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## Analysis

# How Benefits Can Ease Workers' Return To The Office

By [Emily Brill](#) · March 31, 2021, 7:04 PM EDT

As plans for bringing America's white-collar workforce back to the office begin taking shape, employers can ease the transition for their workers by making use of wellness programs, employee assistance programs and disease management programs.

Here, Law360 explores how employers can best utilize their benefit programs as workers return to the office.

## Provide Incentives for Healthy Behavior

As employees come back to the office, employers can provide incentives for behaviors that enhance both individual and public health: everything from quitting smoking to getting a coronavirus vaccine.

Promoting healthy behavior in employees through corporate wellness programs is something many employers were doing before March 2020, but those efforts have enhanced importance during a pandemic, attorneys said.

"By having healthier employees, you're potentially mitigating the adverse effects of COVID-19 if someone were to catch it," said Eric Schillinger, lead benefits counsel at [Hall Benefits Law](#).

Corporate wellness programs have traditionally offered workers incentives for participating in activities such as fitness workshops, classes on healthy eating, smoking cessation programs and health risk assessments.

In pandemic times, employers can also offer workers incentives to get a coronavirus vaccine, attorneys said.

"An employer can certainly give employees [paid time off] to get vaccinated. And some employers are providing incentives, like a \$100 gift card or something like that," said Roberta Casper Watson, a partner at the employee benefits law firm The [Wagner Law Group](#). "Whatever encouragement they can do centered around facilitating, rewarding or encouraging vaccination is something to consider."

Employers should consult with their legal advisers before deciding on what incentives to offer, because "there's very little guidance about what incentives would be appropriate," and "one incentive may run afoul of the [[Americans with Disabilities Act](#) ] or other types of federal laws," said Kerstin Miller, a partner at the employee benefits law firm [Smith & Downey PA](#).

Employers should also ensure they provide an alternate route to receiving the incentive for people who can't get vaccinated, either due to religious objections or a medical condition, attorneys said.

That route could involve agreeing to get tested regularly, or taking an online program about best practices for disease prevention, attorneys said.

"Caution and accommodation would be the two buzzwords I'd take away when it comes to how employers are handling these issues," said Douglas Desmarais, a

partner at Smith & Downey.

## Offering Employee Assistance

Another way employers can support their workforce upon their return to the office is by offering a robust employee assistance program, attorneys said.

Such programs can help workers tackle a number of issues they might be having related to the pandemic, among them finding child care or elder care, managing stress and anxiety and dealing with financial or substance abuse issues.

"Employee assistance programs can be a lot broader than many employers realize in terms of the types of issues they can address," Miller said. "They address a lot of issues that are key in getting your employees back to work."

EAPs can either provide direct assistance, through mental health counseling, help with financial management and other forms of aid, or simply provide referrals to workers seeking support.

Because of the flexibility and utility of these programs, employers should consider setting them up or expanding them in connection with their workers' return to the office, which, for many, will be a disruptive and stressful time, attorneys said.

And if employers already offer a robust EAP, they might want to remind their employees that it's available, attorneys said.

As is the case with most employee benefits, there are legal risks attached to starting or expanding an EAP, but a consultation with a legal team should help employers navigate them without issue, Miller said.

"If an employer is thinking about setting up an EAP, it should be done under the guidance of counsel," Miller said. "To the extent an employer already has a program set up, you would want legal counsel to review any new benefits you're adding to your EAP before you implement your program."

## Helping Manage Diseases

Many employee health plans, especially larger, self-funded plans, offer initiatives called disease management programs. Through these programs, people with chronic illnesses can adopt a structured treatment plan in order to manage their disease.

In a time that has spotlighted the increased risk of severe side effects from COVID-19 shouldered by people with chronic health conditions, these programs can help people stay as healthy as possible, potentially mitigating those side effects, Schillinger said.

"I've heard about plans ... increasing the presence of their disease management programs," Schillinger said.

Along with corporate wellness programs and employee assistance programs, disease management programs offer workers opportunities to enhance their health and well-being during a difficult time, attorneys said.

"I think this pandemic has created, in the minds of both employers and employees, a heightened sense of the need to be focused on disease prevention, general health and other things related to making sure that employees stay well," said Steven Friedman, a shareholder practicing benefits law at the labor and employment law firm [Littler Mendelson PC](#).

--Editing by Nicole Bleier and Neil Cohen.

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