

## **4123-17-56.1 Workplace Wellness Grant Program Rule.**

(A) For purposes of this rule:

- (1) "Health risk factors" means physical and mental characteristics that can be modified, nearly always with much less cost compared to waiting for sickness and then attempting to treat the disease.
- (2) "State-fund employers" means a private state fund employer, a public employer taxing district, a marine industry fund employer, or a coal-workers' pneumoconiosis fund employer.

(B) Workplace Wellness Grant Program

- (1) Pursuant to section 4121.37 of the Revised Code, the administrator may establish a program of workplace wellness grants for the prevention of occupational injuries and illnesses for which employers are eligible under this rule. The workplace wellness grant may include grants to an employer to provide funds to address health risk factors to reduce the number and severity of workplace injuries and illnesses.
- (2) The bureau shall determine whether the employer is eligible for the workplace wellness grant program under this rule. The bureau may limit participation in the workplace wellness grant program based upon the availability of bureau resources for the program and upon the merits of the employer's proposal. The bureau shall award grant funds for employers on a first come, first serve basis. The workplace wellness grant program is available to state-fund employers that satisfy the following criteria:
  - (a) The employer must be current (not more than forty-five days past due) on any and all premiums, administrative costs, assessments, fines, or monies otherwise due to any fund administered by the bureau.
  - (b) The employer shall have and shall maintain continuous active state fund coverage to participate in the workplace wellness grant program.
  - (c) For grants to an employer to provide funds for the research and implementation of workplace wellness programs, the employer shall submit to the bureau an application for participation in the workplace wellness grant program. The employer shall demonstrate a need for workplace wellness grant program.
  - (d) The employer is not eligible for a workplace wellness program grant if the employer has an existing workplace wellness program. The bureau may provide a workplace wellness program grant to an employer to expand the employer's wellness program in order to establish a new wellness program. The bureau has the sole authority to determine whether a proposed workplace wellness program qualifies for a grant under this rule.
- (3) The bureau shall assess the employer's wellness proposal and shall review the workplace wellness grant program application, including the baseline assessment of the worksite provided in the application.

- (a) If the bureau accepts the employer into the workplace wellness grant program, the employer shall submit biannual and annual reporting to the bureau for a period of four years following the implementation of the wellness program. The employer shall develop an implementation strategy plan for the workplace wellness grant program.
  - (b) The bureau and employer shall enter into a written agreement detailing the rights, obligations, and expectations of the parties for performance of the workplace wellness grant program.
  - (c) The employer shall implement the wellness program within three months from the date that the bureau disburses the grant funds to the employer. The implementation of the wellness program cannot take place before the disbursement of the grant funds.
- (4) The employer shall agree to not eliminate jobs or reduce employment due to the implementation of the workplace wellness program. The bureau may meet with the owner, chief executive officer, chief financial officer, or persons having fiduciary responsibilities with the employer to evaluate the employer's progress in the workplace wellness grant program.
- (5) An employer who complies with the requirements of the workplace wellness grant program under this rule shall be eligible to receive a grant from the bureau as provided in the written agreement.
- (a) The bureau may establish by written agreement with the employer the maximum amount of the workplace wellness grant amount.
  - (b) The bureau may establish a limit for the amount of monies it disburses for the workplace wellness grant and this amount shall be established by written agreement with the employer.
  - (c) The bureau may require that the employer must execute its wellness program through an approved vendor.
  - (d) The bureau shall monitor the employer's use of the workplace wellness grant program amount and may recover the entire grant amount if the bureau determines that the employer has not used the grant for the purposes of the workplace wellness grant program or has otherwise violated the written agreement.
- (6) Reconsideration of determination of eligibility.
- (a) An employer may request reconsideration from a decision finding the employer did not meet the requirements provided in paragraphs (B)(2) and (B)(3) of this rule. The request must be in writing and filed with the superintendent of the division of safety and hygiene within thirty days of the notification of the decision.
  - (b) The employer may submit a request for reconsideration of the superintendent's decision to the adjudicating committee.
  - (c) The adjudicating committee shall consider the request and make a recommendation on the employer's eligibility to the administrator.
  - (d) The decision of the administrator shall be final.

- (7) Upon the approval of the proposed wellness program, the employer shall provide to the bureau documentation on the use of the funds, including submission of original paid itemized invoices, proof of payment, proof of the employer's contribution, and cancelled checks that demonstrate the employer spent all workplace wellness grant funds toward the approved expenditures.
  - (8) The bureau shall evaluate the research data from the workplace wellness grant program on a periodic basis. The bureau may publish reports of the research to assist employers in preventing workplace injuries and illnesses.
- (C) Continuing eligibility for the workplace wellness grant program once acceptance has been granted.
- (1) An employer participating in the workplace wellness grant program shall be eligible to continue participating in the program only if it maintains active workers' compensation coverage according to the following standards:
    - (a) The employer must be current (not more than forty-five days past due) on any and all premiums, administrative costs, assessments, fines, or monies otherwise due to any fund administered by the bureau.
    - (b) The employer must be current on the payment schedule of any part-pay agreement into which it has entered for payment of premiums or assessment obligations.
    - (c) The employer must not have cumulative lapses in workers' compensation coverage in excess of forty days within the prior twelve months.
  - (2) After the first year of enrollment, an employer participating in the workplace wellness grant program shall be eligible to renew its application and continue participation at the discretion of the policy established by the bureau.
  - (3) Applications submitted for the workplace wellness grant program may be processed and renewed by the bureau on a rolling basis.
- (D) Disqualification from the workplace wellness grant program.
- (1) An employer shall be immediately disqualified from the participation in the workplace wellness grant program if the employer is found by the bureau to have knowingly misrepresented information on the initial application for employee participation and compliance with program requirements.

As used in this paragraph, "knowingly" means that the employer had actual knowledge of the misrepresentation and was aware that the misrepresentation would cause a certain result.
  - (2) An employer shall be immediately disqualified from participation in the workplace wellness grant program if the bureau determines the employer has violated any state or federal statutes pertaining to confidential personal information and personal health information, including but not limited to the statutes and rules contained in 4729-1-10 of the Ohio Administrative Code.
  - (3) An employer shall be immediately disqualified from participation in the workplace wellness grant program if the bureau determines the employer has coerced employees to participate

in the workplace wellness grant program. As used in this paragraph, "coerced" is defined as intimidating an employee to compel the individual to do some act against his or her will by the use of psychological pressure, physical force, or threats. The definition of coercion as stated in 2905.12 of the Ohio Revised Code shall also apply to this paragraph.

An employer that is immediately disqualified from participation in the workplace wellness grant program under the three preceding paragraphs shall make restitution of all monies awarded by the bureau for participating in the program.

Effective: 1/20/12