

New Health Reimbursement Arrangement Rules Provide an Alternative to Traditional Group Health Plan Coverage

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HRAs – What Are They?



- Employer-funded arrangements
 - Employer creates notional (unfunded) account for each participant
 - NO employee contributions
- Reimburses certain substantiated medical care expenses
- Tax-favored

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HRAs - Background



- “Employer Payment Plans” under Rev. Rul. 61-146
- Rev. Rul. 2002-41 & Notice 2002-45
- Health Care Reform
- QSEHRAs

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HRAs - Background



- Executive Order 13813 issued Oct. 17, 2017
- Proposed HRA regs issued Oct. 29, 2018
- Final HRA regs issued Jun. 20, 2019
 - Generally applicable for plan years beginning Jan. 1, 2020

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HRA Final Regulations



Two new HRA options:

- Individual Coverage HRA ("ICHRA")
 - Integration of HRA with individual coverage
- Excepted Benefits HRA ("EBHRA")
 - Employer offers HRA without regard to whether employees have other coverage or coverage that satisfies ACA market requirements

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Individual Coverage HRAs (ICHRAs)



Six requirements:

1. Integration with individual coverage
2. Can't offer traditional GHP and ICHRA to same class of employees
3. Must be offer on same terms to all employees in same class
4. Must permit employees to opt out of HRA (preserves PTC eligibility)
5. Must substantiate individual coverage
6. Notice requirement

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Why Consider ICHRAs?

- Offer ICHRA in lieu of traditional GHP
- Offer ICHRA to classes of employees who aren't eligible for traditional GHP
- Use ICHRA as MEC for IRC 4980H(a) offer of coverage



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ICHRAs: Plan Sponsor Decisions

- Decide which classes of employees will be offered ICHRA
 - Permissible classes
 - Full-time, part-time, salaried, non-salaried, rating area, seasonal, collectively bargained, waiting period, foreign workers, and staffing agency employees
 - New Hire subclasses
 - Minimum class sizes may apply
 - Can't offer ICHRA to class of employees if employer offers GHP to that class
 - Can't offer choice between ICHRA and GHP



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ICHRA: Plan Sponsor Decisions



- Decide what benefits will be offered under the ICHRA
 - Benefits/terms must be the same for entire class of employees
 - Annual dollar amounts available
 - Variations permitted for:
 - number of dependents
 - age of participants (3:1 ratio limitation)
 - HSA compatibility
 - Premium payments and/or IRC § 213(d) expenses

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ICHRA: Plan Sponsor Decisions



Administrative issues to consider:

- Proof of enrollment in individual coverage
- Notice requirement
- Opt-out requirement
- ACA affordability/employer mandate reporting
- HRA funding

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ICHRA: Plan Sponsor Decisions

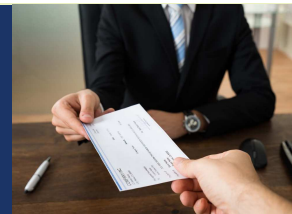


Other issues to consider:

- Employee terminations/COBRA
- Plan documentation
- ERISA compliance
 - “Voluntary plan” safe harbor for individual policies
- IRC Section 105(h) nondiscrimination

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Excepted Benefit HRAs (EBHRAs)

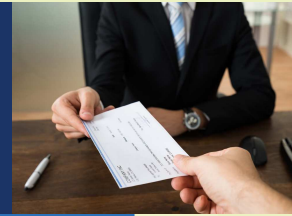


Four requirements:

1. Must offer other GHP coverage to same class of employees
2. Annual funding can't exceed \$1,800 (ignore carryover amounts)
3. Cannot reimburse individual or group medical coverage premiums (other than COBRA)
4. Must be available on same terms to all similarly situated individuals

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Why Consider EBHRAs?

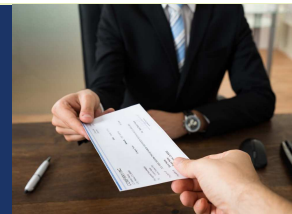


- Can keep traditional GHP
- Offer EBHRA as addition to employee benefit package
- May offer more flexibility than HSA or healthcare FSA

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EBHRAs: Plan Sponsor Decisions

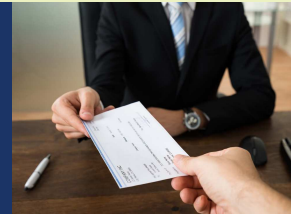


- Decide which employees will be offered EBHRA
 - Must offer other GHP coverage to employees offered EBHRA
 - Must offer EBHRA on same terms to all similarly situated individuals

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EBHRAs: Plan Sponsor Decisions

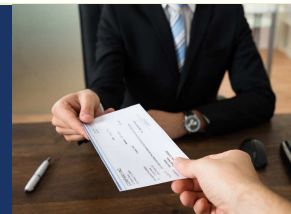


- Decide what benefits will be offered under the EBHRA
 - \$1,800 annual funding limit
 - Expenses that can be reimbursed:
 - COBRA premiums
 - Cost of coverage that consists solely of excepted benefits
 - Short-term limited duration coverage (subject to future restrictions by HHS)
 - Any other IRC Section 213(d) medical expense not specifically prohibited

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EBHRAs: Plan Sponsor Decisions



- Other issues to consider
 - COBRA
 - Plan documentation
 - ERISA compliance
 - IRC Section 105(h) nondiscrimination

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Thank you!



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