2020 Vision:
Preparing for ICHRA and EBHRA

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Health Reimbursement Arrangements (HRAs), as they are currently defined, are employer-funded accounts that employees can use to pay out-of-pocket health care expenses but may not be used to pay insurance premiums. January 2020 is coming up quickly, and that means new resolutions and new regulations in healthcare that are rewriting that definition.

In 2016, Congress took the initial step to expand the scope of HRAs by creating a new type of HRA, a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA). QSEHRAs allow small employers to integrate an HRA with individual market coverage under certain circumstances.

However, QSEHRAs only go so far.

Not only are QSEHRAs limited to employers that average fewer than 50 full-time equivalents in the prior calendar year (with limited reimbursements) but the employer cannot offer any other health coverage - even vision, dental, or excepted benefits for any other employees. It also has somewhat complex requirements for establishing and maintaining it, which can be prohibitive for some small businesses.

The final regulations handed down from the Departments of Labor, Treasury, and Health and Human Services expanded HRAs beginning in 2019 in ways that could significantly change the health benefits landscape for employers of all sizes by establishing two new types of HRAs:

- **Individual Coverage HRAs (ICHRA):** An HRA that is integrated with certain individual market coverage and Medicare, but not integrated with a group health plan.
- **Excepted Benefit HRAs (EBHRA):** A non-integrated general-purpose HRA that is considered an excepted benefit. This would be limited to paying premiums for vision and dental coverage or similar benefits. It’s permitted only if employees are offered coverage under a group health plan sponsored by the employer.

These two new HRAs remove many of the integration requirements and allow employers of all sizes to take advantage and be integrated with individual market coverage (ICHRAs) and to offer excepted benefit HRAs (EBHRAs) to employees who are eligible for traditional major medical coverage.

Intro to ICHRA

As you might have guessed from the name, the Individual Coverage HRA (ICHRA) is all about reimbursing employees for insurance rather than buying it for them.

In a traditional HRA, individual insurance premiums cannot be reimbursed, but with ICHRA, they can be. A traditional HRA must also be integrated with a group health plan, whereas ICHRA works with individual insurance plans and Medicare.

An upside of ICHRA is its flexibility, where employers get to design their plan, which includes being able to set which employees are eligible and establishing reimbursement limits.

For their part, employees are also able to take advantage of ICHRA's flexibility, because they are able to purchase the individual plan of their choosing. Employees who sit two feet from each other can choose a plan based on who their primary physician is, instead of the other way around - choosing a primary physician based on the group plan.

When employees have a claim, they submit it for reimbursement with the proper substantiation documents, and their employer reimburses it if the claim is valid. Their employer can then allow unused dollar amounts to roll over from year to year.

Question: What constitutes a valid claim?

Qualified premiums are defined by the IRS in publication 502, which also defines what constitutes a qualifying family member. It is the same list that applies to health savings accounts, and includes prescriptions, doctor visits, and even dental procedures.

A caveat with ICHRA is that employers can choose to only reimburse certain types of medical expenses (for example, valid doctor visits only or insurance premiums only) as long as it is the same across the employee group.

Staying compliant with ICHRA

In order to stay compliant, there are some important ICHRA rules and regulations employees, employers, and administrators need to keep in mind:

- Employers of any size are eligible to offer ICHRA;
- The employer cannot also offer a QSEHRA or EBHRA (It's one or the other);
- The employer cannot offer a traditional group plan and ICHRA to the same class of employees; and...
- Any class designations by the employer must be fair across employee classes

It's also important to note that while ICHRA must be used with an individual plan or Medicare, an employer can offer the same employees both an ICHRA and excepted benefits such as vision, dental, health FSA or fixed indemnity coverage.

Question: What is an employee class?

The beauty of ICHRA is choice. An employer offering it can choose to set reimbursement rules that fit all employees no matter their status, or that employer can set up employee "classes" where the rules differ depending on what group someone is classified into.

Obviously, these classes cannot be used to discriminate any individual employee or employee group, or to shift health risk off of an existing plan. However, the flexibility it offers allows employers to give full-time employees a specific offering that differs from part-time employees, or employees who are still in the waiting period for coverage. Even seasonal employees can be set up as an employee class.

Employers may not, however, vary ICHRA compensation based on an employee's compensation or tenure with the company.

Within classes, it is possible to vary reimbursements by definitions such as family size or employee age. Employees who are older, or employees with a family could be given a higher (but still fair and reasonable) amount.

Question: Are there limits to how much an employer can offer for reimbursement?

No, there are no limits to how much an employer can offer for reimbursement, and employers can also choose what they want their ICHRA to reimburse. For example:

- Insurance premiums only;
- Qualified medical expenses only; or
- A combination of the two

However, it's important to note that if an employer is making age-based variations in ICHRA benefits within a certain class, the amount cannot exceed the 3:1 ratio allowed for individual market premium differences based on age.

ICHRA and smaller businesses

While ICHRA may be especially appealing to small employers for the below reasons, it can be offered by any size employer and has no annual dollar limit on the amount of reimbursable tax-free dollars.

Since 2010, the number of small employers offering coverage has declined drastically -- businesses with 3-9 employees saw a 12% decrease in coverage, and even businesses with 50-199 employees saw a 4% decline.

