A New Employer Healthcare Plan: Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)

Insights
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Until very recently, employers were at risk of receiving steep fines if they reimbursed employees for non-employer sponsored medical care – the Affordable Care Act (ACA) included fines of up to $36,500 a year per employee for such an action. Late in 2016, however, President Obama signed the 21st Century Cures Act and established Qualified Small Employer Health Reimbursement Arrangements (QSEHRAs). As of January 1, 2017, small employers can offer these tax-free medical care reimbursements to eligible employees.

How Do QSEHRAs Work?

If an employee incurs a medical care expense, such as health insurance premiums or eligible medical expenses under IRC Section 213(d), the employer can reimburse the employee up to $4,950 for single coverage or $10,000 for family coverage. Employees may not make any contributions or salary deferrals to QSEHRAs.

The maximum amount must be prorated for those not eligible for an entire year. For example, an employer offering the maximum reimbursement amount should only reimburse up to $2,475 to an employee who has been working for the company for six months. For a complete list of medical expenses covered under IRC 213(d), see https://www.irs.gov/pub/irs-pdf/p502.pdf. Employers may tailor which expenses they will reimburse to a certain extent, and do not have to reimburse employees for all eligible medical expenses.

Much like other healthcare reimbursement arrangements, employees may have to provide substantiation before reimbursement. The IRS has discretion to establish requirements regarding this process, but has not yet done so. Although reimbursements may be provided tax-free, they must be reported on the employee's W-2 in Box 12 using the code "FF."

Which Employers Can Offer QSEHRAs?

To offer QSEHRAs, an employer cannot be an applicable large employer (ALE) under the ACA. Only employers with fewer than 50 full-time equivalent employees can offer this benefit. Further, it cannot offer group health plans to any employees to qualify.

Which Employees Are Eligible For QSEHRAs?

Typically, an employer that chooses to offer a QSEHRA must offer it to all employees who have completed at least 90 days of work. The few exceptions to this rule include part-time or seasonal employees, non-resident aliens, employees under the age of 25, and employees covered by a collective bargaining agreement.

Employers may offer differing reimbursement amounts based on employee age or family size. However, such variances must be based on the cost of premiums of a reference policy on the individual market. It is currently unclear which reference policy will be selected or how permitted discrepancies will be calculated.

To be eligible for a tax-free reimbursement, employees must have proof of minimum essential coverage. It is uncertain how closely employers will have to scrutinize such proof, although guidance will hopefully be available soon.

Interaction Between QSEHRAs And Health Exchanges

Eligible employees must disclose to health exchanges the amount of QSEHRA benefits available to them. The exchanges will account for the reported amount, even if the employee does not utilize it, and will likely reduce the amount of the subsidies available. Employers should take this into account before adopting a QSEHRA.

Other Administrative Issues

In order to establish a QSEHRA, employers will have to set up and administer a plan. Group health plan requirements, such as ACA reporting and COBRA requirements, do not apply to QSEHRAs. But in order to properly provide reimbursements to employees, employers will likely have to establish reimbursement procedures.

Additionally, any eligible employees must be notified of the arrangements in writing at least 90 days before the first day they will be eligible to participate. For the current year, the IRS is giving employers who implement QSEHRAs an extension until March 13, 2017 to provide a notice. The notice must provide the amount of the maximum benefit, and that eligible employees inform health insurance exchanges this benefit is available to them. It also must inform eligible employees they may be subject to the individual ACA penalties if they do not have minimum essential coverage.

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