

WELCOME

2017 Retirement, Employee Benefits and Healthcare Forum



Big Thinking. Personal Focus.





Employee Benefits Under the Trump Administration *(as of Today)*

Jason Rothman, J.D.
March 22, 2017

▶ Key Items

- The fate of the Affordable Care Act
- DOL Fiduciary Rule
- FLSA – Overtime

▶ PPACA vs. AHCA

- The American Health Care Act – aka the “Repeal and Replace”
- There is really a 3 Pronged Approach to Address PPACA
 1. AHCA
 2. Administrative Action
 3. Regular Order “Replace” Health Bills

▶ AHCA – Key Components

- **Eliminate the Employer and Individual Mandate Penalties**
 - Retro?
 - Actually set to zero
 - 1094/1095 Reporting?

▶ AHCA – Key Components

- **Consumer Drive Design Expansion**
 - Increase on HSA limits
 - Increase FSA limits
 - OTC Reimbursements

▶ AHCA – Key Components

- TAXES???

- Initial discussions to tax employee and/or reduce/eliminate employer deduction for medical benefits
- The Cadillac Tax *LIVES*
 - Delay until 2025
- Tax credit system

▶ AHCA – Key Components

- Retains a fair amount of PPACA patient protections
- Republicans limited in how far it can do due to political process
- Wellness Expansion

▶ DOL Final Fiduciary Rules

- Needed to replace out dated rules given the shift from defined benefit pension plans to 401(k) plans and IRAs
- 2010 Proposed Rule (withdrawn the following year)
- 2015 Proposed Rule
- Final Rule published April 8, 2016 – Officially effective June 7, 2016
- Applicability Date is April 10, 2017

▶ The New Rule

The new rule provides that a person will be considered to be rendering fiduciary investment advice with respect to a plan (described below) or IRA if:

1. such person provides to a plan, plan fiduciary, plan participant or beneficiary, IRA or IRA owner the following types of advice for a fee or other compensation, direct or indirect:
 - a) a recommendation as to the advisability of acquiring , holding, disposing of, or exchanging, securities or other investment property should be invested after the securities or other investment property are rolled over, transferred, or distributed from the plan or IRA; or

▶ The New Rule

- b) a recommendation as to the management of securities or other investment property, including , among other things, recommendations on investment policies or strategies, portfolio composition, selection of other persons to provide investment advice or investment management services, selection of investment account arrangements (e.g., brokerage versus advisory); or recommendations with respect to rollovers, transfers, or distributions from a plan or IRA, including whether, in what amount, in what form, and to what destination such a rollover, transfer, or distribution should be made.

▶ The New Rule

2. the investment advice recommendation is made either directly or indirectly (e.g., through or together with any affiliate) by a person who:
 - a) represents or acknowledges that it is acting as a fiduciary within the meaning of ERISA or the Internal Revenue Code,
 - b) renders the advice pursuant to a written or verbal agreement, arrangement, or understanding that the advice is based on the particular investment needs of the advice recipient, or
 - c) directs the advice to a specific advice recipient or recipients regarding the advisability of a particular investment or management decision with respect to securities or other investment property of the plan or IRA.

▶ DOL Final Fiduciary Rules

- ...BUT WAIT
- EBSA Proposed Rule – 60 Day Delay (6/9/2017)
- EBSA Temporary Enforcement Policy

▶ New Overtime Regulations

- Scheduled Effective date – December 1, 2016
- Preliminary Injunction per Texas District Court
- Appeals Court Process

Email – jrothman@findleydavies.com

Phone – 216.875.1907

- ▶ **Benefit Communications:
Not Enough, Too Much and Just Right**

▶ What You Can Expect to Learn Today

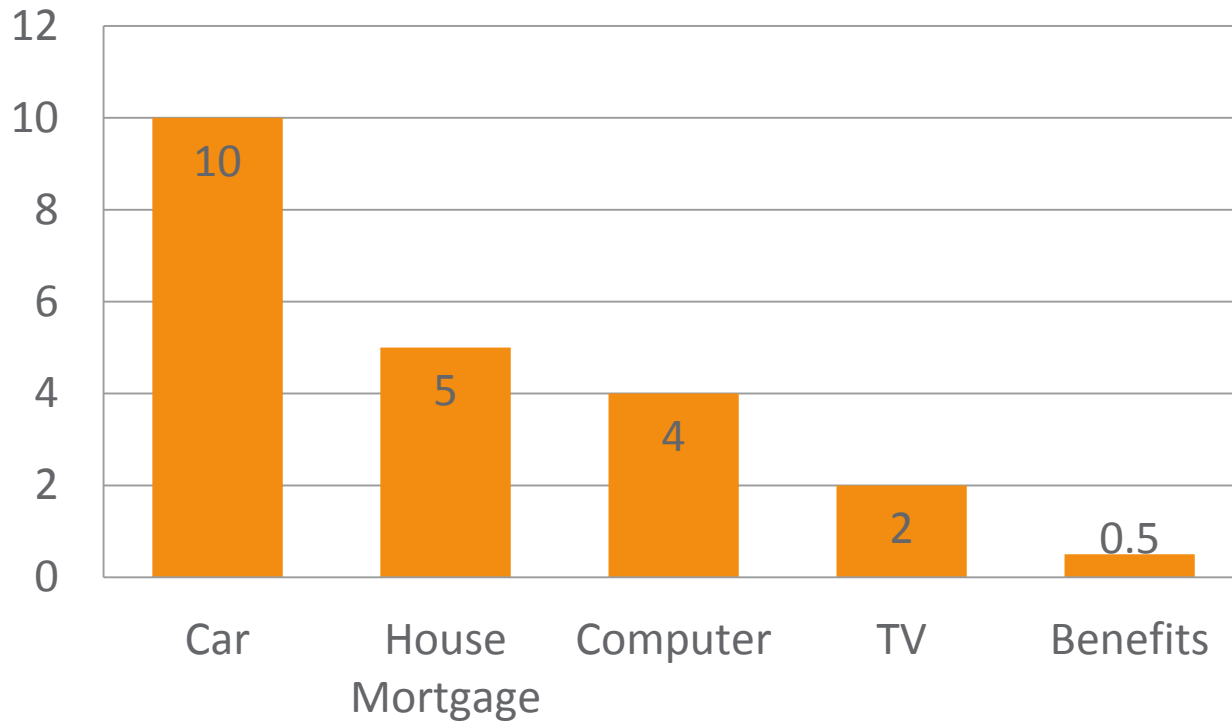
How to prepare your messages so employees get the information they need

Simple techniques for improving readability of your communications

How to leverage communication channels so you can reach a diverse workforce

► Purchasing Engagement

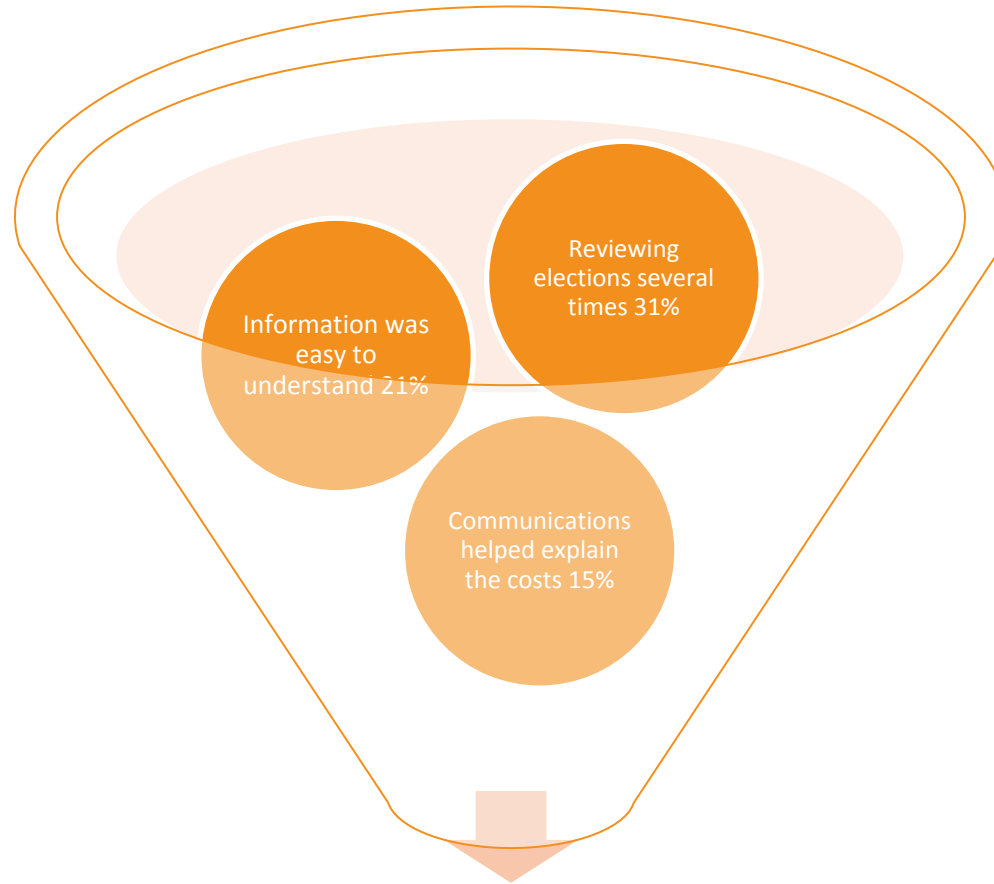
Time Spent Researching Purchasing



73% of employees report their company communicates about benefit options fewer than 3 times a year

13% of employers believe they are effective at communicating about the benefits offered

▶ Key Drivers of Employee Benefits Confidence



Confidence In Benefit Choices

▶ The Basics

- Identify the needs and objectives
- Develop a communication strategy
- Incorporate a variety of channels
- Eliminate the noise through effective messaging
- Empower leaders
- Engage your employees to action

► Identify The Objectives

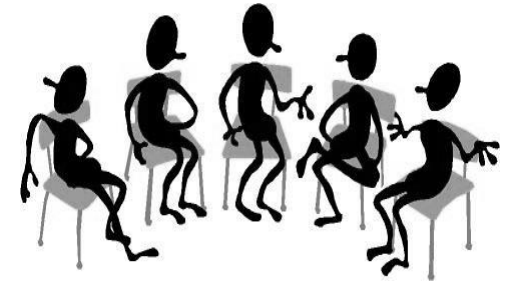
Do you know the needs of your organization and workforce?

- Employer View

- Utilization trends
- Cost analytics
- Benefit trends

- Employee View

- Focus groups
- Surveys
- Feedback mechanisms



▶ Develop a Communication Strategy

- Create a strategy to articulate:
 - **Objectives:** What you want your communications to accomplish
 - **Key Messages:** What to say and have people do
 - **Audiences:** To whom
 - **Channels:** How
 - **Timeline & Deliverables:** When

Wellness Communication Strategy

This communication strategy lists the objectives, key messages, audiences, channels, and timeline communicating *wellness*. It will serve as a roadmap to re-engage and energize employees as the organization continues its wellness journey.

Background

History and Current State

An effective wellness initiative with the appropriate programs and incentives encourages employees and their families to establish and maintain healthy lifestyles. For many years ABC has offered a variety of wellness services and support to employees.]

Objectives

The wellness objectives are:

- Serve as a **role model** for other employers located in Cuyahoga County by providing a support work environment, organizational practices, and culture
- Provide access to **healthy food and beverages** for employees, patients, learners, and the public during the workday and to make the "Wellness" choice MH's preferred and default choice
- Encourage employees to take advantage of opportunities for **physical activity** before, during, and after the workday
- Eliminate workplace tobacco exposure and encourage a **tobacco-free** lifestyle
- Encourage employees to take good care of their health and to use ABC Company system, as well as other providers, **wisely** for medical treatment and **preventive services**
- Use **MH facilities and grounds** in a manner that supports healthy lifestyle choices
- Engage employees as **partners** in assuring their **best possible health** and in reducing preventive health care costs for both our employees and their dependents
- Inspires employees to be **role models** who commit to healthy living for **themselves, our patients and community**
- Draw on the **expertise, commitment, and enthusiasm of our own** medical, nutrition, nursing, allied health, and other administrative professionals
- Create and update **policies** using the most current medical and workplace literature

Perception

(What do we want employees to believe?)

- -
 -
 -

Understanding

(What do we want employees to know?)

- -
 -
 -

Outcomes

(What do we want employees to do?)

- Participate
- Maintain a favorable health status
- Permanently change behavior
- Use facilities and equipment
- Improve biometrics
- Reduce risk
- Manage chronic health conditions
- Reduce medical costs over the long-term
- -
 -
 -

(How will we measure our success?)

