



## QSE HRA Clarification Request

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefit specialists nationally. The members of NAHU work on a daily basis to help individuals and employer groups purchase, administer and utilize health insurance coverage. As such, we are experiencing the direct impact of the recent changes eliminating the federal prohibition on standalone HRAs.

The 21<sup>st</sup> Century Cures Act included Sec. 18001, “Exception from group health plan requirements for qualified small employer health reimbursement arrangements” which eliminated the federal prohibition on standalone HRAs as a vehicle for small employers to use tax-advantaged funding to provide health insurance to their employees and assist with out-of-pocket and related medical costs. To qualify, an HRA would need to supplement existing health coverage of an employee, and reimbursement payments to any given employee would be capped at \$4,950 (\$10,000, if an HRA also provides for reimbursements for an employee’s family members. These amounts are indexed for inflation.

This provision was signed in to law with an effective date of December 31, 2016; however with the lack of guidance through regulation addressing this statute, NAHU members have gathered a list of questions to assist in compliance with this new law:

### Logistics

- Based on the statute, it does not appear that the annual plan notice does not need to include any claims payment procedures. Can that be confirmed?
- What are the logistics for the employer paying the premium direct to the issuer?
- Will there be guidance to employers on the obligations of W-2 reporting, claims adjudication, 1095 reporting, assuring coverage remains in place, for those offering a QSE HRA?
- Are employers permitted to reimburse individual health insurance premiums through a QSE HRA? If so, does the prohibition of employers reimbursing individual health insurance premiums outlined in IRS Notice 2013-54 and its progeny still apply outside of the QSE HRA and the other permitted standalone HRAs?
- If the employer allows premium payment and allows billing from the carrier and the HRA doesn’t cover the full premium, what would be the logistics of paying the balance?
- Can the employer use any of the three affordability safe harbors to determine 9.69%?
- Also how will the employer know if someone terminates their individual off exchange plan but yet the HRA account is fully funded?
- Owners by federal definition are not considered employees. If the owner takes an individual plan, will they have access to HRA funding?
- The termination of the group plan will be a triggering event. If it happens, can the deductible be carried over to the individual plan as long as it is in the same calendar year?



## Limits

- Are employers permitted to limit the type of expenses that the QSE HRA will pay or reimburse as long as they fall under 213(d)?
- Can the employer split the HRA funding between premium and other 213d medical expenses?
- Are employers permitted to limit the conditions of payment or reimbursement of health care expenses to certain circumstances? For example, could the payment or reimbursement be conditioned upon some cost-sharing being satisfied by the employee such as reimbursing the portion of the individual health insurance policy plan's deductible after the employee and/or dependent has paid the first \$1,000?
- Are employers allowed to limit the health plan expenses to be paid by the QSE HRA to a certain amount per month (e.g. 1/12 of the annual benefit amount to be paid)?
- What can the employer limit in the funding? Can s/he say deductible after the first \$1k for example, or do they have the leeway allowed with other HRAs?

## Other Coverage

- Can a QSE HRA be used to purchase ancillary types of products within the world of health insurance, such as cancer plans, accident plans, or indemnity plans?
- Does this permit HRA dollars to be used to pay Medicare premiums and/or Medicare Supplement premiums and if so, what restrictions, if any, apply?

The agent and broker community stands at the ready to assist consumers in enrollment in QSE HRAs, but these technical issues must be addressed in order for them to do so. We appreciate your ongoing efforts, and thank you for your prompt attention to this matter. If you have any questions about our comments or need more information, please do not hesitate to contact me at either (202) 595-7589 or [mbuckner@nahu.org](mailto:mbuckner@nahu.org).

Sincerely,

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Vice President of Government Affairs  
National Association of Health Underwriters