

UPDATE

MEMORANDUM

October 13, 2015

TO: Government Operations and Fiscal Policy Committee (GO)
Health and Human Services Committee (HHS)

FROM: Linda McMillan, Senior Legislative Analyst *LM*

SUBJECT: **Update: Employee Wellness Program**

Expected for this worksession:

Shawn Stokes, Director, Office of Human Resources (OHR)
Belinda Fulco, OHR Health and Employee Welfare Division Manager
Leigh Ann Henderson, Wellness Program Manager

Montgomery County Employee Wellness Program

The GO and HHS Committees have been regularly discussing the progress in implementing an employee wellness program for Montgomery County Government Employees. This will be the joint Committee's first session with OHR Director Stokes and Employee Wellness Manager Henderson. The joint Committee will be provided with an update that will include the implementation of the "Live Well – Better You. Better Us." Program that includes the use of the Virgin Pulse incentive program. The new program has also increased communications with employees through the distribution of the "Wellness Wednesday" tips and by having volunteer "Wellness Champions" in departments.

The presentation slides for this update are attached at © 1-18.

Recommendations of the 2011 Task Force on Employee Wellness and Consolidation of Agency Group Insurance Programs

The Wellness Committee of the Council's Task Force recommended that all agencies should foster a culture of wellness and made the following recommendations, recognizing that the agencies had made varying levels of progress with their wellness programs. Council staff is

including the recommendations in this memo as the joint Committee may want to continue considering and discussing with OHR how the County Government efforts are working to achieve these goals.

From the 2011 Report:

The Wellness Committee identified the following goal regarding agency wellness programs:

All five agencies should develop and implement agency wellness programs working within the collective bargaining process as applicable. Employees should take an active role in their health by partnering with their employer in managing and monitoring their health outcomes.

In addition, the Wellness Committee offers the following recommendations and comments:

1. Agencies should create and foster an organizational culture about wellness and ensure that management is providing leadership in this area. Each agency should establish a health and wellness workgroup (that includes represented employees, non-represented employees, and employer representatives) and should have an individual who has primary responsibility for developing and implementing the wellness program.
2. Agency wellness programs should have goals, outcomes, and incentives in order to increase participation. The Wellness Committee agrees that inter-agency aggregate data collection and analysis should serve as the foundation for designing effective wellness and disease management efforts. (See recommendation from Consolidation Committee.)
3. Agency wellness programs should consider addressing a broad range of issues including exercise/activity levels, weight, smoking, nutrition, and short-term mental health supports like those provided through employee assistance programs.
4. Increasing employee awareness through ongoing communication and reinforcement of the goals and availability of wellness programs is critical.
5. Health risk assessments may be an important tool for employee wellness programs, but there are many outstanding questions that must be answered before any decision is made whether or how they should be implemented.
6. Agencies should review the standards used by accreditation organizations (such as the National Council on Quality Assurance) to help in the development of employee wellness programs or the selection of health plans that will improve health outcomes.

National Issues Regarding Employee Wellness Programs

The “Live Well” program being implemented by the County Government is a completely voluntary program. While it does have a monetary rewards component, it is not tied to the amount any employee will pay for health insurance.

As more employers implement wellness and disease management programs as a way to curb rising health costs, concerns are being raised about the voluntary nature of programs, the type of baseline medical information required, how the information collected may be used, and the impact on what people must pay for health insurance coverage.

Attached at © 19-22 is a June 24, 2015 article from Kaiser Health News that discusses employee concerns when medical information and participation in programs is required in setting what employees must pay for coverage. The article notes that the Equal Employment Opportunities Commission (EEOC) is working on a rule that would set parameters for wellness programs in order for them to be in compliance with the Americans with Disabilities Act. The proposed rule said that a program would be considered voluntary as long as the reward or penalty was less than 30% of the cost of healthcare (this is consistent with the provisions of the Affordable Care Act.). For Montgomery County Government, a single person in Kaiser costs about \$6,400 per year (employer and employee share), so 30% would be \$1,920. The EEOC fact sheet highlights the following components of the proposed rule:

- Wellness programs must be reasonably designed to promote health or prevent disease.
- Wellness programs must be voluntary.
- Employers may offer incentives for employees to participate in a wellness program or to achieve a certain health outcome.
- Medical information obtained as part of a wellness program must be kept confidential.
- Employers must provide reasonable accommodations that enable employees with disabilities to participate and to earn whatever incentives the employer offers.

