

What is the Future of HRAs Following Health Care Reform?

Many employers in recent years have turned to Health Reimbursement Arrangements (HRAs) as a means to lower their overall health expenditures, while taking on a bit more claims risk. Many HRA designs are integrated with an underlying health plan, usually a higher deductible health plan, and utilize the HRA to reimburse employees for some portion of their deductible, coinsurance, or copays. There has been ongoing guidance about the future of HRAs, and Health Care Reform's impact on them. The latest IRS Notice ([Notice 2013-54](#)) confirms and provides additional guidance.

The intent of this article is to focus on the plan designs and pragmatic questions and issues many of our clients face. While there are a number of background and regulatory items behind these answers, we want to focus on the answers themselves rather than the references. In addition, additional guidance may be necessary for plan designs that fall outside of these common descriptions.

These common questions from clients should help demonstrate and answer the common design issues that we hear.

We offer a group health plan for employees, and provide an HRA for those enrolled to help reimburse plan expenses. Is this still allowed?

When an HRA is “integrated” with other coverage as part of a comprehensive group health plan (whether your health plan or even a spouse’s health plan), that HRA may continue without concern over annual limits or preventive coverage issues (Section 2711 - no annual or lifetime limits on “essential health benefits”). In other words, if the HRA is only available to those who are enrolled in that (or another eligible) underlying group health plan, then there is “integration” and the HRA plan design is exempt and allowable.

We want to provide an HRA to employees who have comprehensive group health coverage elsewhere. Is this still allowed?

One of the newer pieces of guidance to come out of Notice 2013-54 (Q&A 4) was that an “integrated” health plan can be at the employer or at another employer (such as a spouse’s employer’s qualifying group health plan). This will likely require a signed certification and/or proof of the other comprehensive coverage, but does give employers a bit more flexibility in an HRA design for those with other coverage. Of

course, in order for this mechanism to work, the employee's own employer must sponsor its own qualifying group health plan meeting the minimum value requirements, and the employee must be eligible to participate in that plan but declines coverage in order to be covered under another (in this example, the employee's spouse's employer's) group health plan.

We provide an HRA for employees to help with dental and vision expenses. Is this still allowed?

HRAs that reimburse non-essential health benefits, such as dental and vision expenses, may still exist, and are not subject to the Section 2711 annual and lifetime limitations.

We provide our retirees with an HRA to help with health expenses and/or retiree health premium expenses. Is this still allowed?

Retiree-only HRAs, which are generally exempted from the annual dollar limit prohibition (and many other provisions of Health Care Reform), may continue as well.

Rather than an HRA, we provide an employer contribution to a Health FSA. Is this still allowed?

In order for this arrangement to continue, an employer needs to ensure that the Health FSA is an “excepted” benefit by adhering to the following provisions:

- Other group health plan coverage is available to employees; and
- The maximum benefit payable (employee and employer contributions) cannot exceed two times the participant's Health FSA election for the year (or, if greater, cannot exceed \$500 plus the amount of the participant's salary reduction election); or
- The arrangement is structured as a match (dollar-for-dollar).

We are seeing more and more client utilizing a match to be able to provide additional benefit to employees, while encouraging additional participation in the Health FSA (saving employees and the employer on taxes!).

Can we use our HRA to reimburse individual insurance premiums on the public Exchange/Marketplace?

Unfortunately, the new guidance specifically excludes these arrangements. Some employers had utilized an HRA to allow employees to be reimbursed for eligible medical expenses and/or individual health insurance premiums. With the introduction

of the public Exchanges/Marketplaces in 2014, many hoped that they would be able to offer their employees a fixed, defined contribution through an HRA, which employees could then utilize to purchase appropriate insurance coverage from the public Exchange/Marketplace.

Unfortunately, guidance ([here](#)) indicates that this is not currently an allowable design.

What is allowed is a similar approach through a *private* exchange. While currently limited to larger employers, this defined contribution approach allows an employer to limit their financial exposure by providing a fixed dollar amount to employees, and allowing them to choose an appropriate health coverage from a menu of options. Because these plans are still group health insurance plans, the limitations applied to an HRA and Section 125 plan do not apply.

Employer/Insurance Company Interaction

For small employers (under 50 employees), most group insurance options for 2014 will mirror the available “metal tiers” of actuarial coverage available on the Exchange/Marketplace. Contributions to an HRA (or HSA) may impact the actuarial value of plan, and therefore what “metal tier” it is. This will likely impact the available HRA

contribution amounts and designs beginning in 2014. If you’re a small employer, talk with your insurance agent to learn what the impact will be with your insurance carrier (and others in the market).

Larger employers will still have good flexibility in the design of the HRA from a reimbursable expense and dollar amount standpoint.

Strategies for the Future of HRAs

Many employers have used their HRA plans integrated with their underlying health plan as a means to lower the monthly insurance premium, while taking on some additional claims utilization risk. While there may be limitations in the dollar amount and design of the underlying health plan and HRA (especially for small employers), the logic that drove employers to utilize these arrangements still holds true. We anticipate that employers that currently utilize an HRA in conjunction with their underlying health plan will continue to do so, and the trend of more employers adopting these plans will continue to rise.

If the HRA design wasn’t integrated with an underlying health plan, take a close look at the design to ensure compliance for your HRA renewal on or after January 1, 2014.

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