wellness) Programs Work?

Multiple authors published an article in the *Journal of Occupational and Environmental Medicine* that asked the question, "Do Workplace Health Promotion (Wellness) Programs Work?" The authors concluded that programs using evidence-based strategies produced a ROI between \$2 and \$3.⁶⁰ Employees adopted healthy habits, less time away from work, and lower medical and pharmacy costs.

Positive Intelligence

An article published in the *Harvard Business Review* says that employees who scored low on "life satisfaction" stayed home 1.25 days per month more than those who had higher scores for life satisfaction. This difference resulted in a decrease in time at work of 15 days per year.^{61,62}

IV. Employees Win

Benefits are an important recruiting mechanism for employers. Compensation and benefits are often relatively standard in an industry sector and consistent in a local area. What can be a highly competitive advantage is providing employees with meaningful work and positive relationships with superiors and colleagues.

Well-designed health promotion programs can also improve employees' overall well-being and improve overall life satisfaction. Organizations are expanding such programming strategies beyond focusing solely, for example, on risk factors for diabetes and cardiovascular disease.

Employers are realizing that to thrive, employees need assistance in areas other than physical health. For instance, well-being encompasses dimensions of financial, spiritual, and emotional health. A large body of evidence has shown that individuals who are happier achieve improved life outcomes, including financial success, emotional health, meaningful relationships, effective coping skills, and improved physical health and longevity.⁶³

V. Conclusion

This chapter has considered the impact of ROI from employers investing in workplace wellness programs. Although each study cited has limitations, the majority show that well-designed wellness programs lead to a ROI ranging from \$1.5 to more than \$3 invested over a time frame of two to nine years. Even if one assumes for the sake of argument that any limitation of each particular study leads to an ROI of less than \$1.5 to \$3, there are other benefits to these programs, such as increased job performance, overall well-being, and happy and thriving employees who contribute to business and community success.



Chapter 3

Wellness Incentives and the Interplay Between HIPAA, GINA, and the ADA

J.D. Piro, Senior Vice President, Aon Hewitt

I. Introduction

Five years after the signing of the Patient Protection and Affordable Care Act (ACA), financial incentives and their role in workplace wellness programs continue to figure prominently in employer group health plans and in efforts to encourage employees to adopt healthy behaviors. Research from the Employee Benefit Research Institute (EBRI) suggests that financial incentives play an important role in encouraging employee participation in wellness programs. According to EBRI, “[f]inancial incentives appear to be a crucial factor in bringing unhealthy workers into workplace wellness programs.”⁶⁴

With the growing prevalence of financial incentives across a wide spectrum of wellness programs, employers increasingly focus on complying with federal, state, and local laws that regulate the design and administration of these programs. Three federal statutes regulate workplace wellness programs—the Employee Retirement Income Security Act (ERISA), as amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA);⁶⁵ the Americans with Disabilities Act (ADA); and the Genetic Information Nondiscrimination Act (GINA).

HIPAA sets forth the framework for a comprehensive final set of regulations for employers to follow in designing and implementing wellness programs. The Equal Employment Opportunity Commission (EEOC), an independent agency, is responsible for interpreting the ADA and GINA. Legal actions taken by the EEOC in 2014 against workplace wellness programs present a challenge for employers designing compliant wellness programs because the position taken by the EEOC in the lawsuits filed and in the proposed regulations is not consistent with HIPAA regulations.

This chapter provides an overview of the federal regulations governing workplace wellness programs. The departments of Health and Human Services, Labor, and Treasury are the three federal agencies responsible for administering HIPAA regulations. The EEOC has promulgated interim final rules on GINA that prohibit employers from asking employees questions on a health risk assessment (HRA) regarding family medical history. In April 2015, the EEOC issued proposed regulations and interpretive guidance on wellness programs under the ADA that threaten the viability of such programs by, unfortunately, imposing additional requirements. In October 2015, the EEOC proposed regulations on wellness programs and family medical history under GINA.

