LEGAL UPDATE

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HIGHLIGHTS

- Numerous class-action lawsuits have been filed against companies that impose health plan surcharges for tobacco users.
- In general, the lawsuits allege that the surcharges violate federal law because employees were not offered a reasonable alternative standard to avoid the surcharge and the full reward was not provided for completing the alternative standard.
- Two recent court decisions dismissed lawsuits challenging tobacco surcharges.
- These decisions add to the growing trend of employer-favorable rulings on this issue.

Federal Courts Reject Challenges to Health Plan Tobacco Surcharges

Two federal district courts recently dismissed lawsuits challenging employer-sponsored wellness programs that impose health plan premium surcharges on tobacco users. Both courts held that the plaintiffs lacked standing to assert their claims and declined to enforce notice requirements imposed by the U.S. Department of Labor's (DOL) 2013 regulations. One court also ruled that the "full reward" requirement does not require employers to pay back surcharges already collected. These decisions add to the growing list of employer-favorable rulings in the current wave of tobacco surcharge litigation.

Background

Over the past several years, numerous class-action lawsuits have been filed against employers alleging that health plan premium surcharges related to tobacco use violate federal compliance requirements. These lawsuits have been filed by current and former employees of major U.S. companies who have paid more in premiums due to their tobacco use. In general, the lawsuits assert that the health plans violated federal law regarding wellness programs by:

- Not properly offering or disclosing a **reasonable alternative standard** to avoid the tobacco surcharge, including failing to provide a specific notice about physician-approved alternatives to earning the reward; and
- Not providing the **full reward** to participants who complete the reasonable alternative standard by only applying the premium reduction on a prospective basis (instead of reimbursing participants for surcharges paid for the entire year).

Some lawsuits also assert that the collection of the tobacco premium surcharge was a breach of fiduciary duty under ERISA. The lawsuits request various forms of relief, including reimbursing employees who paid the surcharges with interest, disgorging any benefits or profits, and paying all attorney fees and costs.

Recent Court Decisions

Although some courts have allowed tobacco surcharge lawsuits to proceed, most recent decisions have dismissed plaintiffs' claims challenging employers' tobacco-free wellness programs. Key takeaways from the latest decisions are as follows:

- *Williams v. Target Corporation* (July 22, 2026): The U.S. District Court for the District of Minnesota held that the plaintiff lacked standing to bring their tobacco surcharge claim. The court also declined to enforce the notice requirement about physician-approved alternatives from the DOL's 2013 regulations, holding that a general grant of rulemaking authority does not authorize an agency to impose notice requirements beyond those created by Congress; and
- *Spencer v. Campbell Soup Company* (July 22, 2026): The U.S. District Court for the District of New Jersey dismissed the plaintiff's tobacco surcharge lawsuit on similar grounds as the *Williams* court. The court also held that the law's full reward requirement does not mandate reimbursement of previously paid tobacco surcharges.