INFORMATION MEMO

Worksite Wellness Programs: Steps for Success

Identify the laws impacting worksite wellness programs, and understand the most important components to consider when establishing an effective program for your city employees. Learn strategies for gaining management support, as well as for developing and implementing your program, keeping it on budget, and making it successful.

I. Laws impacting worksite wellness programs

A. Health care reform

With today’s rising health care costs, many employers find wellness programs to be a cost effective tool to help reduce health care and premium costs as well as promote better health and productivity for employees. While there have been good reasons for a city to consider implementing wellness programs in the past, under the Patient Protection and Affordable Care Act (PPACA), there are now new incentives for employers to consider incorporating or building upon an existing wellness program. Under PPACA, $200 million in wellness grant funding was available through 2015 to assist small employers with the implementation of comprehensive wellness programs. “Small employers” for grants are defined as those with fewer than 100 employees working 25 or more hours per week. The grants are available only for small employers without an existing wellness program, and other criteria also apply.

Since 1996, the Health Insurance Portability and Accountability Act (HIPAA) has capped employer-sponsored wellness program incentives to 20 percent of premium cost. Under PPACA, an employer can offer wellness program participants health insurance premium discounts up to 30 percent as of Jan. 1, 2014, and as high as 50 percent for tobacco-free employees and those who have reduced their use of tobacco.

1. Participatory and health-contingent wellness programs

Along with the increased incentives available, cities will want to be mindful of final rules published on June 3, 2013, jointly by the federal departments of Health and Human Services, Labor, and Treasury, regarding employer-sponsored wellness programming to be effective for plan years beginning on or after Jan. 1, 2014.
Under the rules, employer-sponsored wellness programs are divided into two general categories: “participatory” and “health-contingent.”

### a. Participatory wellness programs

As the name describes, participatory wellness programs are those designed to reward employees for participating in the program. Examples of participatory wellness programs include:

- A program reimbursing all or part of the cost of membership in a fitness center.
- A diagnostic testing program providing a reward for participation without basing any part of the reward on outcomes.
- A program providing a reward to employees for attending a monthly, no-cost health education seminar.

Unlike health-contingent wellness programs discussed below, the final rule places no limits on the financial incentives an employer can offer under a participatory wellness program.

### b. Health-contingent wellness programs

In contrast, health-contingent wellness programs reward individuals meeting a specific standard related to their health. Examples of these types of programs include charging higher premiums based on tobacco use, or using biometric screening or a health risk assessment to identify employees with specified medical conditions or risk factors (such as high cholesterol, high blood pressure, abnormal body mass index, or high glucose level). A health-contingent program also provides a reward to employees identified as within a normal or healthy range or at low risk for certain medical conditions, while requiring employees who are identified as outside the normal or healthy range (or at risk) to take additional steps (such as meeting with a health coach, taking a health or fitness course, adhering to a health improvement action plan, or complying with a health care provider’s plan of care) to obtain the same reward.

Health-contingent wellness programs can be divided into two types: activity-only and outcome-based. Activity-only programs reward a participating employee for completing an activity related to a health factor (such as walking, diet, or smoking-cessation programs), whereas, outcome-based programs reward plan members for attaining or maintaining a specific health outcome (such as quitting smoking or attaining certain results on biometric screenings).

Regardless of whether a program is activity-only or outcome-based, a health-contingent wellness program must meet the following five requirements to avoid being classified as discriminatory:
The program must give eligible individuals an opportunity to qualify for the reward at least once per year.

The total reward for all health-contingent wellness programs offered by the employer may not exceed 30 percent of the total cost of employee-only coverage under the plan, or 50 percent to the extent the program is designed to prevent or reduce tobacco use.

The reward must be available to all similarly situated individuals. A reasonable alternative standard (or waiver of the otherwise applicable standard) must be made available to any individual for whom, during that period, it is unreasonably difficult or medically inadvisable to attempt to satisfy the otherwise applicable standard due to a medical condition.

The final rule outlines differences about who must be offered a reasonable alternative standard, depending on whether the health-contingent wellness program is an activity-only or an outcome-based wellness program. For an activity-only wellness program, a reasonable alternative standard for obtaining the reward must be provided to any employee for whom during the applicable period, it is either unreasonably difficult due to a medical condition to meet the otherwise applicable standard, or it is medically inadvisable to attempt to satisfy the otherwise applicable standard. A doctor’s note can be required. A reasonable alternative may be a waiver of the standard altogether. The new regulations also provide guidance on what will be considered a reasonable alternative.

