



BENEFIT NEWS BRIEFS

IRS Notice Gives Further Guidance on HRAs and the ACA

In [Notice 2013-54](#), the IRS issued guidance on the relationship between Health Reimbursement Arrangements (HRAs) and the *Affordable Care Act (ACA)*. In [Notice 2015-87](#), the IRS issued further guidance in the form of 26 Questions and Answers (Q&As) on various aspects of the ACA. Most of the guidance in this new Notice is not applicable to multiemployer health plans. However, the Q&As on HRAs (Q&As 1-6) will be of interest to multiemployer plans that do have an HRA. In particular, the guidance in Q&A-4 may require action before the 2017 Plan Year if a multiemployer plan allows an HRA to reimburse medical expenses for individuals not enrolled in the plan. In such a case, the rules of the Plan/HRA must be amended to prohibit such reimbursements. See [Benefit News Briefs 2013-62](#) for information on Notice 2013-54.

After reviewing the answers to Q&As 1-6 we will provide only highlights of the topics addressed in Q&As 7-26. **The guidance provided in this Notice applies for Plan Years beginning on and after December 16, 2015, except for the new rule in Q&A4, which is effective for the 2017 Plan Year.**

HRAs and the ACA

Plans with an HRA component should review Q&As 1-6 in detail.

Q &As 1-6

Q&A 1:

Explained that a retiree-only HRA can be used to purchase individual market coverage without violating the ACA.

Q&A 2:

Reiterated that a current employee's HRA fails to be integrated with another group health plan if the amounts credited to the HRA may be used to purchase individual market coverage.

Q&A 3:

Clarified that whether or not an HRA is integrated with other group health plan coverage, unused amounts credited to the HRA *before* January 1, 2014 (including any amounts credited before January 1, 2013 and any amounts that were credited during 2013 under the terms of an HRA in effect on January 1, 2013) may be used after December 31, 2013 to reimburse medical expenses in accordance with those terms without causing the HRA to fail to comply with the ACA's annual dollar limit prohibition or the preventive services requirements.

Q&A 4:

Explained that an HRA is permitted to be integrated with the employer's other group health plan coverage for purposes of the application of the group market reforms only as to the individuals who are enrolled in both the HRA and the employer's other group health plan.

In recognition of the fact that many plans and HRAs do not have such a limitation, the IRS will not treat such an HRA as failing to be integrated with an employer's other group health plan for plan years beginning before January 1, 2017, solely because the HRA covers expenses of one or more of an employee's family members even if those family members are not also enrolled in the employer's other group health plan. Thus, beginning on the 2017 Plan Year an HRA must limit reimbursement to individuals enrolled in the group health plan.

Q&A 5:

Explains that an HRA can reimburse or pay premiums directly for individual market coverage that covers only "excepted benefits", such as limited scope dental or vision or coverage for a specific illness or disease.

Q&A 6:

Clarifies that if the group health plan is an employer payment plan offered through a cafeteria plan under Section 125 that uses salary reduction or other contributions to purchase coverage on the individual market, then the HRA is not integrated with the individual market coverage and violates the ACA.

Assorted Guidance On "Affordability" Of Employer-Sponsored Coverage

Q&As 7-17

Q&As 12, 13 - Affordability and HRA contributions (reduces cost of coverage).

Q&A 14 – Hours of Service under the ACA vs. the DOL ERISA rule.

Q&A 15 – Performance of service for one or more educational organizations.

Q&A 16 – Service as an AmeriCorps member.

Q&A 17 - Offer of coverage under TRICARE.

Government Entities, Health Savings Accounts, And VA Benefits

Q&As 18-20

Q&A 18 – Government entities as ALEs

Q&A 19 - Government entities and EINs

Q&A 20 – The VA and HSAs

Application Of COBRA Continuation Coverage Rules And Health FSA Carryovers As Permitted By Notice 2013-71

Q&As 21-25

- Q&A 21 – HSA carryover rules
- Q&A 22 – Maximum amount charged for COBRA under FSA
- Q&A 23 – Health FSA while on COBRA
- Q&A 24 - Health FSA and participation conditions
- Q&A 25 - Health FSA and carryover limits

Relief Relating To Employer Reporting

Q&A 26

For employer reporting required under on Forms 1094-C and 1095-C relief is available from penalties for incomplete or incorrect returns filed or statements furnished to employees in 2016 for coverage offered (or not offered) in calendar year 2015 for ALE members that can show that they have made good faith efforts to comply with the information reporting requirements.

Since specific scenarios are not addressed in the guidelines, health care plans with HRA components should consult with fund counsel regarding any specific questions with the application of these FAQs.

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