



**MAY 2015**

## **WEBINAR: Attracting Talent, Recruiting in the New Economy**

**Tuesday, May 19, 2015  
2:00 p.m. - 3:00 p.m. EST**

[Click to learn more and register](#)

Changes to the workforce have required employers to reevaluate how they attract and retain the best talent. Today's workers don't have the same priorities as those in the previous generation. Learn the key attractors in the current economy.

This educational webinar has been submitted to the HR Certification Institute (HRCI) for 1 general hour of continuing education credit towards PHR, SPHR and GPHR certifications.

**Register now:** <https://attendee.gotowebinar.com/register/6678556037165586690>

## **WEBINAR: Complying with HIPAA's Privacy Rule**

**Tuesday, May 26, 2015  
2:00 p.m. - 3:00 p.m. EST**

[Click to learn more and register](#)

Join us on May 26th for a look at an employer's obligations under HIPAA's Privacy Rule presented by Stacy Barrow of Proskauer Rose LLP. All staff members who use or access "protected health information" as part of their job duties should attend and this webinar satisfies HIPAA's training requirement.

**Register Now:** <https://attendee.gotowebinar.com/register/6568054019085891586>

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## Employee Engagement Tied to Opinion of Total Rewards

A recent survey [conducted by Aon Hewitt](#) shows a strong link between employees' levels of engagement and how they perceive their employers' total rewards packages. Total rewards include everything a company offers to its employees, from base pay to health insurance, work/life balance programs, and career development opportunities.

Overall, the study found that **employees who viewed their total rewards as competitive were more engaged than other employees**. Specifically, 60% of engaged employees who participated in the study ranked their total rewards as either "well above" or "above" those provided by other employers, compared to only 24% of disengaged employees.

The results of the survey suggest that employers may be able to strengthen employee engagement by increasing employees' awareness and understanding of their total rewards packages.

An easy way to communicate this information to your employees is to use our [Total Compensation Statement Builder](#), a simple tool which outlines the total income opportunity and benefits provided by your company.

Visit our section on [Motivating Employees](#) for more ideas on how to improve employee engagement.

## New Proposed Definition of 'Fiduciary' for Retirement Plans

A new [proposed rule](#) would expand the number of persons who are subject to [fiduciary standards](#) when providing retirement investment advice. Among other responsibilities, fiduciaries are required by law to act impartially, provide advice that is in plan sponsors' and plan participants' best interests, and are not permitted to receive payments creating conflicts of interest without a specific exemption.

### New Standards for Fiduciary Status

Under the proposed definition, **any individual receiving compensation for providing advice that is individualized or specifically directed** to a particular plan sponsor (e.g., an employer with a retirement plan), plan participant, or IRA owner for consideration in making a retirement investment decision is a fiduciary. The proposed rule carves out several activities from fiduciary status, including general education on retirement saving and sales pitches to plan fiduciaries with financial expertise (provided that certain conditions are satisfied).

### Additional Information

Another [proposed rule](#) provides new exemptions that give fiduciary advisers flexibility to continue common fee and compensation practices, so long as protections are in place to ensure that their advice is in their clients' best interest. More information on both of these proposals, including a fact sheet and FAQs, is [available from the U.S. Department of Labor](#).

To learn more about retirement planning and fiduciary duties, visit our section on [Retirement Plans](#).



Our section on [Motivating Employees](#) has more ideas on how to improve employee engagement.



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# 8 Topics to Include in Your Employee Handbook

An employee handbook is an important tool you can use to effectively communicate information regarding your company's policies, practices, and employee benefits. As a starting point, the [U.S. Small Business Administration](#) (SBA) suggests including the following 8 topics:

## 1. General Employment Information

Provide a general overview of your business and lay out the company's basic policies relating to employment eligibility, job classifications, and employee records.

## 2. Anti-Discrimination Policies

Your handbook should include a section about applicable federal and state nondiscrimination laws (such as the federal [Americans with Disabilities Act](#) and [Title VII](#)), and how your employees are expected to comply. This section is also a good place to set out your sexual harassment policy.

## 3. Compensation

Clearly explain that your company will make required deductions from employees' pay for federal and state taxes, as well as voluntary deductions for the company's benefits programs. In addition, you should outline your obligations under federal and [state wage and hour laws](#) regarding overtime pay, pay schedules, time-keeping records, and meal and rest breaks.

## 4. Work Schedules

Describe your company's policies regarding work hours and schedules, attendance, punctuality, and reporting absences, along with guidelines for flexible schedules and telecommuting, if offered.

## 5. Standards of Conduct

Make sure you document your expectations of how you want employees to conduct themselves, from dress code to computer and telephone use. Remind employees of any legal obligations they may have (for example, protecting customer data). It is also appropriate in this section to describe your company's progressive disciplinary policy (if any) and other standards related to employee discipline.

## 6. Leave Policies

Family and medical leave, jury duty, military leave, sick leave, and time off for court cases and voting should all be documented to comply with applicable state and local laws. In addition, you should explain your policies for vacation, holiday, and bereavement leave.

## 7. Employee Benefits

Include details on your company's benefit programs, including all benefits that may be [required by law](#). This section should also outline your plans for health insurance, retirement, and any other [optional benefits](#) your company offers. Note that separate legal documents (such as a [summary plan description](#)) may also be required for employee benefit plans.

