# HEALTH COMPASS INC.

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Reviewing the compliance and legality of combining a Participatory Self-Funded Accident & Health Plan with a Section 105b HRA to create a WIMPER (Wellness Integrated Medical Plan Expense Reimbursement) Program.



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## 1. Introduction – Our Goal

The objective of our research was to confirm the proper structure of a Wellness Integrated Medical Plan Expense Reimbursement (WIMPER) Program. A WIMPER is an ACA, ADA, ERISA, HIPAA, and IRS compliant employee benefit intended to create a measurable tax and healthcare cost savings for employers and employees alike. It combines two specific elements:

- A Section 125 Eligible, Voluntary Participatory Wellness Program focused on preventative health & and disease management for fifteen specific chronic health conditions.

- A Section 105b Self-Insured Medical Expense Reimbursement Plan (SIMERP)

## 2. Health Compass Inc.'s Internal Review Process

To examine the legality and compliance of structuring a properly functioning WIMPER, Health Compass Inc. first looked at the IRS codes that dictate how employee benefits and qualified medical reimbursements should be ethically and legally handled. Specifically, Sections 125, 105b, 105-11, 132, and 106a were reviewed, as well as several IRS memorandums, inclusive of #201703013, to **ensure** the most up to date guidance was considered.

Next, HIPAA, as well as the ADA and ACA were reviewed to ensure the program followed all applicable healthcare, discrimination, diversity, and inclusion laws. This included referencing the ACA's participatory wellness requirements, HIPAA employer restrictions, and the requirements of the EEOC's final ruling on Title I of the ADA act regarding the treatment of Americans with disabilities.

Finally, legal counsel, was engaged to provide a thorough review of Health Compass Inc.'s WIMPER Program's process. The legal specialists were asked to audit internal processes and align them to the requirements stipulated by the laws, memorandum, and codes aforementioned. Section 7 of this document presents the highlights, findings, and opinion.

## 3. Structuring Legal & Compliant WIMPER

When properly structured, a WIMPER, is a tremendously versatile employee benefit that provides **immediate,** measurable tax and healthcare savings for both the employers and employees. A legal and compliant WIMPER consists of two plans working simultaneously:

1. A voluntary participatory wellness program
2. A health reimbursement arrangement

Being a Wellness Plan, the Participatory Voluntary Employee Wellness Program is meant to provide member benefits focused on preventative health and chronic disease management. The program is Section 125 compliant, so all premiums are to be collected on a pre-tax basis, resulting in a reduction in taxable wages, a 7.65% savings, for employers and employees.

The wellness program is then combined with a Section 105b SIMERP document that outlines how employees can use the wellness program benefits to qualify for reimbursement of their qualified expenses. The reimbursement has been deemed tax free, as they are qualified medical services as defined under IRS Section 213d, 2020 Publication 502, and IRS Publication 15 *the 2022 Employer's Tax Guide.*

A WIMPER structured in this way will meet all IRS, ACA, HIPAA, ADA, and ERISA compliance guidelines and rules, resulting in tax savings that average:

- $523.57/year per participant for the employer
- $1800/year per participating employee

