

THE INSIDE JOB

Boo Hoo! Employers as Baby Sitters

By LIZ WOLGEMUTH

Posted: April 23, 2008

Americans are livid about rising healthcare costs, particularly as food and fuel costs jump and the stock market quivers. But, frankly, where on earth do we get off? We're outraged at something we can absolutely mitigate but expect to be mitigated for us.

For example: Corporate wellness programs are one way companies try to lower healthcare costs by providing incentives for employees to take care of themselves. But the programs can run afoul of the law, reports *Human Resource Executive*, which follows on an earlier story in the Philadelphia-based *Legal Intelligencer* that actually warned companies to let the wellness-program trend pass by. From *Human Resource Executive*:



Todd Alan Ewan and Carolyn M. Plump, both partners in the labor and employment law practice group of the Philadelphia-based law firm Mitts Milavec, argue that wellness programs could violate the Health Insurance Portability and Accountability Act, the Employee Retirement Income Security Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964 and even a few others.

Some examples they include in the article are enough to make any employer think twice.

A corporate wellness program does not comply with HIPAA, for example, if it requires an employee to meet specific health criteria, such as losing a certain amount of weight, say Ewan and Plump. The initiative would be lawful, however, if it rewards that employee for taking steps toward losing weight, such as joining a health club.

Others quoted in the story, however, defend wellness programs, so long as employers focus on "rewarding positive behavior without punishing negative behavior."

Employers are now running into trouble for playing baby sitter to generations of Americans, despite the fact that they're footing the bills for our childish antics (an apt term, I think, for our refusal to improve our eating habits, start exercising, quit smoking, and generally take better care of ourselves).

It turns out we're even lying about our bad habits to bilk the corporate wellness system.

The very idea of needing to incentivize health is bogus. We should all be well aware of the benefits of breathing better and living longer. After all, many companies have dealt with the exploding cost of health insurance in recent years by cutting the amount of compensation they pay as wages. So getting healthy means cutting employers' expenses, which means they'll have more, in theory, to spend on wages—which should help with those rising food and fuel costs.