

## Healthy Behavior Incentives – Employer Hiring Practices • April 2016

*Arkansas has some of the highest rates of individual risk factors for chronic disease in the nation. Nearly 36 percent of adults are considered obese, 31 percent are physically inactive,<sup>1</sup> and 26 percent smoke tobacco.<sup>2</sup> These factors contribute to chronic disease rates that include 39 percent of Arkansans having hypertension and 13 percent with diabetes.<sup>1</sup> As a result Arkansas's national health ranking has been between 44th and 49th for the last two decades and is currently at 48<sup>th</sup>.<sup>3</sup> For 2013, projected costs of chronic disease treatment and lost productivity were \$26 billion.<sup>4</sup> By making reasonable improvements in preventing and managing chronic disease, Arkansas could make progress in health and economic improvement. Businesses and policymakers have seen the value of investing in preventive care and encouraging individuals to make better health choices related to diet, physical activity, and tobacco use. Furthermore, some businesses prohibit the hiring of people who use tobacco. This issue brief is part of a series that discusses the components and effectiveness of healthy behavior incentive programs with recommendations for their establishment and their impact on individuals, businesses, and Medicaid.*

### HEALTHY BEHAVIOR INCENTIVES

Changing unhealthy behaviors is difficult. While some behaviors mainly affect the individual, other unhealthy behaviors, such as smoking, impact not only the individual, but also family members and co-workers. Behavior interventions to help people improve their health-related activities have ranged from providing information, enabling choice, making default options healthy, offering incentives, enacting disincentives, and other restrictions on individual choice.

Businesses have seen the financial impact of health risk behaviors, increased employee absenteeism as well as decreased productivity of sick employees while at work (presenteeism) caused by employee tobacco use, obesity, and lack of physical activity.<sup>5</sup> One increasingly popular strategy for lowering these costs is the use of hiring practices to persuade potential employees to take greater personal responsibility for their health and make healthy lifestyle choices.

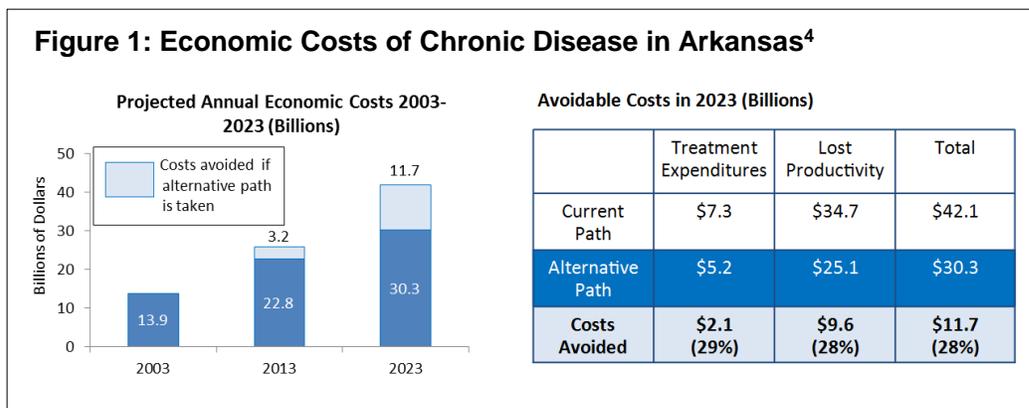
Employees who smoke impose significant costs on their employers. Ohio State University examined healthcare costs, absenteeism, presenteeism, smoking breaks, and pension benefits to estimate the excess annual costs that a private employer may attribute to employing an individual who smokes tobacco as compared to a non-smoker.<sup>6</sup> Their findings indicate a smoker would cost approximately an additional \$5,800 each year. Researchers in North Carolina estimated that the cost of obesity-related medical expenditures and absenteeism at a firm with 1000 employees was \$277,000 per year, or \$2770 per person.<sup>7</sup> Individual behavioral changes such as not smoking, eating better, and exercising more are cost-effective ways to contain the increased burden of chronic disease.<sup>8</sup>

