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What every HR leader should know about compliance



Health Reimbursement Arrangements Comparison Chart

In June 2019, the Department of the Treasury (Treasury), Department of Labor (DOL), and Department of Health and Human Services (HHS) (collectively, the Departments) published their [final rules](#) regarding health reimbursement arrangements (HRAs) and other account-based group health plans. These final rules expand the use of HRAs by removing the prohibition against integrating an HRA with individual health insurance coverage (individual coverage HRA) and expanding the definition of limited excepted benefits to recognize certain HRAs as limited excepted benefits if certain conditions are met (excepted benefit HRA).

The final rules were effective on August 19, 2019, and generally apply for plan years beginning on or after January 1, 2020.

In September 2019, the Internal Revenue Service (IRS) published [proposed rules](#) to clarify the way the employer shared responsibility provisions and Section 105(h) nondiscrimination rules apply to HRAs that are integrated with individual health insurance coverage or Medicare.

Because employers may want to offer individual coverage HRAs beginning on January 1, 2020, before the IRS publishes its final regulations, employers may rely on the proposed regulations:

- Under Section 4980H for periods during any plan year of individual coverage HRAs beginning before the date that is six months after final regulations are published; and
- Under Section 105(h) for plan years of individual coverage HRAs beginning before the date that is six months after final regulations are published.

The chart that follows is designed to help employers understand the differences between a “traditional” HRA, limited purpose HRA, retiree only HRA, Qualified Small Employer HRA, and the two new types of HRAs: the individual coverage HRA and the excepted benefit HRA.



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
Employer eligibility					
Any size employer	Any size employer	Any size employer	Employers with fewer than 50 full-time / full-time equivalents that do not offer a group health plan	Any size employer	Any size employer
Employee eligibility					
Any employee who is covered by a group medical plan sponsored by the employer (or if the employer chooses, by the spouse's employer)	Eligibility terms are defined by employer	Retired employees are eligible (a retiree-only plan does not have to meet the medical coverage requirement that a "traditional" HRA must meet)	Employees of employers with fewer than 50 full-time employees (under ACA counting methods) who do not offer group health plans. To be eligible, the employee must show proof of coverage. Reimbursements are tax-free to the employee if the employee has minimum essential coverage for the month in which the expense is incurred.	An employee who has individual coverage (including Marketplace coverage, student health insurance coverage, catastrophic plans, individual health insurance coverage sold through a private exchange model, and grandfathered individual health insurance coverage). To integrate an ICHRA with Medicare, certain conditions must be satisfied.	Employee must be eligible for the group health plan (but does not need to be enrolled in the group health plan)



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
Additional eligibility requirements					
<p>Yes, the employer may design the plan to cover whom it wishes as long as it meets the non-discrimination requirements.</p>	<p>Yes, the employer may design the plan to cover whom it wishes as long as it meets the non-discrimination requirements.</p>	<p>Set by employer, but subject to various laws, including state and local laws (to the extent they aren't preempted by ERISA), Medicare Secondary Payer rules, and contracts governing the employer's obligations, including collective bargaining agreements. In most cases, retiree only plans are exempt from the ACA's market reforms and patient protections.</p>	<p>Employers must offer the QSEHRA to all similarly situated employees. It is acceptable to provide different reimbursement amounts to different employees within the reimbursement limits, if the variance is due to differences in insurance policy prices in which the employees are enrolled.</p> <p>It is not acceptable to provide different reimbursement amounts to employees based on seniority, employee classifications, job performance, wellness program incentives, or any other type of incentive/reward program.</p>	<p>Employers (who do not offer an ICHRA to all employees) may only offer the ICHRA on different terms to different groups of employees if the groups are one or more of the 11 specifically listed classes of employees listed in the regulations. The regulations also provide minimum class sizes for some of the classes.</p>	<p>Employers must make the EBHRA available under the same terms to all similarly situated individuals (as defined by HIPAA's nondiscrimination regulations) regardless of any health factor.</p>



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
Employer contribution limits					
Set by employer	Set by employer	Set by employer	2019: \$5,150 (single coverage) \$10,450 (family coverage); indexed annually for inflation	Set by employer	2020: \$1,800 (indexed annually for inflation)
Eligible expenses					
Section 213(d) medical care expenses	Vision and dental expenses; or limited to spousal or retiree only	Section 213(d) medical care expenses	Section 213(d) medical care expenses and individual coverage	Section 213(d) medical care expenses. Individual coverage (including Market-place coverage, student health insurance coverage, catastrophic plans, individual health insurance coverage sold through a private exchange model, and grandmothers individual health insurance coverage). If integrated with Medicare, may reimburse premiums for Medicare Part A, B, C, or D, Medigap policies, and other Section 213(d) medical care expenses (subject to the Medicare Secondary Payer rules).	Section 213(d) medical care expenses, excepted benefits' premiums, COBRA, short-term limited duration insurance



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
Section 125 cafeteria plan					
No	No	No	No	Employees' premiums for individual coverage off Marketplace can be run through a cafeteria plan	No
FSA compatible					
Yes	Yes	Yes	No (because employer cannot sponsor other group health plan)	No, if the health FSA is considered to be a group health plan (because an employee cannot be offered both a traditional group health plan and an HRA integrated with individual coverage)	Yes
HSA compatible					
Yes, if restricted to post-deductible or limited purpose	Yes, if restricted to post-deductible or limited purpose	Yes, if restricted to post-deductible or limited purpose	Yes, if restricted to individual coverage and post-deductible	Yes, if restricted to individual coverage and post-deductible	Yes, if limited to vision and dental expenses
COBRA					
Yes	Yes	No, unless it's the COBRA qualifying event of employer bankruptcy	No	Applies to HRA, but not to the individual coverage	Yes



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
ERISA					
Yes	Yes	Yes	<p>A QSEHRA is excluded from the ERISA Title I, Part 7 group health plan definition. The rest of ERISA may apply to QSEHRAs, although this issue remains undetermined by an administrative agency or court.</p> <p>However, starting on January 1, 2020, individual coverage selected by the employee in the individual market and reimbursed by a QSEHRA will not be treated as a part of any employee welfare benefit plan for purposes of ERISA's Title I, if the QSEHRA meets conditions in the final rule that was issued by the Treasury, DOL, and HHS.</p>	Yes (but ERISA's Title I will not apply to the individual coverage if it meets conditions in the final rule that was issued by the Treasury, DOL, and HHS)	Yes



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
Carryover allowed					
Yes	Yes	Yes	Yes	Yes	Yes
Section 105(h) Nondiscrimination rules					
Yes	Yes	Yes	Yes	Yes, but subject to ICHRA rules on class categories, minimum class size, and limits on reimbursement amount differences	Yes
Minimum essential coverage					
Yes	No	Not applicable	Not applicable because an applicable large employer (ALE) cannot offer a QSEHRA	Yes	No
Affordable for ACA purposes					
Possible	No	Not applicable	Not applicable because an ALE cannot offer a QSEHRA	Possible	No
Minimum value for ACA purposes					
Possible	No	Not applicable	Not applicable because an ALE cannot offer a QSEHRA	An affordable ICHRA is treated as providing minimum value	No



"Traditional" HRA	Limited Purpose HRA	Retiree only HRA	Qualified Small Employer HRA (QSEHRA)	Individual Coverage HRA (ICHRA)	Excepted Benefit HRA (EBHRA)
<i>HIPAA privacy rules</i>					
Yes	Yes	Yes	Yes	Yes	Yes

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