

# #18- Brief Summary of “What is Possible and Legal in Designing Employer Wellness Programs”©

June 24, 2008

Note: The 2<sup>nd</sup> Edition (some Part D changes) of #17 *Helping Employers and Employees Understand the Process of Applying for Medicare, Advantage Plans, Medicare Supplement Plans and Part D Plans* is available. Please call our office for copies.



## Companies

Armitage, Inc.  
Second Opinion Insurance Services, Inc.  
Corporate Compensation Plans of WI, Inc.  
125 N. 7<sup>th</sup> St., Ste. B, La Crosse, WI 54601  
608-784-5433 or 800-952-0263  
(Ask for Dave or Jon Trapp)

Note: If you have doubts as to the fairness of an incentive in your program, even though it complies with regulations, please seek legal counsel. A good rule is to favor rewards for simple participation as it will, in time, lead to specific quantitative achievements in health improvement.

**I. HIPAA Guidelines are available in the “*Non-Discrimination and Wellness Programs in Health Coverage in the Group Market*” Regulations Effective 1/1/2008**

These are the wellness program, non-discrimination rules governing incentives based on a person’s health status, as seen through participation or the measuring of related “health factors” in the achievement or adherence to program goals (specifically quantitative) under HIPAA. [From *Business Insurance* – 12/13/07]

- The incentive or penalty cannot exceed 20% of the cost of employee-only health care coverage (cash or payroll deduction reductions). If dependents can participate, then the limit is 20% of the family health care costs. No specific reward limits for participation in “ACTIVITIES” for rewards are given.
- The program must be reasonably designed to promote health and prevent disease.
- The program must give eligible individuals the opportunity to qualify at least once a year.
- There must be a reasonable alternative standard to obtain the reward for any individual for whom it is unreasonably difficult due to a medical condition or medically inadvisable, to satisfy the standard.
- The plan must completely disclose program terms, conditions or reasonable alternative standards in all printed or online materials. This is not an “ERISA plan document”, but a necessary written plan clearly communicated to all eligible.

**II. Why Create a Culture of Health?**

If you change unhealthy behavior and unhealthy environments you solve 70% of your employees’ health issues. Your size and frequency of claims and absenteeism decrease as your productivity increases. The return on investment is huge. Start tracking simple things like your gross revenue per fulltime equivalent employee. See the next four figures for a brief review of the issues you are addressing.

