

Premium Reimbursement Plans No Longer Off the Table for Small Employers

Labor & Employment Law Update

By Kelly Haab-Tallitsch on March 31, 2017

Small employers struggling to assist their employees with the cost of health coverage, but daunted by the high cost of a group health plan, now have another option.

The 21st Century Cures Act, passed at the end of 2016, created a new type of reimbursement plan called a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA). QSEHRAs allow eligible small employers to reimburse employees for premiums for individual health insurance policies and other eligible medical expenses. This is a change, as since the implementation of the Affordable Care Act (ACA), employers of all sizes have been unable to reimburse employees for the purchase of individual health coverage without facing stiff penalties. QSEHRAs may be an attractive option for small employers that qualify.

Who can offer a QSEHRA?

QSEHRAs may only be offered by employers that:

- are not Applicable Large Employers (ALEs) under the ACA, defined as those with fewer than 50 full-time equivalent employees in the prior year, on a controlled group basis, and
- do not currently offer a group health plan to employees, including vision or dental plans.

How does a QSEHRA work?

Employers determine the amount they wish to contribute to employees' accounts, up to annual IRS limits (\$4,950 for an individual or \$10,000 for family coverage) and must pay the full cost of the benefit – no employee contributions are allowed. Employees may receive reimbursement on a pre-tax basis from a QSEHRA for documented medical expenses under IRC Section 213(d) incurred by the employee or the employee's family members, such as co-pays, health insurance premiums, deductibles, dental and vision expenses. Depending on how the QSEHRA is set up and the amount of the employer's contributions, employees may be able to carry over unused funds from one year to another; however, the total amount of reimbursement permitted in a given year is capped

at the annual IRS limits (\$4,950 for an individual or \$10,000 for family coverage). For employees participating in a QSEHRA for less than a full calendar year, the maximum reimbursement amount is prorated.

A QSEHRA must be offered to all full-time employees, with a handful of limited exceptions. Such exceptions include employees covered by a collective bargaining agreement, under age 25, and certain nonresident aliens.

Other Considerations

QSEHRAs are subject to certain administrative and ERISA requirements, including substantiation requirements, W-2 reporting, and written plan documents, including summary plan descriptions. Generally, written notice of the availability of the QSEHRA containing specific information must be provided to employees at least 90 days before the beginning of the plan year and upon eligibility for new hires.

The value of benefits provided under a QSEHRA is taken into account in the determination of an individual's eligibility for premium subsidies or tax credits for purchase of individual policies.

Can you still offer a QSEHRA for 2017?

Yes! The IRS has waived the notice deadline for QSEHRAs that begin in 2017, until further guidance is issued. As a result, it is not too late to adopt a QSEHRA for 2017.

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