### The Cost of Chronic Disease in Arkansas

In 2007, the Milken Institute used data from the Medical Expenditure Panel Survey to develop cost projections related to seven common chronic diseases: cancer, diabetes, heart diseases, hypertension, stroke, mental disorders, and pulmonary conditions. They considered a “business-as-usual” scenario (“current path”) of treatment and an optimistic scenario (“alternative path”) that

assumed improvements in health-related behavior and treatment. With positive changes in weight control, improved nutrition, increased exercise, and reductions in smoking, Arkansas could see more than \$11.7 billion in avoided health-related costs over a 20-year span representing a 28 percent reduction in the economic impact of chronic disease (see Figure 1).<sup>4</sup> Updating this report seven years later, the Milken Institute examined changes in their original projections. On the positive side, national data indicated heart disease prevalence and expenditures per patient—

aided by falling smoking rates—were lower than baseline projections. However, in all other diseases studied—cancer, diabetes, hypertension, and stroke—the



number of people reporting a condition, actual treatment costs, and productivity losses exceeded estimates.<sup>9</sup> In addition, they found the increased prevalence of obesity contributed to the increase in the number of cases of most of these diseases. This led the Institute to recommend incentives for disease prevention and a national renewal of efforts toward achieving a healthy body weight.

In Arkansas, tobacco use and obesity contribute to high healthcare costs and have a negative impact on businesses. The annual healthcare cost estimate attributable to cigarette smoking is \$1.21 billion, with an additional cost of \$1.7 billion in lost productivity.<sup>10</sup> Similarly, estimates of annual obesity-attributable expenditures include medical costs at \$1.25 billion<sup>11</sup> and absenteeism at \$97 million.<sup>12</sup>

### ***Tobacco as a Factor in Hiring Policy***

A growing number of companies and organizations are refusing to hire people who use tobacco products. The World Health Organization<sup>13</sup> and a number of health care systems that have tobacco-free hiring policies act as role models, inform the public about the harms of smoking, and have looked at the lost productivity and increased healthcare costs among their staff who use tobacco. The overall healthcare industry smoking prevalence is 16 percent, including 27 percent of nursing, psychiatry and home health aides, nearly 20 percent of occupational and physical therapists, and 10.5 percent of physicians, business and financial personnel.<sup>14</sup>

In states where it is legal, 5 percent of companies banned hiring smokers in 2014, and 7 percent planned to ban hiring smokers in 2015.<sup>15</sup> For more than 20 years, Union Pacific and Turner Broadcasting have refused to hire smokers.<sup>16</sup>

Recently, the healthcare sector is leading in the establishment of these hiring policies. Large facilities such as MD Anderson<sup>17</sup> and Baylor Health Care System,<sup>18</sup> as well as smaller units like UMass Memorial Hospital Marlborough,<sup>19</sup> and Idaho’s Central District Health Department,<sup>18</sup> all say they want to create healthier, more pleasant environments for their patients, visitors and staff, and to decrease absenteeism and reduce healthcare costs. Businesses such as casinos<sup>20</sup> and airlines,<sup>18</sup> cities like Moultrie, Georgia;<sup>21</sup>

In 2014, 5 percent of companies banned hiring smokers and in 2015, 7 percent plan to ban hiring smokers in states where it is legal.<sup>15</sup>

Cleveland, Ohio;<sup>22</sup> and Delray Beach, Florida,<sup>23</sup> and law enforcement agencies like the Massachusetts State Police<sup>24</sup> are also implementing these bans.

Arguments for and against a tobacco-free hiring policy cover many areas ranging from financial to personal responsibility to denormalizing an unhealthy habit. These discussions also consider that the addictive properties of nicotine make it difficult for tobacco users to stop.<sup>25</sup> Two articles in the *New England Journal of Medicine* discuss the conflicts, compromises and ethics to consider when proposing the hiring policy.<sup>26,27</sup> Both articles acknowledge that tobacco use is more concentrated in poorer and less educated populations. Proponents of the hiring policies emphasize that by strongly discouraging tobacco use, the policy may save lives among these populations, which are at greater risk for tobacco-related disease. They also note that small smoking cessation success rates and severe harms from tobacco use justify the use of aggressive ways to guide people's behavior choices. Opponents of the hiring policies argue that to ban tobacco users would unfairly and disproportionately affect those already experiencing higher unemployment, less job security, and fewer job prospects. They assert that employers should hire individuals based on the skills they bring to the workplace and then provide them assistance with smoking cessation programs and other supports.

