

Individual Coverage Health Reimbursement Arrangements: Pre-Open Enrollment Period Training



Fall 2019

Agenda

- I. Introduction: Individual Coverage Health Reimbursement Arrangements (ICHRA) and other types of HRAs
- II. ICHRA Impact on Premium Tax Credit (PTC) Eligibility
- III. ICHRA Employer Notice
- IV. Special Enrollment Period (SEP) for ICHRA-eligible Consumers
- V. ICHRA Consumer Scenarios

**Introduction: Individual
Coverage Health
Reimbursement
Arrangements (ICHRA)
and Other Types of HRAs**

Introduction: ICHRAs and Other Types of HRAs

- In June 2019, the Departments of the Treasury, Labor, and Health & Human Services jointly published a final rule to expand the flexibility and use of health reimbursement arrangements (HRAs) and other account-based group health plans to provide Americans with additional options to obtain quality, affordable health care.

Resource: [Health Reimbursement Arrangements and Other Account-Based Group Health Plans – Final Rule](#)

What is an HRA?

- An **HRA** is a group health plan funded solely by employer contributions that reimburses an employee's medical care expenses up to a maximum dollar amount for a coverage period.*
- HRA reimbursements are excludable from the employee's income and wages for federal income tax and employment tax purposes.
- An employer may allow funds that remain in the HRA at the end of the year to carry over into future years.
- In addition to the employee, an HRA may also reimburse expenses incurred by the employee's spouse, dependents, and children who, as of the end of the taxable year, have not attained age 27 (dependents).

**Medical care expenses means expenses for medical care as defined under section 213(d) of the Internal Revenue Code.*

Resource: [Health Reimbursement Arrangements - CMS.gov Resource Page](#)

Individual Coverage HRA (ICHRA)

- Because HRAs do not by themselves comply with certain PPACA requirements,* employers could previously only offer an HRA to individuals who were also enrolled in another group health plan that did comply with these requirements, provided the HRA met certain other criteria. Employers may continue to offer these other types of HRAs that are integrated with other group health plan coverage.
- The June 2019 HRA Rule allows employers to instead meet PPACA requirements by offering an **ICHRA** that requires employees and any covered dependents to be enrolled in individual health insurance coverage; or Medicare Parts A and B, or Part C; in order to receive reimbursements for medical care expenses from the ICHRA. Reimbursements by the ICHRA may include premiums and cost sharing for individual health insurance coverage, and for Medicare.
- Employers may begin offering ICHRAs as of January 1, 2020.

** As an account-based group health plan to which an employer contributes a specific amount annually, resulting in a maximum amount being available to reimburse expenses, HRAs generally do not meet the ACA's prohibition on applying an annual dollar limit to essential health benefits and do not, in all cases, provide coverage for preventive services without cost-sharing for these services.*

Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)

- The 21st Century Cures Act permits small employers who don't offer group health plan coverage to any of their employees to provide a **QSEHRA** to their eligible employees to help employees pay for medical care expenses.
- An eligible employee can use a QSEHRA to reimburse medical care expenses for him or herself, as well as any covered dependents (if permitted by the employer).
- To receive reimbursements from a QSEHRA, an employee and any covered dependents must be enrolled in minimum essential coverage (MEC).
- Small employers can provide QSEHRAs for plan years beginning on or after January 1, 2017.

Resources: [HealthCare.gov – What's a QSEHRA?](https://www.healthcare.gov/what-is-a-qsehra/);

[IRS Notice 2017-67 – Qualified Small Employer Health Arrangements](https://www.irs.gov/charities-non-profits/qualified-small-employer-health-arrangements)

Excepted Benefit HRAs (EBHRAs)

- The June 2019 Final HRA Rule also created another, limited kind of HRA that can be offered in addition to a traditional group health plan. These “Excepted Benefit HRAs” permit employers to reimburse additional medical care expenses (for example to help cover the cost of copays, deductibles, or other expenses not covered by the primary plan) even if the employee declines enrollment in the traditional group health plan.
- Excepted Benefit HRAs cannot be used to reimburse premiums for group or individual coverage or Medicare.

Resource: For more information on EBHRAs, see Question 11 of [“FAQs on New Health Coverage Options for Employers and Employees.”](#)

Cafeteria Plans and ICHRAs

- A cafeteria plan is a separate written plan maintained by an employer for employees that meets the specific requirements of section 125 of the Internal Revenue Code. It provides participants an opportunity to receive certain benefits on a pretax basis. Participants in a cafeteria plan must be permitted to choose among at least one taxable benefit (such as cash) and one qualified benefit.
- Employers may not allow salary reduction through a cafeteria plan to pay the portion of the Marketplace premiums not covered by an ICHRA; however, employers may allow salary reduction through a cafeteria plan to pay the portion of premiums not covered by an individual coverage HRA for coverage purchased outside the Marketplace.