For outcome-based wellness programs, those generally providing rewards based on whether an individual has attained a certain health outcome, a reasonable alternative standard must be provided to all individuals who do not meet the initial standard. No doctor’s note is allowed. The final rule does not require plans to create a particular reasonable alternative from the beginning, as long as the plan offers one upon an individual’s request.

Another option employers may offer is to waive the health standard and provide the reward instead of providing a reasonable alternative standard.

Special rules also apply, depending on the type of reasonable alternative offered, and should be discussed with your benefit advisors or legal counsel. These rules are:

- The program must be reasonably designed to promote health or prevent disease.
- The plan must disclose in all plan materials describing the terms of the program the availability of other means of qualifying for the reward or the possibility of waiver of the otherwise applicable standard.
B. Genetic Information Nondiscrimination Act

The Genetic Information Nondiscrimination Act (GINA) applies to employers with 15 or more employees and prohibits discrimination on the basis of genetic information with respect to health insurance and employment.

Cities will want to be aware of GINA especially when using health risk assessments (HRAs) for employees. Specifically, HRAs asking questions about an employee’s family history (e.g., “Does your family have any history of cancer, heart disease, or other illness?”) can be a violation of GINA. Therefore, it’s important to ensure your HRA vendor uses an HRA that meets GINA requirements.

C. Americans with Disabilities Act

Title I of the Americans with Disabilities Act (ADA) limits when an employer may make disability-related inquiries of employees, or ask employees to take medical examinations.

However, disability-related inquiries and medical examinations are permitted as part of a voluntary wellness program. The Equal Employment Opportunity Commission (EEOC) has noted a wellness program is voluntary as long as an employer neither requires participation nor penalizes employees who do not participate.

The EEOC opined that a program denying reimbursement for health-related expenses for employees who do not complete an HRA including disability-related questions would not be considered voluntary.

To steer clear of ADA violations with HRAs, a city will again want to work closely with its HRA administrator to ensure health questions are focused on behaviors rather than medical conditions. For example, an HRA could ask employees if they regularly see a personal doctor for routine care, how many servings of vegetables or fruits the employee eats daily, or whether the employee takes a vitamin supplement or eats breakfast, and not run afoul of the ADA.

The EEOC states, if a wellness program is voluntary and an employer requires participants to meet certain health outcomes or engage in certain activities in order to remain in the program or earn rewards, the city must provide reasonable accommodation, unless there is a case for undue hardship, to those employees unable to meet the outcomes or participate due to a disability.
As part of the reasonable accommodation process, a city will want to engage in an interactive process with the disabled employee to develop a reasonable alternative to meet the goals of the wellness program as well as the individual’s need for a reasonable accommodation.

D. Age Discrimination in Employment Act

The Age Discrimination in Employment Act of 1967 (ADEA) protects certain applicants and employees 40 years of age and older from discrimination on the basis of age in hiring, promotion, discharge, compensation, or terms, conditions, or privileges of employment.

If a city, for example, offered a wellness program providing a premiums discount to employees with a specific cholesterol level, that program could be subjected to a disparate impact claim by employees over 40, who may not be able to achieve the standard due to their age.

To minimize an ADEA claim for a wellness program, a city will want to work with its wellness consultant to determine if any required health standards should be adjusted for the age of employees.

II. Management support of wellness programs

Once it has been determined wellness is important to your organization, the next step is to gain management support. Management support is essential to building a wellness culture in the workplace. In addition, management support of a city’s wellness program translates to more support for employee participation in the programs, including time spent during the work day.

In order to gain and maintain management support, consider the following.

A. Gather and share data

A city will likely need to spend time gathering some information to help plan the wellness program—things like offering health risk assessments (these can provide a city with specifics on what health issues are facing employees), conducting employee interest surveys, learning what other cities are doing, etc. It will be important to share the aggregate outcomes of this research with the city’s management team, so that they can see first-hand the interests of employees, the risk factors most prevalent in their employee population, and what other cities offer by way of wellness. Please note that some of the information that is gathered or retained may be subject to HIPAA’s PHI requirements so cities will need to ensure that updated policies and procedures are in place and appropriately communicated to employees.
B. Evaluation
Continuously evaluating the city’s wellness program—identifying what works and doesn’t work—and the city’s willingness to make changes will help to make the program successful. Sharing participation numbers, testimonials, etc. will go a long way in maintaining management support in the program.

C. Communication
It is important to keep the lines of communication open. A city will want to be open to (and encourage) input and feedback from management about what is working and what isn’t working. Is participation in the wellness program actually having a negative effect on work flow? A city’s willingness to take concerns seriously and deal with them upfront will go a long way in continuing to have management buy-in for the wellness program.

