

Some employers penalizing workers for e-cigarette use

August 29, 2013

Steven Ross Johnson

sjohnson@modernhealthcare.com

A growing number of employers, including UPS and Wal-Mart Stores, have decided that electronic cigarettes are an unhealthy habit rather than a stop-smoking tool and are imposing tobacco-use penalties on employees who use them.

Ivette Lopez, a spokeswoman for UPS, confirmed the company's health plan would begin charging a monthly fee of \$150 in 2014 to employees who used tobacco products, including e-cigarettes that carry liquid nicotine.

"FDA testing has determined that various samples (of e-cigarettes) have carcinogens and other toxic chemicals," Lopez said. "They're just not proven to be safe."

Wal-Mart spokesman Randy Hargrove said the company considers e-cigarettes a form of tobacco use, and as such, charges employees who use them higher premiums than their nontobacco workers. "We have nontobacco and tobacco rights," Hargrove said. He used the term "rights" for describing the two separate plans the company offers to tobacco and nontobacco users.

Hargrove declined to comment on how much more Wal-Mart employees who are tobacco users have to pay in premiums compared with nontobacco users.

But some tobacco users around the country may [pay as much as \\$2,000 a year extra](#) because of the surcharge.

Employers that have such policies on e-cigarettes, including Wal-Mart, generally offer exemptions from the surcharge if workers participate in smoking cessation programs, but switching to e-cigarettes is not considered by these firms as participation in such programs.

The percentage of employers that have tacked a monthly surcharge on premium contributions for employees identified as tobacco users has increased from 35% in 2012 to 42% in 2013, according to an [analysis conducted by the benefits consultant firm Towers Watson and the National Business Group on Health](#). That analysis projected the rate to rise to 62% by 2014.

Tower Watson Senior Consultant Michael Wood said he has advised clients who have asked what stand they should take on e-cigarettes to include them among products considered to be tobacco use.

"E-cigarettes have not been tested for safety," Wood said. "Nobody knows what the ingredients really are and they have not been approved as a recognized and safe method for cessation like nicotine replacement therapy patches have or nicotine gum."

Wood said no data have been collected yet on the number of companies deciding to include e-cigarette users among those hit with the premium surcharge. But he found among his clients that the initial reaction was in favor of penalizing them.

"They're just too many question marks about (e-cigarettes)," Wood said. "And if they're being manufactured by tobacco companies, they don't exactly have a stalwart track record of being forthcoming about what's exactly in their products."

Employers application of surcharges to e-cigarette users is challenged by those who say standard cigarette smokers have been able to quit smoking through the use of e-cigarettes, which they claim are free of the harmful health effects of standard cigarettes.

"This is basically what I would call a harm reduction strategy," said Michael Siegel, a [public health](#) professor at Boston University. He compared the use of e-cigarettes to help smokers quit tobacco with using methadone to wean addicts off heroin. "The whole idea of harm reduction is when you have a product that is not safe, but is a lot safer than the drug that's being used."

Despite such claims, Helen Darling, president of the National Business Group on Health, said using e-cigarettes is still tobacco use and should be treated as such by employers. "Somebody could say if they smoked six cigarettes a day instead of 25 or 30, because they're smoking less and they're using it to taper down, they should not be penalized for using tobacco," Darling said. "It's the same principle."

The Food and Drug Administration is expected to come out with a proposed set of regulations on e-cigarettes in October. If the agency labels use of e-cigarettes as "tobacco use," it could open the door for health insurers under the Patient Protection and Affordable Care Act to charge users up to premiums as much as 50% higher than non-smokers.

Follow Steven Ross Johnson on Twitter: [@MHSjohnson](#)

http://www.modernhealthcare.com/article/20130829/NEWS/308299965?AllowView=VW8xUmo5Q21TcWJOb1gzb0tNN3RLZ0h0MWg5SVgra3NZRzROR3l0WWRMWGJYUDhJRWxiNUtpQzMyWmVqNVhVWUpicWs=&utm_source=link-20130829-NEWS-308299965&utm_medium=email&utm_campaign=am