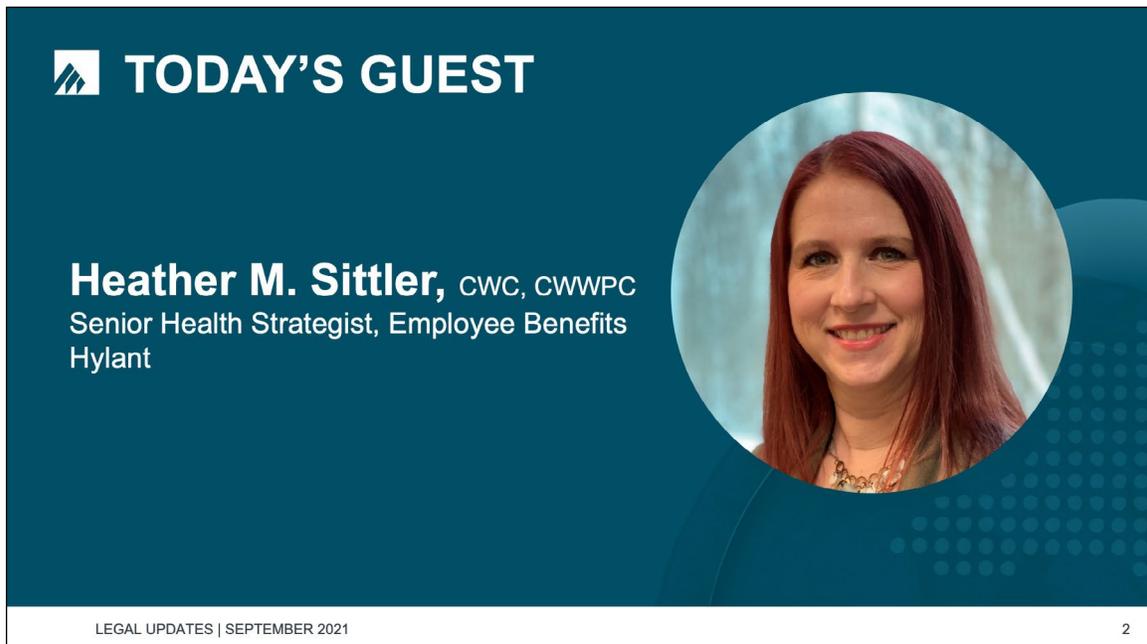


# Health Promotion Program Legal Update: Q3 – 2021 (September 15, 2021)

Barbara J. Zabawa, JD, MPH



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**Hylant Health Strategies**

**IDENTIFYING THE RISK**  
Our compliance tool serves as a checklist and review resource and helps us understand a client's rewards in context with their total cost for coverage.

**STAYING UP TO DATE**  
Our health strategists complete hundreds of reviews each year. Our collaborative approach allows us to stay current with the constantly evolving regulatory landscape.

212 clients engaged

90% with some level of reward

LEGAL UPDATES | SEPTEMBER 2021 3

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**4**

**LESSONS FROM HYLANT'S ADVENTURES IN WELLNESS COMPLIANCE.**

- ✓ **Wellness or Else**  
Aligning the program to expectations of leadership.
- ✓ **Sky High Rewards**  
Designing monetary rewards to reduce risk.
- ✓ **Going up in Smoke**  
Tobacco cessation rewards and programming.
- ✓ **Trimming the Fat**  
Lower risk outcomes-based designs.

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 **WELLNESS OR ELSE**

*Does your program leave little room for choice?*

**CHALLENGE**  
The only path to receiving the rewards involved a biometric screening and achieving healthy outcomes.



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 **WELLNESS OR ELSE**

*Does your program leave little room for choice?*

**CHALLENGE**  
The only path to receiving the rewards involved a biometric screening and achieving healthy outcomes.

**SOLUTION**  
The re-design was a points-based format that offered many opportunities to choose your own adventure in wellness. Rewards could be achieved without a medical exam. This design expanded the definition of wellness to encompass financial goals, emotional and mental support, and purpose.



