

# NON-SMOKING INCENTIVE PROGRAMS

*By Emily Tonkovich*

Non-smoking incentive programs have become a popular and effective way for employers to improve their employees' health and control costs. With careful planning, an employer can offer an effective and compliant non-smoking incentive program.

A typical non-smoking incentive program charges employees (who are non-smokers) a lower medical contribution rate. For example, an employer might charge employees who smoke \$100 per pay for their contribution and employees who don't smoke \$80 per pay.

Non-smoking incentives are fairly simple to administer, however employers should be mindful of the following compliance considerations:

- Employees must be given the opportunity to qualify for the non-smoking incentive at least once per year.
- The incentive cannot exceed 50% of the premium (the employer and employee's contribution).
  - ◇ Employers can offer wellness incentives of up to 30% for programs unrelated to tobacco use as well. However, these incentive amounts are included in the non-smoking incentive maximum.
  - ◇ The incentive limit is based on the cost of self-only coverage unless the employee's spouse and/or dependents are able to participate.
- The incentive program must be reasonably designed to promote health.
- The incentive must be made available to all similarly situated individuals.
  - ◇ The employer must allow employees who cannot meet the non-smoking standard to meet a reasonable alternative, such as attending a smoking cessation course or waiver. The employer must do this regardless of whether it is due to an employee's medical condition or medically inadvisable for the employee to satisfy the standard.
- The employer must provide a notice in all plan materials describing the terms of the wellness program that an alternative standard or waiver may be available.
- Additional [rules](#) apply if the employer requires employees to undergo a health screening, such as a blood draw, to confirm their non-smoking status.
- When calculating whether the plan is affordable under the ACA, the employer can assume every eligible employee earned the incentive if the incentive is related solely to tobacco use.

More information regarding non-smoking incentives is available [here](#) and [here](#).

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