

How your company is watching your waistline



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Employers tried the carrot, then a small stick. Now they are turning to bigger cudgels.

For years they encouraged workers to improve their health and productivity with free screenings, discounted gym memberships and gift cards to lose weight. More recently, a small number charged smokers slightly higher premiums to get them to quit.

Results for these plans were lackluster, and health care costs continued to soar. So companies are taking advantage of new rules under President Barack Obama's health care overhaul in 2014 to punish smokers and overweight workers.

Some will even force employees to meet weight goals, quit smoking and provide very personal information or pay up to thousands more annually for health care. That could disproportionately affect the poor, who are more likely to smoke and can't afford the higher fees.

Nearly 40 percent of large U.S. companies will use surcharges in 2014, such as higher insurance premiums or deductibles for individuals who do not complete company-set health goals, according to a survey of 892 employers released in September by human resources consultancy Towers Watson and National Business Group on Health, which represents large employers.

That is almost twice as many as the last time they did the survey in 2011, when only 19 percent of companies had such penalties. The number is expected to climb to two-thirds of employers by 2015.

Employers are getting much more aggressive about punishing workers who are overweight or have high cholesterol. A study released on Wednesday by the Obesity Action Coalition, an advocacy group, covered workers at more than 5,000 companies who must participate in their employer wellness programs to receive full health benefits. Sixty-seven percent also had to meet a weight-related health goal such as a certain body mass index.

Almost 60 percent of these workers received no coverage that paid for fitness training, dietitian counseling, obesity drugs or bariatric surgery to help achieve a body mass index under 25, which is considered healthy.

"Weight requirements are an effective way to make it harder for people with obesity to qualify for full health coverage," said Ted Kyle, the study's lead author and founder of Conscienhealth, a Pittsburgh-based company that advises other companies on obesity programs.

"Some programs can verge on discrimination," he said.

PENALTIES HIT SMOKERS HARDEST

Next year many more companies plan to penalize workers who use nicotine because of their much higher health care costs. Proctor & Gamble Co, the Cincinnati-based household-product giant, will begin charging such employees an additional \$25 per month in 2014 until they have completed a company-paid cessation program.

Under similar provisions, state employees in Wisconsin and Washington state will pay as much as \$600 more per year, while nonunion smokers at United Parcel Service Inc will pay as much as \$1,800.

"We found that while less than 10 percent of workers at large employers smoke, their impact to health care costs is disproportionately huge," said LuAnn Heinen, vice president for the National Business Group on Health. "Helping them quit — however you do that — has the most obvious near-term payoff in terms of savings and productivity gains."

A recent Ohio State University study found that businesses pay nearly \$6,000 more annually per employee who smokes compared with a nonsmoker. Other research

suggests that less than 16 percent of employees participate in voluntary smoking cessation programs, Heinen added.

A.H. Belo, owner of the Dallas Morning News, Providence Journal and other publications, told staff in September that for 2014 it would require employees and their spouses to complete a biometric health screening or face a \$100 annual surcharge. In 2015, employees will be asked not only to undergo the screening but to meet three out of five as yet unspecified health goals to avoid the additional fee.

COSTLY PUNISHMENTS

Under Obama's Affordable Care Act, which takes effect in January, companies can offer a reward of up to 30 percent of health care costs paid by the employee to those who complete voluntary programs like smoking cessation, a risk assessment or biometric tests like waist measurement.

The financial incentives could add up to about \$1,620 annually per worker. But if wellness programs don't end up saving costs, companies can raise premiums across the board or slap them on workers who don't get with the programs. In some states, tobacco users who sign up for insurance through the new state health exchanges could be charged 50 percent higher premiums than nonsmokers.

Research suggests savings may be harder to achieve when programs are voluntary than has often been thought. A report released in May by the RAND Corp found workers who participated in a wellness program had health care costs averaging \$2.38 less per month than nonparticipants in the first year of the program and \$3.46 less in the fifth year.

Some health and labor experts are concerned that penalties may be unduly harsh, especially for low-wage workers and those who have health conditions beyond their control. According to the Centers for Disease Control and Prevention, 29 percent of adults with incomes below the federal poverty level smoke, compared with 18 percent of those above the poverty level.

Mark Rothstein, a lawyer and bioethics professor at the University of Louisville School of Medicine, chooses to pay a higher annual premium rather than complete a

health questionnaire for his employer, calling it a "privacy tax." Lower-paid colleagues, he said, "don't have the same luxury to opt out."

Fierce resistance forced Pennsylvania State University in September to abandon a plan to charge employees \$100 per month if they did not participate in various health screenings and fill out a detailed health questionnaire administered by WebMD, which asked among other things whether a worker had recently driven after drinking too much, whether female employees planned to become pregnant in the next year and how frequently male workers performed testicular self-exams. This led to an outcry over privacy concerns and the potential for hacking of computer databases.

"These were just things no employer has the right to ask," says Brian Curran, a professor of art history at Penn State who started an online petition to protest the questionnaire.

University officials had argued the penalty was needed to tamp down health care costs and avoid tuition hikes. In January it still plans to implement a \$100-a-month surcharge for spouses and a \$75-a-month penalty on tobacco users.

Courts so far have shown little resistance to such programs. The 1996 Health Insurance Portability and Accountability Act (HIPAA) prohibits workers who are in a group health insurance plan from being discriminated against on the basis of health, and Obamacare extends that right to individuals. But neither bans penalties outright.

The law does specify that wellness programs must be voluntary, but Lewis Maltby, president of the National Workrights Institute, a legal advocacy organization, says that can be a slippery slope. Most employees don't feel like they have a choice, Maltby says. "In today's job market, any reasonable request by one's employer is essentially read as a demand."

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