

# Insights

## Small Employers: HRAs Are Available To You

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If you are a small employer currently planning for open enrollment and faced with ever-rising healthcare costs, you should read this article for an alternative solution. Likewise, if you are an employer that used to provide a health reimbursement arrangement ("HRA") as a method to help your employees with their benefit needs, then you are keenly aware that your ability to provide this option ended with the Affordable Care Act ("ACA"). However, keep reading, because this article will provide you some welcome news.

### **Brief Background on HRAs**

HRAs are a funding tool that many employers used in conjunction with providing health plan coverage as a means to assist employees with the extraordinary costs of healthcare. Now HRAs are all but extinct. This is because HRAs had to comply with the coverage requirements ushered in with the ACA (for example, providing for preventative care at 100% cost, providing full coverage for essential health benefits with limits on the costs that could be imposed on employees, etc.), which made HRAs truly unaffordable for employers.

### **21st Century Cures Act – Effective January 1, 2017**

The good news is that Congress enacted an exception for eligible employers to provide an HRA that does not have to satisfy the ACA provisions. An eligible employer is defined as an organization that does not satisfy the definition of an "applicable large employer" used under the ACA. This generally means that if you employ less than 50 full-time employees (on average 30 hours or more per week) AND you do not offer health plan coverage to employees, then you can provide an HRA to your employees.

Here is the fine print. The HRA must:

- be solely employer funded;
- be offered to all eligible employees (note that the 21st Century Cures Act allows exclusions for employees who (1) have been employed for less than 3 months, (2) have not reached age 25, (3) are part-time or seasonal, (4) are part of a collectively bargained group, or (5) are non-resident aliens with no earned income);
- require proof of medical coverage from employees before providing reimbursement;
- only reimburse items that are for medical care, as defined by the Internal Revenue Code, which include premiums, prescription drugs, etc.; and
- not provide for reimbursements in excess of \$4,950 or \$10,000, for family coverage, in one year.

If you decide to provide an HRA, please note that you must provide notices to eligible employees at least 90 days in advance of the effective date of the HRA. The notice must include the following statements:



- a disclosure revealing the amount of the reimbursement;
- a statement that directs the employee to provide the reimbursement amount he/she is eligible for to any health insurance exchange to which he/she applied for advanced payment of the premium assistance tax credit; and
- a statement that provides the employee with notice that if he/she is not covered for any month with the minimum essential coverage, he/she may subject to a penalty and any reimbursements received under the HRA may be taxable.

If you have any questions regarding permissible HRAs for eligible small employers, please contact a member of the **Krieg DeVault Benefits Group**.