

Health reimbursement arrangements (HRAs) are in the spotlight. Did you know the history of HRAs dates back two decades, but the latest—ICHRA—emerged just prior to the 2020 pandemic.

Early HRA History (2002 and Before)

Interestingly, HRAs were first recognized in legal authority back in 2002. While there is no specific Internal Revenue Code section outlining the nuances of an HRA, readers can look to a variety of legal authority to understand what is permissible, including several IRS Notices and Revenue Rulings. However, some providers throughout the nation were providing such a benefit long before legal guidance existed – before it was even called an “HRA.” The creative types recognized the ability to rely on certain provisions of the Internal Revenue Code for a tax-advantaged medical savings account. Over the years, HRAs have been called many things. But today, Individual Coverage HRAs seek to revolutionize health care.

The Affordable Care Act Complications (2010 – 2015)

Before the Patient Protection and Affordable Care Act (ACA), there was really only one HRA - an HRA that could be used to reimburse qualified medical expenses of the participant and his/her dependents. The ACA updated the rules regarding minimum value, no annual or lifetime limits, and which types of coverage the HRA could essentially piggyback on to meet such ACA requirements. HRAs now fall into various categories, whether for retirees only, in-service benefits, or other designs permitting only excepted benefits.

QSEHRAs - Help for Small Employers (2016)

Recognizing different rules for small employers under the ACA and the desire of small employers to provide HRAs, the Qualified Small Employer HRA (QSEHRA) was born from Congressional action in 2016. With a QSEHRA, businesses with fewer than 50 employees can contribute up to the annual maximum (depending on individual or self-only coverage) for employees to use for qualified medical expenses. While the

QSEHRA certainly felt like a “win” for some in the industry and for certain small employers, a better solution was still needed by many.

ICHRA (2020)

In October of 2017, an Executive Order was issued directing the Agencies to expand the usability of HRAs. While this excited many in the industry, it would be another year before proposed regulations introduced the concept of an “Individual Coverage” HRA (ICHRA). In crafting the ICHRA guidance, the Agencies wanted to ensure the expansion of HRAs while not taking away from the hard work invested in the newly released QSEHRA. The ICHRA had to be different from, but not necessarily better than, the QSEHRA. Nonetheless, after the public comment period, final ICHRA regulations were issued in June of 2019. Industry providers could then begin launching ICHRA with a January 1, 2020, effective date.

While there were many early market adopters in the industry launching ICHRA solutions, traction and attention for this benefit has continued to grow and evolve. The history of the ICHRA is an interesting evolution with the birth of an idea during one administration, market entry during a pandemic, and then adjustments and sweeping approval during a new administration. Despite these changes, ICHRA are gaining attention as a meaningful solution for small employers, as well as large employers, looking to contain costs while providing a meaningful benefit to employees.

See IRS Notice 2002-45; Revenue Ruling 2002-41; Revenue Ruling 2005-24; and Revenue Ruling 2006-36.