### ***Obesity and Physical Fitness as a Factor in Hiring Policy***

The U.S. military services have minimum and maximum height and weight standards as well as percent body fat criteria and physical fitness standards for enlistment and on-going service to help assure the ability of service personnel to fulfill their duties.<sup>28,29,30,31,32</sup> The maximum height-weight standards allow for overweight but not obese personnel. The military has found that among young adults, one in four potential recruits are unable to join because of excess body fat. Of those recruits who are accepted, subsequent fitness training and treatment for weight-related injuries total \$1 billion a year.<sup>33</sup> As with the military, a variety of law enforcement agencies include height and weight requirements, e.g. the Virginia State Police<sup>34</sup> and the Kansas City Police Department.<sup>35</sup> The Arkansas State Police requires recruits to pass a physical fitness assessment but do not have height-weight standards.<sup>36</sup> Similarly, other agencies such as U.S. Immigration and Customs Enforcement<sup>37</sup> and the Federal Bureau of Investigation<sup>38</sup> have physical fitness requirements but not weight limits for select positions.

Outside the military and law enforcement areas, the use of obesity as an objective measurement for hiring is minimal. Citizens Medical Center in Victoria, Texas made headlines when it announced that it would not hire very obese people with a body mass index of 35 or more.<sup>39</sup> However, they reversed their policy just over a year after implementing it.<sup>40</sup>

Weight-based discrimination toward obese people in employment, education and health care are well documented.<sup>41,42</sup> To evaluate public acceptance of potential laws to prohibit weight discrimination, a sample of United States adults was asked to indicate their level of support for various legislative measures. Eighty-one percent of women and 65 percent of men supported laws to prohibit workplace discrimination concerning hiring, termination and promotion. Laws that proposed protecting obese people as people with physical disabilities received the least support.<sup>43</sup> In four countries, United States, Canada, Australia, and Iceland, government policies and laws against weight discrimination have broad public support. A study by the Rudd Center for Food Policy & Obesity found that 70 percent of the adults surveyed said it should be illegal for an employer to refuse to hire a qualified person because of their weight.<sup>44</sup>

## ***Federal and State Oversight of Hiring Policies***

Federal laws do not explicitly prohibit employers from discriminating based on tobacco use<sup>18</sup> or obesity<sup>45</sup>. Conversely, twenty-nine states and the District of Columbia have laws that prohibit employers from refusing to hire smokers and/or users of other tobacco products.<sup>46</sup> Michigan<sup>47</sup> and six U.S. localities (San Francisco<sup>48</sup> and Santa Cruz, CA;<sup>49</sup> Urbana, IL;<sup>50</sup> Binghamton, NY;<sup>51</sup> Madison, WI;<sup>52</sup> and Washington, D.C.<sup>53</sup>) make it illegal to refuse to hire someone based on weight. The Americans with Disabilities Act of 1990 (ADA),<sup>54</sup> prohibits an employer from discriminating in employment against a qualified individual with a disability. The Americans with Disabilities Act Amendments Act (ADAAA) of 2008<sup>55</sup> has increased the probability that morbid obesity will be deemed to constitute a federally protected “disability.”<sup>56,57</sup> Arkansas does not have a statutory or regulatory prohibition on such hiring ban policies and follows the “employment-at-will” doctrine,<sup>58</sup> meaning that Arkansas employers are generally free to set the standards for what types of employees they will hire.

