



The Future of HRAs with ACA Implementation

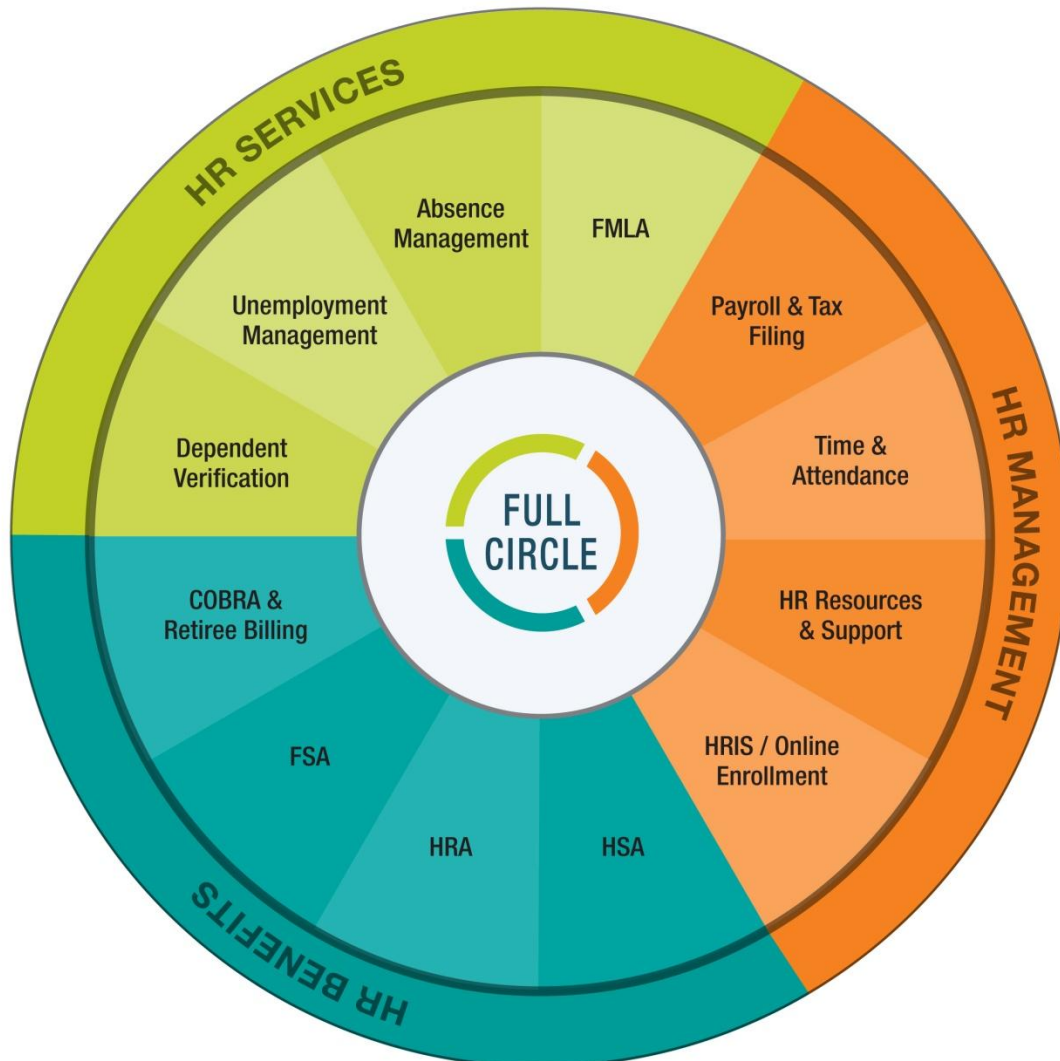
Presented by: Darcy L. Hitesman, Esq.



- HR Benefits
- HR Management
- HR Services

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Webinar Objective



- Look at the impact of the Affordable Care Act (ACA) on health reimbursement arrangements (HRAs)

Question: Is there a future for HRAs?

Webinar Agenda



- Background
 - HRAs
 - Uses for HRAs
- Affordable Care Act
 - No Annual/Lifetime Maximums
- ACA + HRA = ?
- Suggestions
- Questions

Background



- Shift from defined benefit to defined contribution
- Defined Contribution
 - Approach
 - Balance in account is what you get
 - Balance determines what you can buy (i.e., benefits)
 - More predictable cost

Background



- Defined contribution has been used in a number of ways:
 - Because of cost sharing under major medical
 - Because of expenses outside of major medical expenses (Lasik, orthodontia)
 - Because family cost shares are so high
 - Encourages “thoughtful” use of dollars
- Has allowed defined benefit menu to go down with a partial fill by defined contribution
- Has allowed accumulation over time



