11. FEEL THE BURN

Feeling the pinch of paying ever-increasing health insurance premiums, employers are seeking ways to manage their fiscal pain. Recognizing the business sense of saving money on premiums and of having a healthier and more productive workforce, employers are looking with new appreciation at different options offered by the Affordable Care Act of 2010 (ACA). One provision of ACA that goes into effect in 2014 allows employers a more lenient approach to use of financial incentives and penalties. That is, more of the health care premium can be devoted to incentives and penalties for employee health behaviors and health status.

The ACA allows employers to offer stronger outright financial incentives to employees for participation in wellness initiatives. Employers had already been experimenting with different options for encouraging healthy behavior among employees, using both incentives and punishments. Some companies have had wellness programs with on-site fitness facilities and wellness directors, while others have offered employees memberships in health clubs. It also allows imposition of financial penalties for employees' lack of participation in proffered options intended to mitigate 'bad' health indicators like smoking, high cholesterol, or extra pounds. It even seems to allow penalties for not meeting certain 'good health' targets.

CVS Caremark, a large drugstore chain and pharmacy benefit manager, brought this issue to the public eye when it received adverse publicity about an impending change in its benefits package. The media reported that CVS Caremark would require its 200,000 employees to report their weight, blood sugar and cholesterol or be forced to pay an annual penalty of $600. The publicity CVS Caremark got was somewhat unfair because the media implied that the personal health data would be reported directly to the employer (which is prohibited by the Health Insurance Portability and Accountability Act – HIPAA). In truth, the employee health records would be kept by a third party wellness vendor, hired by CVS Caremark to monitor employee health and adjust benefits to encourage health improvement.

Recent surveys indicate that CVS Caremark is not the only company that uses incentives and penalties to affect health behaviors. Some other major employers, including PepsiCo and Wal-Mart, have also adopted such policies. An Aon Hewitt survey found that 79% of large and midsize companies incentivize employee use of wellness opportunities, while 45% go a step further by using financial rewards or penalties (like adjusting employee share of insurance premiums) to incentivize certain behaviors. An alternative adopted by some companies, like Regal Cinema, is to cut employee hours to avoid providing insurance benefits.

Now that wellness programs have been around awhile, sufficient studies have been done to show that the efforts do not consistently save money or result in healthier employees. In fact, the rewards may go to already healthy employees, and penalties may fall on those with the greatest need for health care cost relief.

Thoughtful critics recognize the need for resolution of the increasing cost of healthcare and its burden on employers, employees, and society. They note that because our understanding of the causes of many chronic conditions (like obesity) and of health behavior motivation is imperfect; our use of incentives and penalties may be misdirected. In addition, analysts caution that the interests of the employer versus those of the employee must be carefully weighed. The U.S. Equal

Employment Opportunity Commission is exploring the possibility that employer plans violate anti-discrimination laws. Some states are also looking at prohibiting the link of a worker's health status to financial reward or punishment.

Case from the 2014 Intercollegiate Ethics Bowl, Association for Practical and Professional Ethics
http://appe.indiana.edu/ethics-bowl/ethics-bowl/