

2020 CMS HEALTHCARE INNOVATION INDUSTRY DAY

Health Reimbursement Arrangements,
Price Transparency & Interoperability

January 29, 2020

Policy Overview

Executive Order 13813

- On October 12, 2017, President Trump issued Executive Order 13813
- Directs the Departments to consider proposing regulations or revising guidance to:
 - Expand access to Association Health Plans (AHPs)
 - Expand the availability of Short-Term, Limited-Duration Insurance (STLDI)
 - Expand the availability and permitted use of Health Reimbursement Arrangements (HRAs)

Health Reimbursement Arrangements

- Background
 - HRAs are group health plans funded by employer contributions that reimburse an employee solely for medical expenses incurred by the employee or their family up to a maximum dollar amount
 - These reimbursements are excludable from the employee's income and wages for Federal income tax and employment tax purposes

Health Reimbursement Arrangements

- Background (cont.)
 - Prior guidance allowed the use of HRAs integrated with other employer group health plans, Medicare Parts B and D and TRICARE under certain conditions
 - However, the use of HRAs to reimburse individual market premiums was prohibited
 - 21st Century Cures Act allows certain employers with fewer than 50 employees (including FTEs) to establish a qualified small employer HRA (QSEHRA), provided certain conditions are met. (IRS Notice 2017-67)

Tri-Department Rulemaking

- Proposed Rule published October 29, 2018
- Comments were due by Dec. 28, 2018
- Final Rule published June 20, 2019 and applicable for plan years beginning on or after January 1, 2020

Tri-Department Rulemaking

- The Final Rules include several distinct components:
 - Individual coverage HRAs
 - Excepted Benefit HRAs
 - DOL-only safe harbor to clarify that individual health insurance coverage purchased with HRA will not be subject to ERISA, so long as certain conditions are met
 - IRS-only rule regarding eligibility for premium tax credits for HRA participants and beneficiaries
 - HHS-only rule creating special enrollment period for individuals who newly gain access to an individual coverage HRA or QSEHRA

Individual Coverage HRAs

- Individual coverage HRA requirements:
 - Participants and dependents are enrolled in individual health insurance coverage or Medicare Part A and B or Part C
 - No traditional group health plan is offered to the same class of employees
 - HRA has reasonable procedures to verify and substantiate enrollment in coverage
 - HRA allows participants to opt-out of the HRA once annually and on termination of employment
 - HRA must provide a notice containing certain specified information
 - Must offer the HRA on the same terms to all employees within a class, subject to certain exceptions

Individual Coverage HRAs

- Individual coverage HRA requirements (cont.):
 - Permitted classes (classes may be combined):
 - Full-time employees
 - Part-time employees
 - Seasonal employees
 - Employees covered by a Collective Bargaining Agreement
 - Employees who have not satisfied a waiting period
 - Nonresident aliens with no US based income
 - Employees working in the same rating area
 - Salaried employees
 - Non-salaried employees (e.g. hourly)
 - Temporary employees of a staffing firm

Individual Coverage HRAs

- Individual coverage HRA requirements (cont.):
 - Minimum class size rule:
 - Applies only if an employer offers a traditional group health plan to one class of employees and an Individual Coverage HRA to another class based on:
 - Full-time vs. part-time status
 - Salaried vs. non-salaried status
 - Geographic location (if smaller than a state)
 - Combination of any class above with any other class (except waiting period class)
 - Minimum class size is:
 - Ten employees, for an employer with fewer than 100 employees
 - Ten percent of employees, for an employer with 100 to 200 employees
 - Twenty employees, for employers with more than 200 employees

Individual Coverage HRAs

- The final rules include a special rule to allow employers to maintain a traditional group health plan for current employees while beginning to offer an individual coverage HRA to newly hired employees in the same classification of employees

Excepted Benefit HRAs

- Excepted benefit HRA requirements:
 - Must not be an integral part of the plan
 - Traditional group health plan coverage is made available to the participant
 - Limited in amount.
 - The amounts newly made available for a plan year may not exceed \$1,800 per year, indexed for inflation
 - Made available on the same terms to all similarly situated individuals (as defined in the HIPAA nondiscrimination rules), regardless of health status

Excepted Benefit HRAs

- Excepted benefit HRA requirements (continued):
 - Does not reimburse premiums for certain health insurance coverage
 - Cannot reimburse premiums for
 - Individual health insurance coverage
 - Medicare Part A, B, C, or D, or
 - A group health plan (generally)
 - Can reimburse premiums for
 - COBRA or other continuation coverage
 - Short-term, limited-duration coverage (unless prohibited by HHS for small employers in a state under a special rule)
 - Excepted benefits, such as dental and vision