- -
 -
 -

Key Messages**Perception**

- [Why is ABC Company focusing on wellness?]
 - We're here to improve the health of our patients and community – that includes you
- [What's in it for me?]
- [I don't want to participate because... (barriers and ways to overcome)]
 - Confidentiality
 - Time
 - Do not believe their health will improve
 - Do not want to make effort to improve well-being

Understanding

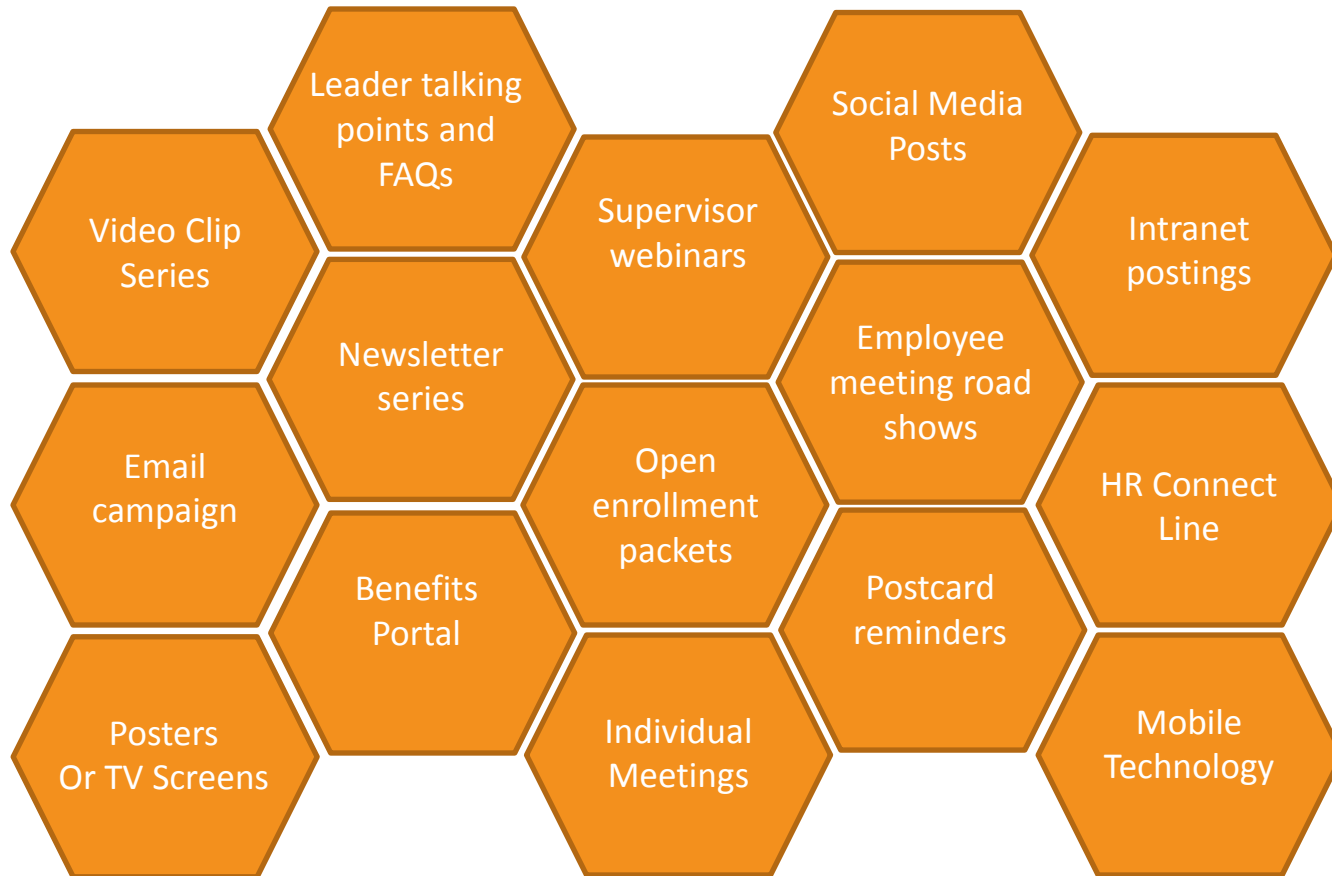
- [What is Wellness? What does it include?]
 - Broader context – linking all of the programs, activities, and focus to create an understanding that all of these pieces support the Wellness initiative; all of these things are available
 - Programs/areas of focus
 - Physical activity
 - Healthy food & nutrition
 - Physical work environment
 - Employee, family & community engagement
 - Mental well-being
 - Tobacco-free lifestyle
- [What programs, initiatives, activities, and opportunities are coming up?]
 - Incentives
 - Nicotine/Tobacco-free hiring policies
 - Portal launch
 - National Health Calendar

Audiences

We must ensure that all employees at all locations and in all positions have an equitable opportunity to learn about, participate, and benefit from ABC Company Wellness Policies and Wellness Employee Wellness program. With that in mind, our audiences must include:

Audience	Communication Focus
All employees	•
Employees who are participating today	•
Employees who are not participating today	•
Employees who are ineligible for incentives	•
Board of Trustees	•
Executives	•
Supervisors	•
Doctors	•
Clinical Steering Committee	•
Wellness Leadership Team	•
Wellness champions/team	•
Families of employees	•
Community	•
	•

► Communication Channels



▶ Key Messages

- Your value proposition: emphasize the value of your organization's benefits
- Say very clearly what employees need to do, and when
- Explain how to learn more when information becomes available
- Direct employee questions

▶ Create a Brand

- Develop a consistent look and feel
- Help identify that messages are coming from employer

2016 Open Enrollment is Coming
October 19 through November 6, 2015

The Andersons

Time to Enroll in Benefits
Each year, you are given the opportunity to choose the benefits that work best for you and your family situation. At The Andersons, our focus is to maintain:

- A culture that supports and encourages a healthy lifestyle
- A high-quality affordable benefits package that is truly valued by our employees

We also believe it is important for you to be able to access your personal information, including your benefit choices, anytime, anywhere. This year, employees will be using Workday to enroll in coverage for medical, dental, vision, life insurance for themselves and their family.

Paper will no longer be used as a part of the open enrollment process. At your workplace, you will be able to enroll in benefits through Workday using a company computer or tablet. From your home, you may access Workday from your personal computer, tablet or other mobile device.

Watch for more information on the open enrollment process and updates to the benefit plans. An enrollment guide, which contains details about the benefits plans and the decisions you will need to make, will be available prior to October 19. The guide will be mailed to the homes of employees who do not have an individual workplace computer. It also will be available on MyAnde (formerly known as AndeConnect) for employees who have traditionally enrolled in benefits online.

Enrollment is Mandatory – even if you are declining medical coverage for 2016
All benefits-eligible employees will need to complete enrollment by November 6, 2015. Even if you don't want medical coverage for 2016, you still need to complete your open enrollment elections and select "Waive" for medical coverage. If you do not make benefit elections by the open enrollment deadline, you will automatically be enrolled in the Consumer Plan for employee only coverage with premium contributions deducted from your pay.



Open Enrollment Guide
Selecting your Benefits for 2016
October 19 through November 6, 2015

The Andersons

Enrollment is Required This Year
All benefits-eligible employees must complete enrollment by November 6, 2015. Even if you don't want medical coverage for 2016, you still need to complete your enrollment elections and select "waive" for medical coverage.

BENEFITS
And Beyond

Benefits Open Enrollment
Deadline is November 1, 2013.
Enrollment is Required This Year.

Time to enroll in benefits for 2014

1. Review your enrollment materials.
 - If you have a company email address, review the information in the email from HR Admin.
 - If you don't have a company email address, look for the open enrollment packet that was sent to your home.
2. Make your benefit choices.
3. Submit your online enrollment or turn in your personalized Benefit Open Enrollment Statement by November 1, 2013.

Enrollment is Required This Year
If you want coverage through The Andersons benefit plans, you must complete your enrollment by November 1, 2013.
Last year's choices will NOT automatically carry forward.

Questions?
1-877-897-6738 (toll-free) or
419-897-6738 (Maumee/Toledo)

The Andersons

- Take credit for providing benefits

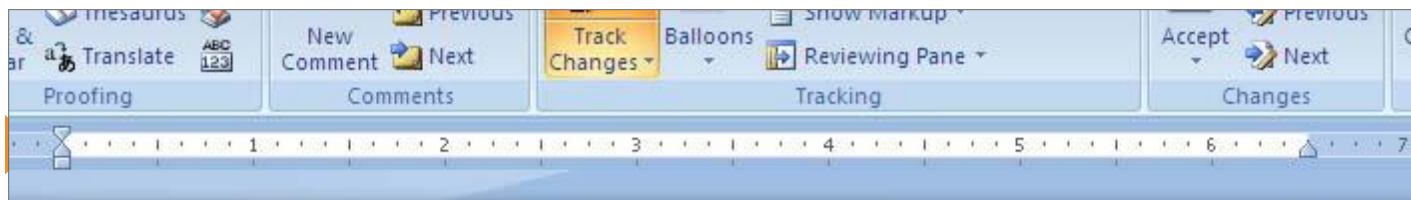
► Make it easy

Make it easy to read

- Simple language
- Headlines, bullets for readers who scan
- FAQs so employees can find the information they need quickly and reduce message clutter
- Checklist/timeline so people know what they need to do, when

Make it easy to find

- Central location (HR office, intranet, microsite) to post updated info
- Provide a mechanism for feedback
- Show managers, supervisors, and employees where to find answers to questions



Newsletter #1

*Draft
August 3, 2010*

Layout notes:

11 x 17 bi-fold brochure, 4-color print

Front cover: Letter from .

Inside left panel: Guiding principles and wellness message

Inside right panel: Costs, health reform

Back panel: What's next

[Front cover: Letter from

Dear Fellow Employees:

Being healthy. What does that mean to you? It can have

A healthy company. What is your definition? This too is a part of the story inside and outside of an organization.

For the past nine months, a leadership team representing the company has been working to define both what it means to help employees and create a healthy company.

This team, the Health & Welfare Benefits Leadership Council, took a hard look at ways to help the company withstand the rising costs of health care and figure out how health care reform will affect the company. At the same time, the team was asked

Readability Statistics [?] [X]

Counts	
Words	2243
Characters	10893
Paragraphs	97
Sentences	119
Averages	
Sentences per Paragraph	2.3
Words per Sentence	15.6
Characters per Word	4.6
Readability	
Passive Sentences	5%
Flesch Reading Ease	63.4
Flesch-Kincaid Grade Level	8.2

OK

▶ Be Creative

- Find fun ways to educate employees about their benefits
- Make communications interactive
 - Challenges
 - Share stories
 - Post questions
- Appeal to all the ways that engage people
 - Emotionally (“make sure you have access to the care you and your family need at prices you can afford”)
 - Logically (“here’s how to choose the plan that works best based on your individual needs”)
 - Rationally (“you’ll feel better and have an improved quality of life if you take care of yourself”)

All of the small decisions you make will add up to a healthier you!

Choose a side salad instead of fries

Take the stairs rather than the elevator

Drink water instead of a caffeinated beverage




Visit <https://yourbenefitsmatter.HRIntouch.com> for additional ideas. You'll have chances to win gift cards and the grand prize: an iPad2!



▶ Leverage Your Leaders

- Don't underestimate the power of relationships
 - The leading indicator of employee engagement is based on the quality of the relationship between employee and supervisor
- Empower your managers!
 - Help them understand the impact on the organization
 - Share important changes, plan options, tasks, and deadlines
 - Provide key messages and talking points
 - Prepare them to answer employee questions
 - Provide advance info
- Leaders should be a key audience in your communication plans





Talking Points: Exemption Status for new FLSA rules
 November 2016

Background

- The Fair Labor Standards Act (FLSA) articulates the rules for how organizations are allowed to pay employees.
 - It includes rules on whether or not employees can be exempt from overtime (which means that they do not receive 1.5 times their regular pay for working over 40 hours per week).
 - The rules require an organization to look at the job duties that the individual performs to determine if they can be considered Exempt (from overtime pay).
 - There is also a minimum salary that needs to be provided to these Exempt workers.
- In May 2016, the Department of Labor (DOL) published a rule to update the overtime regulations in the FLSA.
 - Last update to these regulations was in 2004
- The purpose of updating this rule was to extend overtime pay protection to ensure workers were fairly compensated for their work.
- While Exempt employees still need to meet the duties test to be considered Exempt from overtime there is also a new salary threshold that must be met to maintain this exemption status.
 - New salary threshold for jobs classified as Exempt increased from \$23,660 to \$47,476 annually
- This means that in order for an employee to remain Exempt from overtime, he or she needs to be a paid an annual salary of at least \$47,476.
- The change in the annual salary threshold will significantly broaden the group of employees classified as non-exempt which means more employees will be eligible to receive overtime pay.

ProMedica Response

- ProMedica con of their exemp
- These reviews compliance as
- The interim pla (which mean t
- The new rules ProMedica em
- This meal December



Frequently asked questions

BPS&M and Findley Davies ("FD"): Starting Our Journey

We made a commitment to communicate with you openly and honestly as integration decisions were being made. This document attempts to answer questions that were posed during and immediately following the announcement. Please continue to forward your questions to Amanda Kidd at BPS&M or Gail Ritchie at Findley Davies.

Question	Answer																		
<p>Implications fo Employees who are</p> <ul style="list-style-type: none"> • Regular Sched of work per we • Overtime App those regularly 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">Transaction</th> <th style="width: 25%;">Question</th> <th style="width: 70%;">Answer</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">1.</td> <td style="vertical-align: top;">What does the Exclusive Agreement with Wells Fargo provide?</td> <td style="vertical-align: top;"> The exclusive agreement with Wells Fargo IRT has two primary benefits to FD/BPS&M: <ul style="list-style-type: none"> • All existing joint BPS&M/IRT clients will continue to be served by BPS&M. • BPS&M will be the only partner that IRT will refer future business to for the types of services that BPS&M provides, including TRM, actuarial, asset liability modeling, data management, ESOP recordkeeping and complex DC compliance services. </td> </tr> <tr> <td style="vertical-align: top;">2.</td> <td style="vertical-align: top;">How does this transaction affect the FD Incentive Plan?</td> <td style="vertical-align: top;"> The Findley Davies Incentive Bonus Plan allows a portion of compensation to be linked to the financial performance of the Firm. To date, this year's financial performance has been strong and we are on track to fully fund the Incentive Bonus Plan. We are continuing to work on determining how this transaction will impact our original growth targets. However, this transaction will not have a negative impact on the bonus pool funding. We will communicate as soon as possible once we determine the details of how we will calculate the difference created by the transaction. We will also address how the new BPS&M team members will participate in the program after the transaction closes. </td> </tr> <tr> <td style="vertical-align: top;">3.</td> <td style="vertical-align: top;">Will BPS&M's annual goals remain the same?</td> <td style="vertical-align: top;"> We do not anticipate changing the individual goals for target hours and billings. We do expect the transaction to provide new growth opportunities for the combined firm and would expect to accelerate our rate of revenue growth providing new opportunities for individual growth and staffing levels. </td> </tr> <tr> <td style="vertical-align: top;">4.</td> <td style="vertical-align: top;">When will we discuss our annual performance review and pay increases?</td> <td style="vertical-align: top;"> FD's practice is to have discussions regarding annual performance in the fourth quarter of the year. New salary levels for the next calendar year are determined and communicated in mid-December. </td> </tr> <tr> <td style="vertical-align: top;">5.</td> <td style="vertical-align: top;">Will our billing rates change?</td> <td style="vertical-align: top;"> There will be no immediate billing rate increases. 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Call Employees to Action

- Be clear about actions and deadlines
- Create easy-to-read instructions if employees need to enroll online
- Provide checklists
- Include a challenge

WHAT YOU NEED TO DO

- 1. Get your cholesterol checked.**
 - Check your cholesterol level.
 - Get your cholesterol checked every 4-6 years, or more often if you have a family history of heart disease or other risk factors.
- 2. Get your blood pressure checked.**
 - Check your blood pressure every 2-4 years, or more often if you have a family history of heart disease or other risk factors.
- 3. Get your blood sugar checked.**
 - Check your blood sugar every 3-5 years, or more often if you have a family history of diabetes or other risk factors.
- 4. Get your vision checked.**
 - Check your vision every 1-2 years, or more often if you have a family history of eye disease or other risk factors.
- 5. Get your hearing checked.**
 - Check your hearing every 5-7 years, or more often if you have a family history of hearing loss or other risk factors.