Figure 1

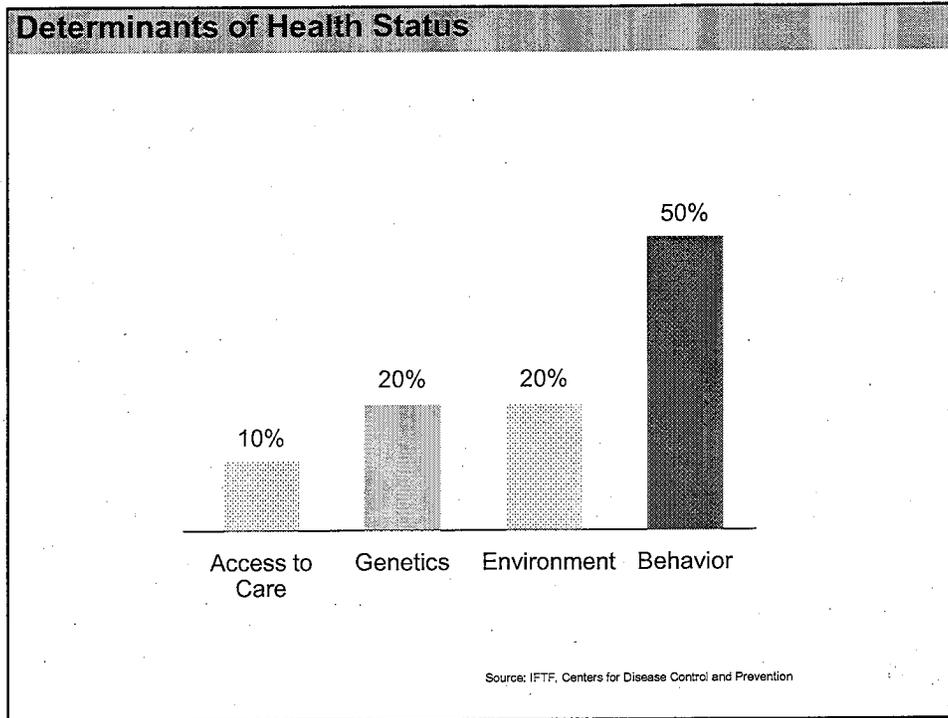
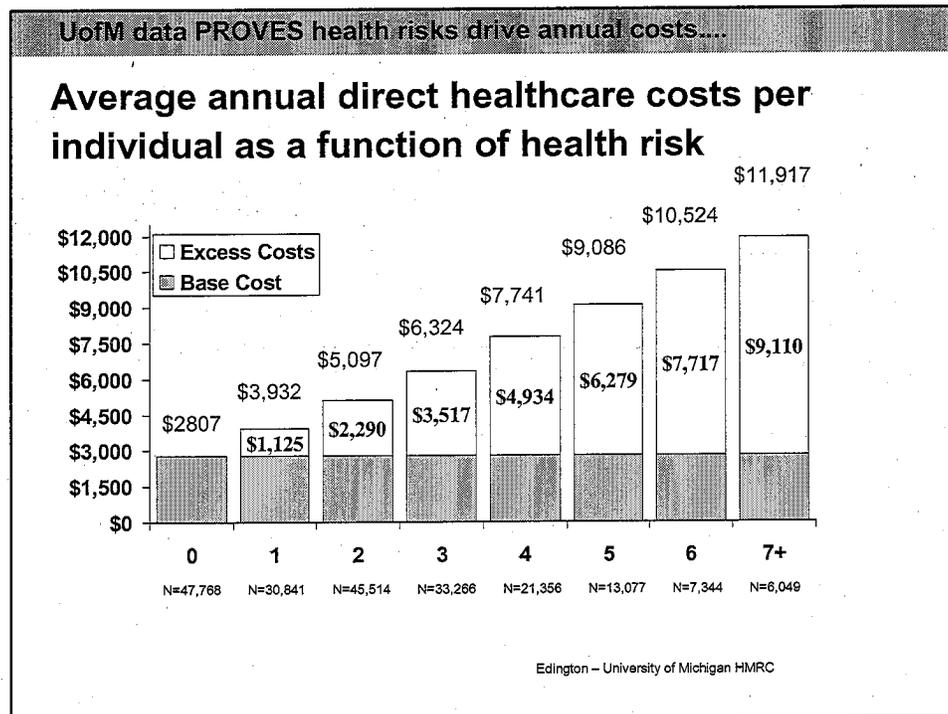
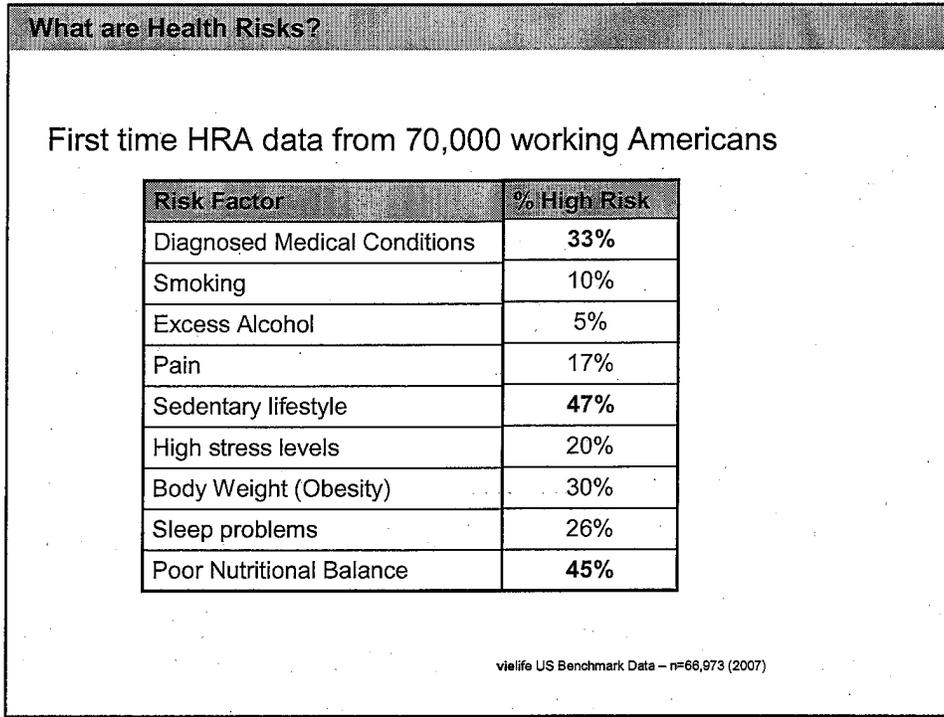


