Health care reform update

Affordable Care Act impact on health reimbursement arrangements (HRAs)

Summary

The health reimbursement arrangement (HRA) allows employers (and employee organizations) to put money in a special account for employees to pay for health care expenses. The Internal Revenue Service (IRS) defines an HRA as:

… an arrangement that: (1) is funded solely by the employer and not funded directly or indirectly by salary reduction election or otherwise under a § 125 cafeteria plan; 2) pays or reimburses the employee for qualified medical care expenses . . . incurred by the employee and the employee’s spouse and dependents . . .; and (3) provides payments and reimbursements up to a maximum dollar amount for a specific coverage period, and any unused portion at the end of a coverage period is carried forward to increase the maximum reimbursement amount in subsequent coverage periods (Revenue Notice 2002-45).

HRAs have become quite popular over the past few years. They are often combined with high deductible health plans to give employees health benefits coverage and help them pay for health care received before the deductible is satisfied.

The Affordable Care Act (ACA or health care reform law) no longer allows employer-sponsored plans or health insurance companies to put lifetime or annual dollar limits on essential health benefits. Recent rules stated that an HRA combined with health coverage as part of an employer-sponsored plan would not violate the law if the employer-sponsored plan does not apply lifetime or annual dollar limits to essential health benefits. An HRA is not combined with employer-sponsored health coverage unless the HRA is open only to employees covered by the employer-sponsored health plan.

A stand alone HRA is looked at as an employer-sponsored health plan. An employer can fund an HRA for employees and let them buy individual market insurance with pre-tax dollars. Some employers had hoped that they could put a fixed dollar amount (known as a “defined contribution”) in an employee’s HRA when the health insurance marketplace (or exchange) opens for enrollment in October 2013, with plans effective in January 1, 2014. Employers thought that their HRA contributions would let employees take advantage of the premium tax credits or subsidies that will be available on the exchanges, or combine HRA funds with the advance premium tax credits or subsidies available through the exchanges to buy an individual policy.

An FAQ issued by the Department of Labor on January 24, 2013 explains that such a contribution is not allowed under the health care reform law. While further guidance will be issued, the Department stated that stand-alone HRAs used to buy an individual policy is not considered combined employer-sponsored coverage that follows the annual dollar limit requirement. If employees are offered an HRA and employer-sponsored coverage and turn down the employer-sponsored coverage, the stand-alone HRA will violate the law. The FAQ does allow amounts already in a stand-alone HRA before January 1, 2014 to be drawn on after that time if certain standards are met.
Questions and answers

Q. What is an “integrated” HRA?
A. An integrated HRA is one that is combined with primary health coverage as part of an employer-sponsored health plan.

Q. When is an HRA considered to be integrated?
A. An HRA is only considered integrated with an employer’s primary health coverage when it is available only to employees who are covered by the employer-sponsored health plan.

Q. Can an employee use HRA funds to buy a policy on the individual market?
A. No. An employer-funded HRA cannot be integrated with an individual health plan, or with an employer-sponsored plan that provides coverage through individual policies, as this violates the annual dollar limits rule.

Q. If an employee turns down employer-sponsored health coverage, can the employer set up an HRA for that employee, and is the HRA then integrated?
A. No. An employer-sponsored HRA will be considered as integrated with other coverage only if the employee receiving the HRA is actually enrolled in the employer-sponsored health coverage.

Q. Can an employer give more to an HRA for an individual not enrolled in an employer-sponsored health plan?
A. No. Any HRA that gives more to an individual who is not enrolled in an employer-sponsored health plan will violate the law.

Q. How will HRA dollars be treated that were given under terms that existed before January 1, 2014?
A. The Departments are preparing to give more guidance. It is believed that unused dollars put in an HRA between January 1, 2013 and December 31, 2013, where the HRA was combined with an employer-sponsored health plan can still be used after December 31, 2013 to reimburse medical expenses.

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