Healthy Habits Tracker

Food	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Breakfast Every day!	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fruits & Veggies <i>Eat more!</i>	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○
Sweetened Drinks <i>Aim for none!</i>	○○○ ○○○	○○○ ○○○	○○○ ○○○	○○○ ○○○	○○○ ○○○	○○○ ○○○	○○○ ○○○
Water	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○	○○○○ ○○○○

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Minutes of TV, video games, and Internet <i>Do less!</i>	# minutes	# minutes	# minutes	# minutes	# minutes	# minutes	# minutes
Minutes of activity <i>Do more!</i> <small>(includes outside play, chores, family activities, walking to school, sports, and more...)</small>	# minutes	# minutes	# minutes	# minutes	# minutes	# minutes	# minutes

Support

I ate dinner with my family this week on these days:
 Sunday Monday Tuesday Wednesday Thursday Friday Saturday

Things my family and friends did to support me: _____
 Things I did to support my family and friends: _____

Celebrate
Things I did well:

My New Goals
Things I could improve on:

Online Benefits Enrollment

A STEP-BY-STEP GUIDE

This brochure contains step-by-step instructions for enrolling in benefits for 2013 using Employee Self-Service (ESS). If you wish to change benefits or contribute to a Flexible Spending Account, you must complete your enrollment by the deadline: **11:59 P.M. ET on November 16, 2012**. If you have technical issues with ESS, please contact the North American

Step 1: Access ESS
 Before you can enroll in benefits using ESS, you must create your initial log on from an AI computer. Then, you may access ESS from any computer. From your personal computer go to <http://vpn.nasc.biz/albenefits/>.

Enter your **network** user name and password.

Click the link for Benefits Enrollment.


Click Employee Self Service tab, then click on the Benefit Enrollment tab.

Check that you've completed all enrollment steps.

- Login to the AIUS Portal and access ESS
- Update dependents & beneficiaries
 - Add dependents/beneficiaries
 - Edit dependent/beneficiary information to ensure it is up-to-date
- Enroll in benefits
 - Dental
 - Add/remove dependents
 - Medical
 - Add/remove dependents
 - Vision
 - Add/remove dependents
 - Dependent Life
 - Add beneficiaries (Note: elect yourself as 100% primary beneficiary)
- Finalize enrollment and print confirmation statement
- Provide documentation
 - Basic Life/AD&D
 - Add beneficiaries
 - LTD
 - Voluntary AD&D
 - Add beneficiaries
 - Dependent Care Spending Account
 - Health Care Spending Account
 - Fax dependent eligibility documentation to 1-866-634-6999
 - Receive and complete EOI form and return to provider

Personalize It

- Connect with employees
- Provide examples
- Leverage testimonials



Statement of Final Monthly Accrued Benefit Determined as of December 31, 2013

Personal Information

Statement for: [First Name] [Last Name]
 Date of Birth: [DOB]
 Date of Hire: [DOH]
 Vesting Service as of December 31, 2013: [Vest] years
 Normal Retirement Date: [NRC]
 Location: [Location]

Defined Benefit Pension Plan

The Sisters of St. Francis Lay Employees' Retirement Plan was frozen effective December 31, 2013. This means that your benefit earned through December 31, 2013 will not increase as you continue to work and your pay increases.

Our records indicate that you were an active employee as of December 31, 2013. However, you did not earn enough credited service to accrue a benefit under the pension plan.

About Your Statement


This statement has been prepared for your information only and shows your final accrued benefit based on the data reported by your employer. The actual provisions of the plans are governed by legal documents. The Sisters of St. Francis reserves the right to amend, modify, or terminate any or all of the provisions of the Plan in the future. This communication does not constitute an agreement of any kind; nor does it guarantee that any benefit described herein will be continued or maintained in the future. Participation in the pension plan is not a guarantee of continuing employment.

If you have any questions about the information in this statement, please contact your human resources department or the Sisters of St. Francis Lay Employees' Retirement Plan Office: 6832 Convent Boulevard, Sylvania, Ohio 43560, phone: 419-824-3613 or 419-824-3617, email: retirement@sisterofc.org.

We notified you recently that after careful consideration the Sisters of St. Francis of Sylvania, Ohio and its sponsored ministries, Lourdes University and Sylvania Franciscan Health, changed your retirement program to place a greater emphasis on the Sisters of St. Francis 403(b) Plan. That involved freezing The Sisters of St. Francis Lay Employees' Retirement Plan (pension plan) effective December 31, 2013.

This statement shows your final accrued benefit from the pension plan based on the data provided by your employer, [Location].

Use the information included here – along with your account balances in the 403(b) plan – to






Sisters of St. Francis Retirement Program

The Sisters of St. Francis of Sylvania, Ohio and its sponsored ministries, Lourdes University and Sylvania Franciscan Health, are committed to offering a competitive benefits program that meets both the needs of our employees and the organization. We also want to remain consistent with our mission and values. An important part of your total compensation package is the retirement program, which includes the Sisters of St. Francis Lay Employees' Retirement Plan (pension plan) and the Sisters of St. Francis 403(b) Plan.

After careful consideration, we are changing our retirement program effective January 1, 2014 to place a greater emphasis on our 403(b) plan. There will be many advantages, including:

- Control**
You choose how to invest your retirement savings.
- Portability**
Your vested 403(b) retirement benefit may be taken with you if you leave the organization for any reason.
- Growth**
Your retirement benefit grows tax-deferred as you contribute and receive employer contributions.
- Simplicity**
You can see your retirement benefit amount at any time – it's simply your account balance.

To learn about the new retirement program, please review this brochure and your personalized retirement statement carefully. We have also included a required notice. If you have any questions, please contact your human resources department.

Effective January 1, 2014, we are changing the way we deliver benefits to you in the retirement program in the following ways:

- New benefits are being added to the Sisters of St. Francis 403(b) Plan. Your employer will contribute to your account in two ways:
 - **Employer matching contribution.** Your employer will provide a matching contribution equal to 50% of the first 6% of your pay that you contribute.
 - **Employer basic contribution.** Your employer will contribute 1% of your pay to your 403(b) Plan account – regardless of your participation in the 403(b) Plan.
- The Sisters of St. Francis Lay Employees' Retirement Plan is being frozen. Employees will stop earning additional benefits in the pension plan as of December 31, 2013. Any pension plan benefit you have earned through December 31, 2013 will be "frozen" so it no longer increases as you continue to work or your pay increases.

In addition, all pension plan benefits earned through December 31, 2013 will be immediately vested for all participants who are actively employed with the organization on December 31, 2013.

Increase in lump-sum cash out limit

To promote the portability of retirement benefits, the lump-sum option for the pension plan is being increased. When you terminate employment with the organization, if the value of your pension plan benefit is \$50,000 or less, you have the opportunity to receive that amount as a lump-sum.

Why We Are Making Changes

Like many employers at that time, when our defined pension plan was first set up in the 1960s, it was designed to help the organization set aside money to pay benefits to retired employees. Over the years, the erratic stock market and government regulations have made it very difficult for organizations to manage these types of plans. In addition, the competitive environment and the tendency for individuals to change employer multiple times throughout their careers have caused employers to shift away from defined benefit pension plans and toward defined contribution retirement plans. As we've evaluated options over the last few years, we knew it was time to change the way we provide retirement benefits.

403(b) Plan at a Glance

The 403(b) Plan is a defined contribution plan, which means both you and the organization contribute to your account to help you save for retirement. This type of plan offers a number of advantages, including control, portability, and tax advantages.

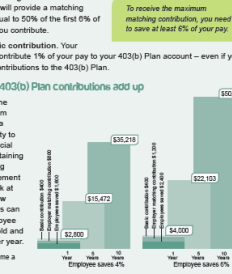
Enhancements to the 403(b) Plan

The new way of delivering retirement benefits places greater emphasis on the 403(b) Plan. Today, you are eligible to contribute to the 403(b) Plan with pre-tax dollars from your pay. Beginning January 1, 2014, we are enhancing the 403(b) Plan by adding new benefits:

- **Employer matching contribution.** Your employer will provide a matching contribution equal to 50% of the first 6% of your pay that you contribute.
- **Employer basic contribution.** Your employer will contribute 1% of your pay to your 403(b) Plan account – even if you do not make contributions to the 403(b) Plan.

How the new 403(b) Plan contributions add up

The changes to the retirement program provide you with a greater opportunity to control your financial future while maintaining our goal of helping you achieve retirement security. Let's look at an example of how retirement savings can grow for an employee who is 55 years old and earns \$40,000 per year.



Note: Projections assume a 5% rate of return.

Make a Plan for Retirement

To better understand how to save for retirement, plan on attending a one-on-one meeting with a Lincoln Financial Group retirement consultant to discuss your personal situation. In addition, visit www.lfg.com where you will find retirement calculators and other resources offered as part of the retirement program. Look for more information at your work location about how to sign up for an individual meeting.

Questions About the 403(b) Plan

How do I enroll in the 403(b) Plan or change the amount I am saving?

You can complete the enclosed Enrollment Form and give it to your HR Department at any time. Plus, representatives from Lincoln will be onsite in the coming months to help you enroll in the 403(b) Plan. Even if you choose not to save in the 403(b) Plan, an account will be started for you to begin receiving the 1% employer contribution as of January 1, 2014. Once you have an account established at Lincoln you can begin, change, or stop your payroll deduction amount at any time by completing a salary deferral agreement and submitting it to your payroll department.

What if I have more questions?

Your questions are welcome. You will have the opportunity to meet with a representative from Lincoln Financial Group to ask questions about your personal savings strategy through the 403(b) Plan. In the meantime, if you have questions about these changes, please contact your human resources department.

Why should I contribute to the 403(b) Plan?

Making contributions to the 403(b) Plan may help provide for a more financially-secure retirement. The 403(b) Plan provides a way for you to save by allowing you to set aside money from your pay for retirement. Keep in mind, 403(b) plan contributions are automatically deducted from your paycheck before taxes are taken out, making it a tax-deferred and convenient way to save.

The matching contribution is an extra incentive to save. In order to receive the maximum matching contribution of 3% of your pay from your employer, you need to contribute at least 6% of your pay.

or the action

- Inventory you current communications
- Know the needs of your organization
- Develop a plan
- Include a mix of communication channels
- Develop targeted messaging to engage your employees

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Big Thinking. Personal Focus.



IRS Examinations of Qualified Retirement Plans

Presented by:
Jason M. Lumpkin

Internal Revenue Service Audit Triggers

- Random selection
- Participant complaints
- Form 5500 reporting

What Can Plan Sponsors do to Avoid an IRS Examination?

- Utilize available correction programs when errors are identified
 - Self-Correction Program (SCP)
 - Voluntary Correction Program
- Maintain a regular, effective communication strategy with participants
- Develop internal controls to maintain the plan

Examples of Effective Internal Controls

- Annual review of plan document to ensure it is up to date with law changes and/or discretionary changes made during the year
- Annual review of plan operations- Does practice match documentation?

Operational Review- Areas of Focus

- Employee contribution elections
- Definition of compensation
- Contribution limits
- Eligibility and enrollment process
- Vesting calculation
- Marital status and spousal consent requirements

Operational Review- Areas of Focus

(continued)

- Required minimum distributions
- Monitor ownership changes for coverage purposes
- Rollover process
- Ensure delivery of required notifications
- Participant loans

What to Expect if your Plan is Selected for Examination

- Initial data request: plan document, Form 5500, compliance testing reports, census data, organization's tax return; Forms w-2
 - Typically includes examination year and 2 preceding years
- Interview with auditor
 - Organization's business
 - Identify internal personnel tasked with plan administration
 - History of Plan
 - Related entities
 - Administrative process for enrollments, distributions, loans, payroll processing

What to Expect if your Plan is Selected for Examination (continued)

- On-site review- 2-4 days
 - Additional data requests
 - Possible expansion of examination years if issues are identified
- Process can take anywhere from a few months to multiple years!
- Resolution in the form of no action or identification of necessary corrections

What Should You Do if an Examination Notice is Received?

- Notify all service providers and legal counsel
- Communicate with the agent to understand what is being requested
- Provide full and complete information (take advantage of extension if necessary)
- Designate a point person
- Prepare for a lengthy, thorough process

Case Study: Compensation

- Plan sponsor erroneously excluded bonus payments from compensation when processing 401(k) contributions. This discrepancy existed for the prior 15 plan years
- The IRS agent identified the discrepancy, resulting in a corrective contribution to affected participants in excess of \$500,000, plus penalties

Case Study: Plan Document Compliance

- Plan Document was not timely amended/restated in accordance with applicable regulations
- Penalty imposed as a result of examination in excess of \$30,000

-
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▶ The DOL, Fiduciaries and Audits

Presented by Jason Rothman, J.D.

▶ Today's Agenda

- Who is a Fiduciary?
- Fiduciary Duties
- Common DOL Audit Areas

▶ “Fiduciary” Defined

- ERISA Section 3(21)
 - Management of plan or plan assets
 - Investment Advice for compensation
 - Heightened per Final Regs
 - Discretionary authority/responsibilities in plan administration

► Who is a Fiduciary?

- Functional definition
- Key “players”
 - Employer
 - Plan Sponsor
 - Plan Trustee
 - Committee (and members)
- Consider issues regarding delegation of fiduciary duties
 - Plan Language
 - Documentation of Delegation

▶ Ministerial vs. Fiduciary

- Certain administrative activities are NOT fiduciary functions
 - Applying plan rules regarding eligibility
 - Calculation of service/benefits per plan terms
 - Processing claims

► The Dual Role Issue

- Settlor vs. Fiduciary Functions
 - Plan design decisions by employer
 - Administrative decisions by plan administrator
- Payment of plan related costs
- Delegation
- Privilege

► Fundamental Fiduciary Duties

- Exclusive Benefit
- Prudent Person
- Diversification
- Follow Plan Documents
- Avoid Prohibited Transaction

► Exclusive Benefit

- Fiduciaries must act...
 - For the exclusive purpose of providing benefits to participants and their beneficiaries; and
 - To defray the reasonable expenses of administering the plan

► Prudent Person

- Fiduciaries must act with...
 - Care
 - Skill
 - Prudence
 - Diligence
- KEY – The Decision Making Process

► Diversification

- Must diversify plan investments so as to minimize the risk of large losses UNLESS under the circumstances it is not prudent to do so.
- 401(k) Plan issues
 - Investment line-up
 - Employer stock

► Follow Plan Documents

- Must follow the terms of the governing plan documents SO LONG AS they are consistent with ERISA
- Plan Document Considerations
 - *Firestone* language
 - Claims procedure

▶ Prohibited Transactions

- ERISA prohibits fiduciaries from...
 - Self-dealing with plan assets; and
 - Acting in any capacity on either side of a transaction if the fiduciary's interests conflict with plan/participant interests
- Prohibition of transactions between plan and party in interest
- Exemptions

► Fiduciary Liability

- Personal Liability – YES!
- Co-Fiduciary Liability – YES!
- Restore Plan – Profits/Losses
- Plan Assets may NOT be used to pay liability
- Civil Penalties – YES!
- Prison – YES!