III. Wellness committees
Having one person in an organization devoted to developing and implementing a wellness program simply isn’t feasible for most cities. Other job responsibilities can make it overwhelming for one lone person to work on wellness. In addition, if a city has only one staff person working on the city’s wellness program, other employees aren’t involved and invested in making the program a success.

To help with the development and implementation of the city’s wellness program, consider organizing a wellness committee. Wellness committee members can serve as representatives for the interests and concerns of coworkers, as well as to help promote and champion the program. Having a committee is also helpful in integrating wellness into the culture of the organization.

When organizing a committee, consider having broad representation from throughout the organization (e.g., recruit a representative from each department). It is also a good idea to make sure that managers, supervisors, and union representatives are included on the committee, which helps with buy-in and support for employee participation in the program. Ideally, each department would also have a representative on the committee so he or she can help communicate information back to other employees.

IV. Mission statement, goals, and objectives
The wellness committee can be a great resource for ideas about what to include in the wellness program, as well as helping to establish a mission statement and setting goals and objectives for the program.
By establishing a mission statement and setting goals and objectives, it may improve the focus of the program; provide a consistent image and direction for the program; enhance the credibility of the city’s program; promote a sense of a team-oriented environment; and enhance employee morale. A city will want to develop SMART—specific, measurable, achievable, realistic, and time-sensitive—program objectives.

For example, a SMART objective could be: “By December 2014, 80 percent of all vending machine options will be healthy options.” Be sure the mission statement and objectives are shared with and supported by management to continue to build and maintain their support in the program.

In addition, setting goals and objectives allows a city to better measure program results. If the city is not meeting wellness goals and objectives, then that should be a sign that the program needs to be modified to better meet the needs of the city and its employees.

V. Data and information

It is important to spend some time in the early stages of developing a city’s wellness program gathering information that will be useful in planning the city’s program. By spending time researching these areas, a city will already have baseline data to better understand the concerns and interests of employees, which will help in the planning and implementation of the program. In addition, having this information will help when it comes time to evaluate the success of the city’s program. The following are examples of the types of information that may be helpful.

A. Previous wellness initiatives

If a city has implemented wellness efforts previously, look at what has been done in the past; how many employees participated; and what worked and did not work. Learn from and build on past experiences.

B. Employee risk assessments

Consider having employees complete a health risk assessment. This is a questionnaire asking a number of health-related questions, as well as employee readiness to change certain lifestyle behaviors that might ultimately reduce their risk factors. Most cities are limited by law from accessing individual employee results. If enough employees participate, however, the city may be able to get aggregate data showing the risk factors among its employee population. This information can be very helpful in focusing wellness events and resources.
C. Employee interest

Conducting an employee interest survey is very important. Obviously if you offer a wellness program with low interest among employees, the program will not be successful. The results from the survey can be extremely helpful in planning activities and events garnering the highest levels of participation among employees.

D. Work environment assessment

If one of the program goals, for instance, is to encourage physical activity, look to see what resources are available to employees to engage in this activity during the work day (e.g., over lunch or during breaks). Is there a fitness room or community center where employees can work out before or after work? Are walking trails or sidewalks around city buildings available where employees can walk or jog? If encouraging healthy eating is a goal, review the types of foods available during meetings and/or the availability of healthy snack options in vending machines.

E. Review claims data

If aggregate detailed claims information is available, review this information to determine what issues are driving the city’s health care costs. Could any of these issues such as heart disease or diabetes be addressed and managed better if employees made lifestyle changes?

F. Learn from other cities

Learn what other cities are doing. While one city may be just starting a wellness program, there are many others that have had programs in place for several years. A city beginning in wellness can learn from the challenges and successes of others. Consider asking surrounding cities about what they are doing in the area of wellness, but make sure your program addresses the interests and health concerns of your city’s employee population. Simply duplicating an existing program from another city does not guarantee the success of your wellness program.

VI. Plan of action and budget

Having a big wellness activity each month likely isn’t feasible, given the time it takes to plan large events. However, there are things that can be done throughout the year to promote wellness to employees and keep the issue at the forefront. Some examples may include:

- “Brown bag lunch” or break sessions on wellness topics.
- Wellness brochures or information on topics of interest.
• A wellness calendar.
• A group walking day each week (e.g., Wednesday Walks).
• Wellness potlucks.
• An onsite flu vaccine clinic. Check with the city’s insurance carrier to see if it will cover the vaccine.
• A blood drive. Encourage employees to donate blood.

It’s a good idea to start out small and keep it simple initially. Pick one or two wellness activities to sponsor through the year and build on those activities over time. Information from employee surveys can be helpful to identify what activities are likely to lead to a successful first year. If the program is confusing, employees will not likely participate.

