

Readoption Review

Small Employer Qualified Wellness Program 410 IAC 31

IC 4-22-2.5-3.1(c) requires an agency to conduct a review to consider whether there are alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would minimize the economic impact of the proposed rule on small business.

Description of Rule:

The Small Employer Qualified Wellness Program Tax Credit ([IC 6 – 3.1 – 31.2](#)) provides an incentive for employers with 2 – 100 full – time employees to implement a “certified wellness program” to benefit employees. The 2007 Indiana State Department of Health (ISDH) was charged with implementing criteria and a process by which small employer wellness programs would be certified. An advisory committee of wellness experts was established to assist in the final review and certification of wellness programs. Once certified, employers are eligible to receive a 50% tax credit for expenses related to the implementation of their wellness program. When filing a tax return and claiming the credit, the employer submits a copy of the ISDH-issued certification as proof of eligibility. Employers must reapply for certification on an annual basis. This credit was placed on a moratorium in 2011.

Readoption Analysis:

- 1) **Is there a continued need for this rule? Please explain.** There is a continued need for the rule. The statutory framework for the credit is still in place even though there is currently a moratorium on the credit. Worksites are a natural place for which to conduct wellness initiatives and this tax credit provides an incentive for employers to create and maintain those programs. Because over 60% of Hoosier adults are overweight or obese, any avenue to encourage achievement of healthy weight should be explored. Additionally, with the advent of the Affordable Care Act, rises in healthcare costs for employers and a renewed focus on prevention—employee wellness programs are crucial and well worth the dollars invested. As long as the statutory framework is in place, ISDH should maintain its rules.

- 2) **What is the nature of any complaints or comments received from the public, including small business, concerning the rule or the implementation of the rule by the agency?** This tax credit was adopted specifically for small businesses with 2 to 100 employees. According to the last examination conducted by ISDH, there had been no reports of fraud or abuse. On the same report, ISDH collected positive comments from businesses on the effect of this tax credit:
 - The ability to provide more resources to employees
 - Increase productivity
 - Reduce absenteeism

- Reduce healthcare costs
- Improve employee fitness and nutritional health, etc.

- 3) **Examine the complexity of the rule, including difficulties encountered by the agency in administering the rule and small businesses in complying with the rule.** ISDH has a dedicated staff person focused on worksite wellness and a committee already identified for approving the tax credit applications. There must be some coordination with the Department of Revenue; however that was not a barrier in the past. Small businesses benefited from the credit because it offered an incentive for employee wellness.
- 4) **To what extent does the rule overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances?** To the knowledge of DNPA, it does not overlap, duplicate or conflict with other state, federal or local law, regulation or ordinance. Indiana was the first state to implement said credit, and continues to be the only state to have done so.
- 5) **When was the last time the rule was reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by this rule since that time?** The credit is currently being evaluated as DNPA is hopeful it will be lifted out of moratorium in 2015. There is a growing need for programming to promote wellness initiatives. Adult obesity is expected to increase in the next decade, and all efforts to help stem the rise should be explored.

5/23/2014