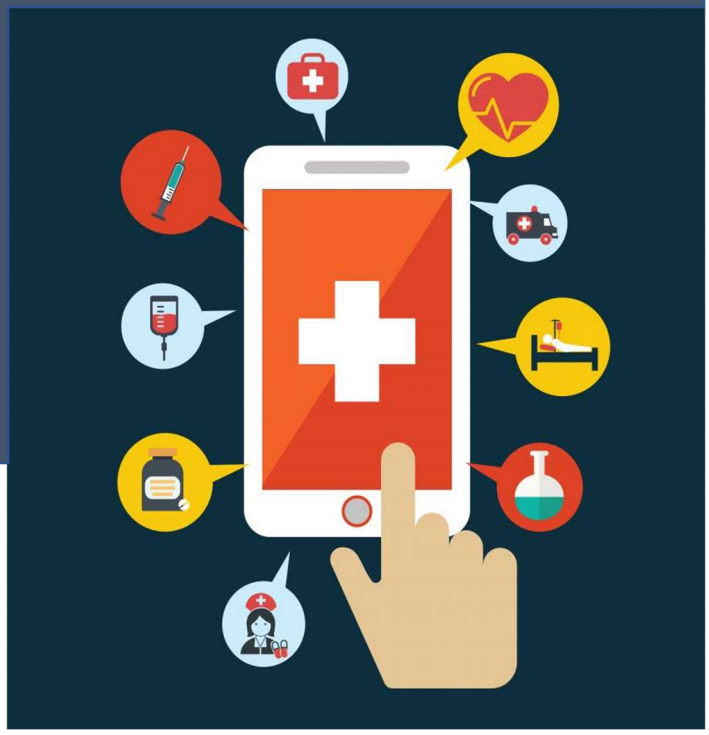
Additionally, a WIMPER can deliver healthcare cost savings by providing multiple services that are preventative in nature. A complaint program provides medical services under IRS Section 213d including, but not limited to:

1. Counseling & Therapy
2. Primary & Urgent Care
3. Prescription Drugs
4. Wellness Seminars
5. Medical Guidance and Tracking

Employees can use these member services to lower out of pocket expenses by leveraging the $0 copay services built into their wellness plan. Members can also mitigate the chances of future diagnosis and illness through Wellness Plan participation.

Employers can also save on healthcare spend through the employees' usage of Wellness Program benefits. Savings can include reduction in prescription costs, ER visits, urgent care utilization, and hospitalization claims by Health Compass Inc.'s tele-health services.

Our research has shown that 8 key risks and behaviors drive 15 of the most **costly** chronic illnesses worldwide.



| | | | |
|---|---|---|---|
| Poor Diet | Physical Inactivity | Smoking | Lack of Health Screening |
| Poor Standard of Care | Poor Stress Management | Insufficient Sleep | Excessive Alcohol |

- Diabetes
- Coronary Artery Disease
- Hypertension
- Back Pain
- Obesity
- Cancer
- Asthma
- Arthritis
- Allergies
- Sinusitis
- Depression
- Congestive Heart Failure
- Lung Disease (COPD)
- Kidney Disease
- High Cholesterol

Per 100 workers employed, here is the financial impact to employer healthcare spend:

| Health Risk | % of US Population | Potential Cost/100 |
|---|---|---|
| Stress | 40% | $28,560 |
| Smoking/Tobacco | 14% | $53,298 |
| Physical Inactivity | 28% | $53,508 |
| Depression | 7% | $19,831 |
| Hypertension | 45% | $107,640 |
| Obesity | 42% | $553,896 |
| Poor Sleep | 35% | $142,660 |
| Binge Drinking | 17% | $11,390 |

## 4. Applicable IRS Codes, Employer Tax Guide & Compliance Rules

To gain a basic understanding of the legality and compliance of a WIMPER program, you must first look at the IRS codes that dictate their structure. Since the Health Compass Inc. program is a Self-Funded Voluntary Employee Wellness Program, it is imperative to consider the following IRS codes and guidance:

**Section 125 – Cafeteria Plan:** A Cafeteria Plan is a written document maintained by an employer for their employees that meets specific requirements and regulations of Section 125 of the IRS code. A Section 125 plan document provides participants with an opportunity to receive certain benefits on a pre-tax basis.

A qualified benefit, as defined by the IRS, is one that "does not defer compensation to a later date, and that is excludable from an employee's gross income under a specific provision of the Code." Examples of qualified benefits include: Accident & Health Benefits, Dependent Care Assistance, Group-Term Life Insurance, and HSAs.

This is significant to research presented in this document, because the Health Compass Inc. WIMPER is a Section 125 eligible Voluntary Participatory Wellness Program and is to be offered on behalf of the employer to employees.

The program is Section 125 eligible because it is a Self-Insured Accident & Health Plan, as defined under IRS Section 105b – Self Insured Medical Expense Reimbursement Plans, or a "SIMERP."