Figure 2

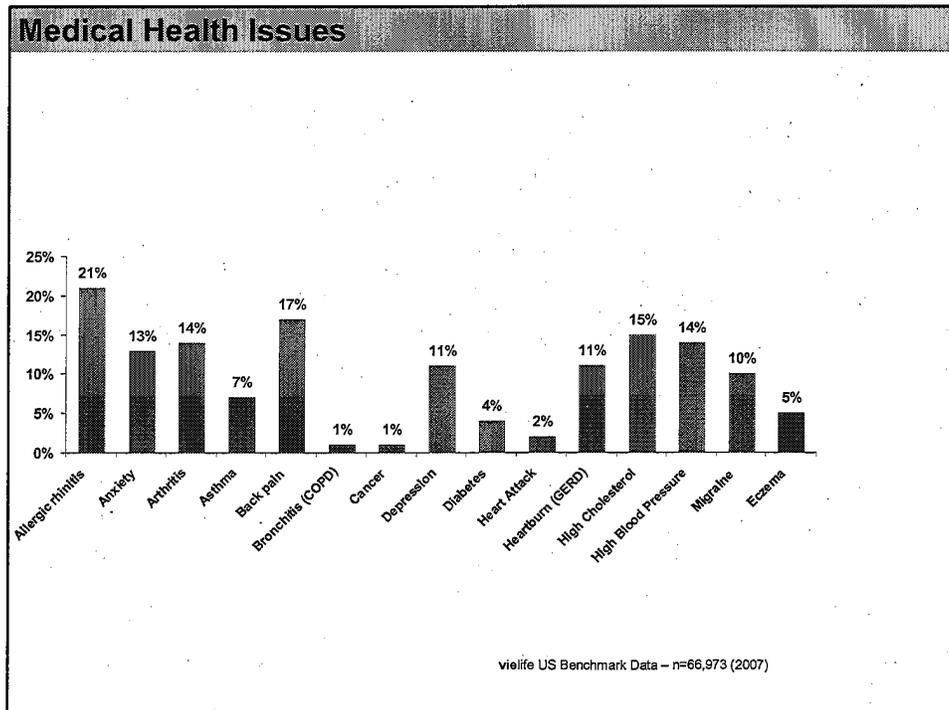


Source: CIGNA Productivity Management Seminar 4/3/2008

**Figure 3**



**Figure 4**



### **III. The Five Rules Listed Under Point I Apply to B – D Below**

- A. **Activities** completed. Rewards for “just doing it”, participating, or completing activities.
- B. **Achievements:** Rewards for achieving goals usually quantitative.
- C. **Adherence:** Rewards for maintaining the achievement goals.
- D. A **“Health Status Related Incentive”** is for identifying a person’s health status (such as by completing a Health Risk Assessment or Biometric Test given to all eligible employees) with a non-discriminatory equal reward to all participants.