## 8. Safety and Security

Describe your company's policy for creating a [safe and secure workplace](#), including compliance with applicable Occupational Safety and Health Administration (OSHA) laws that require employees to report all accidents, injuries, potential safety hazards, safety suggestions, and health and safety related issues to management. Safety policies should also include your company's policy regarding bad weather and hazardous community conditions.



## Additional Considerations:

If your employees are employed 'at-will,' you should clearly state that fact and include a conspicuous disclaimer in the front of your handbook that the handbook is not an employment contract. You will also want to include a written acknowledgement by the employee that he or she has received, has reviewed, and understands the handbook, to be signed and placed in the employee's file. While the policies outlined in your employee handbook will reflect your company's own unique culture, it is important to consider federal, state, and local laws and regulations that may affect your business when drafting the handbook. As such, it is important to have employment counsel review the handbook before you publish and distribute it.

Check out our [Employee Handbook Guide](#) for more information.

# Employment-Based Wellness Programs Require Careful Design

Employers that offer certain programs designed to improve employee health must be mindful that such programs are subject to a number of different laws--and as recent guidance makes clear, compliance with one law does not necessarily mean that a wellness program will comply with other federal (or state) requirements.

## Wellness Programs and HIPAA Nondiscrimination Rules

The federal Health Insurance Portability and Accountability Act (HIPAA) imposes several requirements on health-contingent wellness programs, i.e., those that require an individual to satisfy a standard related to a health factor to obtain a reward. Participatory wellness programs, which comprise a majority of wellness programs, are generally available without regard to an individual's health status.

Among other things, health-contingent wellness programs must be reasonably designed to promote health or prevent disease and must **limit the maximum permissible reward to 30% of the cost of coverage (or 50% for wellness programs designed to prevent or reduce tobacco use)**. A [new set of FAQs](#) explains what it means for a health-contingent wellness program to be "reasonably designed." The FAQs also caution that compliance with HIPAA does not determine compliance with other federal or state laws.

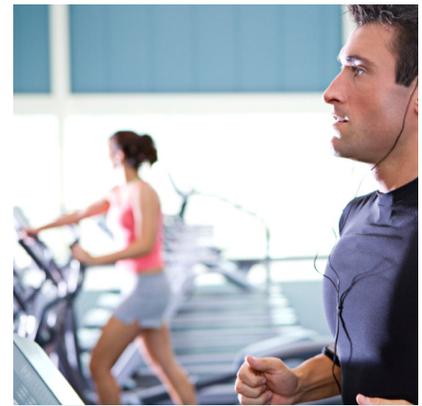
## The ADA and Wellness Programs

The federal Americans with Disabilities Act (ADA) restricts [covered employers](#) from obtaining medical information from employees, but allows medical examinations of employees and inquiries about their health if they are part of a "voluntary employee health program."

A [new proposed rule](#) provides that a wellness program is considered an employee health program within the meaning of the ADA when it is reasonably designed to promote health or prevent disease (similar to the standard currently applicable to health-contingent wellness programs). In addition, the proposed rule:

- Details several requirements that must be met in order for participation to be considered voluntary, and requires employers to provide employees with a notice clearly explaining what medical information will be obtained, who will receive it, how it will be used, and how it will be kept confidential.
- Allows employers to offer limited incentives for employees to participate in wellness programs or to achieve certain health outcomes. The **total allowable incentive available under all wellness programs (i.e., both health-contingent and participatory programs) may not exceed 30% of the total cost of employee-only coverage**.
- Addresses the confidentiality requirements that apply to the medical information employees provide when they participate in wellness programs.
- Requires employers to provide reasonable accommodations that enable employees with disabilities to participate and to earn whatever incentives the employer offers.
- Due to the changing law and the complexity of the requirements that apply to employment-based wellness programs, employers are advised to check with a knowledgeable employment law attorney to ensure that any program complies with all applicable federal and state laws.

Our section on [Wellness Programs](#) provides additional details.



For more information, view our section on [Wellness Programs](#).

# Updated 2015 Pay or Play Penalty Calculators Now Available

The *Pay or Play Penalty Calculators* in your online HR library have been updated to include the inflation-adjusted penalty amounts for 2015. There are two separate calculators for 2015, depending on an employer's number of full-time employees (including full-time equivalents):

- [Penalty Calculator for Employers With 50 to 99 Full-Time Employees](#)
- [Penalty Calculator for Employers With 100 or More Full-Time Employees](#)

To use the updated calculators, simply enter data on the number of full-time employees and employees receiving a premium tax credit or cost-sharing reduction for a month, and the spreadsheet will calculate the estimated penalty for the month.

## Compliance Timeline

As a reminder, employers with **100 or more full-time employees** (including full-time equivalents) are subject to the pay or play requirements starting in 2015, while those with **50 to 99 full-time employees** (including full-time equivalents) do not need to comply until 2016 if they meet certain [eligibility criteria](#) related to workforce size, maintenance of workforce and overall hours of service, and maintenance of previously offered health coverage.



More tools, checklists, and notices are available in our section on [Health Care Reform](#).

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*Marshall & Sterling Insurance will continue to provide you with updates and information regarding important issues. Should you have specific questions or need more information, please contact us.*

**Regina Murdock**  
**Human Resources Services Specialist**  
**914-962-1188, x2487**  
[rmurdock@marshallsterling.com](mailto:rmurdock@marshallsterling.com)



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