The EEOC proposed rule specifically discusses requirements for medical information to be confidential. However, concerns are also being raised about how wellness data may or may not be used by the vendors working with employers to provide wellness programs. Many wellness programs use technology to collect information on activity and diet or to remind people about activities. Privacy statements may authorize companies to use de-identified data for business purposes.

The Virgin Pulse Privacy Statement (from the sign-up) is attached at © 23. It says that it will share anonymous, aggregated data with other organizations for research purposes and to employer organizations (if the user is signing up through an employee program). It notes that personal information will not be sold, divulged, or made available to third parties without permission and then discusses the circumstances when it may be provided.



LiveWell

Better You. Better Us.

Montgomery County Government
Joint Labor-Management
Employee Wellness Program



Wellness Milestones



- Wellness Program Manager hired: February 2015
- Wellness program re-branded: April 2015
- Communication campaign: May 2015
 - Monthly newsletter
 - Wellness Wednesday health tips
 - Interest and satisfaction survey
- Virgin Pulse contract finalized: June 2015
- Official launch: September 10, 2015

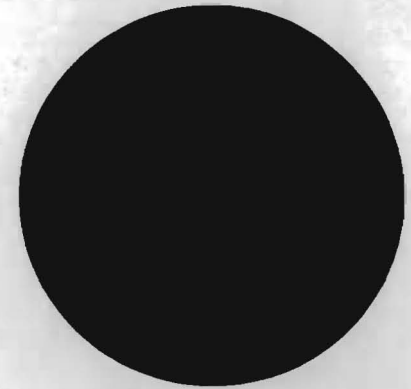
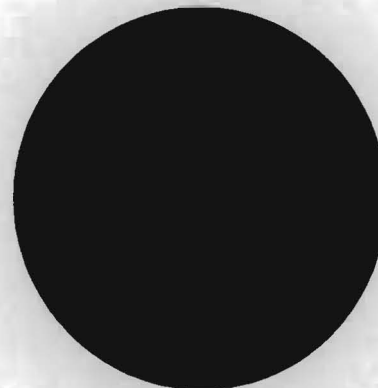
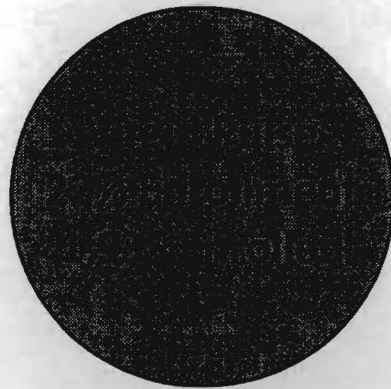
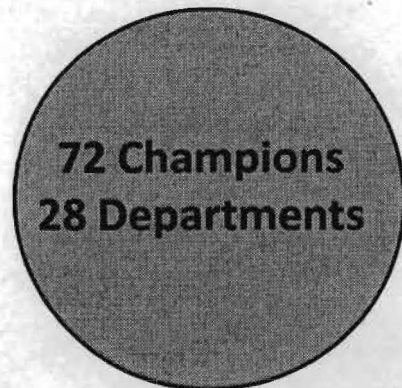