Also keep in mind that a city’s program will be more successful if a variety of events and activities are offered. Options for varying employee interests and needs are important (not everyone is an exercise guru or is into eating salad every day). Wellness isn’t just about physical activity or healthy eating. Stress reduction, social interaction and connection, and simply taking time to relax all play into wellness efforts and are important to an individual’s overall sense of health and well-being.

Another important step is establishing a budget. Some employees need a little extra motivation to participate in wellness activities. However, wellness does not have to be expensive. Generally, staff time to plan and organize the wellness program, and incentives offered to employees will represent a majority of the costs. A city may find there are more resources available to tap into.

The city’s insurance carrier may have resources available. Many carriers will be able to provide access to a health risk assessment at little or no charge, or access to speakers about various wellness topics for a brownbag session. Also, consider contacting the county health department and/or the area medical clinic or hospital in order to see what resources they might have available.

### VII. Incentives

Incentives can be a very important tool in encouraging employee participation in the wellness program. Unfortunately, not everyone is motivated to engage in lifestyle changes to reduce their risk factors, so incentives can offer an extra little push needed to get folks moving in the right direction or to participate in the program. Incentives can range from granola bars, stress balls, or pedometers, to cash, gift certificates, or paid time off. However, it is important to realize there are potential tax consequences to offering incentives.
As a general rule, anything provided by an employer to an employee in return for services is taxable income to the employee. The exception to this rule is when there is a specific Internal Revenue Service (IRS) code section that exempts it from being taxable income.

Health-related incentives (e.g., reduced insurance premiums, deductibles, copays, contributions to health savings account or health reimbursement account, cafeteria plan, etc.) are generally not taxable to the employee. Non-health related incentives raise the most significant tax considerations. Cash payments (including gift cards or gift certificates) are taxable and subject to withholding regardless of the amount provided to the individual.

Property or service of such small value that accounting for such a benefit would be unreasonable or administratively impracticable may be excluded under IRS Section 132, De Minimis Fringe Benefits. Note: There is no dollar threshold recognized by the IRS as being “de minimus.”

Whether a city is trying to encourage employees to make lifestyle changes or simply encouraging employees to participate in the wellness program will drive what type of incentive is offered. A city is not likely to provide an extra day off to an employee who regularly participates in Wednesday Walks. However, if the employee earns points for participating in most of the activities and events offered throughout the year, a larger incentive, such as cash or an extra day of vacation time, may be more appropriate.

Another consideration with incentives is to recognize not everyone values the same type of incentive. Employees who have a lot of vacation time accumulated may not care that they could earn an extra day off. This is where employee interest survey information can come in handy (assuming a city asks about what type of incentives would motivate employees to make lifestyle changes and/or to participate in wellness activities).

VIII. Wellness policies and procedures

Developing policies and procedures around a city’s wellness program can be important for a couple of different reasons. Having policies and procedures can help build wellness into the culture of the organization. Allowing employees paid time to go on wellness walks or to attend a weight loss or smoking cessation program, or setting guidelines for having nutritional options at meetings emphasizes the importance of wellness within the city.

Wellness policies and procedures can also help to eliminate inconsistencies in how employee time is treated for participation in the program. If one supervisor encourages employee participation in the program but another doesn’t, then employees won’t have the same opportunities to participate.
However, if a policy is established stating employees can attend wellness activities on work time, a city will also probably want to consider including some language in the wellness policy that time off is subject to supervisor approval. This allows the supervisor the ability to still monitor work flow and coverage issues within their department (e.g., having all of the city’s police officers attending a wellness event at the same time isn’t feasible).

IX. Program evaluation

Cities are encouraged to gather data as an important part of planning the program. This information—a things like having measurable goals and objectives; baseline data from health risk assessments and employee interest surveys; claims information—can be helpful in measuring the overall impact of the wellness program.

Common wellness programming measurements include counting participation, and using surveys to garner employee satisfaction with the program and knowledge of healthy choices, as well as biometric measures such as cholesterol levels, blood pressure, blood glucose, and body composition.

Spend time evaluating the events and activities offered through the program. Did the program offer enough variation to meet most employee needs?

It is also worth spending time evaluating the incentives offered. What incentives were the most effective in motivating people to make changes and/or to participate in the program? Is there a different incentive that should be considered next time that might yield better results?

Consider conducting follow-up surveys of employees who participated and those who didn’t. It can be useful to not only hear from those who did participate (what worked, what didn’t, etc.), but also from those employees who didn’t participate. Why didn’t they participate? Is there anything that could be done differently to get them to participate? This information could be helpful in planning future activities and events.

By following the laws impacting wellness programs and recommended steps to establishing a wellness program, your city will be able to implement an effective and successful program.