



TOBACCO SURCHARGES

In an attempt to discourage use of tobacco products and cover additional health care costs associated with tobacco use, many employers and insurance companies consider tobacco surcharges. In certain cases, the Affordable Care Act (ACA) allows for tobacco surcharges, which can make health coverage unaffordable for tobacco users.

What is a Tobacco Surcharge?

- A tobacco surcharge is a variation in insurance premiums based on a policyholder (or dependent's) tobacco use.
- Tobacco surcharges are sometimes called tobacco premiums, premium incentives, or nonsmoker discounts.
- Some states already prohibit tobacco surcharges: seven states prohibit these surcharges in the individual market, and eight states prohibit these surcharges in the small group market.¹
- While the ACA prohibits insurers from using health status/ information to set premium rates, it does allow insurers and employers to charge tobacco users up to 50 percent more in premiums.
- The proposed rule implementing this provision in the Affordable Care Act requires insurers in the small group market to remove the tobacco surcharge for a tobacco user who agrees to enroll in a program that will help them quit.

Tobacco Surcharges can be Ineffective

- Punitive measures like tobacco surcharges have not been proven effective in encouraging smokers to quit and reducing tobacco use. Research suggests that even low surcharges can cause tobacco users to opt out of coverage.²
- There are other policies that are proven to reduce tobacco use, such as: increasing tobacco taxes, enacting smoke free laws, funding tobacco control programs and making tobacco cessation treatment accessible through health insurance coverage and quitlines.
- Tobacco surcharges can result in tobacco users paying thousands of dollars more in health insurance premiums – a study in California showed that an average tobacco user could end up paying 18.7 percent of their annual income in premiums because of the surcharge.³ High costs may deter tobacco users from purchasing insurance. This can leave tobacco users without coverage for treatments that will help them quit and treatments for potential tobacco-caused illnesses. Their families may also remain uninsured.
- State legislatures and insurance commissioners have an opportunity to make health insurance more affordable for tobacco users. While the Affordable Care Act allows



- tobacco surcharges up to 1.5 times the regular premium, states are able to limit these surcharges or prohibit them altogether.
- If an employer or insurer chooses to penalize tobacco users through a tobacco surcharge, it is important that policyholders have access to a comprehensive tobacco cessation benefit that will help them quit. However, research shows that tobacco surcharges do not increase the likelihood of employers' participation in any tobacco cessation programs.⁴

Comprehensive Tobacco Cessation Benefit

Tobacco Cessation Benefits Should Include ALL the Following:

Nicotine Patch	Individual Counseling
Nicotine Gum	Group Counseling
Nicotine Lozenge	Phone Counseling
Nicotine Nasal Spray	
Nicotine Inhaler	
Bupropion	
Varenicline	

Providing a comprehensive tobacco cessation benefit means covering access to all seven Food and Drug Administration-approved medications and three types of counseling recommended by the U.S. Department of Health and Human Services to treat tobacco use and nicotine dependence. Quitting tobacco is extremely hard, and everyone responds to treatment differently. It is important that potential quitters have access to all treatments.

Updated August 2019

¹ The Centers for Medicare and Medicaid Services, The Center for Consumer Information and Insurance Oversight. "Market Rating Reforms." June 2017. Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/state-rating.html>

² Kaplan CM, Graetz I, and Waters, TM. Most Exchange Plans Charge Lower Tobacco Surcharges than Allowed, but Many Tobacco Users Lack Affordable Coverage. August 2014. Health Affairs. Available at: <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2013.1338>

³ Curtis, Rick and Ed Neuschler, Institute for Health Policy Solutions. "Tobacco Rating Issues and Options for California under the ACA." June 2012. Available at: http://www.ihps.org/pubs/Tobacco_Rating_Issue_Brief_21June2012.pdf

⁴ Pesko M, Bains J, Maclean JC, and Le Cook B. Nearly Half of Small Employers Using Tobacco Surcharges Do Not Provide Tobacco Cessation Wellness Programs. March 2018. Health Affairs. Available at: <https://www.ncbi.nlm.nih.gov/pubmed/29505370>