



Health-Contingent Wellness Program Model Notices Regarding Reasonable Alternative Standards

If a wellness program requires individuals to meet a standard related to a health factor in order to obtain a reward, the HIPAA nondiscrimination rules require the program to comply with five conditions, including a disclosure requirement. Examples of such health-contingent wellness programs include:

- Activity-only programs providing lower premiums or richer benefits for those who complete specified activities such as following nutritional guidelines or exercising a minimum amount;
- Outcome-based programs providing lower premiums or richer benefits for those who meet targets such as being tobacco-free for the previous year, cholesterol below 200, blood pressure within normal range, body mass index below 30, etc.

All of the materials describing such health-contingent wellness programs must disclose the possibility of obtaining the reward by meeting a reasonable alternative to the health-factor-related standard (or, if applicable, the possibility that the health-contingent standard may be waived). In addition, for an outcome-based program, the plan must disclose the availability of a reasonable alternative standard (or waiver of the initial outcome-based standard) in any disclosure to an individual that he or she did not satisfy an initial outcome-based standard. The materials need not specify what that reasonable alternative will be – only that some reasonable alternative standard will be made available.

If plan materials merely mention that the program is available, without describing its terms, (such as in the Summary of Benefits and Coverage) the reasonable alternative standard disclosure is not required. If, however, a plan disclosure references a premium differential based on tobacco use, for example, it is a disclosure describing the terms of a health-contingent wellness program and, therefore, must include the reasonable alternative standard disclosure.

The regulations setting out the rules governing health-contingent wellness programs provide several model notices that, if suited to the particular wellness program, can be used to satisfy this requirement. These sample notices are set out below.

Model notices regarding reasonable alternative standards from final regulations

Model notice #1 (notice supplied in the final rule for either activity-only programs or outcome-based programs)

Your health plan is committed to helping you achieve your best health. Rewards for participating in a wellness program are available to all employees. If you think you might be unable to meet a standard for a reward under this wellness program, you might qualify for an opportunity to earn the same reward by different means. Contact us at [insert contact information] and we will work with you (and, if you wish, with your doctor) to find a wellness program with the same reward that is right for you in light of your health status.

Model notice #2

Your health plan wants to help you take charge of your health. Rewards are available to all employees who participate in our Cholesterol Awareness Wellness Program. If your total cholesterol count is under 200, you will receive the reward. If not, you will still have an opportunity to qualify for the reward. We will work with you and your doctor to find a Health Smart program that is right for you.

[Model notice to include with such program's notification that cholesterol count is 200 or higher:]



Your plan offers a Health Smart program under which we will work with you and your doctor to try to lower your cholesterol. If you complete this program, you will qualify for a reward. Please contact us at [contact information] to get started.

Model notice #3

Fitness is Easy! Start Walking! Your health plan cares about your health. If you are considered overweight because you have a BMI of over 26, our Start Walking program will help you lose weight and feel better. We will help you enroll. (If your doctor says that walking isn't right for you, that's okay too. We will work with you (and, if you wish, your own doctor) to develop a wellness program that is.) Please contact us at [contact information] to get started.

Model notice #4

Stop smoking today! We can help! If you are a smoker, we offer a smoking cessation program. We will work with you and your doctor to help you stop smoking. If you complete the program, you can avoid this surcharge. Please contact us at [contact information] to get started.

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