

Wellness Programs must Comply with HIPAA

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Who:

Employers who offer wellness incentives, and their employees

When:

Effective July 1, 2007

Executive Summary:

Final rules issued by the Department of Labor define how wellness programs must comply with HIPAA nondiscrimination requirements. A wellness program is described as any "program designed to promote health or prevent disease." The requirements it enumerates are mandatory if similarly situated employees can receive different levels of contributions or benefits as part of the program.

Programs that are subject to the rules only include those where an employee must achieve a certain standard to obtain a reward. So for example, a program that offers a stipend for gym membership alone, with no necessity of achieving a certain standard (such as losing weight), would not be subject to the rules.

There are restrictions that wellness programs must meet in order to qualify:

Amount of reward: The total is capped at 20% of the cost of employee-only coverage. That 20% includes any other wellness incentives offered by the plan.

Frequency: Employees must be able to qualify for the reward at least once per year.

Reasonableness: A wellness program is considered reasonable if it improves health or prevents disease. In addition, a program cannot be used to discriminate due to health factors.

Alternatives: The program must provide reasonable alternatives for employees who have conditions that keep them from achieving the standard wellness goal.

Disclosure: The program must specifically disclose its terms and also state the reasonable alternatives that are available.

Action Required:

Employers will want to review their wellness programs to ensure compliance with the new guidance.