

Economic Impact Statement

LSA Document #07-488

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**Description of Rule**

In 2007, House Enrolled Act 1678 was enacted by the General Assembly and allowed for a tax credit for small employers that offer wellness programs to employees. The wellness programs must be certified by the Indiana State Department of Health (ISDH) for the tax credit to apply. The Act requires that ISDH promulgate rules to establish the minimum standards for use by a small employer in establishing a wellness program and to establish criteria and a process for certification of wellness programs that meet the minimum standards established by HEA 1678. Those minimum standards are that the small employer provides rewards for employee appropriate weight loss, smoking cessation, and the pursuit of preventative health care services.

The proposed rule adds [410 IAC 31](#) to establish minimum standards for use by a small employer in establishing a wellness program. The rule also establishes criteria and a process for certification and recertification of wellness programs that meet the established minimum standards. The wellness program must be designed to improve the health of employees by addressing appropriate weight loss, smoking cessation, and the pursuit of preventative health care services. Once a program is certified by the ISDH, a certificate is issued to small employers as required by [IC 6-3.1-31.2](#).

Vendors may also apply to have their wellness programs certified. Vendors that provide certified wellness programs to small employers as a direct service may be added to a list of registered vendors maintained by ISDH. By utilizing a preapproved certified wellness program through a registered vendor, small employers can bypass the requirement of establishing their own wellness program. Small employers and vendors must recertify each year to maintain certification of a wellness program.

Economic Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

HEA 1678, as codified at [IC 6-3.1-31.2-3](#), states that a "small employer" means an employer that: (1) is actively engaged in business; and (2) on at least fifty percent (50%) of the working days of the employer during the preceding calendar year, employed at least two (2) but not more than one hundred (100) eligible employees, the majority of whom work in Indiana.

Only small employers, as defined above, which choose to provide a wellness program to employees, will be subject to the proposed rule. The Secretary of State's business services division estimates that there may be up to 25,000 small employers that could qualify for this program.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Small businesses will incur no costs if they choose not to implement a wellness program. Businesses that choose to implement a wellness program will have minimal additional costs in the area of reporting, record keeping, and administration. Under the proposed rule, once the business provides a certified wellness program, the business must report annually to ISDH that the program is still in compliance with the rule.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

There is no cost imposed by the state on a small business that seeks certification of a wellness program through the ISDH. Small businesses that provide wellness programs will be able to control the amount of money they want to spend on the program. Because the small business will receive a tax credit of 50% for offering the program, the costs of providing the program are reduced by that amount.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law.

The ISDH will not impose any costs on small employers. Wellness programs must meet the minimum criteria and standards as established by the rule. These minimum criteria and standards are necessary to ensure small employers are providing a quality wellness program to its employees.

5. Regulatory Flexibility Analysis

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

Recertification of wellness programs on an annual basis is not burdensome and is necessary to ensure a business is offering a certified program. Tax credits are provided annually; therefore, it is prudent to require an annual recertification to ensure certificates are not improperly issued.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Annual recertification by October 1 of each year is not burdensome and is necessary to ensure a business is offering a certified program. The due date is necessary to ensure agency staff have enough time to review documentation and to issue the certificates prior to the year end.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

Requirements are as simplified as possible to maintain minimal standards.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The establishment of performance standards is not relevant to this rule.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

House Enrolled Act 1678 specifically applies to small employers only.

Conclusion

The purpose of this rule is to comply with HEA 1678 by establishing minimum standards and criteria for small employers to include in wellness programs for employees. Once a program is certified by the ISDH, the small employer will be able to apply for a tax credit based on the amount of funds an employer expends on its program. This rule does not impose any costs on small business as small employers have the option of offering programs to employees and control the amount of funds spent on the program.

Posted: 05/07/2008 by Legislative Services Agency

An [html](#) version of this document.