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QSEHRA: A New Healthcare Reimbursement Option for Small Employers

A brand new law, the 21st Century Cures Act, is making it possible for small employers to reimburse employees for the cost of medical expenses and health insurance premiums for themselves and their families. Previously, the Affordable Care Act (ACA) prohibited businesses from offering HRAs for individual insurance premiums. Now that has changed. The new law went into effect on January 1, 2017. This allows small employers to contribute toward their employees' healthcare costs. Here are a few frequently asked questions and answers:

Which employers can offer QSEHRAs?

Small employers with fewer than 50 full-time equivalent (FTE) employees and who do not offer a group health plan to any of their employees can offer QSEHRAs (Qualified Small Employer Health Reimbursement Arrangement) to their employees. A FTE is one who works 130 hours per month, or 30 or more hours per week for 120 consecutive days.

Can employers who have a group insurance plan also offer a QSEHRA?

No. The Cures Act does not apply to small employers who offer a group health plan.

What benefits does a QSEHRA cover?

As defined in Section 213(d) of the Internal Revenue Code, a QSEHRA can cover the cost of any documented healthcare expense. In addition, employees can use their QSEHRA to help pay for individual health insurance premiums. One thing to keep in mind is that all covered costs, including medical expenses and insurance premiums, must be documented.

Who can contribute to the QSEHRA?

Like a regular HRA, a QSEHRA is funded solely (100%) by the employer. Therefore, employees cannot contribute and the employer's contributions are not deducted from the employees' pay.

Are there contribution limits?

Yes. For single employees, the employer may contribute a maximum of $4,950 annually. For employees with family expenses, the employer may contribute a maximum of $10,000 annually.

What are the health plan requirements for employees?

Employees must purchase a health plan that has minimum essential coverage (MEC) as stated by ACA. (Minimum essential coverage refers to health coverage under an eligible employer-sponsored plan (including retiree plans and COBRA coverage), Health insurance Marketplace, Medicare Part A or Part C coverage (Part B by itself does not qualify), Most Medicaid coverage (except for limited coverage plans), Children's Health Insurance Program (CHIP) coverage, Coverage under a parent's plan, Most student health plans, Certain types of veteran health coverage administered by the Veterans Administration, Most TRICARE plans, Coverage provide to Peace Corps volunteers, Department of Defense Nonappropriated Fund Health Benefits Program, Refugee Medical Assistance, and State high-risk pools (started on or before December 31, 2014).)

If an individual purchases health coverage without MEC, then they may be taxed and reimbursements from the QSEHRA may be included in their gross income.

What employees are eligible?

Full-time employees who work 130 hours per month, or 30 or more hours per week for 120 consecutive days are eligible. Generally, all employees must be offered coverage under the same terms. This does not allow you to offer different levels of benefits for different types of employees. The terms of the benefit must be the same for everyone.

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What employees are not eligible?

- Seasonal employees;
- Part-time employees;
- Workers who are covered by a collective bargaining agreement in which accident and health benefits were the subject of good faith negotiations;
- Employees with less than 90 service days;
- Employees who are under age 25;
- Certain non-resident aliens.

Are individuals who purchase subsidized health insurance affected by QSEHRA?

Yes. For employees who obtain health insurance through a public exchange and qualify for subsidized coverage, they must report the amount in the QSEHRA to the exchange. Their Federal subsidy amount will be reduced by the amount in the HRA benefit.

For example, if John Doe qualifies for a $2,000 annual subsidy, and he receives $1,500 in the QSEHRA, then John's subsidy is reduced by $1,500. Thereafter, he would qualify for a $500 annual subsidy.

When are QSEHRAs applicable?

Employers may start offering QSEHRAs on or after January 1, 2017. The notice of QSEHA availability must be provided to the employee at least 90 days in advance of the start of the year, or the new employee's eligibility. Because issuing a notice 90 days in advance of the 2017 calendar year is not possible based on the effective date of the law, employers will be in compliance as long as they issue a 2017 notice by March 13, 2017. The requirements of the notice are highly specific, and failure to provide proper and timely notice to employees can result in financial penalties.

Are there administrative requirements for QSEHRA?

