New ACA FAQ Regarding

Employment-Based Wellness Programs

FAQs Explain 'Reasonably Designed' Health-Contingent Wellness Programs

A new set of Affordable Care Act Implementation FAQs address what constitutes a "reasonably designed" health-contingent wellness program under the law, among other things.

Background

Previously issued final rules set forth the criteria for wellness programs offered in connection with group health plans that must be satisfied in order for the plan to qualify for an exception to the prohibition on discrimination based on health status under the federal Health Insurance Portability and Accountability Act (HIPAA). Among other things, these regulations required health-contingent wellness programs-i.e., those that require an individual to satisfy a standard related to a health factor to obtain a reward-to be reasonably designed to promote health or prevent disease.

New FAQs

The new guidance provides that a health-contingent wellness program is reasonably designed to promote health or prevent disease if it:

1. Has a reasonable chance of improving the health of, or preventing disease in, participating individuals;
2. Is not overly burdensome;
3. Is not a subterfuge for discrimination based on a health factor; and
4. Is not highly suspect in the method chosen to promote health or prevent disease.

The FAQs also provide examples of the types of wellness programs that may fail to meet the above requirements; however, the FAQs clearly state that the determination of whether a health-contingent wellness program is reasonably designed is based on all the relevant facts and circumstances.

In addition, the FAQs discuss wellness program compliance with other federal laws. For more resources related to wellness programs, please click here.