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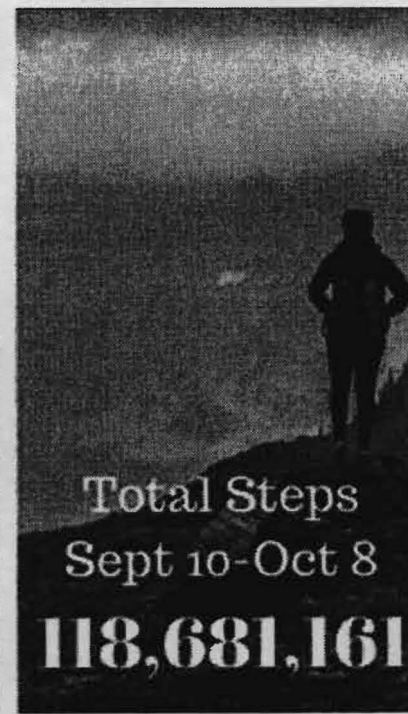
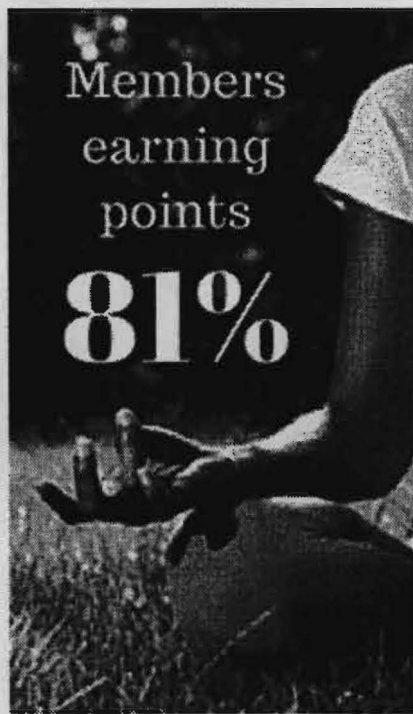
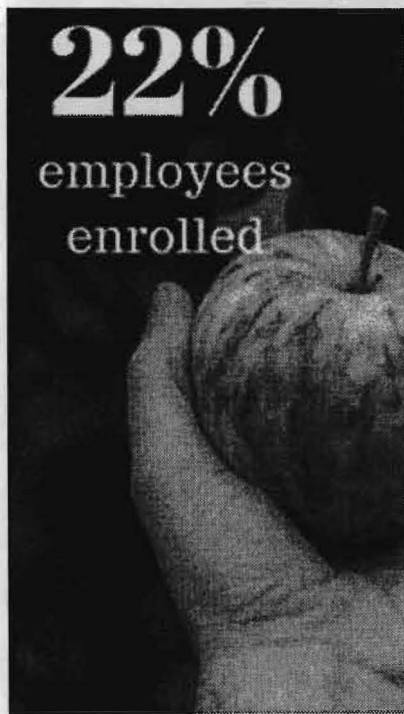
Current Engagement



- Wellness Champions in each department
- Virgin Pulse incentive program launched September 10
- Weekly classes, monthly programs and special events
- Monthly newsletter, weekly health tips and resources
- Departmental outreach



Virgin Pulse Engagement



Movement Class
Registrants
April-June 2015

Department
Workshops
Participants
April-June 2015

LiveWell
Better You. Better Us.

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Wellness Champions



- Team of 72 employees from 28 departments
- Promote *Live Well* programs within their department
- Communicate department needs and interest to the Wellness Program Manager
- Host departmental wellness events
- Provide 'on the ground' support for Live Well events