► Plan Investments

- ERISA 404(c)
- Investment Policy Statements
- Fee Disclosures
- Employer Stock and Stock Drop Litigation

► Welcome to the DOL Audit

- So you got the letter...What do you do now?
 - Pull documents requested in document request
 - Reach out to vendors and advisors
 - Have professionals on standby during site visit
 - Timely respond to questions/requests
 - Consider corrective action in response to DOL/IRS findings letter

▶ YOUR FIDUCIARY TEST ON DOL AUDIT HOT ITEMS



▶ Question 1 – Am I a Fiduciary?

- Bernie, HR manager of Browns Co. has pension plan responsibilities...
 - Calculates benefits per plan terms
 - Prepares governmental reports
 - Conducts plan orientation/enrollment
- Fiduciary?

▶ Answer 1 – Am I a Fiduciary?

- Probably no
 - Ministerial functions
 - Operates within the framework of the plan
 - No discretion or authority
- DOL will critically analyze duties of plan “service providers” on audit

▶ Question 2 – Is this a Fiduciary Act?

- Urban gets a call from plan participant Archie
- Archie is confused and asks for an interpretation of plan terms
- Urban review the plan, agrees SPD is confusing and interprets the plan in Archie's favor providing for the benefits he asked for
- Fiduciary Act?

▶ Answer 2 – Is this a Fiduciary Act?

- YES!!!
- Exercise of discretionary authority
- Interpreted plan terms
- DOL will analyze fiduciary activities to make sure properly performed

▶ Question 3 –Fiduciaries and Plan Investments

- Monsters 401(k) Plan offers a number of investment options
- The majority of the investment funds are retail share class
- Fiduciary breach?

▶ Question 3 –Fiduciaries and Plan Investments

- Likely Yes!
- Failure to investigate availability of institutional fund
- See *Tibble v Edison*
- ***HOT ITEM FOR DOL AUDITORS AND PLAINTIFF FIRMS***

Question 4 – Delinquent Employee Deferrals

- LeBron, returned to Cavs Co. as benefits manager and discovered that employee deferrals were being transferred to the 401(k) plan trust on a quarterly basis.
- Problem?
- Correction Program?

▶ Answer 4 – Delinquent Employee Deferrals

- Breach of Fiduciary Duties and Prohibited Transaction!
- Candidate for VFCP
- Reimburse for lost earnings -- employer must deposit to the trust the lost earnings resulting from the delinquent contribution
 - Online Calculator
- Excise taxes
- ***FIRST THING DOL AUDITOR WILL ANALYZE!***

▶ Question 5 – Liable for a Past Fiduciary Breach?

- Upon taking a fiduciary role for the Buckeye Pension Plan, Zeke realizes that his predecessor Eddie breached fiduciary duties relating to investments
- Can Zeke be held personally liable for Eddie's breach?

▶ Answer 5 – Liable for a Past Fiduciary Breach?

- NO – No liability for predecessor breach
- BUT Zeke has an obligation to remedy the outstanding breach AND the failure to do would be a separate breach
- ERISA Opinion Letter 76-95

▶ Question 6 – Paying Expenses from Plan Assets

- Urban, benefits manager at Buckeyes, Inc., takes care of paying outside vendors for their services on the OSU 401(k) Plan.
- Urban uses plan assets to pay ALL expenses associated with the Plan.
- Issue?

▶ Answer 6 – Paying Expenses from Plan Assets

- Prohibited Transaction Issue
- DOL Advisory Opinions 97-03A and 2001-01A
- Settlor vs. Administrative
- Big ticket item in DOL audits.



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10 Steps for Data Loss Prevention

March 22, 2017

Chris Debo, Technology Advisors

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Agenda

- Recent history
- Risks facing your organization
- 10 questions you should be asking
- What can you do
- Questions



Cyber Crime Proliferation

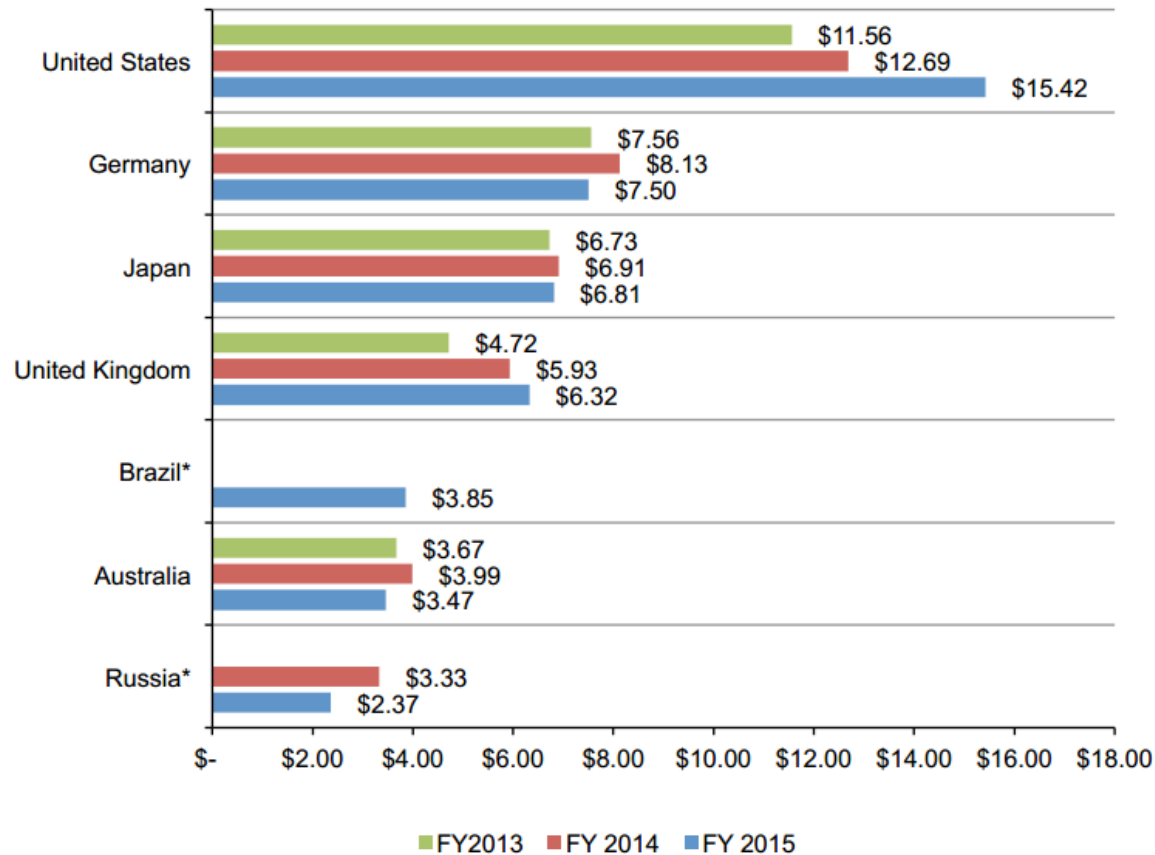
- Cyber crime now costs the global economy \$445 billion a year
 - Source: Center for Strategic and International Studies
- **The cyber crime black market is now more profitable than the global drug trade**
 - Source: RAND Institute
- Cyber crime costs are now drastically eclipsing cybersecurity costs
 - Source: OECD





Cyber Crime is Global

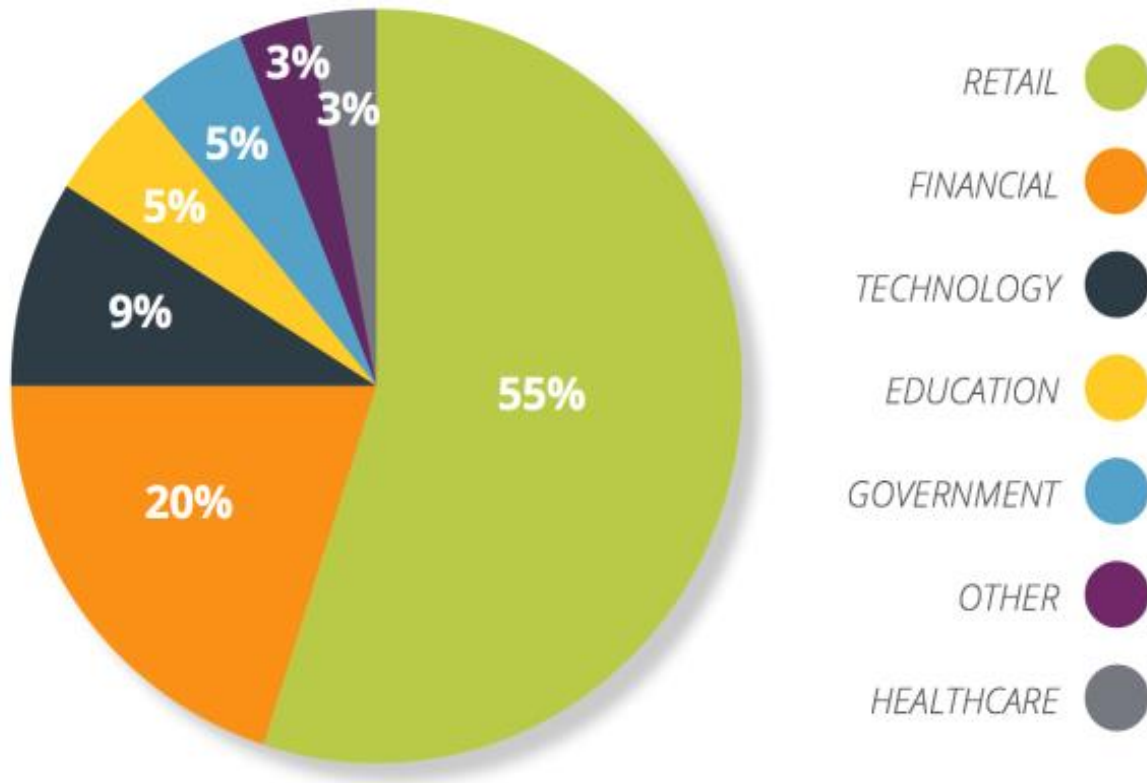
Figure 1. Total cost of cyber crime in seven countries
Cost expressed in US dollars (000,000), n = 252 separate companies



* Results were not available for all fiscal years



Data Records Stolen/Lost by Industry





The Black Market Value of Data We Process

- Health Care Record - \$50
- Credit Card - \$2 - \$15
- Social Security No. - \$5 when packaged with a name
- Name and password to Bank Account - \$1,000
- Verified Email Accounts - \$.50



Risks that Companies Face

- Financial
 - Forensics
 - Public Relations
 - Credit Monitoring
 - Penalties and Fines
 - Loss of Customers/Revenue
 - Lawsuits and Legal Cost
 - Drop in Stock Price
- Reputational
- Operational



Verizon Data Breach Report

- Published Every Year Since 2008
- 50 Global Organizations
- 82 Countries Represented
- Over 100,000 Security Incidents
- 3,141 Confirmed Breaches (up 130% since 2014)





Cyber Crime Statistics

- Employee negligence at core of most attacks
 - **Stolen credentials primary cause 80% of time**
- 89% of breaches driven by financial or espionage motive
- 65% discovered by external parties
- Once compromised, 98% of breaches took less than a week to exfiltrate data



Percent of Breaches by Motive

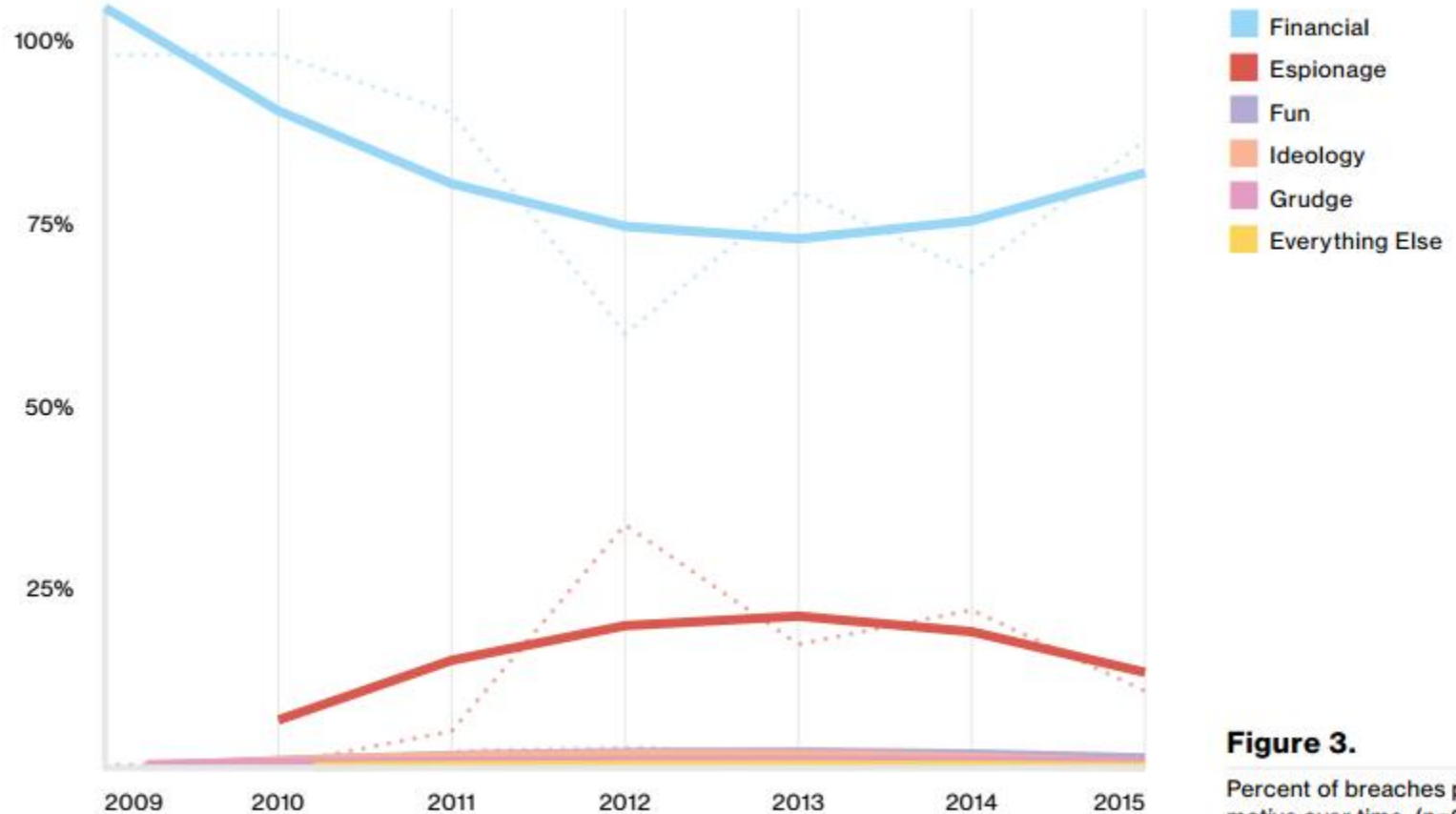


Figure 3.