### **IV. What are the Three A’s?**

- A. Activities: Rewards are wide-open and easy if you “just do it”. Participants get money or other incentives for completing any of the activities listed below.
  - Completing an annual health risk assessment
  - Attending an educational session
  - Participating in a contest or challenge
  - Completing online activities
  - Attending a health fair
  - Completing a certain number of activities over a defined period (e.g. taking the stairs, no fast-food, or 30 minutes of physical activity four days per week for six weeks)
  - Contacting a health coach
  - Completing Biometric Testing
  - Adherence to Disease Management

For example: Taking an annual Health Risk Assessment could be rewarded with \$100, or it could be required to be eligible for your health plan. Do you want activities and rewards to attack low-risk or high-risk behavior? Then set your rewards to address these behaviors. See the following table of behavior health risks. Choose the risk area that dominates your workforce. As a suggestion, programs that help to control weight would cover a lot of risk areas.

**Figure 5**

<b>Health Risks and Behaviors</b>	
<b>Health Risk Measure</b>	<b>High Risk Criteria</b>
Alcohol	More than 14 drinks/week
Blood Pressure	Systolic >139 or Diastolic >89 mmHg
Body Weight	BMI >27.5
Cholesterol	Greater than 239 mg/dl
Existing Medical Problem	Heart, Cancer, Diabetes, Stroke
HDL	Less than 35 mg/dl
Illness Days	>5 days last year
Life Satisfaction	Partly or not satisfied
Perception of Health	Fair or Poor
Physical Activity	Less than one time/week
Safety Belt Usage	Using safety belt less than 100% of the time
Smoking	Current Smoker
Stress	High

**Overall Risk Levels**

- Low Risk        0 to 2 High Risk Criteria
- Medium Risk    3 to 4 High Risk Criteria
- High Risk       5 or more High Risk Criteria

*Source: Dee Edington, University of Michigan and CIGNA Seminar 2/21/08*

B. Achievements are more than “just doing it”, the employee must demonstrate certain achievements of goals. This usually necessitates your entire population participating in a one-time (or more) baseline, biometrics collection of some type. (Yes, then you would provide rewards/incentives for achievements, governed by the HIPAA rules, after the simple “activity” of a baseline collection for achieving goals.)

- Maintaining low cholesterol, or reducing it by ten points if appropriate
- Stopping smoking, or remaining tobacco free
- Maintain a BMI below 25, or reducing it by one point if above optimal
- Maintaining healthy blood pressure, or reducing it if appropriate
- Maintaining healthy blood glucose levels, or reducing if appropriate

C. Adherence rewards are for the employee maintaining Biometrics or Tasks such as:

- Remaining tobacco free for 12 months
- Maintaining a target BMI for 12 months
- Maintaining other biometric measures within healthy range over a defined period of time, which would require annual biometric testing.
- Maintaining a target accident rate at work (as a group, i.e. Worker’s Compensation Experience Mod.)
- Working out for out least three out of four calendar quarters  
(Yes, we are governed by the HIPAA privacy rules.)