Communication



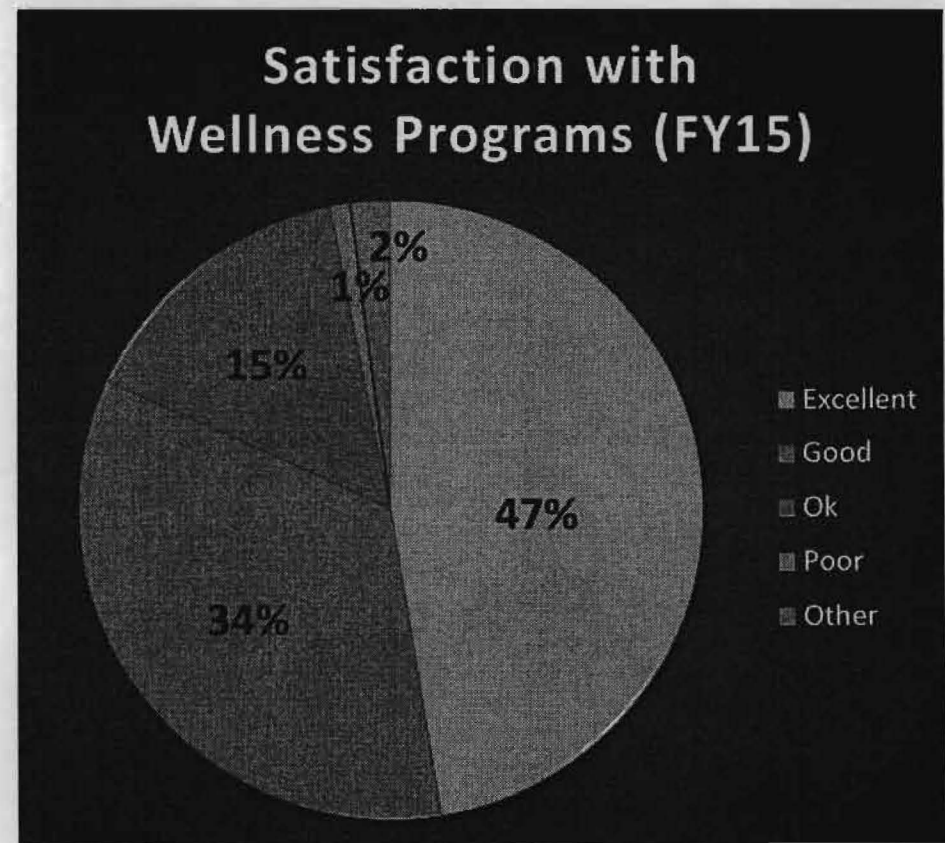
- Monthly newsletters and flyers
- Weekly *Wellness Wednesday* tips
- Cross-promotion of:
 - Employee Assistance Program (EAP)
 - Health plan resources
 - Recreation and Capital Bikeshare discounts
- Wellness Champions and HR Community
- Partnership around internal initiatives
- Interest and Satisfaction Survey



Survey Data



- Survey period: May 1-June 30, 2015
- Total responses: 362
- Greatest interest in:
 - Getting Fit
 - Eating healthy
 - Managing weight
- Overall satisfaction with employee wellness programs (FY15):
77% Excellent/Good



Virgin Pulse Program



- Health Stations
- Fitness trackers “Max”
- Online web portal and mobile app
- Point-based incentive program
- County-wide and personal challenges
- Invite up to 3 family members to participate



CLIENTS LOVE IT



97% retention rate

MEMBERS USE IT



1440 habit-building interactions per member per year

MEMBERS LOVE IT



87% of members say Virgin Pulse changed their lives

Health Stations



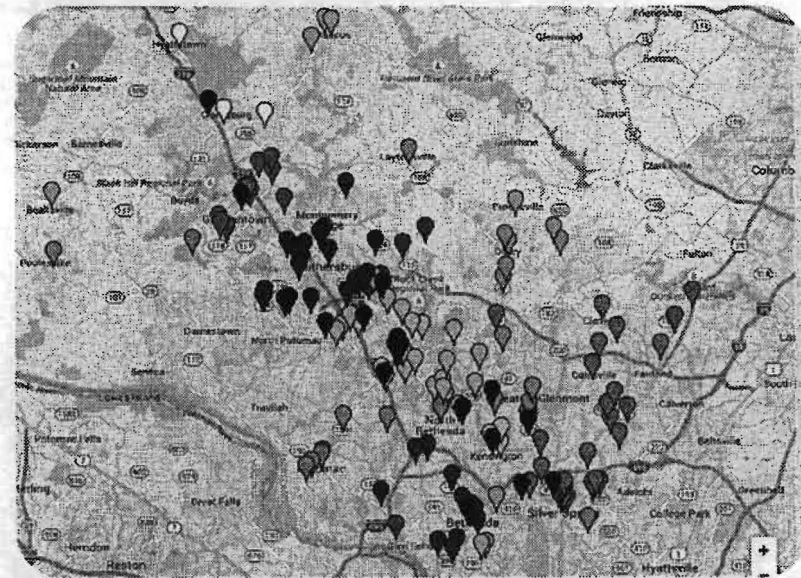
- Easily, accurately, and privately measure weight, blood pressure and BMI
- Personal biometric tracking
- Aggregate, de-identified reporting
- Features:
 - Blood Pressure cuff
 - Scale
 - iPad (secure and exclusive connectivity to the Virgin Pulse portal)
 - Privacy screen
 - Sync capability between the “Max” fitness tracker and iPad