Percent of breaches per motive over time, (n=6,76)



Breach Discovery Method

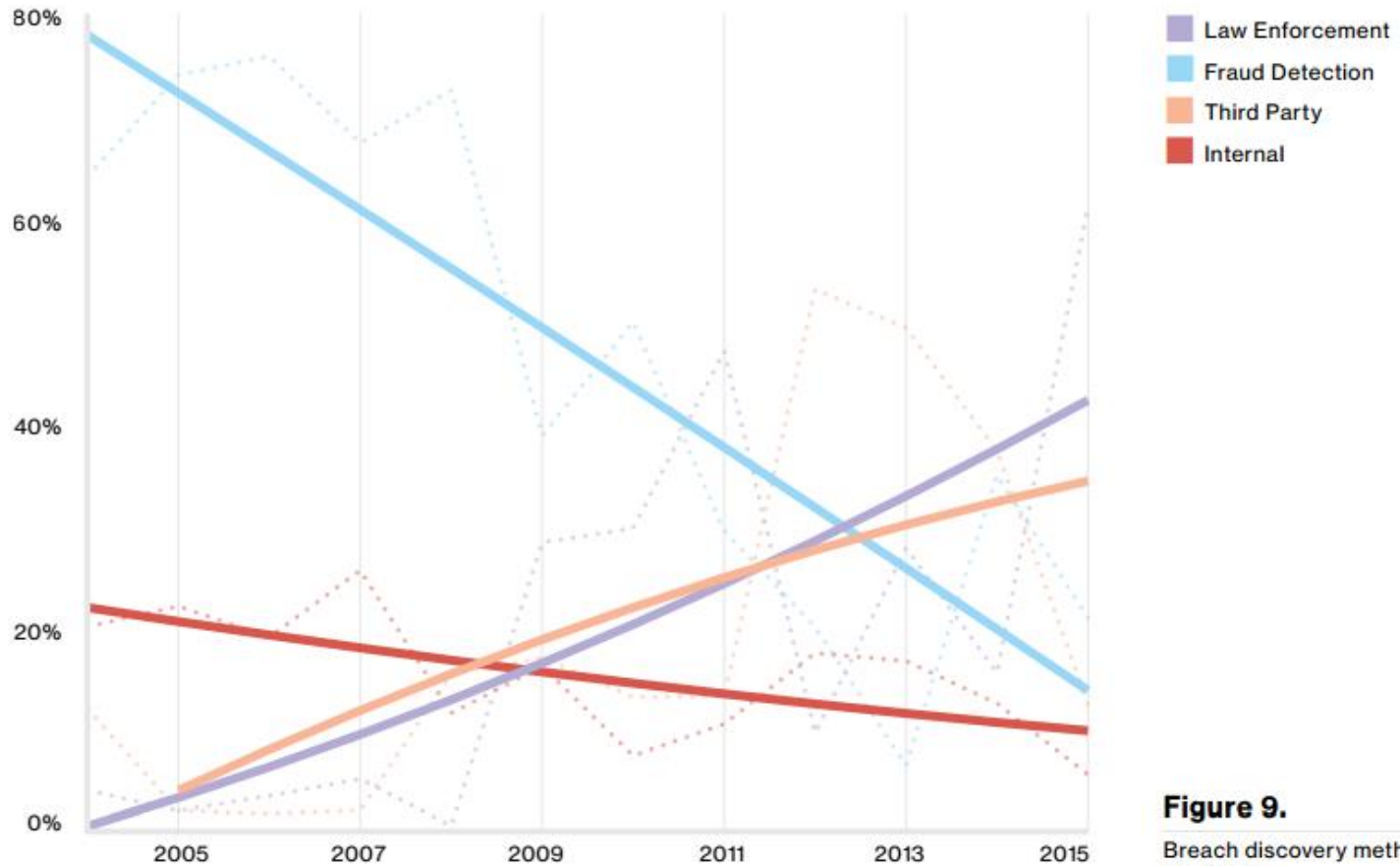
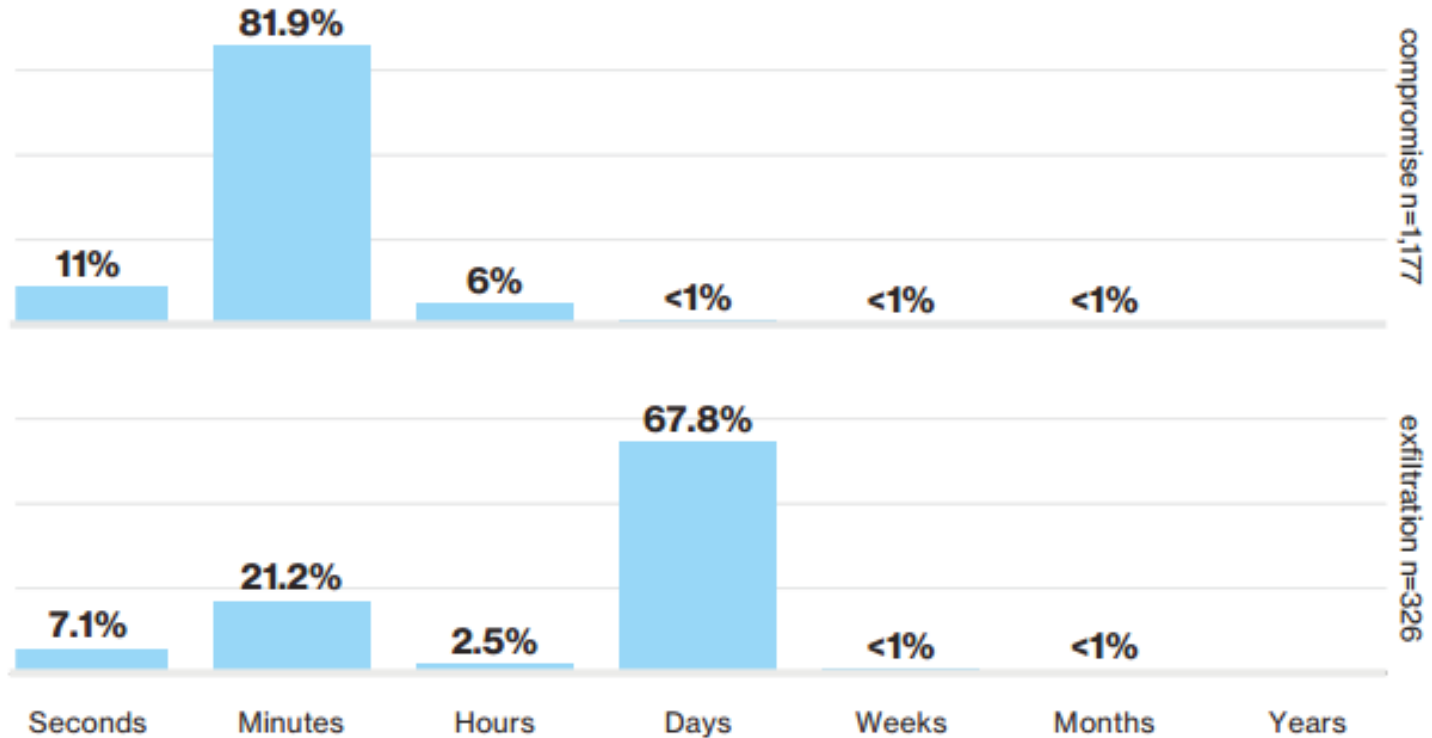


Figure 9.

Breach discovery methods (n=6,133).



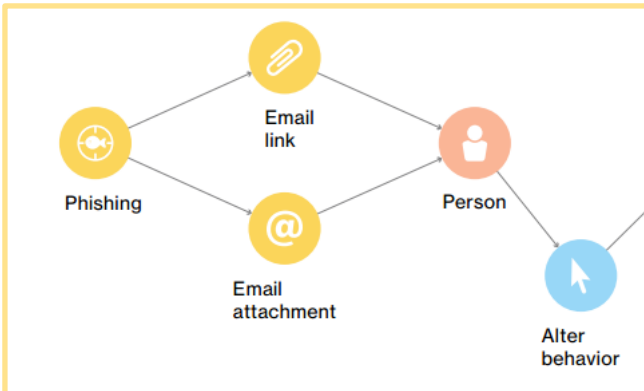
Time to Compromise vs. Exfiltration



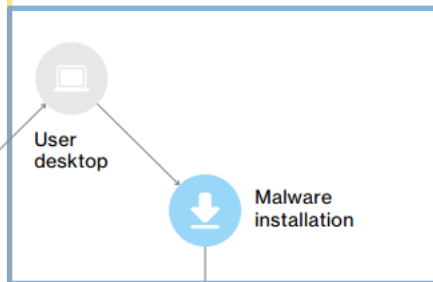


Anatomy of an Attack

1. Recon



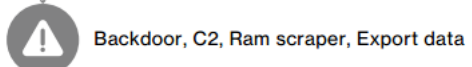
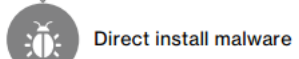
2. Weaponize & Deliver



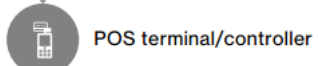
3. Exploit



4. Install



6. Action



5. Command & Control



Phishing: What to Look For

TO:

- ✓ Don't recognize others on list

Subject:

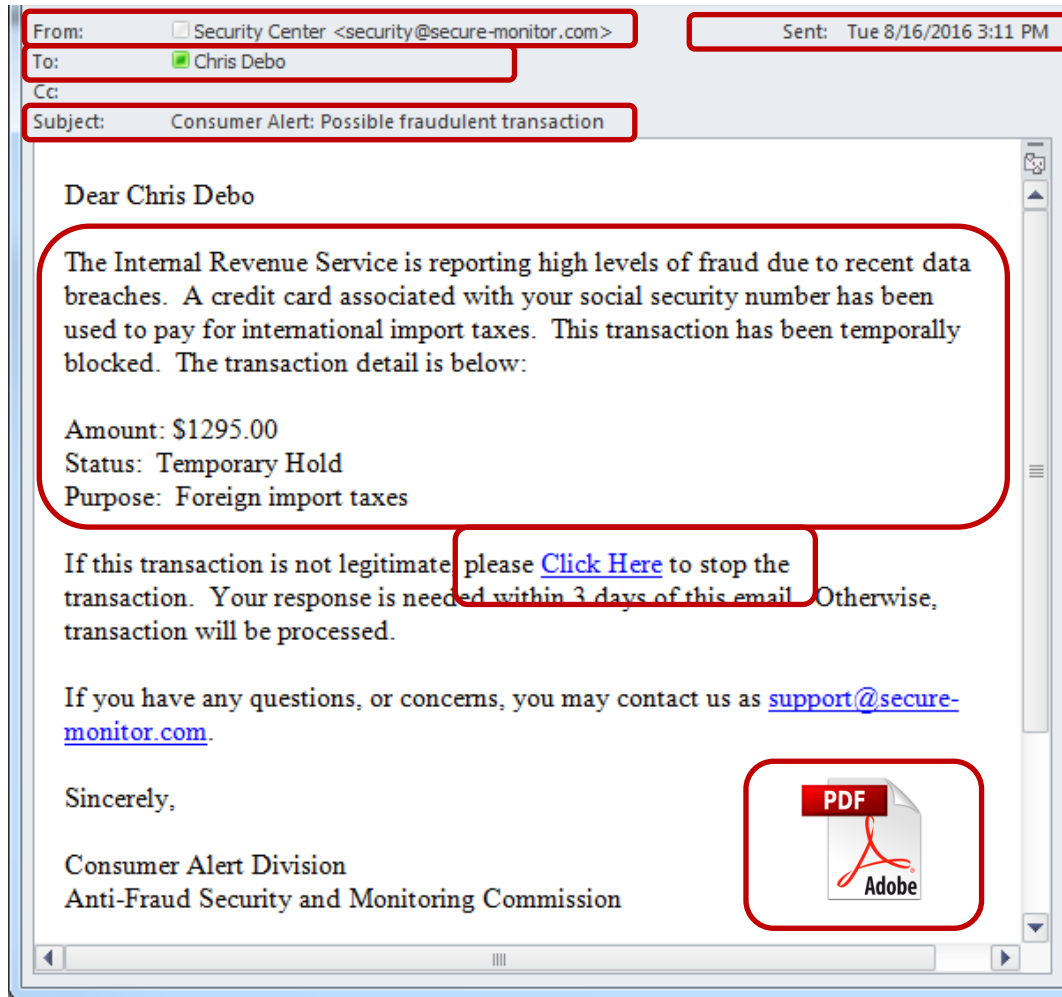
- ✓ Vague, unusual or not in reply

Content:

- ✓ Irrelevant or unexpected
- ✓ In reply to something never sent

Attachments:

- ✓ Unexpected or possibly dangerous file type



FROM:

- ✓ Don't recognize sender
- ✓ Suspicious domain

Date:

- ✓ Sent at unusual or unexpected time

Hyperlinks

- ✓ Long, unrecognizable or misspelled
- ✓ URL does not match when hovering



3 Ways that Phishing Succeeds



1. **Download of malicious software via an attachment**
 - Allows the attacker to install malware that tracks keystrokes and obtains screenshots
 - Malicious software can also “sniff” the network and provide additional information that the attacker can use to attack beyond the infected workstation
2. **Following a link to a “spoofed” site and entering credentials**
 - Online banking credentials
 - Webmail (typically the same as network) credentials
3. **Following a link to a malicious web site that exploits browser vulnerabilities**



Ten Questions to ask to assess your organization's data loss prevention strategies...



DoL ERISA Advisory Council

- The DOL's ERISA Advisory Council recently issued a report, *Cybersecurity Considerations for Benefit Plans*, which summarizes its examination of and recommendations regarding cybersecurity considerations as they relate to employee benefit plans. NIST Cyber Security Framework
- The Council identified four major areas for effective practices and policies:
 - Data Management
 - Technology Management
 - People Issues/Training
 - Service Provider Management



Question 1 (Data/People/Technology)

- Have we assessed the maturity of our cyber security profile?





So, How do I start?

