The Benefits Brief…

What's New With HRAs?

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"FAQs (frequently asked questions) About Affordable Care Act Implementation (Part XI)" was issued jointly from Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury Department on January 24, 2013. In part, this publication addressed health reimbursement arrangements (HRAs) that incorporate lifetime or annual limits within their plan design.

What Is an HRA?

HRAs are employer-financed accounts that pay employees for eligible medical expenses. HRA plans do not have to physically set aside money for participant claims, but must pay eligible claims as they are presented. Employees cannot contribute to HRAs.

Many times HRAs are coupled with a high-deductible health insurance product. An HRA pays for some or all of the deductible expenses formerly paid by insurance, which adds up to lower premiums, the same out-of-pocket costs for employees and, hopefully, health cost savings for everyone.

HRAs are considered group health plans and, therefore, fall under many of the changes made by the Affordable Care Act (ACA). For instance, in my January article "PPACA Mysteries Solved: SBC And CER Fee Requirements Revealed" I discussed summary of benefit coverage (SBC) requirements and comparative effectiveness research (CER) fees.

Typically, HRAs are established to pay medical expenses and have a variety of plan designs, many of which include annual limits. After January 1, 2014, unless HRAs are integrated with an underlying health plan that meets the ACA prohibition on annual and lifetime limits, HRAs with annual limits may no longer be offered by employers.

The prohibition on annual and lifetime limits will affect all HRAs that are not excepted benefits. HRAs that cover only dental and vision expenses and those that cover only retirees would be considered excepted benefits. All others must adhere to the annual and lifetime limits rule or be integrated with the employer-sponsored primary group health plan.

Several questions and answers in this latest set of *FAQs* assist employers in answering the integrated versus stand-alone conundrum so that employers may formulate a go-forward approach for their HRAs.

What Is an Integrated HRA?

FAQs Part XI gives a clear answer. To be considered integrated with a group health plan, an HRA must benefit only employees who are covered by a primary group health plan that meets the requirements of ACA and is provided by the employer. It appears that an integrated HRA could not benefit an employee who was eligible for a health plan but not enrolled.

Also, *FAQs* clarifies that an employer-sponsored HRA cannot be integrated with individual market coverage or with employer plans that provide coverage through individual policies.

Start Preparing Now for HRA Changes

If employers offer HRA coverage only to employees participating in health plans, the current HRA can be maintained as is. If not, the purpose of the HRA must be reviewed: What is the intent, who should it benefit and for how much? It's possible that a change in HRA eligibility or plan design would assure that the HRA fits into the scenarios outlined in *FAQs*. Options include:

- Ensuring that the HRA is integrated by covering only those who are enrolled in the health plan.
- Allocating employer dollars to employees through a health flexible spending account (FSA).
- Amending the HRA to provide only vision and dental coverage in order to preserve an annual dollar limit available to participants.
- Reviewing the retiree HRA to ensure that no rehired retirees (active employees) participate.

If a current stand-alone HRA has unused amounts credited prior to January 1, 2014, with certain restrictions, those dollars may be used after December 31, 2013, to reimburse medical expenses through a stand-alone HRA. Employers are not permitted to increase the amount credited to their HRA for 2014 above what was in effect on January 1, 2013.

Truthfully, the industry is using a "wait and see" approach to understand just which rules will apply to HRAs in the future and how they are to be implemented. Clarification is needed on a number of open issues related to HRAs, including:

- The impact to an HRA if an employee is covered under a spouse's group health plan.
- If an excepted benefits category can be created for a nominal stand-alone HRA.
- If a premium-only HRA arrangement may be allowable.
- If an HRA that qualifies as an FSA under IRC 106 (i.e., limited under "five-times" rule) may still be allowed under current interim regulations.

Now is a great time to review HRA options for your clients. For companies currently offering HRAs, it's important to look at the changes made by the ACA that may impact their approach.

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