Health Stations



- Phased roll-out of approximately 22 stations across the County
- Phase I: Current Sites
 - Executive Office Building
 - Occupational Medical Services
 - Fleet-Crabbs Branch Way
 - Ride-On Silver Spring
 - Mobile Unit
- Phase II: Planned Sites
 - Council Office Building
 - Public Safety Headquarters
 - Corrections
 - HHS



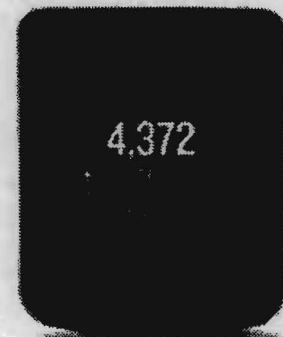
Fitness Trackers



- “Max” wearable Virgin Pulse fitness tracker
- Participants receive 1 “Max” upon registration
- Additional accessories and trackers available through the Virgin Pulse website
- Virgin Pulse also syncs with personal devices such as FitBit and the Moves app

PRESENTING THE ALL NEW MAX

Virgin Pulse Max is an ultra-smart pedometer that tracks your steps, distance and calories burned. But Max doesn't stop there. Use Max to challenge your friends on the spot, and to get reminders, encouragement and applause. Sync Max to your iOS or Android device or upload to your account via USB. Wear Max every day, and watch your points add up fast!



Portal & Mobile App



- Instant access to activity tracking and challenges
- Real-time point tracking and reward updates
- Centralized portal for Live Well and Montgomery County wellness resources: EAP, Health plans, etc.
- Access to health tips plus integration with MyFitnessPal and Zipongo for recipes and nutrition info
- Social marketing and social media tools



Incentive Program



- Montgomery County Government and participating agency employees (insurance-eligible) can earn up to \$350 per year by earning points for healthy behaviors
- Potential earning opportunities include:
 - Step tracking
 - Activity journal completion
 - Biometric screenings
 - Health Assessment completion
 - Creation of personal challenges
 - Vouchers through participation in Live Well programs
 - Tobacco-Free pledge
 - ADA compliant



Challenges



- Challenges boost engagement and participation
- Challenge Types:
 - Montgomery County challenges: 2 per year
 - Virgin Pulse Challenges: Large and small challenges year-round across the Virgin Pulse book of business
 - Personal Challenges: Challenge individuals and groups to reach wellness goals



Programs & Events

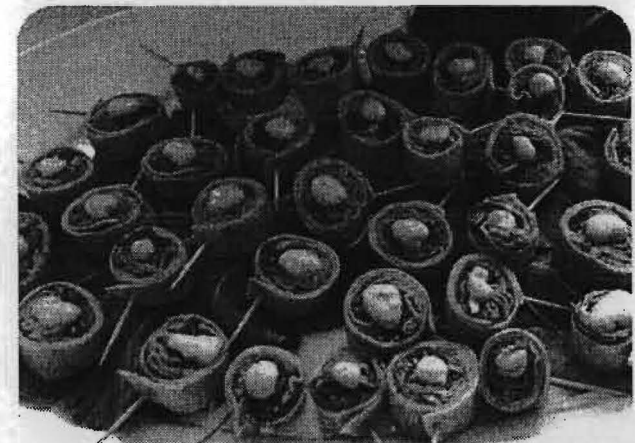


- **Movement Classes**

- Increased number of free classes to 15 classes in 3 locations
- Classes include Zumba, Yoga, Ab Attack, Boot Camp and more
- Currently over 200 registrants

- **Wellness Webinars**

- Multiple webinars available monthly
- Topics include: *Healthy Food on the Go*; and *Balancing Work and Life*
- Offered through the EAP program (ComPsych)