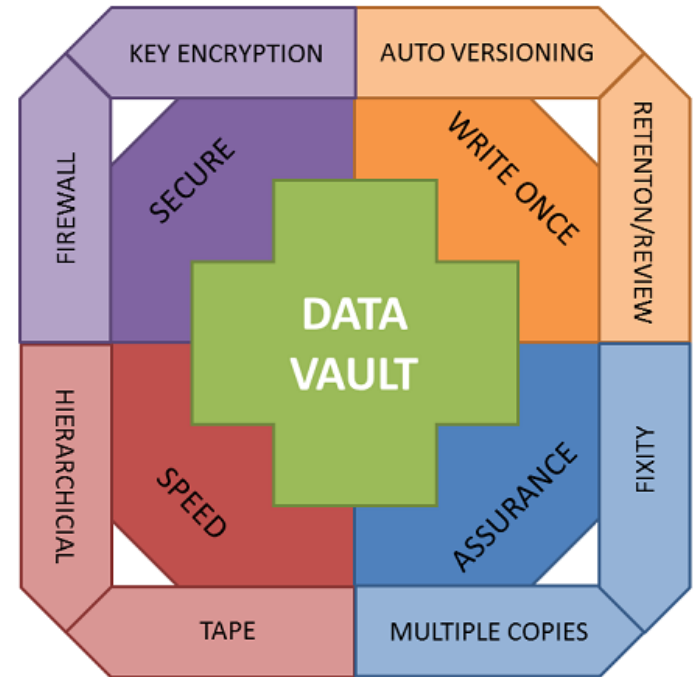
- There are a number of frameworks that have been developed to assist organizations through this effort
 - NIST Cyber Security Framework
 - FFIEC Cyber Security Maturity Model
 - C2M2
 - InfoSec
 - GCSCC
- Review the frameworks and determine which one fits your organization best



Question 2 (Data)

- Do we have a current inventory of our sensitive data and who has access to it?

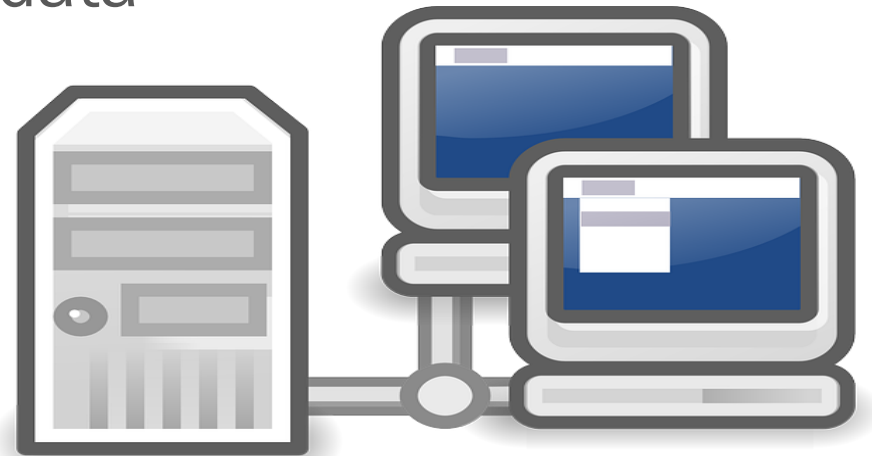
生 Data Source





Where is our data

- Which Servers and workstations
- Which Databases
- Which Applications
- Other Electronic Media
- How do we transmit our data





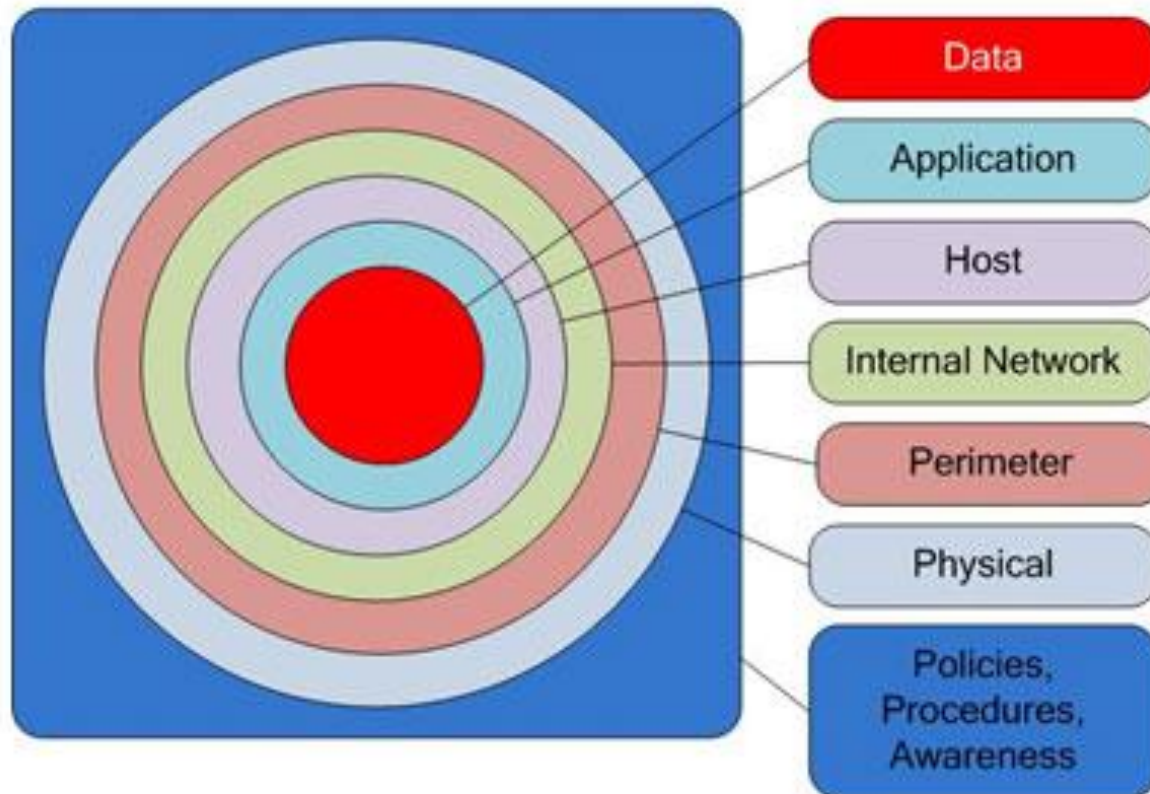
Question 3 (Data/Technology)

- Have we built a layered defense to protect our customers' sensitive information?



Build a Layered Approach to Defense

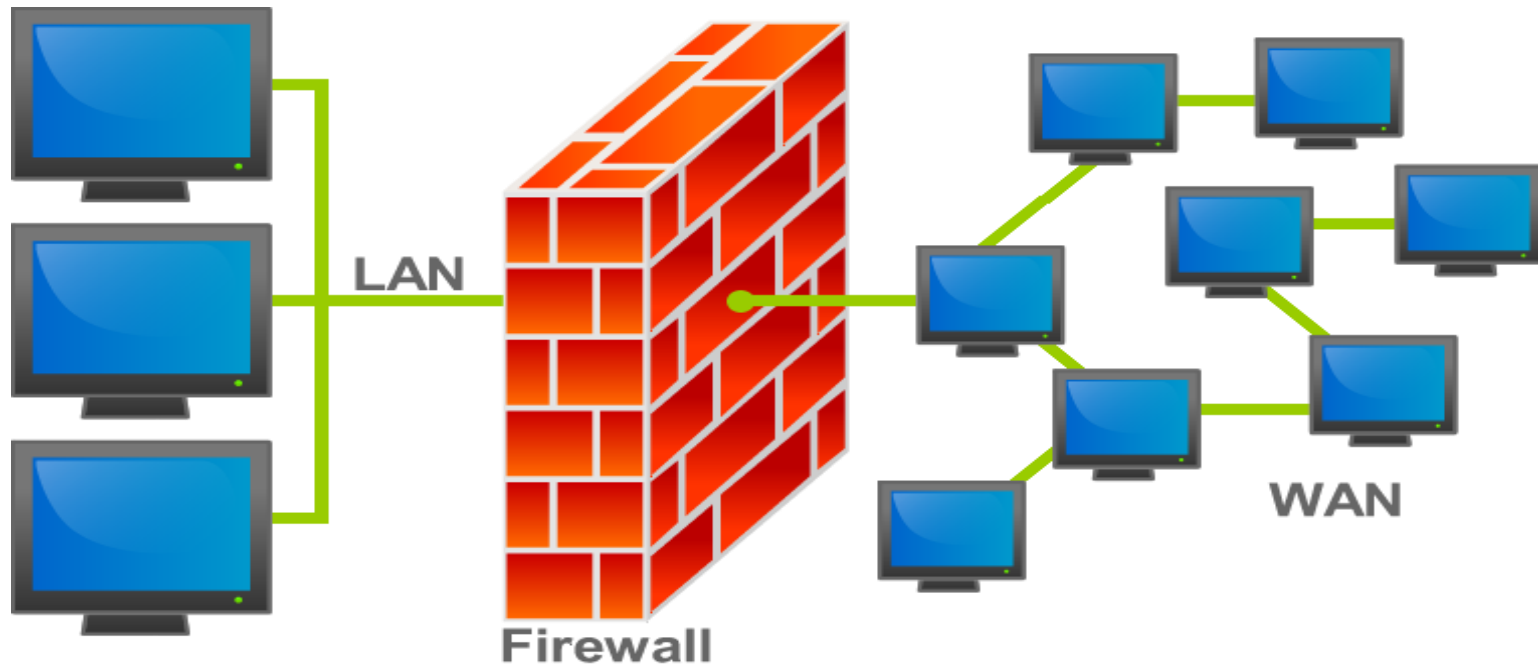
Defense in Depth Layers





Question 4 (People/Technology)

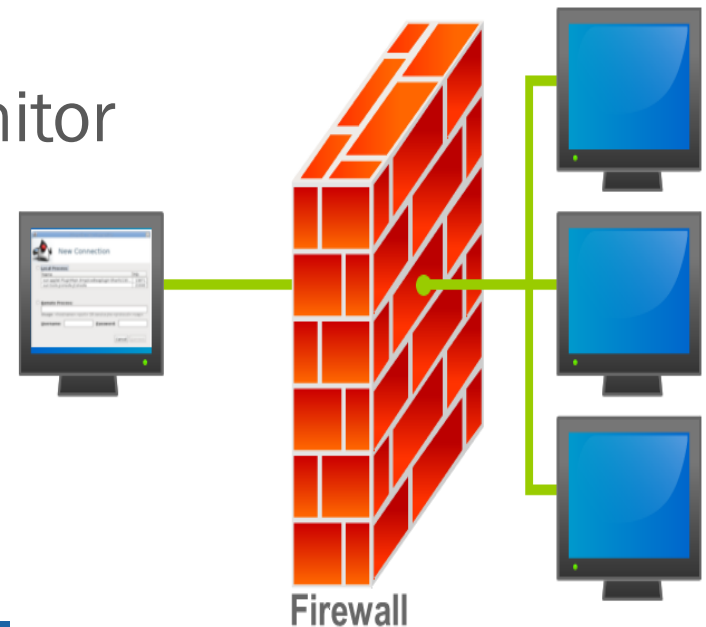
- When was the last time we had an independent party try to hack into our systems?





Annual Security Reviews

- External Vulnerability Scans
- External Penetration Testing
- Firewall Configuration File Review
- Internal Vulnerability Scans
- Are you using analytics to monitor user behavior?
- Are you investing in new technologies





Question 5 (People/Technology)

- What procedures have we implemented to protect our sensitive information that is stored and accessed using mobile devices?





Question 6 (People)

- How often do we provide security awareness training to our personnel?



Security
Fundamentals

microsoftvirtualacademy.com



Question 7 (People)

- Do we have the appropriate insurance coverage to address our cyber security concerns?





Cyber Insurance - Do I Need a Policy?

- Need to evaluate the information that you collect, process and store to determine the marketability of this data, if it was to fall into the hands of thieves.
- Need to evaluate your social profile. Are you a target of social activist?
- Need to understand the breach activities that have transpired in your industry.



What is Not Covered by Cyber Insurance?

- Reputational harm
- Loss of future revenue
- Cost to improve internal technology safe guards
- Lost value of intellectual property
- The policy will typically have sublimit related to fines and penalties



Question 8 (People)

- Do we have a formal incident response plan that has been tested in the event our systems are breached?





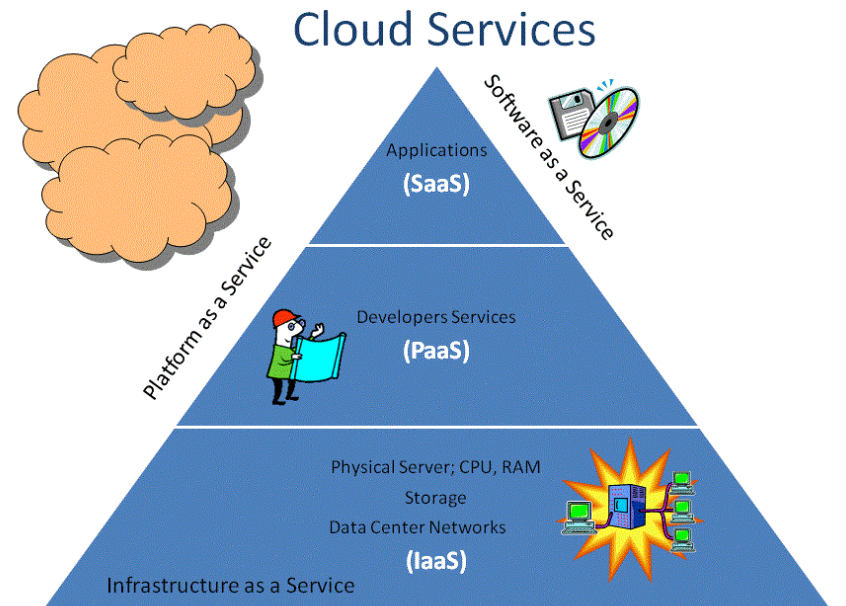
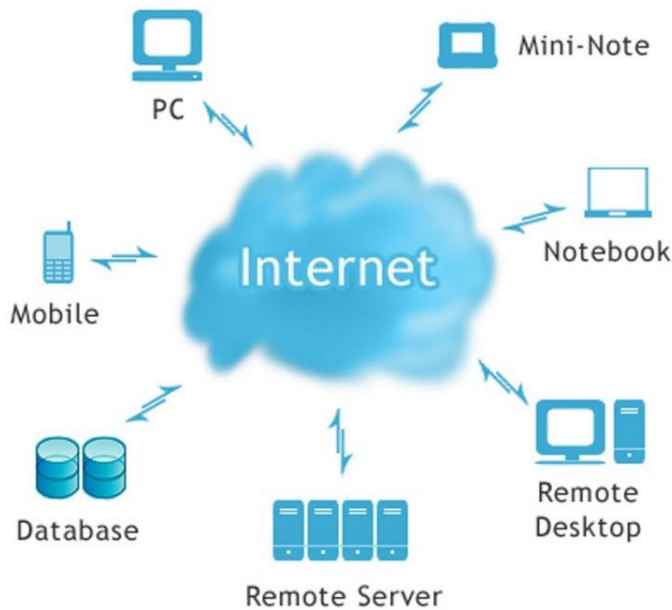
Question 9 (People)

- How Is Our Executive Leadership Kept Informed About the Current Level and Business Impact of Cyber Risks to Our Company?