As shown, small businesses are having a tough time providing coverage under the traditional group plan model, which is why ICHRA provides an advantage that may appeal to these employers.

First, the employer can provide the employee with a better **choice in healthcare**. The employee chooses their own plan, which shifts the choice from the employer to the employee. This is a great benefit when weighed against a cookie-cutter plan that is meant to fit all employees life, economic and family status.

Second, it offers **better cost control**. There is no need for employers to worry about group plan premiums increasing. Once the allowable reimbursement rate is set, that's it. The employer can easily forecast it into the budget. Plus, if employees don't use all of their allotted funds, the money can be rolled into the next year for the business size in order to keep that participation number up. If employees choose not to take advantage of ICHRA, there is no cost or risk to the overall plan.

Last, ICHRA helps to relieve administrative burden. Employers no longer have to worry about renewals, participation rates, doctor networks and annual premium networks - employers can now just set it, and let it go. From that point on, employees choose what plans they want for themselves, and everyone can get back to work.

Question: Can I administer my own ICHRA?

While ICHRA is relatively painless once set up, it still needs someone keeping an eye on its compliance and substantiation. It can be tricky, if not totally unadvisable, for an employer to administer their own. Aside from staying on top of evolving regulations and requirements, there are more practical, day-to-day hurdles to consider.

The first of those is employee privacy. Whoever is administering the plan would need to review employee medical expenses in order to approve them as valid. That information is considered Protected Health Information (PHI) under the Health Insurance Portability and Accountability Act of 1996 -- better known as HIPAA.

Even if you are able to get around this, you may need some extra filing cabinets around the office, because the IRS requires record keeping for up to seven years. Meaning the administrator would have to digitally log all of the paper receipts, and keep them organized and safe for that length of time.

However, finding a knowledgeable administrator is not difficult - companies like Ameriflex can work with employers to ensure that everything runs as quietly as possible.

In the coming years, ICHRA will become a recruiting and retention advantage, and those who bring in an administrator like Ameriflex can maximize on that. The Department of Health and Human Services projects that in the next five to 10 years, more than 11 million employees of roughly 800,000 employers will have been offered ICHRA to pay for insurance.

Intro to EBHRA

Excepted Benefit HRA (EBHRA) is the second of the two new HRAs hitting the scene in January 2020.

In particular, it will benefit the growing number of employees who have been opting out of the traditional plans offered by their employers. Since 1999, the amount of workers who denied employer coverage at small and midsized firms grew from 17% to 27% in 2018.

It qualifies as an excepted benefit (as you might have guessed from the name), which means it can be used to reimburse general medical expenses without integration, as long as it satisfies a few conditions.

The primary condition is the maximum annual contribution for EBHRA: $1,800. That comes out to be about $150 per month, which can make a significant dent for employees for non-major medical concerns. That amount is subject to inflation as well, so it will increase slightly every year.

Also, if an employee does not use that entire amount in a given year, the unused balance can be carried into the next year. According to the proposed rules, that unused amount won't count towards the $1,800 maximum in the following year.

Like ICHRA, the EBHRA's purpose is to offer employers and their employees an alternate reimbursement opportunity, even if they don't participate in a group health plan.

Question: Does an employer have to offer group health insurance with EBHRA?

Before you get too excited by that last statement, the answer is yes. Employers do need to offer a group plan in order to be eligible. However, unlike with traditional HRAs, employees don't have to participate in that group plan in order to receive reimbursements under EBHRA.

In order to qualify as an Excepted Benefit HRA...

There are four requirements of an employer to qualify:

- It must not be an integral part of the plan;
- Provided benefits must be limited in amount;
- It cannot provide reimbursement for premiums for certain health insurance coverage; and
- It must be fair in that it is available under the same terms to all similarly situated individuals.

Question: What can an EBHRA pay for?

It can reimburse medical care expenses, excepted benefits like vision, dental, long-term care, nursing home care and community-based care.

Individual major medical premiums, coverage under a group health plan, and Medicare Parts B and D are not excepted benefits, and would not be eligible. The proposed rules make exceptions that would allow for COBRA premium payments, short-term plans (STLDI) and individual or group plans that consist solely of excepted benefits to be eligible.

Question: Can EBHRA work with other types of HRAs?

No. Because of EBHRA's requirement that a group health plan be offered, it is automatically disqualified from working alongside the new ICHRA or QSEHRAs.

However, a lot like ICHRA, employers can establish different employee classes (same fairness rules apply) and offer EBHRA to one employee class, part-time employees for example, and a QSEHRA to full-time employees.

To sum it up, EBHRA works like this: Employer offers traditional group health care plan, but can offer EBHRA as well to pay for out of pocket vision and dental. The employee can take advantage of EBHRA, even if they declined the group plan.

2020 Vision

ICHRA and EBHRA gives employers, especially those small to mid-sized, the flexibility they need to offer quality health plan coverage for their employees that is better tailored to the individual employee. Both offer coverage to employers who want to give their employees flexibility and choice, offers smaller employees who have not been in the market to have the ability to now provide employees with health care coverage, or gives them the option of providing healthcare to part-time or seasonal workers.

Talk to Ameriflex about getting started on the HRA that will work best for you and your employees in 2020.

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