II. Wellness Programs Under HIPAA and the ACA

HIPAA wellness regulations, added to ERISA in 1996 and amended by the ACA in 2010, generally prohibit discrimination against health plan participants and beneficiaries for eligibility or benefits based on a “health status factor,” a term that includes “medical condition (including both physical and mental illnesses); claims experience; receipt of health care; medical history; genetic information; evidence of insurability; and disability.”⁶⁶

In particular, HIPAA wellness rules prohibit employer group health plans and health insurers from requiring enrollees to pay higher premiums “on the basis of any health status factor.”⁶⁷ ERISA carved out an exception from these prohibitions for workplace wellness programs by providing that group health plans and health insurers may offer financial rewards or incentives, including premium discounts, premium rebates, lower deductibles, and lower co-payments “in return for [the enrollee’s] adherence to programs of health promotion and disease prevention.”⁶⁸ HIPAA regulations on wellness programs provide employers with a “compliance roadmap” for designing and implementing wellness programs.

HIPAA regulations create two classifications of wellness programs:

- **Participatory:** A program that either does not offer financial incentives or, if a financial incentive is offered, does not condition payment of the incentive on the individual’s satisfaction or attainment of any particular health status.⁶⁹ Examples of participatory wellness programs include an employer’s “reimbursing all or part of the cost for fitness center membership, rewarding participation in a diagnostic testing program, and rewarding the completion of a HRA regarding the individual’s current health status,”⁷⁰ as opposed to the individual’s attainment of a particular score or result on the HRA.
- **Health-contingent:** A program that offers specific financial rewards and incentives for individuals who satisfy a health status factor or who successfully “complete an activity related to [the individual’s] health status.”⁷¹ There are two subtypes of health-contingent programs: “activity-only” and “outcomes-based.”⁷²
 - An activity-only wellness program offers a reward to an individual who performs or completes an activity related to a health factor—such as dieting or exercising—but does not require the achievement of a specific health outcome.⁷³
 - An outcomes-based wellness program “requires an individual to have a specific health outcome to obtain a reward [such as] attaining or maintaining a particular body mass index, cholesterol level, or non smoking status determined through a biometric screening or HRA.”⁷⁴

A health-contingent wellness program must satisfy HIPAA wellness rules, which include giving eligible individuals at least an annual “opportunity to qualify for the reward; limiting the maximum size of the rewards under all health-contingent wellness programs to 30% (50% for tobacco cessation programs) of the total cost of the elected coverage, including all rewards under all health-contingent wellness programs; [being] reasonably designed to promote health or prevent disease; [allowing] a reasonable alternative standard (or waiver of the applicable standard) for obtaining the reward; [and providing the] requisite notice in all plan materials describing the terms of the health-contingent wellness program about the availability of a reasonable alternative standard to qualify for the reward.”⁷⁵

There is a requirement under HIPAA rules that a wellness program must offer a reasonable alternative to be available to all similarly situated individuals. The standard for a reasonable alternative differs depending on whether the wellness program is an activity-only wellness program or an outcomes-based wellness program.

- **Activity-only:** The reward “will be considered available to all similarly situated individuals if the program offers a reasonable alternative standard (or [waives] the applicable standard) for obtaining the reward for [anyone for] whom it’s unreasonably difficult [or medically inadvisable] due to a medical condition to satisfy the applicable standard.”⁷⁶

With respect to determining whether it is unreasonably difficult or medically inadvisable to satisfy the applicable standard, “an activity-only wellness program can seek verification, such as a statement from an individual’s personal physician, that a health factor makes it unreasonably difficult or medically inadvisable for the individual to attempt to satisfy the otherwise applicable standard, thus requiring an alternative standard.”⁷⁷

The reasonability of the alternative standard is determined with respect to “the facts and circumstances, including whether an individual’s personal physician states that [the alternative] (including, if applicable, the alternative recommended by the plan’s medical professional) is not medically appropriate for that individual.”⁷⁸ HIPAA rules state that the wellness program “must provide a reasonable alternative standard that accommodates the recommendations of the individual’s personal physician.”⁷⁹

