Safety Incentive Programs – Quick Tips



The Occupational Safety and Health Administration's (OSHA's) Improve Tracking of Workplace Injuries and Illnesses final rule was issued on May 12, 2016 and became effective January 1, 2017. This final rule revised OSHA's Recording and Reporting Occupational Injuries and Illnesses regulation by amending:
29 Code of Federal Regulations (CFR) 1904.35 Employee involvement,
29 CFR 1904.36 Prohibition against discrimination, and
29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

Incentive programs are often used by employers as part of their safety program. For instance, it is not uncommon for incentives or rewards to be offered for periods in which no injuries or illnesses are reported. If these incentive programs are not structured carefully, they may violate the revised recordkeeping rule. OSHA provided the following guidance in the final rule comments:

"It is a violation for an employer to use an incentive program to take adverse action, including denying a benefit, because an employee reports a work-related injury or illness, such as disqualifying the employee for a monetary bonus or any other action that would discourage or deter a reasonable employee from reporting the work-related injury or illness. In contrast, if an incentive program makes a reward contingent upon, for example, whether employees correctly follow legitimate safety rules rather than why they reported any injuries or illnesses, the program would not violate this provision."

Safety Incentive Program Do's and Don'ts

What to Do
For a comprehensive safety incentive program employers should tailor it to their specific needs. Consideration must be given to what the company does, the size and scope of the operation(s), number of locations, whether or not all employees are to be included, and whether separate and distinct incentive programs may be beneficial for different employee levels.

Employers should think about things (other than salary and benefits) that are important to their employees and include them in the safety incentive program. Things such as job security, opportunity to advance, and individual achievement and recognition should be considered.

Creating an environment where employees are excited to participate is paramount. Employees should see that the safety incentive program is in place for their good and the overall good of the company.

Measure and recognize leading indicators, they are proactive and consist of initiatives or activities that aim to prevent adverse actions before they happen. Examples of leading indicators include, but are not limited to, training employees on how to use equipment correctly; hazard and near-miss reporting; and pre-work inspections.

What Not To Do
When developing a safety incentive program employers should not focus solely on injury and illness rates (lagging indicators). Doing so may hinder reporting and have an adverse effect on the company's overall safety.

Employers should not limit their safety incentive program to what they have done in the past—be aware of emerging technology and trends related to safety and include them in the safety incentive program.

Successful Safety Incentive Program Practices

Employers can achieve a comprehensive safety incentive program by:

- Recognizing employees who participate in safety meetings, safety committees, and on audit/investigation teams.
- Acknowledging employees who have been "cited" by others (supervisor or peers) performing a safe act.
- Encouraging employees to report injuries, illnesses, near-misses and unsafe conditions.
- Recognizing employees who have completed safety and health training.

Frequently Asked Questions

Q: Does the revised recordkeeping and reporting rule allow an employer to have an employee incentive program?

A: Yes. Incentive programs should encourage safe work practices and promote worker participation. Employers must not create incentive programs that deter or discourage employees from reporting an injury or illness.

Q: To issue a citation under 29 CFR 1904.35, Employee involvement, OSHA must have reasonable cause to believe a violation has occurred. What is "reasonable cause"?

A: OSHA must believe and show that the employer retaliated against an employee for reporting a work-related injury or illness. To show this, the following elements of retaliation must be established:

1. The employee reported a work-related injury or illness;
2. The employer took adverse action against the employee (action that would deter a reasonable employee from accurately reporting a work-related injury or illness); and
3. The employer took the adverse action because the employee reported a work-related injury or illness.

OSHA must prove that the employer took the adverse action because the employee reported a work-related injury or illness. Determining whether a violation occurred and if there is enough evidence to substantiate it will be a fact finding investigation.

Sources

OSHA Improve Tracking of Workplace Injuries and Illnesses Final Rule Page

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