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**SKY HIGH REWARDS**

*Some companies are simply too generous!*

Rewards for participating in wellness far exceeded the HIPAA regulatory limits and put the company in danger of offering a very coercive program.

- Cost of coverage vs. value of reward
- What had to be done to earn the reward

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**A RETURN TO BALANCE**

The employer continues to be generous with many available perks of employment. Not all rewards are tied to well-being.

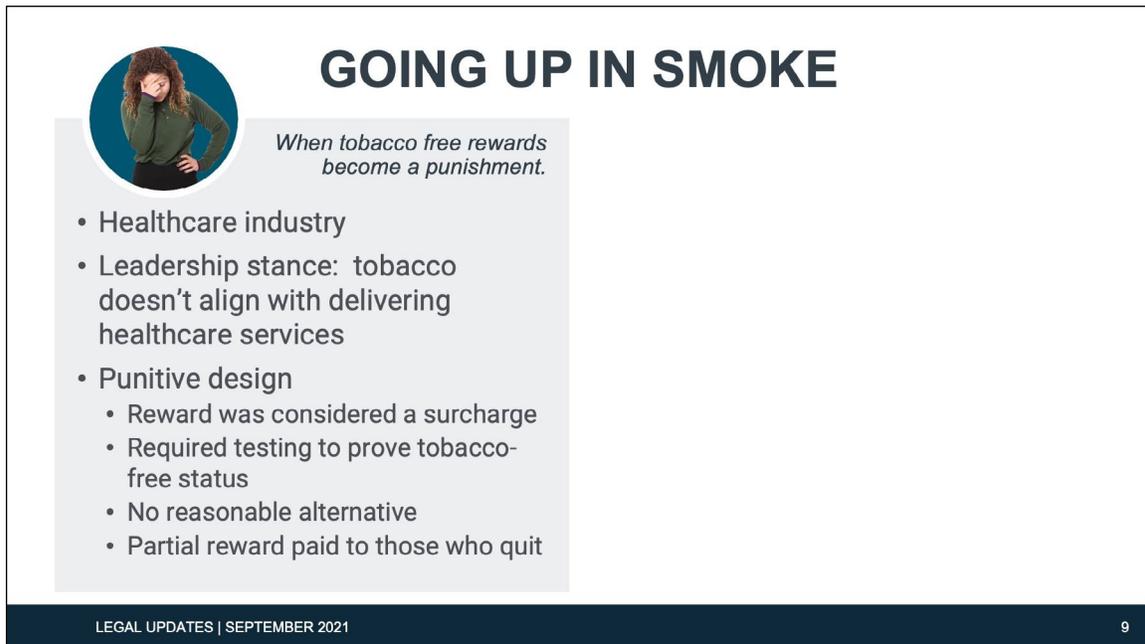
- Increased rewards for completing continuing education or enhancing a skill set
- Limited rewards that were related to health exams or medical information
- Adjusted communications to highlight choice within the program