- **Outcomes-based:** An outcomes-based wellness program requires that a reasonable alternative standard be provided for an individual who doesn’t meet the program’s applicable standard regardless of whether any medical condition or other health status prevented the individual from satisfying such standard.⁸⁰

The preamble to HIPAA rules states that group health plans may not engage in underwriting:

This approach [requiring a reasonable alternative regardless of medical condition or other health status] is intended to ensure that outcomes-based programs are more than mere rewards in return for results in biometric screenings or responses to a health risk assessment, and are instead part of a larger wellness program designed to promote health and prevent disease, ensuring the program is not a subterfuge for discrimination or underwriting based on a health factor.⁸¹

The preamble also states that this rule requires plans to offer a reasonable alternative standard (or waiver of the otherwise applicable standard) to a “broader group of individuals than is required for activity-only wellness programs.”⁸²

HIPAA rules, while detailed, provide employers with guidance for designing and offering financial incentives under a compliant wellness program. That same level of detail is absent from the ADA and GINA.

III. The ADA and Wellness Programs

In 2015, the EEOC, which administers the Americans with Disabilities Act (ADA), released proposed regulations that define the appropriate contours of a wellness program for purposes of complying with the ADA. The ADA contains statutory language suggesting that wellness programs, while permissible, have to be carefully designed to avoid compliance issues under the ADA.

The ADA states that an employer “shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.”⁸³ The applicable terms of interest to employers—“examination” and “inquiry”—are arguably broad enough to include questions asked about an individual’s health status in wellness program HRAs and biometric screenings.

HRAs collect “data on health status and behavior, as well as medical history details, including those of the individual’s family.”⁸⁴ Biometric screenings, which are often included in wellness programs, gather information on physical characteristics (e.g., height, weight, body mass index, blood pressure, cholesterol, and glucose level). The screening identifies those at high risk for chronic conditions such as diabetes, high blood pressure (hypertension), and heart disease.⁸⁵

The ADA also provides that an employer “may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site.”⁸⁶ While this language suggests that voluntary wellness programs are permissible under the ADA, it is not clear if a plan that complies with the HIPAA wellness program rules would qualify as “voluntary” under the ADA.

An EEOC letter issued in 2009, which was later withdrawn, raised this concern. In the letter, the EEOC's Office of Legal Counsel informally addressed the issue of whether a requirement that an employee answer a HRA as a condition of participation in a group health plan violated the ADA, stating the following:

Although the Commission has not taken a formal position on the question, ... requiring that all employees take a health risk assessment that includes disability-related inquiries and medical examinations as a prerequisite for obtaining health insurance coverage does not appear to be job-related and consistent with business necessity, and therefore would violate the ADA.⁸⁷

Noting that medical examinations and inquiries related to disabilities must be job related and consistent with business necessity under the ADA, the EEOC discussed whether certain hypothetical circumstances would be considered "voluntary" under the ADA:

Disability-related inquiries and medical examinations are also permitted as part of a voluntary wellness program. A wellness program is voluntary if employees are neither required to participate nor penalized for non-participation. ... In this instance, however, an employee's decision not to participate in the health risk assessment results in the loss of the opportunity to obtain health coverage through the employer's plan. Thus, even if the health risk assessment could be considered part of a wellness program, the program would not be voluntary, because individuals who do not participate in the assessment are denied a benefit (i.e., penalized for non-participation) as compared to employees who participate in the assessment.⁸⁸

IV. Litigation Involving Wellness Programs

In 2011, in *Seff v. Broward County*, a United States District Court in Florida considered the issue of whether an employer's wellness program violated the ADA's prohibitions against on-site medical examinations and medical inquiries.⁸⁹ The employer's wellness program consisted of employees taking a biometric screening and answering a HRA, which the wellness program used "to identify Broward employees [who had] asthma, hypertension, diabetes, congestive heart failure, or kidney disease."⁹⁰ Employees with one of these conditions "received the opportunity to participate in a disease management coaching program, after which they became eligible to receive co-pay waivers for certain medications."⁹¹ While the employer's health plan imposed a \$20 penalty per pay period on individuals who did not take the biometric screening and answer the HRA, the plan did not condition an employee's enrollment in the health plan on such actions.⁹²

