FLEXIBLE HRA OPTIONS

DP-1096-032918

TASC CONFIDENTIALITY

- **This presentation and all materials presented are the property of TASC.** No part of this presentation or any of the materials provided may be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission from TASC. To the extent allowed by law, TASC intends to recoup any value lost by an unauthorized use or disclosure including the TASC profits that may have been lost or the profits made by the disclosing party.

- **IRS Circular 230 disclosure:** To ensure compliance with requirements imposed by the IRS, we inform you that if any advice concerning one or more U.S. Federal tax issues is contained in this seminar material or is provided by a speaker at the seminar, such advice is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code; or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein, and you should seek advice based on your particular circumstances from an independent tax advisor.

HISTORY

- Medical Expense Reimbursement Plans (MERP) IRC 105
- Health Reimbursement Arrangements (HRA) RR 2002-41, 45
- Integrated Health Reimbursement Arrangements – Notice 2013-54
- Qualifying Small Employer Health Reimbursement Arrangement (QSEHRA) 21st Century Cures Act (Cures Act) – December 13, 2016
- QSEHRA Q&A – Notice 2017-67 10/31/2017

INTEGRATED HRA

- Must be linked to a group medical plan.
- May be used to reimbursed 213(d) expenses.
- No premiums allowed.
- 80% of plan designs are a deductible reimbursement.

QSEHRA

- Qualifying Small Employer Health Reimbursement Arrangement (QSEHRA).
- 21st Century Cures Act (12/2016) allows certain employers to offer a QSEHRA.
- Specific rules apply.

QSEHRA REGULATIONS

- “Small” employers that are not Applicable Large Employers (ALEs) under the Affordable Care Act (ACA) and are not subject to ACA employer responsibility penalties.
- “Small” employers (fewer than 50 full-time employees) that do not offer any employees a group health insurance plan.

QSEHRA REGULATIONS

- Employer does NOT offer a group health plan, including a Health Reimbursement Arrangement (HRA) or a medical Flexible Spending Account (FSA), to any employee. A group health plan includes a plan that provides only excepted benefits described in section 9831(c) (i.e., a vision or dental health plan that qualifies as an excepted benefit) if that plan is offered by an employer to its employees; provide continued access to amounts accumulated in an HRA in prior years or carryover amounts in an FSA; and/or controlled group of businesses as defined under section 414(b),(c), (m), or (o) if one or more offers its employees a group health plan.
- Must provide QSEHRA to all employees; employee may not waive participation in the QSEHRA.

QSEHRA REGULATIONS

- Employee must have Minimum Essential Coverage (MEC) to be eligible for reimbursement from QSEHRA.
- HSA Interaction: an employer may contribute to an employees HSA and remain an eligible QSEHRA Employer. Employees may also make an HSA contribution. An individual will be eligible to contribute to an HSA if he or she is provided a QSEHRA that, by its terms, may only reimburse expenses that qualify as permitted insurance or disregarded coverage, in addition to reimbursing premiums for health coverage.

QSEHRA BENEFITS

- Employer funded only.
- Reimburse 213(d) expenses.
- Reimburse Individual Premium.

2018 REIMBURSEMENT LIMITS

- $5,050 Individual Coverage
- $10,250 Family Coverage

Limits are adjusted annually.

PREMIUM SUBSIDIES AFFECTED

- If an employee enrolls in a qualified health plan on the Marketplace, his or her premium tax credit/subsidy will be reduced by the benefit available under the QSEHRA.

WHO IS AN ELIGIBLE EMPLOYEE?

- An eligible employee means any employee of an eligible employer; however, the terms of a QSEHRA may exclude the following employees:
  - Employees who have not completed 90 days of service with the employer;
  - Employees who have not attained age 25 before the beginning of the plan year; part-time or seasonal employees;
  - Employees covered by a collective bargaining agreement if health benefits were the subject of good faith bargaining; and
  - Employees who are nonresident aliens with no earned income from sources within the United States.
- An eligible employee is NOT a retiree, other former employee, or non-employee owner.

