

## Companies linking benefits charges to health risks

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**CINCINNATI** — First, they tried nudging. Now, as insurance rates climb, companies are penalizing workers who have high health risks such as obesity and high blood pressure or cholesterol.

Lee Morrison, 51, doesn't mind the changes. He faced added insurance charges from his employer, Western & Southern Financial Group.

"I knew if I wanted to be healthier and pay less, it was up to me to do something about it," said Morrison. He has lost 54 pounds and lowered his body mass index enough to earn refunds the past two years.

A small number of companies link health factors to what employees pay for benefits. But the practice is expected to grow now that federal rules were finalized this summer, spelling out what's allowed by law. Employee advocates worry that other anti-discrimination laws such as the Americans with Disabilities Act won't cover the person who is 20 or 30 pounds overweight.

To encourage better health, businesses are adding insurance surcharges for poor results or offering insurance discounts or rebates only to low-risk workers.

"Employers know they have to do something," said Garry Mathiason, a senior partner at the national employment and labor law firm Littler Mendelson, based in Boston. "I believe that in just the next two years, more employers will turn to penalties to change employee behavior."

Mathiason said more than 300 companies have sought advice on creating more aggressive wellness programs since the firm released a study in April on legal issues and trends associated with requiring healthy practices.

Health care spending in the United States is estimated to reach \$2.2 trillion this year, with at least 54 percent of spending in the private sector, and is expected to nearly double by 2016, according to the National Coalition on Health Care.

A 2003-04 National Health and Nutrition Examination Survey showed about two-thirds of adults in the United States were overweight, and almost one-third were obese. A U.S. surgeon general's report said health care costs of obesity totaled more than \$117 billion in 2000.

More employers have charged higher insurance premiums during the past few years for tobacco-using employees. Otherwise, wellness programs had been primarily voluntary, offering in-house fitness centers and free health screenings, for instance.

But many employees of Indianapolis-based Clarian Health didn't use the programs, hospital spokesman James Wide said.

In 2009, the company will start reducing pay for employees in its health plan by \$10 per paycheck if their BMI — a measurement of body fat through a height and weight ratio — is in the obese range of more than 29.9. The deduction will be \$5 per check if they don't meet required cholesterol, blood pressure or blood glucose measurements.

Workers will be required to complete an annual health risk assessment and can appeal to have their fees dropped if they show improvement.

"We want more people to participate so that they can take control of their health," Wide said.

### **AN INTRUSION?**

Some workers and employee advocates say companies are intruding in workers' private lives.

The National Workrights Institute says employers adopting the charges are trying to control private behavior and amassing huge amounts of personal health information.

"It's a backdoor approach to weeding out expensive employees," legal director Jeremy Gruber said.

Employers wary of risking legal problems feel more confident after federal regulations were finalized July 1 covering how wellness programs can comply with nondiscrimination requirements under the Health Insurance Portability and Accountability Act.

Under these rules, rewards (and therefore penalties) based on health factors cannot exceed 20 percent of the total cost of employee health coverage.

Employers also are warned that they must consider other federal and state laws, including the ADA.

Businesses acknowledge they are trying to cut health care costs but say they also want to help employees get healthier. Each company determines what qualifies as high risk, but they generally follow traditional health standards.

Cincinnati-based Western & Southern Financial Group adds \$15 to \$75 monthly to the insurance cost of health plan participants according to their BMI scores. A fitness center, weight loss programs and health screenings are provided for employees, and employees reducing their BMI receive refunds, said Noreen Hayes, senior vice president of human resources.

The surcharges help cover some of the costs the company incurs as a result of those employees' conditions, Hayes said.

Roselyn Bryant, 61, of Cincinnati, doesn't face any of the health risks but still is glad that the bank where she works in the mail department doesn't charge for them.

"I think it's too harsh to charge people for things they can't always control," she said.

Scott's Miracle-Gro Co., a lawn and garden company based in Marysville, Ohio, charges \$40 more per month in health premiums for employees who don't complete annual risk assessments. The company charges \$65 more for workers who don't try to reduce any high health risks that show up.

"We think that personal accountability is a big part of driving overall wellness, but we also provide our associates with the tools they need," spokesman Jim King said. "We think our program is a good balance of the carrot and the stick."

Linda Cushman, health care strategist with the human resources consulting firm Hewitt Associates, said that whatever methods employers use, more employers are focusing on health risks such as obesity.

"Employers are paying the lion's share of health care costs and feel that they have the right to call the shots," she said.