### ***Experience in Arkansas:***

Similar to the national movement, several Arkansas hospitals have instituted tobacco-free hiring policies to reduce healthcare costs, decrease absenteeism, encourage healthy lifestyles among staff, and create healthier, more pleasant environments for their patients, visitors and staff. United Health, formerly White County Medical Center of Searcy, was an early leader,<sup>59</sup> with Baptist Health Medical Center,<sup>60</sup> Conway Regional Health

#### **Tobacco-free Hiring Policy Rationale**

White County Medical Center – “The change is an effort for all employees to adopt a more healthy lifestyle...as a health care facility we believe this is the right thing for us to do for our employees.”<sup>59</sup>

Baptist Health – “Rising cost of insurance is the main factor behind the change.”<sup>60</sup>

Arkansas Children’s Hospital – “The new policy is just part of our step toward promoting good health among employees...smoking is not something we want to expose our patients to.”<sup>62</sup>

System,<sup>61</sup> and Arkansas Children’s Hospital<sup>62</sup> adopting such policies in the last three years. Adult smoking data from County Health Rankings<sup>63</sup> show each facility eliminated 20 to 23 percent of the potential employee pool by adopting their tobacco-free hiring policies. The hospitals offer employees, who use tobacco products and were hired before the tobacco-free policies, assistance with smoking cessation programs and other supports. To date, hiring restrictions based on weight have not been implemented by Arkansas businesses. Several businesses such as the Arkansas Forestry Commission<sup>64</sup> and the Arkansas State Police<sup>65</sup> include passing a physical fitness test as part of their hiring policy.

### ***Lessons Learned from the Business Community***

Fulfilling employment needs while implementing tobacco-free hiring policies can take time and incur an immediate financial cost. Scotts Hyponex, a garden product packaging facility had a tax abatement agreement with Smith County, Texas. In exchange for a 100 percent abatement, the company had to make a \$9 million investment and create 25 jobs within three years. They invested \$11.7 million but came up four jobs short due to their strict hiring standards that included being tobacco-free. They accepted the reduced abatement rate, maintained their standards, and are expecting to meet their hiring goal and return to the 100 percent tax abatement level.<sup>66</sup>

St. Luke’s Health Network stopped hiring people who use tobacco at its Pennsylvania hospitals but could not implement it at their New Jersey facility due to that state’s law. They have found after five years that less than 5 percent of their Pennsylvania employees smoke, approximately half the rate

of their employees in New Jersey. Absenteeism among the Pennsylvania employees dropped 12 percent to an average of 31 hours per year while New Jersey increased to just over 37 hours.<sup>67</sup>

After five years, St. Luke's facility with a tobacco-free hiring policy had half the rate of smokers and lower absenteeism than its facility without the hiring policy.

In Arkansas, Baptist Health Medical Center has not had a problem filling positions in the first two years after implementing their no tobacco use policy.<sup>68</sup>

### ***Recommendations for Establishing Healthy Behavior Hiring Policies***

Insights gained from federal, state and local laws and regulations,<sup>49-62</sup> academic research,<sup>30-31, 45-48</sup> and businesses<sup>16-28</sup> provide guidance for the establishment of healthy behavior incentive hiring policies. A few options for employers and policymakers to consider include the following:

- A hiring ban based on tobacco use is a reasonable option for employers.
- A hiring ban based on obesity might be in conflict with the Americans with Disability Act.
- Employers can offer evidenced-based smoking cessation classes, behavioral counseling for obesity, and other supports for employees.
- An evaluation component should be included to assess relative effectiveness and unintended consequences of any new policy to assist with ongoing policy and program improvement.

## **CONCLUSION**

An investment in good health is an investment in improved productivity and economic status. Providing people with the opportunities and incentives to take control of lifestyle behaviors that impact their health helps them, their families, their employers, as well as the state. A well-designed hiring policy addressing tobacco use is likely to increase the level of positive behavior change and lead to healthier individuals with lower healthcare costs and less worker absenteeism. A hiring policy addressing obesity may be in conflict with the Americans with Disabilities Act. However, if job performance requires specific levels of fitness essential to the performance of the duties of the position, a fitness assessment may be included in the hiring process. Given the burden of chronic disease in Arkansas and opportunity to improve health and lower healthcare costs, it would be worthwhile for private and public employers alike to explore the advantages and disadvantages of adding a hiring policy incentive program.

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