Yes. Employers must provide a written notice to their workforce 90 days before the start of the plan year with following information:

- Amount in the QSEHRA benefit;
- Informing employees to notify the exchange of the QSEHRA if they apply for a subsidy;
- Consequences of not getting minimum essential cover age (MEC) in a health plan, which may result in taxes and the inclusion of reimbursements in their gross income.

The notice to the employee will warn the employee that if they let their coverage lapse, in addition to technically not being eligible for the benefit anymore, continuing to receive the QSEHRA benefit means that they will pay taxes on the benefit when they file their taxes with the IRS.

Employers must include the amount of available QSEHRA benefits on their employee's W-2s at the end of the year as memorandum information.

In order to get reimbursed for medical or insurance expenses, employees must provide 'proof of coverage' to their employer.

Is a QSEHRA subject to COBRA or ERISA rules?

No. Since a QSEHRA is not group insurance coverage, employers are not required to offer COBRA coverage or ERISA.

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How to set up an HRA?

You will want to set up a Defined Contribution HRA. Employees purchase their own individual health insurance and seek reimbursement for the premium from the HRA 100% tax free.

An employer must have a Plan Document and a Summary of Plan Description (SPD) that clearly states what employees are entitled to under the HRA. WebsterRogers can provide these documents needed for a one-time setup fee.

Since the IRS requires employees to submit written documentation for all eligible medical expenses before they are reimbursed from the HRA; virtually all companies use a third-party to handle verification of medical expenses and/or reimbursement to employees due to HIPPA and other privacy concerns. WebsterRogers can also serve as your third-party administrator for a nominal monthly fee based on the number of participants.

Employers interested in establishing an HRA have many plan design considerations per the following:

1. Accrual Method and Amount – Do you wish to accrue HRA amounts on a monthly basis or annual basis? For example, and employee could have $100 credited to his/her HRA account at the beginning of each month, or the HRA could use the annual accrual method and credit $1,200 to his/her account as of the first day of the plan year. By plan design, the employer must decide how generous it wishes to be.
2. Carryovers – Do you wish to permit carryovers of unused amounts (the ability to permit carryovers is the key feature that distinguishes HRAs from health FSAs and other self-insured medical reimbursement plans)? If so, perhaps you might wish to place a cap on the carryover amount.
3. Limitations on Covered Medical Expenses – Do you wish to limit the category of expenses that can be reimbursed by the HRA? Do you wish to permit the HRA to be used to reimburse any out-of-pocket Code Section 213 medical expenses.
4. Reimbursement of Insurance Premiums – Do you want the HRA to reimburse employees for premiums that they pay for health insurance under plans not sponsored by the employer? If so, this raises the HIPPA nondiscrimination issues.
5. HRA vs. Health FSA Ordering Rule – Do you wish to design the plan so that a health FSA pays first and HRA pays second, or vice versa? Careful plan drafting is required.
6. Spend-Down Feature – Do you wish to give terminated participants the right to spend down their unused HRA account balances? A spend-down feature is permissible, but a cash-out feature is not. Alternatively, you may wish to terminate coverage upon termination of employment (effectively causing a forfeiture of unused amounts).
7. Administration – Do you wish to self administer the HRA, or hire a third party administrator to administer it for you (including claims processing and payment)?
8. Funding – The IRS guidance does not require that HRA funds be set aside in a trust or other account. However, a trust would be needed if the employer creates a separate HRA account or arrangement from which HRA benefits are paid, if the separate account or arrangement is considered not to be part of the employer's general assets. If a trust is established, it could be a fully taxable trust or it might take the form of a tax exempt Code Section 501(c)(9) VEBA.

HRAs offer a great opportunity for creative plan design. The above points illustrate just some of the possibilities. Employers should contact WebsterRogers to make sure that their plan design is tailored to their needs and satisfies applicable legal requirements.

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The QSEHRA plan is a great way to offer a benefit to your employees, especially if a group health plan is unaffordable or unfeasible for your business. Offering any type of a health benefit can make you more competitive in the job market and studies repeatedly show that benefits contribute to higher levels of job satisfaction and moral for employees.

This is great news for small employers. Please contact Diedri Garrett, (843) 448-1500, or your WebsterRogers' contact person, if you would like further information.

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