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Title: Washington wellness worksite designation program incentive requirements

PEBB Program Administrative Policy 91-3

Contact:	Policy and Rules Coordinator, ERB Division	**Effective:**	January 1, 2023
Associated RCW:	41.05.065 (2)(c) 41.05.540	**Owner:**	Policy, Rules, & Compliance Manager, ERB Division
Associated PEB Board Policy Resolutions	2019-02	**Approved by:**	[signature]
Associated WAC or Executive Order:	Office of the Governor Executive Order 13-06	**Position:**	Director of the PEBB Program
Assoc. fed law/reg:	26 USC § 132(e) 26 CFR § 1.132-6 29 CFR Parts 1630 and 1635 45 CFR § 146.121	**Date approved:**	August 24, 2022
Associated Forms & Communication			

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. For plan year 2023, the total value of the worksite wellness incentives administered by a state agency that an eligible employee may earn must not exceed $900. This value is subject to change annually and cannot be applied towards a health plan deductible or Health Savings Account contribution.

2. Participation in the worksite wellness program must be voluntary as defined in 29 CFR § 1630.14(d)(2)(i)-(iii) 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; and
    c. Not taking adverse employment action, retaliation against, interfering with, coercing, intimidating, or threatening employees in relation to non-participation.

    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.

3. State agencies must evaluate whether any wellness incentive must be included in an employee's income and taxed. In general, certain fringe benefits (including those under 26 USC § 132) may be excluded from the employee's income. However, cash or cash equivalent (such as a gift card, bicycle, gym membership, etc.) generally constitute income that must be included in an employee's taxable wages. If a state agency provides a taxable incentive or reward, it must include the taxable value of that incentive or reward in the employee's gross income. For wellness incentive or reward questions, consult the state agency's payroll and legal counsel.

4. Eligibility to earn 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. For purposes of the Worksite Wellness Program, the term "incentive" and "reward" have the same meaning and include both obtaining a reward and avoiding a penalty.

6. The SmartHealth program and the Tobacco-Use premium surcharge are integrated components of PEBB medical coverage. The Worksite Wellness Programs administered by state agencies are stand-alone wellness programs that do not provide or pay for health or medical benefits.

7. 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" as defined in 26 USC § 132(e)(1): "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.