- **Wellness Wednesdays: 'Field' Events**

- Weekly on-site programming for Fleet, Highway Services and Ride-On
- Programs vary monthly and may include screenings and health education
- Health plan partners provide services with Live Well staff

Programs



- **Seasonal & Special Programming**

- Designed to enhance interest and engagement
- Past programs have included:
 - 30-Day Yoga Challenge
 - Walk @ Lunch Day
 - 101 Days of Summer
 - Bike to Work Day partnership



- **Department Programs**

- Outreach seminars offered to departments upon request
- Topics have included:
 - Instant Recess
 - Yoga at Your Desk
 - Nutrition Jeopardy

Looking Ahead



- Increase awareness and engagement around Virgin Pulse
 - County-wide step challenges
 - Additional Health Stations
 - Enrollment outreach
 - Target campaigns
- Review impact and engagement
- Value of Investment (VOI) evaluation
- Enhance outreach to departments
- Grow internal and external partnerships
- Develop additional programming and resources
- Continue and enhance communication



Contact Live Well

- Leigh Ann Henderson, Wellness Program Manager
- Phone: 240-777-5025
- Email: Leigh.Henderson@montgomerycountymd.gov
- Wellness Website: www.tinyurl.com/livewellmcg
- Live Well Email: livewell@montgomerycountymd.gov

Live Well

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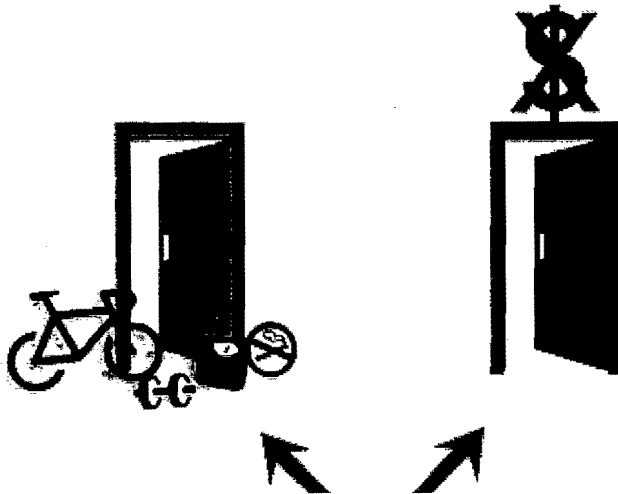


When Does Workplace Wellness Become Coercive?

By **Julie Appleby** | June 24, 2015

Christine White pays \$300 a year more for her health care because she refused to join her former employer's wellness program, which would have required that she fill out a health questionnaire and join activities like Weight Watchers.

"If I didn't have the money ... I'd have to" participate, says White, 63, a retired groundskeeper from a Portland, Ore., community college.



Like many Americans, White gets her health coverage through an employer that uses financial rewards and penalties to get workers to sign up for wellness programs. Participation used to be a simple matter — taking optional classes in nutrition or how to stop smoking. But today, a small but growing number of employers tie those financial rewards to losing weight, exercising or dropping cholesterol or blood-sugar levels — often requiring workers to provide personal health information to private

contractors who administer the programs. The incentives, meanwhile, can add up to hundreds, or even thousands, of dollars a year.

Employers say wellness programs boost workers' health and productivity while helping companies curb rising health care costs. President Barack Obama's signature health law allows employers to increase those financial incentives. But asking workers to undergo medical exams or share personal health information is sharply limited by another law, the 1990 Americans With Disabilities Act (ADA), which prohibits such questioning — except under limited circumstances, such as by voluntary wellness programs.

So what is a voluntary wellness program and when do employer incentives cross the line to become coercive?

This KHN story can be republished for free (details).

A proposed rule published this spring by the Equal Employment Opportunity Commission – the agency charged with protecting workers against discrimination – attempts to strike a balance between employers who want to use incentives to drive worker participation and consumer advocates who see penalties as de facto coercion. The plan drew about 300 comments from employers and consumer groups by a June 19 deadline, with plenty of criticism.

The equation tilts too far against workers “when ... employers can charge you a couple thousand dollars more for refusing to give private medical information, [that] doesn’t sound very voluntary to me,” said Samuel Bagenstos, a University of Michigan Law School professor.

