

Title: Washington Wellness Worksite Designation Program Incentive Requirements

Policy 91-3

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| Contact: | Rules Specialist, ERB Division | Effective: | January 1, 2018 |
| | | Rescinded: | |
| Associated RCW: | 41.05.065(2)(c) | Supersedes: | |
| Associated WAC: | 182-12-300(4) | | |
| Assoc. fed law/reg: | 29 CFR Parts 1630 and 1635 45 CFR § 146.121 | Owner: | Policy & Rules Manager, ERB Division |
| Associated Procedures: | | | |
| Associated Forms & Communication | | Approved by: | <i>dd 2 R</i> Acting ERB Director |
| | | Position: | ERB Division Director |
| | | Date approved: | 12/1/2017 |

Purpose:

This policy provides a set of requirements for state agencies to use when offering wellness incentives under the Washington Wellness Worksite Designation program.

Policy:

1. The value of a worksite wellness incentive administered by an employing agency may not exceed \$250.
2. Participation in the worksite wellness program must be voluntary as defined in 29 CFR § 1630.14(d)(2)(i)-(iv) as:
 - a. Not requiring employees to participate;
 - b. Not denying coverage under any group health plans or limiting the extent of such coverage for non-participation;
 - c. Not taking adverse employment action, retaliation against, interfering with, coercing, intimidating, or threatening employees in relation to non-participation.

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3. State agencies must provide a reasonable accommodation (modification or adjustment) for an employee who cannot complete a requirement to earn the wellness incentive.

See PEBB program administrative policy 91-1 requesting a reasonable alternative for completing wellness incentive program requirements or avoiding the tobacco use premium surcharge.

4. Eligibility for the Washington Wellness Worksite incentive must not be discriminatory. The incentive must be available to all “similarly situated” employees as described in 45 CFR § 146.121.

Example: A worksite wellness incentive would not be considered discriminatory if eligibility for earning the worksite wellness incentive was based upon bona fide relevant facts of employment (full-time employees vs. part-time employees). Extending eligibility to earn the worksite wellness incentive to all full-time employees would meet the criteria of “similarly situated” employees.

5. Promotional materials (e.g., t-shirt and keychains) must meet “de minimis” fringe benefit standards to not be considered “taxable income” or “cash equivalents.”

Definition of “De minimis fringe benefit”: “Any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees) so small as to make accounting for it unreasonable or administratively impractical.” No matter the value, a cash fringe benefit or cash equivalent item (gift card) (other than overtime meal money or local transportation fare) is never excludable as a de minimis fringe benefit.