A group of employees objected to the wellness program, declined to participate, and subsequently filed a class action suit against Broward County, alleging that the Broward County wellness program violated the ADA, claiming that the "wellness program's biometric screening and online HRA questionnaire violated the ADA's prohibition on non voluntary medical examinations and disability-related inquiries."⁹³

The district court granted summary judgment in favor of the employer. The ruling in *Broward County* is notable as much as for what the court did not hold as for what the court held. *Broward County* did not address the applicability of the HIPAA wellness rules to Broward County's wellness program,⁹⁴ nor did *Broward County* address the issue of whether the wellness program constituted a "voluntary medical examination" under the ADA. Rather, the district court reasoned that Broward County's wellness program was permissible under a separate safe harbor provision of the ADA.⁹⁵

V. EEOC Action Against Wellness Programs

The EEOC filed a legal action in 2014 to prevent three companies—Flambeau Inc., Orion Industries, and Honeywell Corporation—from instituting wellness programs that allegedly violated the ADA and GINA regardless of whether the plans complied with HIPAA. The EEOC lawsuit against Honeywell, however, raised the most concern among employers, since the Honeywell program was designed with financial penalties that, on their face, appeared compliant with HIPAA:

Participation for employees and their spouses [in the wellness program] is optional, but up to \$4,000 could be at stake for those who decline to participate: the loss of up to \$1,500 in health savings account contributions from Honeywell, a \$500 surcharge applied to health plan costs, a \$1,000 “tobacco surcharge” (because Honeywell assumes those who don’t submit to a biometric screening are smokers), plus another \$1,000 tobacco fee for a spouse who doesn’t participate.⁹⁶

A federal judge denied the EEOC’s motion to stop Honeywell from implementing the program, but the action was not a decision on the merits of the EEOC’s lawsuit.

VI. EEOC Proposes Wellness Program Rules Under the ADA

The EEOC issued proposed regulations on April 16, 2015,⁹⁷ providing guidance on the extent to which employers may use incentives under the ADA to encourage employees to participate in wellness programs that include disability-related inquiries and/or medical examinations. The EEOC’s proposed regulations do the following:

- Provide a definition of a “voluntary” wellness program under the ADA, including a provision that prohibits wellness programs from “gating” benefits—denying health care coverage or limiting benefits if an employee refuses to answer a disability-related inquiry or take a medical examination, including those inquiries or examinations that are part of a HRA.
- Outline the incentives that an employer may offer as part of a “voluntary” wellness program, including a provision that limits rewards and penalties under a participation-only program to 30% of the cost of employee-only coverage.
- State that rewards or penalties under a smoking cessation program are subject to the 30% overall limit to the extent that an employer tests for the presence of nicotine or tobacco, such as through a cotinine test or other medical exam.
- Set forth the rules regarding notice and confidentiality of medical information obtained as part of voluntary employee health programs.
- Notify employers that compliance with the EEOC’s rules on voluntary wellness programs does not ensure compliance with all the antidiscrimination laws that the EEOC enforces.

While the issuance of guidance from the EEOC is welcome, the proposed EEOC regulations contain significant differences from HIPAA rules, such as the anti-gating rules, the inclusion of participation-only program rewards and incentives in calculating the 30% limit, and the use of employee-only coverage rather than elected coverage in determining the 30% limit.