Individual Coverage HRAs (ICHRA): Impact on PTC

Individual Coverage HRAs: Impact on PTC Eligibility

- A premium tax credit (PTC) is not allowed for an individual's Marketplace coverage if he/she is offered an ICHRA that is affordable. This applies to employees as well as spouses and dependents of employees to whom the offer extends.
- If the ICHRA is not affordable based on standards set forth in the final rule, a PTC is allowed if the employee offered the coverage "opts out" of the HRA and the other PTC requirements are met.
- A PTC is not allowed for an individual's Marketplace coverage if the individual chooses to be covered by an ICHRA, regardless of whether the HRA is affordable.

What makes an ICHRA affordable?

For 2020, an ICHRA is considered affordable for an employee (and dependents, if applicable) if the monthly premium of the self-only lowest-cost silver plan (LCSP) in the employee's area, minus the monthly amount made available to the employee under the ICHRA, does not exceed 9.78%* of 1/12 of the employee's household income.

*This "required contribution percentage" is indexed annually.

Affordable HRA Example

Self-only LCSP monthly premium
– monthly ICHRA amount

$(\$500 - \$200 = \$300)$

\leq

Employee's household income
for the tax year/ 12 * the
required contribution percentage
 $(\$51,000/12 \times 9.78\% = \$415.65)$

ICHRAs vs. QSEHRAs

	ICHRAs	QSEHRAs
Employers can offer this HRA-type to reimburse employees for their medical care expenses/premiums	Yes, employers of all sizes may offer an ICHRA*	Yes, employers with fewer than 50 full-time employees may offer a QSEHRA*
Affordability Determined Using . . .	Employee's self-only lowest-cost silver plan premium (LCSP)	Employee's self-only second-lowest cost silver plan premium (SLCSP)
If coverage through the HRA is unaffordable . . .	Employee must "opt out" to be PTC-eligible, if they otherwise qualify for PTC	Employee must reduce monthly PTC by their monthly QSEHRA amount

*Employers offering an ICHRA generally cannot offer traditional group health plan coverage to employees in the same class; employers providing a QSEHRA cannot offer group health plan coverage to any employees.

Determining Affordability of an ICHRA

- By November 1, 2019, HHS will provide resources to help individuals offered an ICHRA and using the Federal HealthCare.gov platform determine their eligibility for advance payments of the PTC (APTC) based on whether the ICHRA is considered affordable.
- HHS plans to provide information on HealthCare.gov to inform consumers with an offer of an ICHRA of the PTC implications.

ICHRA Employer Notice

ICHRA Employer Notice

- An employee who is offered an ICHRA will generally get a written notice at least 90 days before the beginning of the ICHRA's plan year.
- However, employees who become eligible during the plan year, or later than 90 days before the start of the plan year (such as newly hired employees), will get their notice no later than the date on which their coverage under the ICHRA can begin.

ICHRA Employer Notice Requirements

The final rule requires this “employer notice” to include key information about the ICHRA, such as the dollar amount of the HRA offer, the date that coverage under the HRA may begin, and whether the offer extends to dependents (among other things).

Resource: For more information on the ICHRA employer notice, see the [Individual Coverage HRA Model Notice](#).

Individual Coverage HRA Model Notice

USE THIS NOTICE WHEN APPLYING FOR INDIVIDUAL HEALTH INSURANCE COVERAGE

[Enter date of notice]

You are getting this notice because your employer is offering you an individual coverage health reimbursement arrangement (HRA). Please read this notice before you decide whether to accept the HRA. In some circumstances, your decision could affect your eligibility for the premium tax credit. Accepting the individual coverage HRA and improperly claiming the premium tax credit could result in tax liability.

This notice also has important information that the Exchange (known in many states as the “Health Insurance Marketplace”) will need to determine if you are eligible for advance payments of the premium tax credit. An Exchange operates in each state to help individuals and families shop for and enroll in individual health insurance coverage.

You may also need this notice to verify that you are eligible for a special enrollment period to enroll in individual health insurance coverage outside of the annual open enrollment period in the individual market.

I. The Basics

What should I do with this notice?

Read this notice to help you decide if you want to accept the HRA.

Also, **keep this notice** for your records. You’ll need to refer to it if you decide to accept the HRA and enroll in individual health insurance coverage, or if you turn down the HRA and claim the premium tax credit on your federal income tax return.