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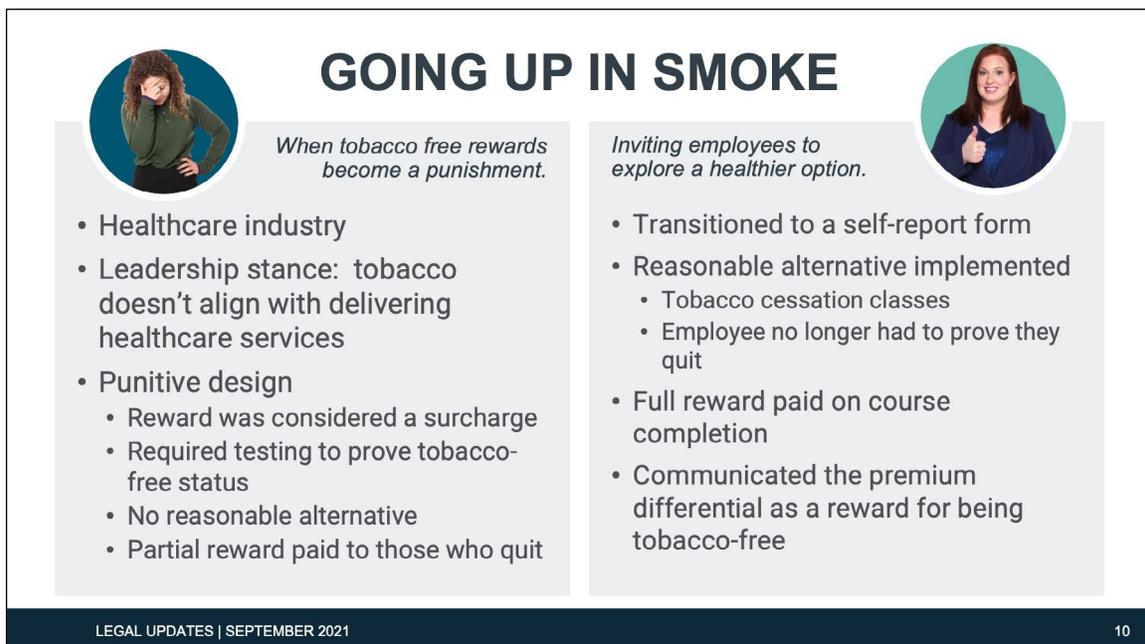
**GOING UP IN SMOKE**

*When tobacco free rewards become a punishment.*

- Healthcare industry
- Leadership stance: tobacco doesn't align with delivering healthcare services
- Punitive design
  - Reward was considered a surcharge
  - Required testing to prove tobacco-free status
  - No reasonable alternative
  - Partial reward paid to those who quit

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**GOING UP IN SMOKE**

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*Inviting employees to explore a healthier option.*

- Transitioned to a self-report form
- Reasonable alternative implemented
  - Tobacco cessation classes
  - Employee no longer had to prove they quit
- Full reward paid on course completion
- Communicated the premium differential as a reward for being tobacco-free

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## TRIMMING THE FAT

Health risks can take many forms. The visual appearance of a person doesn't give us the whole story but is often the easiest way to categorize those around us. Blame for increasing costs can be incorrectly attributed to people who may have little health risk despite a higher-than-normal BMI.



### SETTING THE STAGE

The owner of a multi-site company saw poor health reflected in the plan's self-funded claims experience and latched onto the most visible culprit in his workforce: weight

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11

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### SETTING THE STAGE

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### SHIFTING EXPECTATIONS

Outcomes-based design acknowledges health risks; impact is gained by providing alternatives and support for individuals to explore healthier lifestyle at their own pace



### THE PATH FORWARD

Ongoing conversations continue with the goal of shifting focus from costs to recruitment which may lead to opportunities to change the culture from the inside out.

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12

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A dark teal slide with a white logo in the top left corner. The text "Thank you!" is written in a large, white, handwritten-style font. Below it is a white horizontal line. Underneath the line, the Hylant logo is displayed in teal, followed by the name "Heather M. Sittler" and her title "Senior Health Strategist" in white. Her contact information, "P: 260.369.6900" and "hylant.com", is also in white. The bottom of the slide features a white footer with the text "LEGAL UPDATES | SEPTEMBER 2021" on the left and the number "13" on the right.

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## Q&A

The following Q&A session does NOT constitute legal advice and should not be used as such. It is for educational purposes only.

WELCOA Members should retain legal counsel to obtain definitive answers.

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## Questions?

For more information, contact:

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- Instagram: [wellnessattorney](https://www.instagram.com/wellnessattorney)
- Facebook: [@centerforhealthandwellnesslaw](https://www.facebook.com/centerforhealthandwellnesslaw)



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