VII. Wellness Programs Under GINA

A similar interpretive issue occurs under GINA, which generally prohibits discrimination in health insurance and employment on the basis of genetic information and restricts employers from collecting genetic information of employees and their family members. Because HRAs often ask questions about family members and offer rewards for “family information,” including information from a spouse, the EEOC’s interpretation of GINA presents a potential conflict with HIPAA wellness rules. The EEOC informally stated that GINA “makes clear that a spouse is a family member and information about a spouse’s health status is considered the family medical history of the employee because Congress defined family member in GINA with reference to the ERISA definition of a dependent.”⁹⁸ The EEOC also stated, again informally, that

[t]here is generally not an issue with respect to an employee’s spouse participating in a HRA—provided that the spouse’s response is voluntary, and there is no incentive tied to the collection of health status information about an employee’s spouse. A potential problem arises where the employer wants to deny or reduce the level of incentive provided to an employee if the spouse (or other family member) refuses to provide medical information in a HRA.⁹⁹

In October 2015, the EEOC issued proposed regulations addressing the extent to which an employer may offer an employee inducements for obtaining information about a spouse’s health status.¹⁰⁰ The proposed regulations provide that if the employee’s spouse participates in the employer’s health plan, the employer may obtain information about the spouse’s current or past health status as part of a HRA administered as part of an employer-sponsored wellness program.¹⁰¹ With certain exceptions, GINA prohibits employers from requesting, requiring, or purchasing an employee’s genetic information and strictly limits GINA-covered entities from disclosing genetic information. “Genetic information” is broadly defined to include information about an individual’s genetic tests, the genetic tests of a family member, and an individual’s family medical history. A “family member” of an individual includes someone who is a dependent of an individual through marriage, birth, adoption, or placement for adoption and any other individual who is a first-, second-, third-, or fourth-degree relative of the individual. Thus, GINA prohibits employers from asking about family medical history of either the employee or the spouse through a HRA. GINA also defines the term “genetic information” of an employee broadly to include information about a family member’s (including a spouse’s) current or past health status.¹⁰²

The proposed regulations clarify that GINA does not prohibit employers from offering limited inducements (whether in the form of rewards given or penalties avoided) to an employee’s spouse who is covered by the employer’s group health plan to provide information about the spouse’s current or past health status. The information can be obtained as part of a HRA that includes a medical questionnaire, a medical examination, or both. However, the information must be provided voluntarily, and the individual providing his or her genetic information must provide prior, knowing, voluntary, and written authorization. In practice, this would mean obtaining a separate authorization from the spouse.¹⁰³

Under the proposed regulations, employers may request, require, or purchase genetic information as part of health or genetic services only when those services are reasonably designed to promote health or prevent disease. For example, collecting information on a HRA without providing follow-up information would not meet this standard.¹⁰⁴

As part of an employer's health plan, an employer may offer an inducement to an employee whose spouse meets these conditions:

- Is covered under the employee's health plan.
- Receives health or genetic services offered by the employer, including as part of a wellness program.
- Provides information about his or her current or past health status as part of a HRA.

However, the employer is not permitted to offer an inducement in return for the spouse providing his or her own genetic information or results of genetic tests.¹⁰⁵

The total inducement to the employee and spouse may not exceed 30% of the total annual cost of coverage for the plan in which the employee and any dependents are enrolled. The 30% limit includes any inducement for a spouse's current or past health status information and any other inducements to the employee for the employee's participation in a wellness program that asks disability-related questions or includes medical exams. A smoking cessation program that asks employees whether they use tobacco (or whether they ceased using tobacco upon completion of the program) or requires blood tests to determine nicotine levels is not a wellness program that requests genetic information and is therefore not covered by the proposed GINA rule.¹⁰⁶

In addition to the 30% limit for the total inducement, the proposed rule describes the manner in which inducements for employees and spouses are to be apportioned. The EEOC proposes that the maximum share of the inducement attributable to the employee's participation in all workplace wellness programs be equal to 30% of the cost of self-only coverage, which is the maximum amount under the proposed ADA regulations. The remainder of the inducement—equal to 30% of the total cost of coverage for the plan in which the employee and any dependents are enrolled minus 30% of the total cost of self-only coverage—may be provided in exchange for the spouse providing information about his or her current or past health status.¹⁰⁷