But many employers say the proposal doesn’t clear up conflicts between the health law and the ADA. In addition, it restricts their ability to offer rewards, which are needed to “engage employees and their families to be aware of their ... lifestyle risks,” said Steve Wojcik, vice president of public policy for the National Business Group on Health. The EEOC has not set a timetable for issuing a final rule.

Employers Want More Flexibility

Under the proposal, wellness programs would be considered voluntary so long as the employer rewards or penalizes an employee no more than 30 percent of the cost of health insurance for a single worker. Since the average cost for such coverage is \$6,025 a year, the 30 percent limit would be about \$1,800.

Employers cannot fire workers for declining to participate nor can they deny them coverage, the proposal says. They also must give workers a notice explaining what medical information will be obtained by the wellness administrator — often a private contractor — and how that might be used.

Some employers say the rule could force them to cut the size of wellness programs’ financial incentives or penalties, particularly for families and smokers. Such limits could mean “advancements in workplace health improvement may come to an end,” wrote the Northeast Business Group on Health, a coalition of large employers, insurers and benefit consultants.

Consumer groups are also unhappy, saying the proposal strips workers of important protections against health or disability-related discrimination by loosening earlier government definitions of what constitutes voluntary.

“It walks back people’s rights,” said Jennifer Mathis, director of programs for the nonprofit Bazelon Center for Mental Health Law, a legal advocacy organization for people with mental disabilities. In its comments, the group said the proposal would allow “employers to use steep financial penalties in wellness programs to force workers to disclose sensitive medical information.”

Interest in workplace wellness programs began two decades ago, prompted by employers’ rising health care spending. Today, a growing percentage of companies ask workers to answer lengthy questionnaires about their health, including their exercise and drinking habits and whether they are depressed. Some employers also require testing of cholesterol levels and blood sugar to assess who might be at risk for heart trouble, diabetes or other problems.

About 56 percent of employers with wellness programs offered financial incentives last year, according to benefits firm Mercer, with 23 percent of large employers tying those incentives to showing progress on health care goals, such as exercising more, losing weight, dropping cholesterol levels or improving blood sugar readings.

While aimed at preventing illness and encouraging a healthy lifestyle as a way to reduce health care costs, there is wide debate over whether the programs achieve those goals.

Obamacare Ok'd Bigger Incentives

The health law permits employers to offer incentives or penalties of up to 30 percent of the cost of a health insurance plan – up from 20 percent under a previous regulation – if they set specific health goals for workers, such as quitting smoking or achieving certain results on medical tests. Most employers' incentives are still well below those levels.

How does that square with the ADA's restrictions on employers asking for personal medical information? That's where it gets complicated. The EEOC long defined voluntary wellness programs under the ADA as those where "an employer neither requires participation, nor penalizes employees who do not participate."

But what constitutes a penalty? Prior to the proposed rule, it was clear that employers who tried to charge workers the full cost of their insurance, or who barred them from coverage for refusing to participate, could run into trouble, said Sarah Millar, a partner at law firm Drinker Biddle in Chicago.

"What was not clear was at what point between zero and 100 percent [of the cost of employee health coverage] does a program not become voluntary?" she said. "Now, as long as it's below 30 percent and meets certain disclosure requirements, then a program is still considered voluntary."

Some consumer advocates say that level is punitive.

"Medical questions that an employee may only decline to answer if he or she agrees to pay thousands of dollars more for health insurance can hardly be called 'voluntary,'" the Bazelon center wrote. The group wants the government to prohibit penalties for those who decline to answer such questions.

Consumers Seek Privacy Protections

Consumer groups also want increased privacy protections for those who share their health information with a wellness plan.

The proposed rule says employers whose wellness programs are tied to their health insurance benefits must tell workers specifically what information will be gathered and with whom it might be shared.

Still, Anna Slomovic, a researcher at the George Washington University Cyber Security Policy and Research Institute, says that provision should be broadened to encompass wellness programs that are unrelated to a health plan.