## V. Types of Incentives Offered

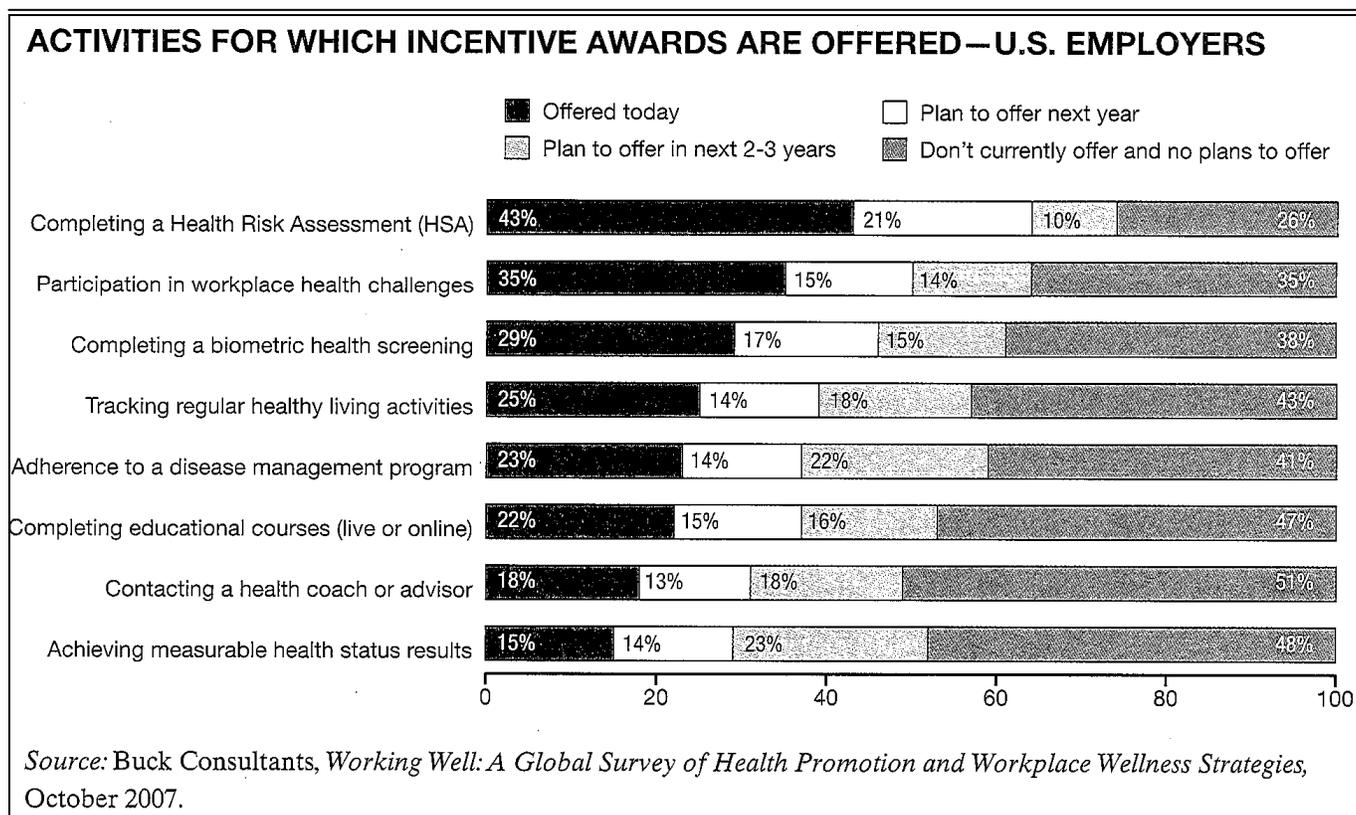
Figure 6



Graph taken from *International Foundation Benefits Quarterly*, 2<sup>nd</sup> Quarter 2008

## VI. Activities for which incentive rewards are offered by U.S. Employers.

Figure 7



Graph taken from *International Foundation Benefits Quarterly*, 2<sup>nd</sup> Quarter 2008

VII. It is this author's opinion that for true culture change there is a need for high deductible health plans, HRAs or HSAs with employer contributions. With a money interest, the employee is truly engaged, not just looking for hoops to jump through to get a couple bucks. The wellness culture change can only take place with the employee engaged at as many levels as possible, with engaged company leadership. For success, employer and employee understanding of the issues and solutions is needed to get arrows all pointing in the same direction.

News Flash – Employee Benefit News 6/1/08 “HSA Tames Cost Hikes”

- Return on Wellness Investment could be 139%
- Cost of HSA premium and funding is 15-24% below continuing to conventionally health insure for three years.

Note: Next white paper: “What works to change behaviors that control costs?”, followed by “Health culture change or needed revolution – timing is everything”

Bibliography: *Business Insurance* 12/13/07, Volume 24 #2, 2<sup>nd</sup> Quarter 2008 of *Benefits Quarterly*, *Dee Edington University of Michigan* and *CIGNA* 2/21/08, *CDC*, *Vielife US Benchmark Data*, *CIGNA Productivity Management Seminar* 5/15/08, *Employee Benefit News* 6/1/08.