An employer is prohibited from conditioning participation in a wellness program or an inducement on an employee or the employee's spouse or other covered dependent(s), agreeing to the sale of genetic information or waiving GINA protections. The term "inducements" include both financial and in-kind inducements, such as time-off awards, prizes, or other items of value, in the form of either rewards or penalties.¹⁰⁸

The regulations further propose that inducements in exchange for current or past health status information about an employee's children (biological and nonbiological) are not permitted. However, an employer may offer health or genetic services (including participation in a wellness program) to an employee's children on a voluntary basis and may ask questions about a child's current or past health status as part of providing such services.¹⁰⁹



VIII. Conclusion

Financial incentives are only one part of a company's overall wellness strategy. While they play an important role, employers need to ensure that their wellness programs meet the legal requirements of federal, state, and local laws. Employers that use financial incentives as part of their programs need clear guidance on how to design them. When federal laws operate in silos and government agencies send mixed messages about the legality of wellness programs, businesses will examine if it makes sense to continue offering such programs.

Employers need to recognize the trade-offs involved in structuring financial incentives in a wellness strategy in the absence of comprehensive regulatory guidance. The more aggressive an employer's financial incentives, the greater the risk of being accused of violating HIPAA, GINA, or ADA. Employers that design wellness programs to comply with HIPAA should remain aware that HIPAA compliance is not a defense to an EEOC action to enforce ADA or GINA. An increased likelihood of a legal challenge exists if the employer's wellness program imposes severe penalties for an employee's failure to participate, such as ineligibility for health care coverage, forfeiture of employer subsidies, or termination of employment.

Although compliance with these regulations may appear daunting, the benefits of deploying a well-designed strategy outweigh the compliance costs. Businesses should seek assistance from the U.S. Chamber of Commerce, benefits counsel, consultants, brokers, and health plan administrators when assessing the strategic, financial, legal, and administrative implications of wellness programs.

Wrap-Up

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This publication charts a road map for designing successful and effective workplace wellness programs, discusses how health promotion strategies can be a win for both employers and employees, and describes the legal and regulatory issues related to implementing such programs.

According to the Centers for Disease Control and Prevention, "Prevention encompasses health promotion activities that encourage healthy living and limit the initial onset of chronic diseases. Prevention also embraces early detection efforts, such as screening at-risk populations, as well as strategies for appropriate management of existing diseases and related complications."¹¹⁰

However, to be effective and enhance the health and well-being of individuals, workplace wellness programs need to be comprehensive and evidence based. For instance, even though a health risk assessment (HRA) alone is important, it is not sufficient to drive sustainable results.

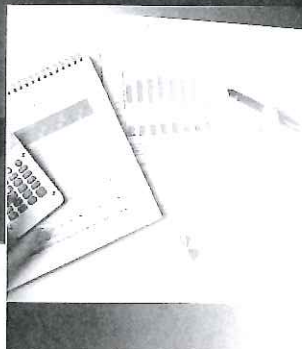
A HRA needs to be followed up with ongoing programs that are tailored to the population's health and lifestyle risks and readiness to change. Wellness initiatives empower individuals to engage in healthy behaviors over time. These programs include environmental support, proactive communications, and periodic monitoring with appropriate evaluation.

Speaking more broadly, wellness has different connotations in the population health context. Employers as purchasers seek to provide high-quality care at a low cost for employees and their family members.¹¹¹ Businesses are at the forefront of the movement to create value-based initiatives that coordinate care for people on the disease management side of the spectrum by experimenting with shared savings models such as Accountable Care Organizations (ACOs) and Patient-Centered Medical Homes. These types of shared savings models require shared accountability parameters among stakeholders.