Question 10 (Provider)

- Have we inventoried all of the third party vendors that have access to our data and have we evaluated their controls?



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What Actions Should I be Taking?

- Accept that security is an enterprise-wide risk, not just an IT issue. Create an awareness from the mailroom to the boardroom.
 - Stakeholders include, but are not limited to, the Boardroom, HR, Audit, IT and Legal
- Establish awareness that controls and processes have been specifically designed to prevent attacks.
 - New hire orientation
 - Ongoing awareness and communication
 - Visible to the organization



What Actions Should I be Taking?

- Integrate cyber risk strategy into the organization's strategic plan
- Have a team dedicated to managing cyber threats and your incident response plan
- Identify your organization's most critical data assets
 - Where do these assets reside?
 - Who has access to these assets?
- Educate employees about the risks of phishing attacks and assess their diligence



What Actions Should I be Taking?

- Implement a layered defense
- Assess your cyber security maturity
- Identify vendors used for business functions involving critical data assets
 - Make sure you understand their security policies and procedures
- Decide whether cyber insurance should be a part of your risk mitigation strategy
- Identify and remediate network vulnerabilities



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► Strategic Employer Well-Being

Developing Strategic Incentives to be Compliant and Engaging

March 22, 2017

► Stand up if your organization...

- Offers a wellness program
- Provides incentives for **participating**
 - For example, completing an online health assessment questionnaire or physical health screening – or participating in events throughout the year like a steps challenge
- Provides incentives for **achieving health outcomes**
 - For example, meeting certain criteria for blood pressure, cholesterol, glucose, or BMI level – or achieving an overall health score
- Stay standing if these incentives motivate you to
 - Participate
 - Make healthier choices in your day-to-day life

▶ Learning Objectives

- Discuss best practices for designing incentives that **drive and sustain desired behaviors**
- Share **benchmarks** on the type and amount of incentives provided by employers
- Cover the **legal requirements** for compliant incentives under the ACA, GINA, and ADA
- Share **examples** of effective incentive designs and evolutions to continue to drive better health and outcomes

► Incentives Design Overview

Component	Considerations	Best practices
Eligibility	<ul style="list-style-type: none"> • Full-time, part-time • Benefits enrolled vs. non-enrolled • Spouses 	<ul style="list-style-type: none"> • Allow all employees to participate and earn some kind of incentive, regardless of benefits eligibility or enrollment • Extend to spouses as program matures
Incentive requirements	<ul style="list-style-type: none"> • Participation • Program completion (challenges, activities, preventive care) • Biometric outcomes 	<ul style="list-style-type: none"> • Over time, participants do and achieve more to earn incentives: participate, improve outcomes, achieve low-risk outcomes
Budget	<ul style="list-style-type: none"> • Value • Estimated participation • Tax implications 	<ul style="list-style-type: none"> • Estimate incentive cost and compare to presumed impact – but don't limit to ROI
Payment method	<ul style="list-style-type: none"> • Premium discount (% or cash), plan design modification, cash, gift card, sweepstakes • Lump sum or throughout year 	<ul style="list-style-type: none"> • Manage administrative complexity • Blend of extrinsic and intrinsic motivators

INCENTIVES RESEARCH

► Best Practices for Incentives

Type	Examples	Behavior impact	Best for
Financial	<ul style="list-style-type: none"> • Reduced premiums • HSA contribution • Cash reward • Gift card 	<ul style="list-style-type: none"> • Creates attention • Encourages initial participation • Extrinsic motivation (do it for the dollars) 	<ul style="list-style-type: none"> • Driving participation in health evaluations (screenings, HRA's)
Non-financial	<ul style="list-style-type: none"> • Competitions • Recognition (formal or informal) • Personal satisfaction from engaging in or completing a program • Supportive culture 	<ul style="list-style-type: none"> • Drives longer-term, sustained behavior change • Impacts results (health outcomes) • Intrinsic motivation (do it for me) 	<ul style="list-style-type: none"> • Getting participants to make lasting health changes and improvements • Improving organizational culture

Monetary incentives alone don't change behavior.
Increasing **intrinsic motivation** is critical to healthy behavior change.

► Research on Effective Incentives

- Incentives should provide **immediate** and **frequent** positive feedback or reward
 - People are more attracted to **immediate** benefits than delayed benefits, and
 - More deterred by immediate than delayed costs
- Loss aversion
 - Research suggests people react more strongly to the possibility of losing a benefit, money, or their reputation than to the possibility of gaining something
 - Organizations should carefully balance loss aversion techniques with keeping wellness positive
- Mental accounting
 - \$100 discount on premiums may go unnoticed, whereas a \$100 check in the mail may register as an unexpected windfall

*“The effectiveness of incentive programs depends critically on how the incentives are **timed, distributed, and framed**, and several factors might make insurance-premium adjustments (the most common implementation mechanism) less effective dollar for dollar than other approaches.”*

► Fostering Intrinsic Motivation

“Don't make a big deal of the incentives. Make a big deal out of the benefits.”

- Communicate relentlessly
 - Posters and flyers
 - Emails
 - Text messages
 - Verbal messages
 - Social media
- Images and testimonials
- Praise and recognition
- Make it emotional

► Engagement Takes More Than Incentives

Beyond incentives, develop a *culture* that supports well-being

- Leadership support
- Wellness champions
- Engagement and active wellness steering committee
- Incentives at a group or leadership level and integration into their performance goals
- Fun ongoing well-being activities, challenges, and sweepstakes
- Support for long-term behavior change (such as coaching)

TRENDS AND BENCHMARKS

► Benchmarks

Majority of employers offer wellness incentives (NBGH)

2016	2015	2014	2010
72%	79%	74%	63%

- 60% pay spouse incentives
- 56% of large employers offer employees financial incentives – up 4% from 2013

Employers spent on average \$651/employee on incentives in 2016, up from \$260 in 2009 – but down from \$693 in 2015 (NBGH)

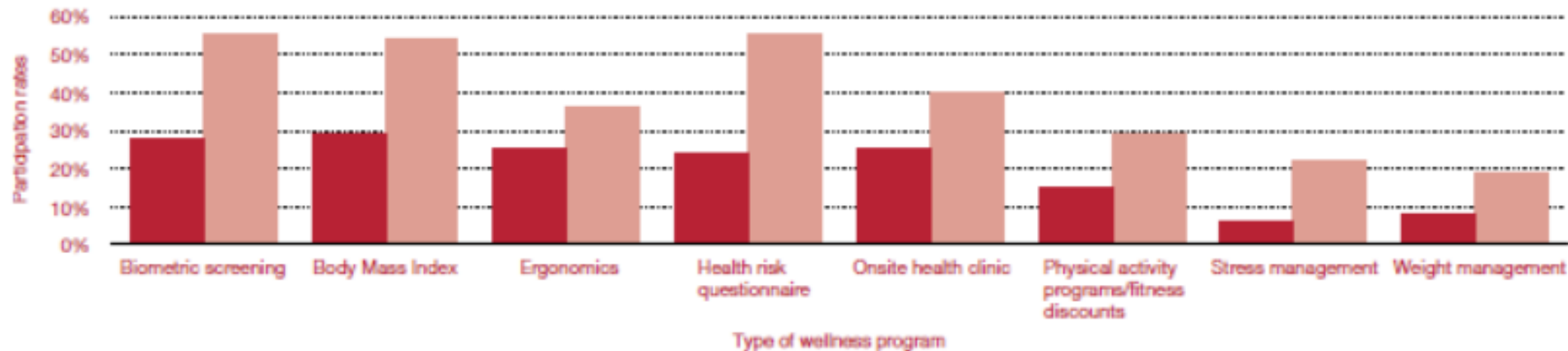
- 81% of employees earned some of the incentive in 2016, up from 73% in 2015
- 47% of employees earned their full incentive amount in 2014
- A quarter earned a partial amount

Employers are taking another look at incentive design

- 90% of those offering incentives are reevaluating their incentive strategy over next 3 years due to frustration over low engagement (Towers Watson, 2015)
- Interest in health-contingent (outcomes-based) incentives down from 44% in 2015 to 24% in 2016 (NBGH)
 - Focus has shifted from BMI to tobacco use
 - Tobacco incentive up from \$122 (2015) to \$199 (2016)

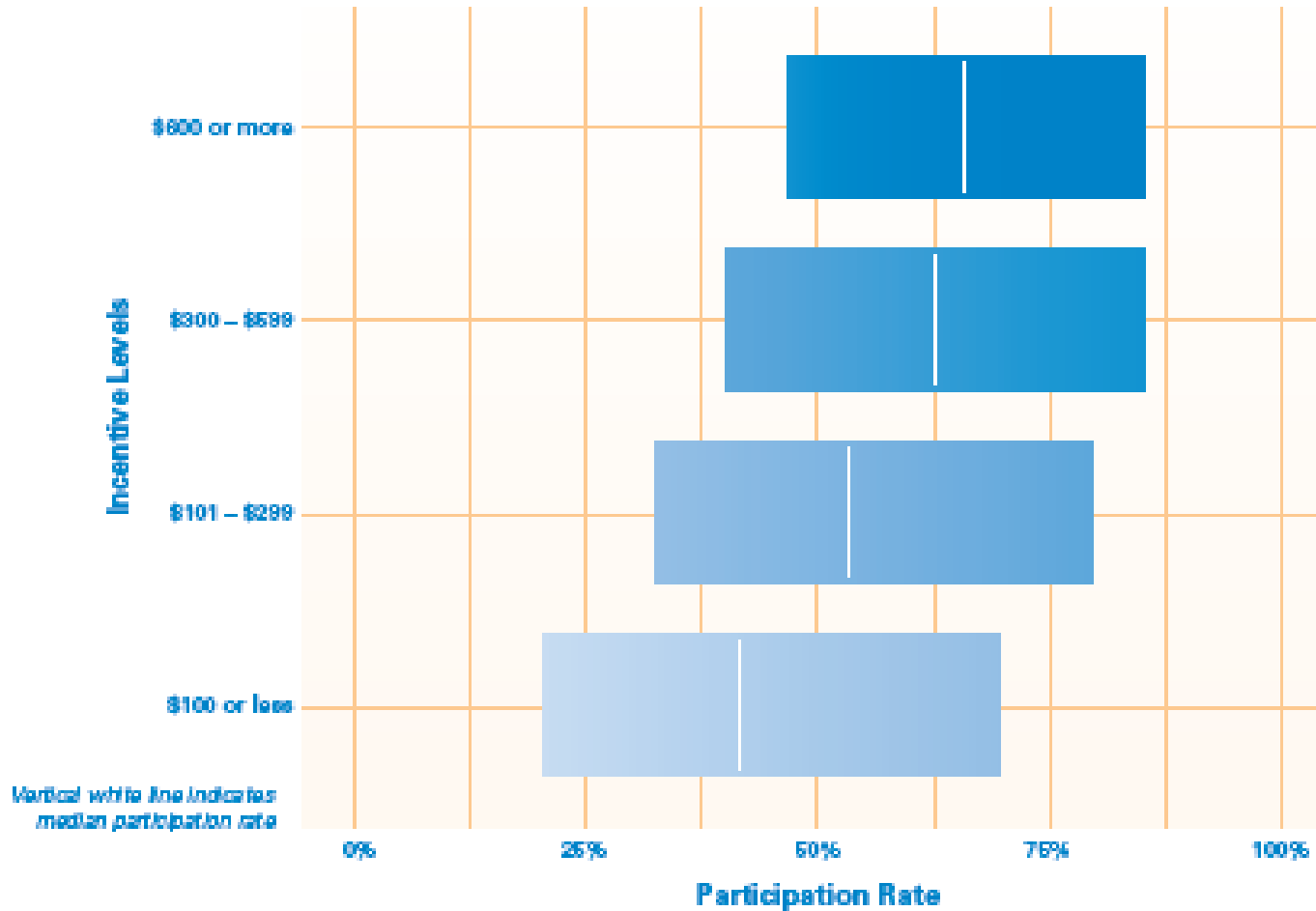
▶ Incentive Design Impact on Participation Rates

- Financial incentives are most effective at driving one-time behavior, such as completing a biometric screening or health risk questionnaire
- For engaging people in programs – such as physical activity programs, stress management, or weight management – financial incentives have varying degrees of success
- Financial incentives have the lowest impact on driving sustained behavior change, such as stress or weight management



► Higher Incentives = Higher Participation

Participation Rates by Overall Incentive Level



► Types of Incentives Offered

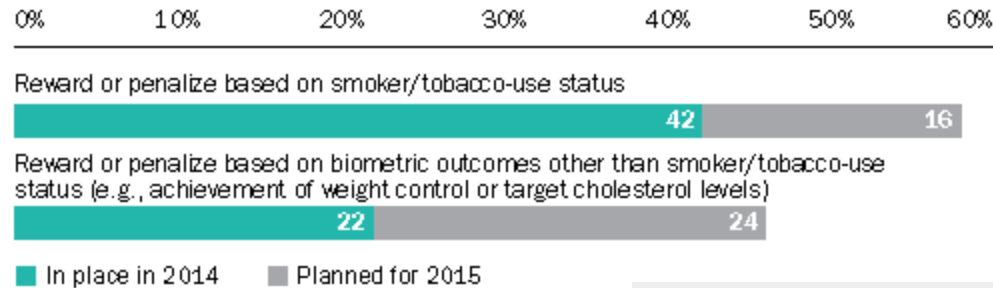
Incentives	Wellness	Disease management
No incentives offered	13%	82%
Cash/gift card <\$100	27%	2%
Cash/gift card \$100–\$199	12%	2%
Cash/gift card \$200+	16%	1%
Premium surcharge for not participating	7%	-
Annual premium incentive <\$100	2%	0%
Annual premium incentive \$100–\$199	4%	0%
Annual premium incentive \$200–\$299	4%	1%
Annual premium incentive \$300–\$499	7%	0%
Annual premium incentive \$500+	21%	1%
Additional employer contribution into HSA/HRA/FSA <\$100	0%	0%
Additional employer contribution into HSA/HRA/FSA \$100–\$199	1%	1%
Additional employer contribution into HSA/HRA/FSA \$200–\$299	5%	1%
Additional employer contribution into HSA/HRA/FSA \$300–\$499	2%	0%
Additional employer contribution into HSA/HRA/FSA \$500+	8%	1%
Deductible credits	2%	-
Lower copays	-	4%
Small gifts	31%	1%
Raffles for large gifts	23%	0%
Charitable donations	5%	0%
Other	8%	4%

More than one option was allowed to be selected

Shaded most frequent

► Tobacco Incentives

Figure 30. Participatory and outcome-based incentives



Smoker surcharge by industry

	In use	Annual amount
All companies	42%	\$520
Energy and Utilities	35%	\$480
Financial Services	42%	\$480
General Services	41%	\$420
Health Care	41%	\$600
IT and Telecom	34%	\$420
Manufacturing	52%	\$600
Public Sector and Education	13%	\$480
Wholesale and Retail	48%	\$480

Note: Medians

► Tobacco Incentives, continued

Monthly smoking surcharges

	<1,000 employees	1,000–5,000 employees	5,000+ employees	2015	2014
No	87%	79%	60%	77%	80%
Yes, for employees	13%	21%	39%	22%	20%
Yes, for dependents	4%	10%	20%	10%	9%
Average for employees	\$61	\$53	\$53	\$55	\$51
Average for dependents	\$57	\$53	\$52	\$53	\$59

More than one option was allowed to be selected

Shaded most frequent

Large employers are more likely to impose smoking surcharges. However, small employers tend to charge the highest smoking surcharges to their employees and dependents.