What’s an individual coverage HRA?

An individual coverage HRA is an arrangement under which your employer reimburses you for your medical care expenses (and sometimes your family members’ medical care expenses), up to a certain dollar amount for the plan year. If you enroll in an individual coverage HRA, you **must also be enrolled** in individual health insurance coverage or Medicare Part A (Hospital Insurance) and B (Medical Insurance) or Medicare Part C (Medicare Advantage) (collectively referred to in this notice as Medicare) for each month you are covered by the HRA. If your family members are covered by the HRA, they **must also be enrolled** in individual health insurance coverage or Medicare for each month they are covered by the HRA. *[Explain where the participant can find information on which medical care expenses are reimbursed by the HRA.]*

The individual coverage HRA you are being offered is employer-sponsored health coverage. This is important to know if you apply for health insurance coverage on the Exchange.

ICHRA Employer Notice Requirements – Cont.

- The employer notice must also include (among other things):
- Contact information (including a phone number) for an individual or a group of individuals who participants may contact in order to receive additional information regarding the ICHRA.
- A statement of availability of an SEP to enroll in or change individual health insurance coverage, through or outside of an Exchange, for the participant and any dependents who newly gain access to the ICHRA and are not already covered by the ICHRA.
- A statement that the ICHRA is not a QSEHRA.

Employer Notice: ICHRAs vs. QSEHRAs

- Employers that provide QSEHRAs also must provide a notice: Section 9831(d)(4) of the Internal Revenue Code requires an eligible employer who provides a QSEHRA to its eligible employees to furnish a written notice to each eligible employee at least 90 days before the beginning of each plan year, or for an employee who is not eligible to participate at the beginning of the plan year, the date on which the employee is first eligible to participate in the QSEHRA.

Resource: For more information, see Section E. “Written Notice Requirement” in [IRS Notice 2017-67](#).

**ICHRA/QSEHRA Individual
Market Special Enrollment
Period (SEP)**

Overview: ICHRA/QSEHRA Special Enrollment Period (SEP)

- Employees and their dependents who newly gain access to an ICHRA or who are newly provided a QSEHRA may qualify for a special enrollment period (SEP) to enroll in individual coverage through or outside of the Marketplace.
- The **triggering event** is the first day on which coverage for the qualified individual, enrollee, or dependent under the ICHRA can take effect, or the first day on which coverage under the QSEHRA takes effect.

Enrolling through an ICHRA/QSEHRA Special Enrollment Period (SEP)

- Generally, qualified individuals will need to apply for and enroll in individual health insurance coverage in time for it to take effect by the date that their ICHRA or QSEHRA starts.
- Employees with questions about their ICHRA or QSEHRA start date should check their employer notice, or contact their employer.
- Individuals whose ICHRA or QSEHRA starts on January 1st should enroll during the individual market annual Open Enrollment Period (November 1 to December 15), so that their individual health insurance coverage start date coincides with the January 1st start date of their ICHRA or QSEHRA.

ICHRA/QSEHRA SEP Coverage Effective Dates

- If the individual selects an individual health insurance plan before the triggering event, his or her coverage will take effect on the first day of the month following the date of the triggering event or, if the triggering event is on the first day of a month, on the date of the triggering event.
- If the plan selection is made on or after the day of the triggering event, coverage will take effect on the first day of the month following plan selection.

ICHRA/QSEHRA SEP Enrollment and Verification in 2020

- The ICHRA/QSEHRA SEP will not be included in the HealthCare.gov application at the beginning of 2020, so individuals with ICHRA or QSEHRA offers in states that use the HealthCare.gov platform will need to contact the Marketplace Call Center to request the SEP.
- Individuals will verify their eligibility for the SEP by attesting that they were offered an ICHRA or QSEHRA and providing the HRA start date when they call the Marketplace Call Center.
- After calling the Marketplace Call Center, it will likely take a few days for the updated eligibility determination for the SEP to show on the application and in My Account.
- Individuals seeking the ICHRA/QSEHRA SEP after it is included in the application will need to submit documentation to confirm their SEP eligibility.

ICHRA Consumer Scenarios

Scenario 1: Employee without dependents has an offer of an affordable ICHRA

- For 2020 Jane (single, no dependents) has estimated household income of \$51,000.
- Jane's employer offers its employees an ICHRA starting on January 1, 2020 that reimburses \$2,400 of medical care expenses for single employees with no children.
- The self-only monthly premium for the lowest cost silver plan (LCSP) that is offered in the Exchange for the rating area in which Jane resides is \$500.
- Jane's required contribution is \$300, which is lower than the product of the required contribution percentage and her household income divided by 12. Therefore, the ICHRA is affordable, and Jane is not eligible for APTC.
 - $\$500 - \$200 = \$300$ (Jane's required contribution: self-only LCSP monthly premium – monthly ICHRA amount)
 - $(\$51,000 \times .0978)/12 = \415.65 (1/12 of the product of Jane's household income for the tax year and the required contribution percentage)
- Jane accepts her employer's ICHRA offer, and during Open Enrollment, she enrolls in individual health insurance coverage in order to meet her ICHRA's requirement to be enrolled in such coverage.

