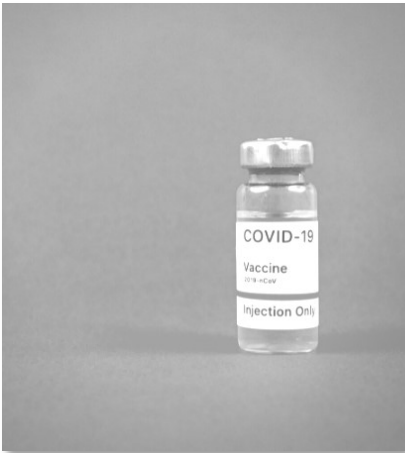


NEW FREQUENTLY ASKED QUESTIONS FOR OFFERING PREMIUM DISCOUNTS TO PROMOTE COVID VACCINES



The Departments of Labor, Health and Human Services, and the IRS (Agencies) have issued Frequently Asked Questions (FAQs) that indicate a group health plan may offer premium discounts to participants and beneficiaries who receive COVID-19 vaccinations.

Under the Health Insurance Portability and Accountability Act (HIPAA), a group health plan may not discriminate against participants or beneficiaries based on a health factor. However, an exception to this prohibition allows for premium discounts, rebates, or modifications of cost-sharing requirements (including copayments, deductibles, and coinsurance) in return for complying with certain programs of health promotion and disease prevention (Wellness Programs). Wellness Programs are categorized into two classifications:

- **Participatory Wellness Program** – Available to all similarly situated individuals and either does not provide a reward nor condition the reward on satisfying a health status factor. This would be a program that rewards participation in a health education seminar or a partial payment for the cost of membership in a fitness center. The amount of the reward for this type of wellness program is not restricted.
- **Health-Contingent Wellness Program** – Offers a reward if an individual satisfies a standard related to a health status factor. The HIPAA nondiscrimination rules do not prevent a health plan from providing employee contribution discounts or rebates, or modifying copayments or deductibles, in return for participating in a health-contingent wellness program, if certain conditions are met. Activity-based programs are health-contingent wellness programs that do not require individuals to attain specific health outcomes.

In the latest FAQs, the Agencies have stated that a group health plan may offer participants a premium discount for receiving a COVID-19 vaccination if the premium discount complies with the five criteria for activity-based, health-contingent wellness programs. As such, it must:

- Give eligible individuals the opportunity to qualify for the reward under the program at least once per year.
- Limit the reward, combined with the reward for other health-contingent wellness programs, to 30 percent (or 50 percent for wellness programs designed to prevent or reduce tobacco use) of the total cost of employee-only coverage under the plan.

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- Be designed to promote health or prevent disease.
- Be made available to all similarly situated individuals and include a reasonable alternative standard (or a waiver of the otherwise applicable standard) for obtaining the reward for any individual for whom it is unreasonably difficult due to a medical condition, or medically inadvisable, to satisfy the otherwise applicable standard.
- Disclose in all plan materials describing the terms of the wellness program the availability of the reasonable alternative standard (and, if applicable, the possibility of waiver of the otherwise applicable standard), including contact information for obtaining a reasonable alternative standard and a statement that recommendations of an individual's personal physician will be accommodated.



The FAQs also provide that wellness incentives relating to the receipt of COVID-19 vaccinations are treated as not earned for purposes of determining whether employer-sponsored health coverage is affordable under the ACA rules.



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