Benefits Bulletin

In This Issue:

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Final HIPAA Regulations Governing Wellness Programs

Employers and insurers have many opportunities to offer financial incentives to promote health and prevent disease through wellness programs. This article summarizes the final HIPAA Wellness Program Regulations passed in December 2006 and is applicable to plan years beginning on or after July 1, 2007.

Employers may offer wellness programs that provide a reward to all individuals that participate in the program, regardless of outcome. This type of wellness program is **NOT** required to comply with any additional requirements contained within the HIPAA Wellness Program Regulations. Examples of this type of wellness program include reimbursing employees for the cost of a health club membership, without regard to health factors; reimbursing employees for the cost of smoking cessation programs, whether or not the employee quits smoking; and providing rewards for participation in a diagnostic testing program.

Where a wellness program conditions receipt of the reward on an outcome, the program **MUST** comply with the additional requirements contained within the HIPAA Wellness Program Regulations. These requirements are as follows:

- Limit on Reward. When the wellness program allows only the employee to participate, the reward must not exceed 20% of the cost of employee-only coverage (e.g., total amount of employer and employee contributions for the cost of employee-only coverage). When dependents may participate, the reward must not exceed 20% of the cost of the coverage category in which the employee and dependents are enrolled (e.g., total amount of employer and employee contribution for the cost of family coverage).
- Reasonably Designed to Promote Good Health or Prevent Disease. Wellness programs must be designed to promote good health or prevent disease. If a wellness program has a reasonable chance of improving the health of participants and is not overly burdensome, a subterfuge for discriminating based upon a health factor, or highly suspect in the method chosen to promote health and prevent disease, the wellness program will satisfy this requirement.
- Annual Opportunity to Qualify for Reward. Wellness programs must give individuals an opportunity to qualify for the reward at least once per year.
- Reasonable Alternative Standard. The wellness program must provide a reasonable alternative standard for obtaining the reward for certain individuals. This alternative standard must be available for individuals for whom it is unreasonably difficult due to a medical condition to satisfy the otherwise applicable standard, or for whom it is medically inadvisable to attempt to satisfy the otherwise applicable standard. A program does not need to establish the specific reasonable alternative standard before the program commences. It is sufficient to determine a reasonable alternative standard once a participant informs the plan that it is unreasonably difficult for the participant to satisfy the general standard due to a medical condition. The final regulations include an example that demonstrates that a reasonable alternative standard could include following the recommendations of an individual's physician regarding the health factor at issue.
- Disclosure Requirements. All wellness program materials must include a description of the general standard and disclose the availability of a reasonable alternative standard. While the final regulations are substantially the same as the requirements contained within the prior interim and proposed regulations, employers should review their wellness programs prior to their next plan renewal. A recent study published by Hewitt Associates found that many wellness programs currently in place do not comply with the HIPAA Wellness Program Regulations. Until now, the interim and proposed regulations indicated that a period of nonenforcement in cases of good faith compliance would end upon the applicability date of the final regulations.

Wellness Program Best Practices

The Wellness Councils of America (WELCOA), an organization dedicated to the promotion of worksite wellness, has identified the seven best practices ("The Seven C's") for employers to follow when building a comprehensive, effective worksite wellness program within their organization.

1. **Capture senior-level support.** A commitment from the top is critical to the success of any wellness initiative. Management must understand the benefits of the program for both the employees and the organization and be willing to put funds towards its development, implementation and evaluation. Descriptions of what competitors are doing in the way of health promotion and linking health promotion to business goals, values and strategic priorities will help to secure senior management support. Managers who "walk the talk" and take part in the program will go a long way to driving others to participate as well.

2. **Create a wellness team.** Wellness teams should include a cross-section of potential program participants including employees. Your team should include individuals who will have a role in program development, implementation and evaluation. This ensures broad ownership of the program and more innovative ideas. A wellness team will help to garner "buy in" from both management and the participants, develop a program that is responsive to the needs of all potential participants, and will be responsible for overseeing all of the company's wellness efforts.

3. **Collect data that will drive your health initiatives.** Once your team is in place and management is on board, it is time to gather baseline data to help assess employee health interests and risks. The results of your data collection will guide you in what kind of health programs to offer. This process may involve a survey of employee interest in various health initiatives, health risk assessments, and claims analysis to determine current employee disease risk.