Similar to the way the 3 R's (reading, writing, and arithmetic) are the basics of education, perhaps the basics of health care should be the 3 R's of responsibilities, risks, and rewards. A published case study demonstrated a significant shared savings model where the responsibilities, risks, and rewards were shared among employers, employees, and providers to promote health and well-being and to improve the quality of care and lower the costs for those who already have a chronic condition.¹¹²

The bottom line is that good health is good business.¹¹³ A growing body of scientific evidence shows that there is a return and value on investment when employers provide comprehensive wellness programs.^{114,115}

Effective workplace wellness strategies can be the spark that ignites a culture of health in society—reducing the burden of health risk and illness in individuals, improving the health and productivity of our nation's workforce, enhancing the profitability of engaged employers, and ultimately stimulating the vitality of our nation's economy.



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Resources

U.S. Chamber of Commerce

<https://www.uschamber.com/issues/health-care/workplace-wellness>

U.S. Chamber of Commerce Foundation

<https://www.uschamberfoundation.org/initiative/community-health-and-wellness>

Centers for Disease Control and Prevention's (CDC's) National Diabetes Prevention Program

<http://www.cdc.gov/diabetes/prevention>

CDC's National Healthy Worksite Program

<http://www.cdc.gov/nationalhealthyworksite/index.html>

CDC's Work@Health® Program

<http://www.cdc.gov/workathealth>

The Wellness Council of America (WELCOA)

<https://www.welcoa.org>

Optum

<https://www.optum.com>

HERO Research Studies

<http://hero-health.org/research-studies>

Alatarum Institute Center for Prevention

<http://altatum.org/research-centers/center-for-prevention>

Trust for America's Health

<http://healthyamericans.org>

Johns Hopkins Bloomberg School of Public Health Institute for Health and Productivity Studies

<http://www.jhsph.edu/research/centers-and-institutes/institute-for-health-and-productivity-studies>

Population Health Alliance

<http://www.populationhealthalliance.org>

American Council on Exercise

<http://www.acefitness.org/about-ace>

American College of Preventive Medicine

<http://www.acpm.org>

Bios

Ronald Loeppke, M.D., M.P.H., FACOEM, FACPM

Vice Chairman, U.S. Preventive Medicine, Inc.

Ronald Loeppke, M.D., M.P.H., FACOEM, FACPM, is vice chairman of U.S. Preventive Medicine, Inc. and serves as co-chair of the company's International Advisory Board. Loeppke has more than 30 years of clinical and physician executive experience in occupational health, preventive medicine, and medical management. He is board certified in preventive medicine, fellowship trained in occupational medicine, and is a fellow of the American College of Occupational and Environmental Medicine (ACOEM) and the American College of Preventive Medicine.

Loeppke is past president of ACOEM and sat on its board of directors for eight years. He served as co-chair of the ACOEM section on health and productivity, which reviewed research on health and productivity and case studies of best practices in workplace wellness programs. He is chair of the Centers for Disease Control and Prevention Diabetes at Work initiative and the National Institutes of Health's National Diabetes Education Program. He is also co-chair of the International Occupational Medical Society Collaborative, a global initiative involving more than 24 countries.

Louise J. Short, M.D., M.Sc.

Mercer

Louise J. Short, M.D., M.Sc., joined Mercer in July 2012 to focus on assisting employers improve health outcomes, mitigate health care costs, and improve productivity and human performance. She is a seasoned, results-driven, occupational, and preventive medicine physician with 20 years of experience, providing clinical leadership in designing and executing population health management programs.

Before working at Mercer, she was a medical leader at Healthways, Inc. and spent more than 13 years as a medical director for UnitedHealthcare and WellPoint. Short was a corporate medical director for BCBSGA, a 2.5 million-member plan. She also directed research and business development for WellPoint's health outcomes research subsidiary. In addition, Short worked as an epidemiologist at the Centers for Disease Control and Prevention.

Short earned her undergraduate degree at Harvard, her M.D. at Tufts University School of Medicine, and her internal medicine residency at Yale-New Haven Hospital. She trained in occupational and preventive medicine at Mt. Sinai School of Medicine in New York City (now known as the Icahn School of Medicine at Mt. Sinai), where she received a master's degree in community medicine.