Scenario 2: Employee without dependents has an offer of an unaffordable ICHRA

- For 2020 Jane (single, no dependents) has estimated household income of \$28,000.
- Jane's employer offers its employees an ICHRA starting on January 1, 2020 that reimburses \$2,400 of medical care expenses for single employees with no children.
- The self-only monthly premium for the lowest cost silver plan (LCSP) that is offered in the Exchange for the rating area in which Jane resides is \$500.
- Jane's required contribution is \$300, which is higher than the product of the required contribution percentage and her household income, divided by 12. Therefore, Jane's ICHRA is unaffordable and she may be eligible for APTC.
 - $\$500 - \$200 = \$300$ (Jane's required contribution: LCSP monthly premium – monthly ICHRA amount)
 - $(\$28,000 \times .0978)/12 = \228.20 (1/12 of the product of Jane's household income for the tax year and the required contribution percentage)
- Jane opts out of her employer's ICHRA offer, and during Open Enrollment, she can enroll in a qualified health plan through the Exchange with APTC, if otherwise eligible. Next year, she should update her employer coverage information in her Marketplace application, especially if her employer makes changes to her coverage, such as increasing the amount offered through her ICHRA.

Scenario 3: Employee with dependents has an offer of an affordable ICHRA

- For 2020, Jane is married and has one child. Jane has estimated household income of \$28,000.
- Jane's employer offers its employees an ICHRA starting on January 1, 2020 that reimburses
- \$3,600 of medical care expenses for single employees with no children (the "self-only HRA amount") and \$5,000 for employees with a spouse or children.
- The self-only monthly premium for the lowest cost silver plan (LCSP) that is offered in the Exchange for the rating area in which Jane resides is \$500. Jane's required contribution is \$200, which is lower than 1/12 of the product of the required contribution percentage and her household income. Therefore, Jane's ICHRA is affordable and she, her spouse, and child are not eligible for APTC.
 - $\$500 - \$300 = \$200$ (Jane's required contribution: LCSP monthly premium – monthly self-only ICHRA amount)
 - $(\$28,000 \times .0978)/12 = \228.20 (1/12 of the product of Jane's household income for the tax year and the required contribution percentage)
- Jane accepts her employer's ICHRA offer and, during Open Enrollment, Jane, her spouse and child enroll in individual health insurance coverage in order to meet her ICHRA's requirement to be enrolled in such coverage.

Scenario 4: Employee with dependents has an offer of an unaffordable ICHRA

- Jane, her spouse, and child are offered an ICHRA for all months of 2020 by Jane's employer.
- When enrolling in Exchange coverage for herself and her family, Jane received a determination by the Exchange that the ICHRA was unaffordable because she believed her household income would be lower than it turned out to be.
- Jane opts out of the ICHRA offer, enrolls her family in Exchange coverage, and receives APTC for her family's 2020 coverage.
- The ICHRA is considered unaffordable for Jane and her family for purposes of claiming PTC on her tax return, provided that she did not, with intentional or reckless disregard for the facts, provide incorrect information to the Exchange.

Scenario 5: Employee is hired after the first day of the plan year

- An employer offers all employees an ICHRA that starts on January 1, 2020. The ICHRA amount is \$7,000 for the employees enrolled for all 12 months of the plan year.
- The employer hires Tom on January 15, 2020, and he is eligible to enroll in the ICHRA with an effective date of the first day of the following month, February 1, 2020, as long as he enrolls in individual health insurance coverage that takes effect on or before February 1, 2020. He is offered a pro-rated amount of \$6,416 based on the portion of the plan year during which he will be covered by the ICHRA. Like other employees, Tom's ICHRA affordability will be based on the ICHRA's monthly amount of \$583.27 ($\$6,416/11$ months of HRA eligibility).
- He must select a plan by January 31, 2020 in order to ensure an individual health insurance coverage effective date of February 1, 2020. Alternatively, Tom has 60 days after his ICHRA could start to enroll in individual market coverage that will take effect the first of the following month. However, he should first confirm that his employer will permit his ICHRA to start later than February 1.

Questions?