

PAYROLL *briefs*

DELIVERING BUSINESS INSIGHTS

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Health Reimbursement Accounts to Take on New Form

A newly issued regulation could change how employers pay for employee health care coverage. On June 13, 2019, the Department of Health and Human Services, the Internal Revenue Service, the Department of Treasury and the Department of Labor issued a [new final rule](#) intended to expand the options for health reimbursement accounts (HRAs) for which employers can fund health care coverage for their employees. The idea behind this new rule is to offer businesses more flexibility and workers with more choices for coverage, all at a lower cost.

Set to take effect January 1, 2020, the new rule overrides previous guidance set by the Obama administration that prevented employers from offering stand-alone HRAs. The change is expected to affect more than 800,000 businesses and 11 million workers across the country.

Expanded HRA Options

Today, many employers offer funded HRA accounts that employees can use to pay out-of-pocket expenses, but not health care insurance premiums. The proposed regulations keep the traditional HRAs in place, but allows two additional types of HRAs to be offered, including:

1. **Individual coverage health reimbursement accounts (ICHRA)** – Employers can fund the ICHRAs to cover costs, including premiums, to any employee not offered a group health plan.
2. **Excepted benefit health reimbursement accounts (EBHRAs)** – Employers wishing to continue to offer traditional health benefits (i.e., PPOs, HMOs, HSAs) can offer an EBHRA to pay premiums for vision and dental. These HRAs are only permitted if employees are offered coverage under an employer-sponsored group health plan.

These new types of HRAs can be offered by employers of any size, including large employers that are subject to the Affordable Care Act's employer shared responsibility penalty.

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Determining Eligibility

To prevent employers from abusing the new HRA options, the new rule sets very specific eligibility requirements highlighted below:

ICHRA

- Employers cannot give individuals a choice between enrolling in a traditional group health plan or an individual coverage HRA; the employer can only offer one option or the other to any group of workers.
- Employers can make different types of coverage available to different classes of employees/ participants subject to certain conditions aimed at detouring employers to force their unhealthy employees to opt into an ICHRA instead of being part of the group insurance plan. Permitted classifications for distinguishing among employees, includes:
 - Full-time or part-time employees
 - Salaried or hourly employees
 - Seasonal employees
 - Temporary employees of staffing firms
 - Employees under a collective bargaining agreement which the employer participates
 - Employees working in the same insurance rating area as defined by the ACA
 - Employees who have not met the employer's waiting period for medical coverages
 - Non-resident aliens with no U.S.-source income
 - Any group of employees formed by combining two or more of the above classes

In general, the class of employees offered the ICHRA must satisfy minimum size requirements, including:

- A class of at least 10 employees for those employers with less than 100 employees.
- A class of at least 10% of employees for those employers with 100 to 200 employees.
- A class of at least 20 employees for those employers with more than 200 employees.

- Employees offered an ICHRA must be given a disclosure notice explaining how the ICHRA affects their ability to qualify for an Exchange subsidy. Employees may opt not to take an ICHRA. Those accepting the ICHRA must attest to the employer they have or will purchase an ACA-compliant individual insurance policy.
- Employers can maintain their traditional group health plan for existing enrollees, with new hires offered only an ICHRA.

EBHRAs

- Employers will be able to offer EBHRAs only to employees who also are eligible for traditional group coverage, although actual enrollment in the group plan will not be required.
- The same employee cannot be offered both an ICHRA and an EBHRA.

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