**IRS Section 105b:** IRS Section 105 outlines "Amounts received under Accident & Health Plans." WIMPER plans, such as Health Compass Inc., qualify as Accident & Sickness Plans under IRS Code 105b. This is because they constitute Self-Funded Voluntary Wellness Programs.

Furthermore, IRS Code 105-b, "Amounts expended for Medical Care," reads "Gross income does not include amounts referred to in subsection A; such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him/her for the medical care (as defined in Section 213d) of the taxpayer, his/her spouse, or his/her dependents."

**IRS Section 106a:** Section 106a of the IRS Code outlines how qualified contributions can be made by employees to Accident & Health Plans and is covered in multiple rulings from the past 30+ years. Section 106a provides that gross income does not include contributions by an employer or employee to accident or health plans for compensation (through insurance or otherwise) to employees.

This is important because Health Compass Inc. is a Self-Insured Accident & Health Program, as defined by the IRS, ERISA, ADA, ACA, and HIPAA

**IRS Publication 15:** Circular E, the Employer Tax Guide for use in 2022, provided by the IRS states "**Medical Care Reimbursements.** Generally, medical care reimbursements paid for an employee under an employer's self-insured medical reimbursement plan aren't wages and aren't subject to social security, Medicare, and FUTA taxes, or income tax withholding."

## 4. Cont'd

**IRS Section 213d:** An understanding of Section 213d of the IRS code is important to the research presented on this document, as it provides guidance regarding the deduction and qualification of medical care expenses. It is intended to clarify what medical services may be deducted personally or reimbursed by an employer through qualified accounts (i.e. HAS, FSA, or HRA). Publication 502 is released periodically by the IRS to update the list of qualified medical expenses. The 2020 Publication 502 was used for our research and is easily located on irs.gov for review.

Section 213d defines a medical expense as follows:

*"The costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and for the purpose of affecting any part or function of the body. These expenses include payments for legal medical services rendered by physicians, surgeons, dentists, and other medical practitioners. They include the cost of equipment, supplies, and diagnostic devices needed for these purposes."*

*"Medical care expenses must be primarily to alleviate or prevent a physical or mental disability or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or a vacation."*

*"Medical care expenses include the premiums you pay for insurance that covers the expenses of medical care."*

The list of 213d eligible medical services that are available through complaint WIMPERs such as Health Compass Inc. can be found on our custom-made application provided and backed by Bonum Health *Powered By TRXADE*, located on both Android and Apple App Stores.

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## 5. 2017 IRS Memorandum #201703013

When researching SIMERP/WIMPER programs like Health Compass Inc., one will inevitable encounter IRS memorandum #201703013. Released on January 20, 2017, this memorandum, written by Stephen Tackney – Deputy Associate Chief Counsel (Employee Benefits), reviews the tax treatment of benefits paid by fixed-indemnity health plans. This memorandum is often referred to by nay-sayers trying to discredit a qualified SIMERP/WIMPER program, but it is not a fair basis for such criticism.

A properly structured WIMPER program is **not** a fixed-indemnity plan. Health Compass Inc. is an ERISA Compliant Self-Funded Voluntary Accident & Sickness plan. These programs do not pay the fixed, lump sum benefits to members that Mr. Tackney refers to in all five scenarios of said memorandum. Conversely, a compliant WIMPER will **only** reimburse qualified medical expenses as defined by IRS list 213d.

Highlighted copies of this memorandum can be obtained by request, otherwise directly seen.



# 6. The CPA Journal Article: "20 Questions about Establishing a Health & Wellness Program in the Workplace," by Peter Karl & Dominick Mondi (Jan 2021)

In January 2021, The CPA Journal published an article by Peter Karl & Dominick Mondi titled "20 Questions about Establishing a Health & Wellness Program in the Workplace – Opportunities for Tax and Cost Savings." In this article, they outline how a properly structured WIMPER/SIMERP could be built. The following insights from this article proved the most relevant to the additional pieces of research presented in this document

**How does a WIMPER program save employers money?**

A WIMPER program saves employers money through a reduction in FICA taxes paid. This is because the plan contribution amount elected by the employee is not considered to be wages, and therefore is not taxable for social security purposes. These programs can also provide additional savings through the reduction of paid time off because they support healthier employees. It should also be noted that a WIMPER program is only subject to federal law, not state insurance regulations.