COMPLIANCE CONSIDERATIONS

▶ Federal Laws That Impact Wellness Programs

- HIPAA
- COBRA
- Genetic Information Nondiscrimination Act of 2008 (“GINA”)
- Americans with Disabilities Act (“ADA”)
- ERISA
- Health Care Reform (PPACA)
- Internal Revenue Code

▶ Legal Landscape Overview

- No clear and proven approach
- No regulatory approval of programs
- Conflicting policy objectives and regulatory stances (ex. HHS/DOL/IRS vs. EEOC)
- Potential for agency enforcement and lawsuits

► Penalties for Noncompliance

- Potential excise tax violations for failure to administer wellness programs in accordance with federal law
- Note: New IRS Form 8928 requires plans to self-report their excise taxes

Be aware of these rules, and track any possible violations

▶ HIPAA – Overview

Health Insurance Portability and Accountability Act

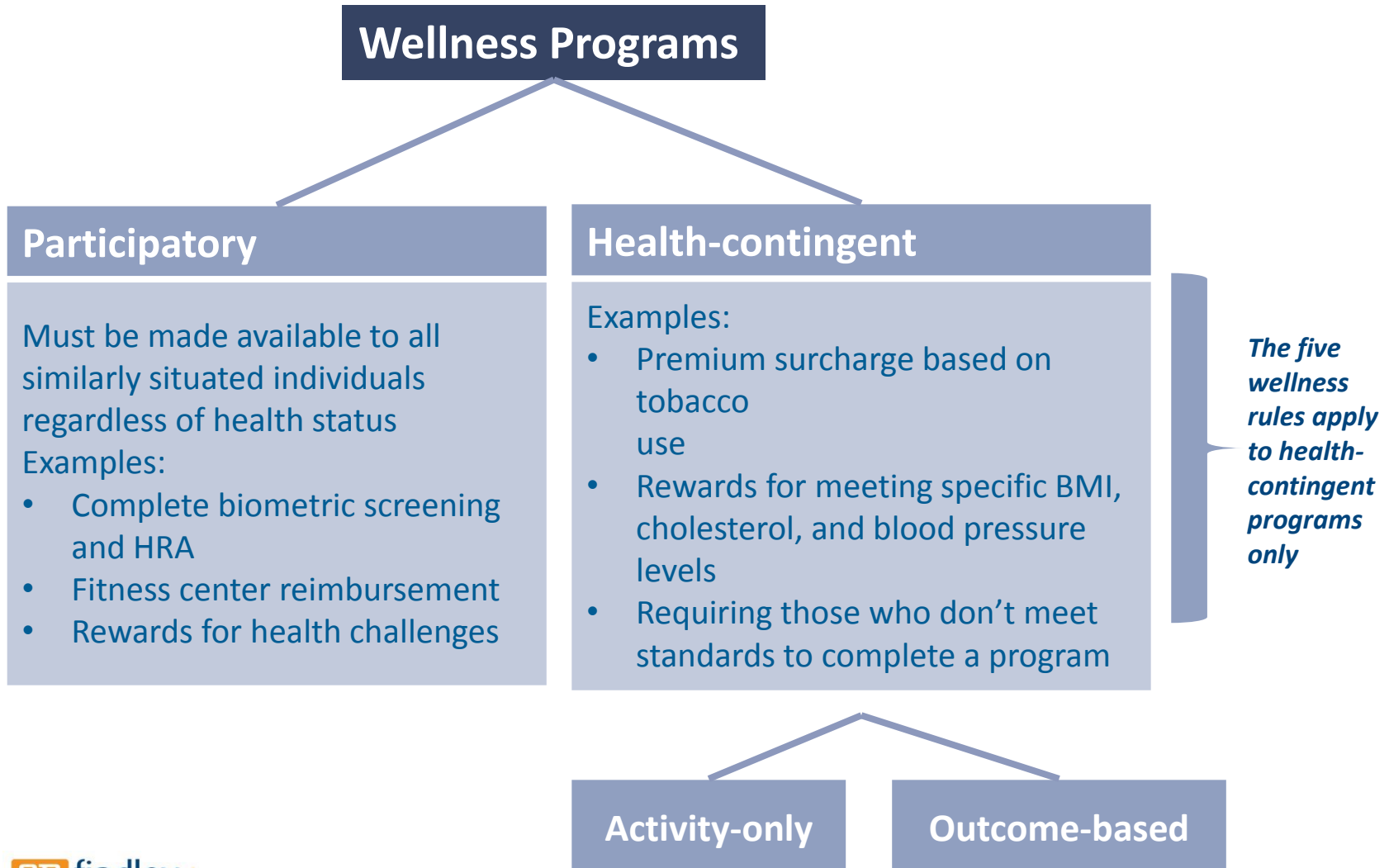
- Prohibits group health plans from discriminating in contributions or enrollment based on a “health factor”
- Health factors include health status, medical conditions, claims experience, medical history, receipt of health care, etc.

Note: HIPAA applies to wellness programs that relate to or are connected to a group health plan

▶ Final HIPAA Wellness Rules

- Final regulations released June 1, 2013
- Finalizes amendments, consistent with ACA, for nondiscriminatory wellness programs in group health plan or insurance issuer

▶ Two Wellness Program Categories



► Five Wellness Requirements

	Requirement	Original	Final
1	Frequency of opportunity to qualify	Once per year	Same
2	Size of reward	20%	30%/50% for tobacco
3	Uniform availability and reasonable alternative standards	Same full award must be available	Same with clarification and additional requirements
4	Reasonable design	Promote health or prevent disease	Same with clarification
5	Notice of other means of qualification	Disclosure of availability	Same with new sample language

► Size of Reward

- Health-contingent wellness rewards increase to 30 percent of the cost of health coverage
- 50 percent for programs designed to prevent or reduce tobacco use
- Total cost of employee-only coverage or,
- If dependents (incl. spouse) may participate, cost of coverage in which employee and dependents are enrolled.

▶ Notice of Other Means to Qualify

- Disclose availability of other means of qualifying for the reward or possibility of waiver of standard in all plan materials describing the wellness program
- New sample text and examples intended to be simpler for individuals to understand and to increase likelihood that those who qualify will take advantage of the alternative

“Your health plan is committed to helping you achieve your best health. Rewards for participating in a wellness program are available to all employees. If you think you might be unable to meet a standard for a reward under this wellness program, you might qualify for an opportunity to earn the same reward by different means. Contact us at [insert contact information] and we will work with you (and, if you wish, with your doctor) to find a wellness program with the same reward that is right for you in light of your health status.”

► Reasonable Alternative Standards

- Final regulation clarifications:
 - Apply to both activity-only and outcomes-based programs but may be different
 - The same full plan year reward must be awarded to individuals who qualify by satisfying a reasonable alternative even if it takes time
 - Time commitment must be reasonable
 - Physician can make recommendations regarding medical appropriateness that must be accommodated
 - Must continue to provide same or different reasonable alternative standard even if the individual was not successful in previously satisfying the standard

“Overcoming an addiction sometimes requires a cycle of failure and renewed effort”

▶ HIPAA – Exceptions

- Wellness programs that are not related to group health plans
- Programs that offer an HSA reward
- Information-only programs
- Programs that offer higher pay, bonuses, and other non-health plan related rewards

► GINA – Overview

Genetic Information Nondiscrimination Act of 2008 ("GINA")

- Title I generally prohibits health plans and health insurers from discriminating based on genetic information (DOL, IRS, HHS)
- Title II prohibits employers from acquiring and using genetic information in the employment context (EEOC)

Genetic information includes family medical history, results of genetic tests, and genetic information about a fetus or embryo.

Key Issue – HRAs

- Wellness programs may provide non-financial inducements to employees who complete health risk assessments, but only if the inducement is also available to employees who do not answer questions seeking genetic information

▶ Americans with Disabilities Act

Even if a wellness program complies with HIPAA's rules, it is not exempted from the application of the ADA

The ADA:

- Prohibits discrimination based on *disability*
- Medical examinations and inquiries connected to wellness programs must be voluntary
- Bona Fide Plan exception – can establish plan that is bona fide based on underwriting risks, classifying risks and administration that is not a subterfuge to evade ADA

▶ ADA – Legal Developments

Withdrawn EEOC opinion letter

Seff v. Broward County

- Issue -- Does a \$20 penalty for not taking an HRA mean a wellness plan is not “voluntary”?
 - BONA FIDE PLAN EXCEPTION under ADA

EEOC Action

- *Orion Energy*
- *Honeywell*
- *Flambeau*

▶ ADA – Legal Developments

EEOC Final Rules

- Reasonable design
- Applies to employee health programs that include disability-related inquiries or medical examinations, regardless of whether they are offered as part of a group health plan or whether the employee is enrolled in an employer-sponsored group health plan
- Must be “Voluntary”
- Incentives – 30% of the total cost (employer and employee contributions) for self-only coverage or 2x the total cost for the lowest-cost plan with self-only coverage if spouse can participate.
- Notice and Confidentiality Requirements

► ERISA - Overview

ERISA applies to wellness programs that are “employee welfare benefit plans”

An “employee welfare benefit plan” is:

- A plan, fund, or program
- Established by the employer
- To provide medical, surgical, or hospital care benefits
- To participants and their beneficiaries

► ERISA – Are you covered?

Is your wellness program an ERISA plan? Does it provide:

- Flu shots
- Medical screenings
- On-site physicals
- Disease-management programs

Surprised? You're not alone. Many employers are unaware their wellness programs are subject to ERISA.

► Internal Revenue Code - Taxation

- Cash incentives or cash-equivalents (such as a credit card or gift certificate) never qualify as de Minimis fringe benefits – thus *taxable*!
- Only exceptions are occasional meal allowances or local transportation fares, or if it is administratively impractical to account for the value of the incentive (i.e. value of a free movie pass that did not have a face value)
- Incentives that don't qualify as de Minimis fringe benefits must be included in employee's gross income
- Premium reductions are not taxable

► Other Considerations

Wellness programs could potentially raise issues under other federal and state laws:

- Age Discrimination in Employment Act
- Title VII
- Certain state laws

Also, consider collective bargaining obligations

INCENTIVE DESIGN CHECKLIST & SAMPLES

► Incentives Design Checklist

- **Eligibility**
 - Full-time, part-time
 - Benefits enrolled vs. non-enrolled
 - Spouses
- **Requirements**
 - Participation
 - Program completion (challenges, learning activities, preventive care, etc.)
 - Biometric outcomes
- **Budget**
 - Value
 - Estimated participation
 - Tax implications
- **Payment method**
 - Premium discount (% or cash), plan design modification, cash, gift card, sweepstakes
 - Lump sum or throughout the year
- **Administrative complexity**
- **Incentive evolution**
 - Participation > participation + outcomes > outcomes
- **Blend of extrinsic and intrinsic motivators**

▶ Incentives Evolution



► Incentives Design

- Define the goal of each incentive (e.g. participation, behavior change, outcomes, cultural change, etc.)
 - Incentives will result in *participation*
 - *Engagement* requires more than incentives
- Evolve the incentive type, amount and requirements over time to retain motivational value
 - Offering monetary incentives alone doesn't work
 - Use incentives to gain initial engagement or one-time participation
 - Drive intrinsic motivation to lasting healthy behavior change
- Consider research and employee preference when determining the level and type of incentive necessary to achieve targets
- Ensure the incentive fits culturally and there is something for everyone – not limited to benefits enrolled
- Anticipate the unintended consequences

▶ Sample 1

	Year 1	Year 2	Year 3
Activity	1) Participate in biometric screening 2) Complete Health Assessment	1) Participate in screening and complete health assessment 2) Complete activity/program	1) HA/biometrics screening prerequisite; 2) Achieve targets or complete related programs
Type and Amount	\$200 deductible credit for enrolled \$100 gift card for non-enrolled	\$200 deductible credit for enrolled \$100 gift card for non-enrolled	\$200 deductible credit or \$300 HSA contribution for enrolled/ \$150 gift card for non-enrolled
Eligibility	All employees regardless of benefits enrollment	All employees regardless of benefits enrollment	All employees, spouses of those enrolled in benefits
Goal	Drive a solid baseline of data (e.g. achieve at least 75% participation)	Encourage actions that will result in health improvement	Reward achievement of health targets and completion of health programs

▶ Sample 2

Year 1-2

Step 1: Complete Health Assessment PLUS Biometric Screening

Step 2: Complete Preventive Exam/Vaccine and various health activities

Step 1: Payroll Credit \$50

Step 2: Payroll Credit \$50

Year 3

Step 1: Complete Health Assessment PLUS Biometric Screening

Step 2: Complete Preventive Exam/Vaccine and various health activities, challenges, workshops, etc. through portal

Step 1: Premium credit/alternative for non-enrolled

Step 2: Quarterly incentives drawings

Year 4-5

Step 1: Complete Health Assessment, Biometric Screening PLUS achieve health targets /demonstrate engagement in related programs

Step 2: Complete Preventive Exam/Vaccine and various health activities

Step 1: Premium credit/alternative for non-enrolled

Step 2: Quarterly incentives drawings, payroll credit or possibly FSA credit



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