4. **Craft an annual operating plan.** For your wellness program to succeed, you must have a plan. An annual operating plan should include a mission statement for the program along with specific, measurable short- and long-term goals and objectives. Your program is more likely to be successful if it is linked to one or more of the company's strategic initiatives, as it will have a better chance of maintaining the support of management throughout the implementation process. A written plan also provides continuity when members of the wellness committee change and is instrumental in holding the team accountable to the goals, objectives, and timeline agreed upon.

5. **Choose appropriate health initiatives. The** health initiatives that you choose should flow naturally from your data (survey, HRA aggregate report, claims) to goals and objectives. They should address prevailing risk factors in your employee population and be in line with what both management and employees want from the wellness program.

6. **Create a supportive environment.** A supportive environment provides employees with encouragement, opportunity, and rewards. A culture of health that supports worksite health promotion might have such features as healthy food choices in their vending machines, a no-smoking policy and flexible work schedules that allow workers to exercise. A workplace that values health will celebrate and reward health achievements and have a management team that models healthy behavior. Most importantly, a culture of health involves employees in every aspect of the wellness program from their design and promotion to their implementation and evaluation.

7. **Consistently evaluate your outcomes.** Evaluation involves taking a close look at your goals and objectives and determining whether you achieved your desired result. Evaluation allows you celebrate goals that have been achieved and to discontinue or change ineffective initiatives.

Is Lowering Copayments the Right Approach to Increase Compliance?

Studies show that as copayments increase, utilization of prescription medication decreases. Does the reverse hold true? Will utilization increase if copays decrease? Some employers are reducing copays as a strategy to increase medication compliance, hoping that this will lead to better disease control and lower overall health costs. Pitney Bowes has adopted this strategy for asthma, diabetes, and hypertension and has reported increased compliance and a reduction in medical costs as a result.

While this strategy is relatively easy to implement, you should consider the following before you adopt it.

- There is no incentive for members to choose more cost-effective alternatives such as generics.
- More data is necessary to show the true impact of this strategy, and the financial costs involved will be difficult to reverse.

Set your copay levels based on your objectives and the income level of your group population. Using the right differential between brands and generics is also important. Consider lowering your generic copayments as a way to incent your members to choose the lower cost generics. Research shows that for every $5 differential in generic and brand copays, the generic fill rate increases by 1 percentage point.

Are You Considering Offering Domestic Partner Benefits?

In 2006, for the first time, a majority of the nation's largest corporations provided health insurance for domestic partners of their employees. Regardless of business size, the trend towards domestic partner benefits is increasing primarily as a means of attracting and retaining talented employees. Domestic partner benefits generally include medical and dental insurance but may also include disability and life insurance, pension benefits, family and bereavement leave, education and tuition assistance, relocation and travel expenses, and inclusion of partners in company events. Companies offer domestic partnership benefits for many reasons. Three of the most commonly cited reasons for offering domestic partnership benefits are as follows:

1. *Equal pay for equal work.* For most gay employees, the portion of employee benefit plans that covers an employee's dependents is unavailable, creating a disparity in compensation. By not making employee benefits available on equal terms, regardless of marital status or sexual orientation, a company that otherwise purports to be fair may be violating its own non-discrimination policy.

2. *Hiring and retention*. Domestic partner benefits can have a positive impact on hiring and retention. Employers increasingly look to domestic partnership benefits as a means to promote a diverse workforce. A benefit package that appeals to a diverse workforce gives employers an edge when it comes to recruiting. An employee's satisfaction, willingness to stay with the employer and inclination to recommend the employer to others are all strongly and positively related to the company's diversity policy.

3. *Improved employee productivity*. One purpose of a benefits program is to provide a safety net for employees and their families, thereby allowing them to better focus on work. Employee morale and productivity improve in environments where employees believe that the employer values its employees. Domestic partner benefits offer an easy method for employers to adapt to the changing needs of their employees by simply expanding the eligibility for existing benefits programs.

There are complicated benefits, employment and tax issues that accompany domestic partner benefits. Before extending benefits to same-sex domestic partners, make sure you understand the domestic partner rules in each state in which you operate.

Please contact your Burchfield Insurance representative for more information.