James O. Prochaska, Ph.D.

Director, Cancer Prevention Research Center and Professor of Clinical and Health Psychology, University of Rhode Island, and Founder, Pro-Change Behavior Systems, Inc.

James O. Prochaska, Ph.D., is director of the Cancer Prevention Research Center and professor of clinical and health psychology at the University of Rhode Island. He is the author of more than 350 publications including three books—*Changing for Good*, *Systems of Psychotherapy*, and *The Transtheoretical Approach*.

Prochaska is internationally recognized for his work as a developer of the stage model of behavior change. He is the principal investigator on more than \$80 million in research grants for the prevention of cancer and other chronic diseases and is the founder of Pro-Change Behavior Systems, Inc.

He has won numerous awards including the Top Five Most Cited Authors in Psychology from the American Psychology Society (now known as the Association for Psychological Science); an Innovator's Award from the Robert Wood Johnson Foundation; and the first psychologist to win a Medal of Honor for Clinical Research from the American Cancer Society.

Anne Marie Ludovici-Connolly, M.S.

President, AMLC Corporate Health & Behavior Change Consulting, LLC

Anne Marie Ludovici-Connolly, president of AMLC Corporate Health & Behavior Change Consulting, LLC, is an expert in population health management, well-being, and health behavior change. She has more than 30 years of consulting experience, working with a variety of organizations in the public, academic, and private sectors.

Before starting her own consulting practice, Ludovici-Connolly was a national expert in employee health and productivity and health behavior change for Aon Hewitt, a global employer benefit, health, and welfare consulting firm. Previously, Ludovici-Connolly was a professor and researcher at the University of Rhode Island (URI), where she created evidence-based behavior change interventions on a wide range of health and wellness initiatives and research projects. She is now a Scholar in Residence at URI.

Ludovici-Connolly earned a bachelor's degree in business administration with a major in marketing/management and a master's degree in kinesiology with a major in psychology/social aspects of behavior change from the University of Rhode Island.

She is the author of *Winning Health Promotion Strategies and Change Your Mind, Change Your Health: 7 Ways to Harness Your Brain to Achieve True Well-Being*.

Ludovici-Connolly serves on and consults for many national and international professional associations, boards, and committees including the U.S. Chamber of Commerce.

Dee Edington, Ph.D.

Professor Emeritus, University of Michigan and Founder and CEO of Edington Associates, LLC

Dee Edington, Ph.D., is a professor emeritus in the School of Kinesiology at the University of Michigan and founder and director emeritus of the Health Management Research Center. In addition to his research and teaching, he spent 25 years in academic administration. In 2011, he initiated a spin-off company, Edington Associates, LLC, to bring health, wellness, and well-being to organizations.

Trained in mathematics, kinesiology, and biochemistry, Edington received his B.S. and Ph.D. from Michigan State University and completed his M.S. at Florida State University. He did postdoctoral work at the University of Toronto and taught at the University of Massachusetts before coming to Michigan in 1976.

Edington is interested in the relationships between a supportive and high-performing workplace and workforce, as well as quality of life and sustainability as they benefit both individuals and organizations. He is the author or co-author of more than 1,000 articles, presentations, and books including *Biology of Physical Activity*; *Biological Awareness Frontiers of Exercise Biology*; *The One Minute Manager Balances Work and Life*; *Zero Trends: Health as a Serious Economic Strategy*; and *Shared Values-Shared Results: Positive Organizational Health as a Win-Win Philosophy*.

J.D. Piro

Senior Vice President, Aon Hewitt

J.D. Piro, a senior vice president at Aon Hewitt, leads the Aon Hewitt Health Law Group. He is a member of the Employee Benefit Research Institute and the New York State Bar Association. Piro earned a Bachelor of Arts degree summa cum laude in political science and economics from Fordham University, where he was elected to Phi Beta Kappa. He received his law degree from the Georgetown University Law Center and was an editor of *The Tax Lawyer*, a publication of the American Bar Association's Section on Taxation.