TERMS THAT APPLY

- QSEHRA is an arrangement that is provided on the same terms to all employees of the eligible employer. To satisfy the same terms requirement, eligible employers must provide the QSEHRA on the same terms, uniform and consistent basis, to all eligible employees. Retirees, other former employees, or non-employee owners are not eligible employees.
- If QSEHRA is provided to employees in an excludable category (for example, part-time employees), those employees must be provided the QSEHRA on the same terms as all employees to whom the QSEHRA is provided.
- If two or more eligible employees are covered under single family health insurance policy or separate health insurance policies (i.e. two eligible employees who are married to each other), they must each be provided a separate QSEHRA family permitted benefit.

TERMS THAT APPLY

- QSEHRA will satisfy the same terms requirement if it provides for reimbursements up to a single dollar amount regardless of whether an eligible employee has self-only or family coverage.
- If QSEHRA allows for carryover, the eligible employee’s total permitted benefit (carryover plus newly available amount) may not exceed the applicable statutory dollar limit.
- QSEHRA may limit reimbursements to certain medical expenses as long as the limitation doesn’t cause the arrangement to effectively be available to all eligible employees.
- Employers cannot provide that one category of employees can be reimbursed for all medical expenses and another category of employees can be reimbursed for individual insurance premiums. This would not meet the same term requirement. All eligible employees must have same availability to reimbursement requirements.

REIMBURSEMENT REQUIREMENTS

- If an eligible employee receives reimbursements from a QSEHRA that equal the applicable statutory dollar limit and later terminates employment before the end of the plan year so the employee was not covered by the QSEHRA for the entire year, the QSEHRA is treated as satisfying the statutory dollar limit at the time the expenses were incurred and reimbursed. However, for medical expenses incurred before termination, but submitted during a run-out period after termination, the QSEHRA may not reimburse medical expenses in excess of the prorated statutory dollar limit.

REIMBURSEMENT REQUIREMENTS

- Before an expense can be reimbursed from QSEHRA, the QSEHRA must obtain proof that the eligible employee and the individual who incurred the expense (if different) have Minimum Essential Coverage (MEC) for the month in which the expense was incurred. After that initial proof, which must be repeated annually, an additional attestation from the employee is required with each request for reimbursement. An eligible employer may rely on the employee's attestation unless the employer has actual knowledge that the individual whose expense is submitted does not have MEC.
- No deductible or cost-sharing may be imposed on employees before reimbursement from QSEHRA.

RULES

- Provided to all eligible employees.
- Employee may not waive coverage.
- Not subject to COBRA.
- ERISA: Although not a group health plan, it is subject to ERISA disclosure requirements, such as Plan Document and Summary Plan Description, and 5500 reporting requirements (if applicable).
- HIPAA: Until the IRS issues further guidance, it is advised to treat all QSEHRAs per initial guidelines and protect any Personal Health Information (PHI).

RULES

- May limit reimbursements to individual premium.
- May limit to medical expenses.
- In the case of an individual who is not covered by a QSEHRA for the entire year, the statutory dollar limits are required to be prorated to reflect the number of months that the individual is covered by the QSEHRA.

REPORTING REQUIREMENTS

- Written Notice Requirement: an eligible employer who provides a QSEHRA to its eligible employees must furnish a written notice (the 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. For QSEHRAs provided in 2018, the initial written notice must be furnished by the later of (a) February 19, 2018, or (b) 90 days before the first day of the QSEHRA plan year.
- W-2 Reporting: the QSEHRA permitted benefit for the calendar year is reported in box 12 of the Form W-2 using code FF, without regard to the amount of payments or reimbursements actually received.
- Subject to the Patient-Centered Outcomes Research Trust Fund (PCORI) fee under section 4376 for years ending before September 30, 2019.

QUESTIONS?

CONTACT:

Kimberly Vance, Regional Sales Director

Total Administrative Services Corporation (TASC)

Kimberly.vance@tasconline.com

800.422.4661 x4973

TASC®