"This leaves unregulated a number of wellness programs ... even though these programs collect personal health data," she said in her comments. The protections should include all data, "including that collected via fitness trackers and mobile apps."

Many employers also asked the administration to allow them to impose penalties of up to 50 percent of insurance costs for tobacco users, which the federal health law allows.

"This is potentially putting a wrench in the system for some employers," said Seth Perretta, a principal at the Groom Law Group in Washington D.C. "If it's finalized, it would force them to reduce incentives back to 30 percent."

Additionally, employers want to be able to charge workers 30 percent of the cost of more expensive family coverage, if the family is also eligible to participate in the wellness program — something the federal health law allows but the proposed rule does not. That could dramatically increase the dollar amount of the financial incentive or penalty.

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Virgin Pulse ("Virgin Pulse") is committed to protecting your privacy. This Privacy Policy explains what we can and cannot do with the information we collect about you and what steps you can take to protect that information.

To enable us to provide quality service to our members, we need to keep personal information about you, including information about your health, fitness and related activities, your email address, and your credit card number ("Personal Information"). This information will be collected through the Virgin Pulse measurement stations as well as information you provide through our Web site. In addition, we will collect non-personal information related to your use of our Web site through the Internet (e.g., cookies).

If you are a member, the Personal Information we collect will be used to track your fitness progress, determine your points for the reward program, as well as to provide you with information that you may find helpful. Virgin Pulse staff may also access your Personal Information to contact you regarding your participation in a Virgin Pulse program.

You will have access to some of your Personal Information on the measurement stations and all your Personal Information via our Web site. If any of your Personal Information is inaccurate or outdated, you can correct it at any time on the Web site.

Virgin Pulse will de-identify your information and disclose it in combination with others' information in such a way that no one could trace the information back to you directly (i.e. anonymous, aggregated data). This anonymous, aggregated data may be shared with other organizations for research purposes. You are welcome to request the names of such organizations from us.

If you became a member of Virgin Pulse through your employer's participation in one of our programs, then we will supply your employer with the same anonymous, aggregated data mentioned above. Your employer will not be able to trace such information directly back to your identity. Your employer may use this information to provide additional benefits, programs and services.

Your Personal Information will not be sold, divulged, or made available to any third party without your permission except as set forth in this policy or when Virgin Pulse has a legal duty to make the information available to a legally authorized party. However, we may distribute such information to our partners, affiliates and subsidiaries so that we may better serve your needs. Such information collaboration with third parties includes these limited circumstances:

- We have received your consent (we require express consent for the sharing of any sensitive personal information);
- To assist with our marketing activities, such as, direct mailers, webinars, online notifications, and distribution of promotional offers.
- To our insurers, auditors, and attorneys, on a need-to-know basis;
- In the event of a merger, acquisition, debt financing, or any form of sale of all or part of company assets or other event in which personally identifiable information could be transferred to third parties as part of our company's business assets.

We require that third parties agree to process such information based on our instructions and in compliance with this Privacy Policy and other appropriate confidentiality and security measures.

In addition, we may share personal information to access, use, preserve or disclose such personal information as reasonably necessary to satisfy any applicable law, regulation, legal process or enforceable governmental request, (b) enforce applicable terms of service, including investigation of potential violations thereof, (c) detect, prevent, or otherwise address fraud, security or technical issues, or (d) protect against harm to the rights, property or safety of Virgin Pulse, its users or the public as required or permitted by law.

Should you decide to end your Virgin Pulse membership, we will de-identify your Personal Information.

Virgin Pulse has taken responsible measures to ensure that no unauthorized person can obtain access to your Personal Information. Among the security measures taken are a login process requiring a password and username that you select and a firewall protecting our hosting server. Virgin Pulse will retain your password and username as part of your Personal Information, but will not share this information with anyone. Please be advised that you are responsible for keeping your password and username confidential and secure from unauthorized persons.

You give permission that if there is a change of ownership of Virgin Pulse in the future, your Personal Information can be transferred to a new owner, provided that the new owner will not, in any way, limit your rights and obligations regarding the information as set out in this Privacy Policy, to the extent such information has been collected in such transfer.

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