ERISA Plan Status Safe Harbor

- DOL also clarified that individual health insurance coverage integrated with an HRA is not part of a group health plan if:
 - Purchase of individual insurance is completely voluntary
 - Plan sponsor does not select or endorse coverage
 - Reimbursement for nongroup health insurance premiums is limited solely to individual health insurance coverage

ERISA Plan Status Safe Harbor

- DOL clarification requirements (cont.):
 - Plan sponsor receives no consideration in connection with the employee's selection or renewal of any individual health insurance coverage
 - Each plan participant is notified annually that the individual health insurance coverage is not subject to Title I of ERISA

Eligibility for Premium Tax Credits

- The Treasury Department and the IRS issued regulations regarding the effect of being offered or accepting an individual coverage HRA on eligibility for the premium tax credit

Special Enrollment Periods

- HHS also issued a regulation that generally provides a special enrollment period for individuals who newly gain access to an individual coverage HRA or who are newly provided a QSEHRA to allow them to enroll in or change individual market coverage

FFE HRA Implementation

HRA Information and Tools for Employers

- Information for employers on HealthCare.gov*
 - Overview of QSEHRA and ICHRA rules
 - Compares QSEHRA, ICHRA, and traditional group coverage
 - Resources for getting started with a QSEHRA or ICHRA offer
- Employer Affordability Tool**
 - This tool can be used to look up the rate of the lowest-cost silver individual market plan
 - PY2019 and PY2020 data available now
 - Updated annually when rates become available

*<https://www.healthcare.gov/small-businesses/learn-more/hra-guide/>

**<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Employer-Initiatives/Employer-Initiatives>

HRA Information and Tools for Employees

- Information for employees with ICHRA offers on HealthCare.gov*
 - Information on enrolling with an ICHRA
 - ICHRAs and premium tax credit eligibility
- Information for employees with QSEHRA offers on HealthCare.gov**
 - Information on enrolling with a QSEHRA
 - QSEHRAs and premium tax credit eligibility
- ICHRA and QSEHRA Affordability Worksheets
 - Helps employees calculate the affordability of their HRA offer and the impact to tax credit eligibility

Individual Coverage Health Reimbursement Arrangement (HRA) Worksheet

Employers who don't offer traditional group health coverage to some or all of their employees can reimburse those employees for medical expenses through an account-based plan that requires employees to also enroll in individual health insurance, or in Medicare Parts A and B, or in Medicare Part C. This worksheet uses the term "individual coverage HRA" for the plan, but your employer may call it something else.

Read the notice you get from them carefully to understand the terms of your coverage. You may be required to enroll in individual health insurance or Medicare. If your employer offers you an individual coverage HRA, use this worksheet to determine if it is or isn't considered affordable. If you're covered by an individual coverage HRA or if it's affordable for you, you can't get a premium tax credit (PTC) to lower the cost of a Marketplace plan.

STEP 1: Gather the information you need.

You'll need a few things to complete this worksheet:

- **Your most recent individual coverage HRA notice.** You should've gotten this from your employer. If you didn't, check with them.
- **The adjusted gross income amount from your most recent federal income tax return.** You'll need this to determine your household income for the year you're offered the individual coverage HRA. You'll need your household income for Step 3. For what to include, visit [HealthCare.gov/income-and-household-information/income](https://www.healthcare.gov/income-and-household-information/income).
- **A calculator.** Or, use the calculator function on your computer or mobile device.
- **Access to HealthCare.gov.**

*<https://www.healthcare.gov/ichra/>

**<https://www.healthcare.gov/qsehra/>

Additional HRA Functionality

- ICHRA and QSEHRA Special Enrollment Period
 - Employees with new HRA offers can currently enroll using an HRA SEP by calling the Marketplace Call Center: 1-800-318-2596
 - The HealthCare.gov application is also being updated so employees with a new HRA offer can apply for the HRA SEP online
- The ICHRA and QSEHRA affordability calculations will also be added to the HealthCare.gov application

FFE Data Availability

FFE Data Availability

- CMS understands the importance of timely and reliable access to individual market data for employers and those who service the employer community when making business decisions about ICHRAs and QSEHRAs
- Interested parties may find the following CMS resources useful when performing this analysis:
 - **Rate Review Data (*on/off-Exchange*)** -
<https://www.cms.gov/CCIIO/Resources/Data-Resources/ratereview>
 - **QHP Landscape File (*on-Exchange only*)** -
<https://www.healthcare.gov/health-and-dental-plan-datasets-for-researchers-and-issuers/>
 - **QHP PUF Files (*on-Exchange only*)** -
<https://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf>

The background is a solid blue color with a network diagram of white lines and dots. Several circular icons are scattered throughout, including a heart with an ECG line, a person wearing a stethoscope, a pill and a capsule, a clipboard, a gear, and a virus-like particle.

Questions or Comments?

Email us at HRA@cms.hhs.gov