

## Wellness Programs

On June 3, 2013, the Departments of the Treasury, Labor, and Health and Human Services jointly issued final rules regarding proposed amendments to regulations, to be consistent with the Affordable Care Act (ACA), relating to wellness programs in group health coverage. The final rules were first proposed on Nov. 26, 2012.

The final rules replace the current HIPAA wellness program rules and also implement the nondiscrimination provisions made applicable to the individual market by Section 1201 of the ACA.

The wellness program exception to the prohibition on discrimination under the existing rules and the ACA applies to group health plans (and any health insurance coverage offered in connection with such plans), but does not apply to health insurance coverage offered in the individual market. The final rules apply to all grandfathered and non-grandfathered fully insured and self-funded group health plans for plan years beginning on or after Jan. 1, 2014.

As under the current rules, there are two types of wellness programs: participatory and health-contingent.

- Participatory wellness programs either do not provide a reward or do not include any conditions for obtaining a reward that are based on an individual satisfying a standard related to a health factor. Examples include programs that reimburse employees for all or part of the cost of fitness center and diagnostic testing programs that provide a reward for participation and do not base any part of the reward on outcomes. Participatory wellness programs are not subject to five key requirements to which health-contingent programs are.
- Health-contingent wellness programs require an individual to satisfy a standard related to a health factor to obtain a reward. The final rules divide health-contingent wellness programs into the following two categories: (1) activity-only programs, and (2) outcome-based programs. These programs are subject to the five key requirements. The health-contingent wellness categories are defined as follows:
  - ▶ **Activity-only wellness programs:** These require an individual to perform or complete an activity related to a health factor in order to obtain a reward, but do not require an individual to attain or maintain a specific health outcome. Examples include walking, diet or exercise programs, which some individuals may be unable to participate in or complete (or have difficulty participating in or completing) due to a health factor such as severe asthma, pregnancy or a recent surgery.



**For more information**

Consult your UnitedHealthcare representative if you have questions about what employers need to know about the final rules relating to wellness programs. Or, visit the United for Reform Resource Center at [uhc.com/reform](http://uhc.com/reform) and click the wellness programs provision.

- ▶ **Outcome-based wellness programs:** These require an individual to attain a specific health outcome (such as not smoking or attaining certain results on biometric screenings) in order to obtain a reward. Examples include programs that test individuals for specified medical conditions or risk factors (such as high cholesterol, high blood pressure, abnormal BMI or high glucose level) and provide a reward to employees identified as within a normal or healthy range, 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 or complying with a health care provider's plan of care) to obtain the same reward.

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