**Why would an employee want to participate in a WIMPER program that combines a healthcare plan with a wellness plan and a SIMERP?**

Healthcare medical reimbursement plans are growing in popularity. This is because they not only allow employees more input in choosing benefits; but they also give benefit providers more flexible solutions for businesses. Some examples include tax-free reimbursements for employees to use towards the purchase of ancillary insurance products, such as disability and accident policies. This results in lower Federal Insurance Contributions Act (FICA) taxes for both the employer and employee.

One reason employees may want to participate in a WIMPER program is that these programs' unified platforms provide an opportunity to purchase additional benefits that might not otherwise be affordable without affecting their net pay.

IRS Section 106(a) allows employers to make pretax contributions to a Wellness Plan (e.g., an Accident and Health Plan). These pretax contributions are made at the election of the employee through a written salary reduction agreement that is the basis for a Section 125 Cafeteria Plan. This is a separately written employer plan that allows employees to choose between two or more benefits consisting of a taxable one (e.g., cash) and at least one qualified option (e.g., an Accident Insurance Policy).

By contributing a portion of their salary to pay for qualified benefits, employees reduce their compensation; the contributions are not considered wages for income tax purposes.

## 6. Cont'd



A WIMPER program allows a company to make a benefit allowance available to employees with reimbursements for participation in a Wellness Plan. This differs from traditional benefit programs, in which an employer chooses and administers a healthcare plan.

**How should a WIMPER program be designed?**

To achieve a compliant self-insured platform, the following provisions must be considered when determining which benefits are allowable for reimbursement:

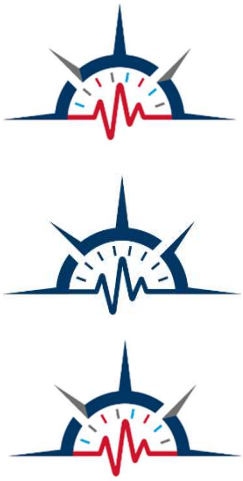
- A salary-reduction agreement that allows the employee to make pretax contributions to a Section 125 Cafeteria Plan to pay for qualified benefits, such as accident and health benefits or group term life insurance;
- An IRS Section 106 Wellness Plan funded with pretax dollars (e.g., from a Cafeteria Plan or other qualified plan);
- A SIMERP that provides for tax-free reimbursements of medical care expenses described in IRS Section 105(b) and defined in IRS Section 213(d). This includes, but is not limited to, insurance covering medical care.

A copy of the complete article can be viewed by visiting: https://www.cpajournal.com/2021/01/27/20-questions-about-the-establishing-a-health-wellness-program-in-the-workplace/

## 7. A Review of Health Compass Inc.'s WIMPER, by Tax & Legal Professionals

Health Compass Inc. consulted a national law firm, as well as a national CPA firm to ensure that the development of their SIMERP/WIMPER was designed in compliance with the requirements, regulations, and considerations outlined in previous sections of this document. Each of these specialists conducted a thorough review of Health Compass Inc.'s internal process to back and ensure compliance with all required IRS, HIPAA, ADA, and ACA applicable laws.

Upon request, and remittance of a Mutual Non-Disclosure Agreement, the Operational Summary Letter provided to Health Compass Inc., by Legal Counsel and CPA advisors will be provided to any prospective client or partner interested in our services.



## 8. Conclusion

After 3+ years of research and development, Health Compass Inc. believes that there is sufficient proof that its product is, **indeed**, a compliant and legal Wellness Integrated Medical Plan Expense Reimbursement program (WIMPER). The program complies with all applicable IRS, ERISA, ADA, DOL, ACA, and HIPAA requirements, therefore, participating employers and employees can simultaneously reduce their tax burden, save on overall healthcare expenses, and improve the healthcare ecosystem.

Health Compass Inc. hopes that readers find this document as a utility in the decision-making process. Please feel free to reach out with any questions.