Background



- Familiar Examples of Defined Contribution
 - Health Flexible Spending Account (Health FSA)
 - Health Reimbursement Arrangement (HRA)
 - Health Savings Account (HSA)

HRA Snapshot



- Health Reimbursement Arrangement (HRA)
- Type of 105 self-insured medical reimbursement plan
- Reimbursable expenses can be 213(d) medical expenses
- Recognized in 2002; IRS Notice 2002-45
- Employee, spouse, dependent child, adult child
- Written plan document
- Employer funded
- No direct/indirect relationship with cafeteria plan
- No statutory maximum
- Carryover permitted
- Spend down permitted
- Group health plan
- ERISA (including Form 5500)
- Nondiscrimination testing 105(h)

Reimbursable Expenses



- Maximum ***permitted*** – medical care under 213(d)
- Actual scope determined by plan design
- Many “flavors”
 - Full scope of Section 213(d)
 - Tied to employer provided group health plan coverage
 - Limited scope or post deductible to preserve HSA eligibility
 - Premiums only
 - Post employment access



Affordable Care Act

ACA Requirements



- Adds additional layers of requirements
- Start with HRA under Code
- Look at features, how it's used, etc.
- Identify which portions of ACA apply

**Today's Focus: Annual/Lifetime
maximum limitations**

ACA Annual/Lifetime Limitations



- In general, lifetime dollar limits and annual dollar limits under group health plans and group health insurance coverage are not allowed
 - Annual limit phased in; gone January 1, 2013
 - Lifetime limit effective already
 - Not all group health plans
- Applies to group health plans not excepted from HIPAA Portability
- Only applies with respect to “essential health benefits”
 - Applies **if and to the extent** provides “essential health benefits”
 - “Essential health benefits” (next slide)

Essential Health Benefits



By statute, includes minimum benefits (to be determined by HHS) in the following categories:

- Ambulatory patient services
- Emergency services
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventative and wellness services and chronic disease management
- Pediatric services, including oral and vision care

Note: Premiums not a category.

Not Subject to ACA Rule



- Integrated HRAs
- HIPAA excepted benefits HRAs
- Retiree only HRAs
- Section 106 Health FSA HRAs
- These types of HRAs are still viable on and after January 1, 2014

SO . . .

- Either need to be one or be changed into one

Integrated HRA



- Still rather vague; “developing”
- Appears that “integrated” requires all participants receiving contributions to the HRA also be enrolled in the group medical plan sponsored by the employer

Note: Discussions in MV guidance suggest contributions must be only available to pay cost sharing expenses under the group medical plan sponsored by the employer. Or alternatively, that would be the only type of HRA that would be included in the MV calculation with respect to the integrated group medical plan.

Note: This is what the FAQs specifically addressed. An HRA that reimburses premiums will not be considered an integrated HRA with the coverage to which the premiums relate.

HIPAA Excepted Benefits



- Actually not a new concept
- **Excepted from HIPAA Portability Rules** (special enrollment, pre-existing conditions,* certificates of credible coverage, etc.)
- Should be familiar with this in the HSA context
 - Limited Scope Benefits (stand alone dental, stand alone vision, etc.) do not impact eligibility for HSA contributions
- Should be familiar with this in the cafeteria plan context
 - If employer contribution not more than 100% of employee contribution or employee contribution plus \$500 (if greater) AND eligible for other employer coverage subject to HIPAA Portability Rules
 - Then, not required to comply with HIPAA Portability Rules AND may be eligible for special (short) COBRA rules

****will go away because of ACA***

Retiree Only HRAs



- Post employment or retiree plans are not subject to the annual/lifetime limits on essential health benefits
- Fewer than two active employees of the employer are considered “retiree only” plans
- Caution regarding rehire situations

Health FSAs Under Code Section 106



- Health flexible spending arrangements under Code Section 106 are exempt from the annual/lifetime limits on essential health benefits.
- Plan under which:
 - Specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions); and
 - Maximum amount of reimbursement reasonably available is less than 500% of the value of such coverage

Health FSAs Under Code Section 106



- 500% of value – not clearly defined
 - Likely that value determined on a plan year basis (e.g., COBRA)
 - Look at contribution for the plan year versus reimbursement available
 - Plan design possibilities include:
 - No carryover
 - Cap carryover
- Cannot reimburse expenses for qualified long term care services

Suggestions



- Identify HRAs currently in place
- Identify the different types of HRA benefits offered through each HRA
- With respect to any HRA benefits offered that are not viable beginning January 1, 2014, identify options as of January 1, 2014
- Make changes to plan documents to reflect needed changes
- Communicate the changes



Questions



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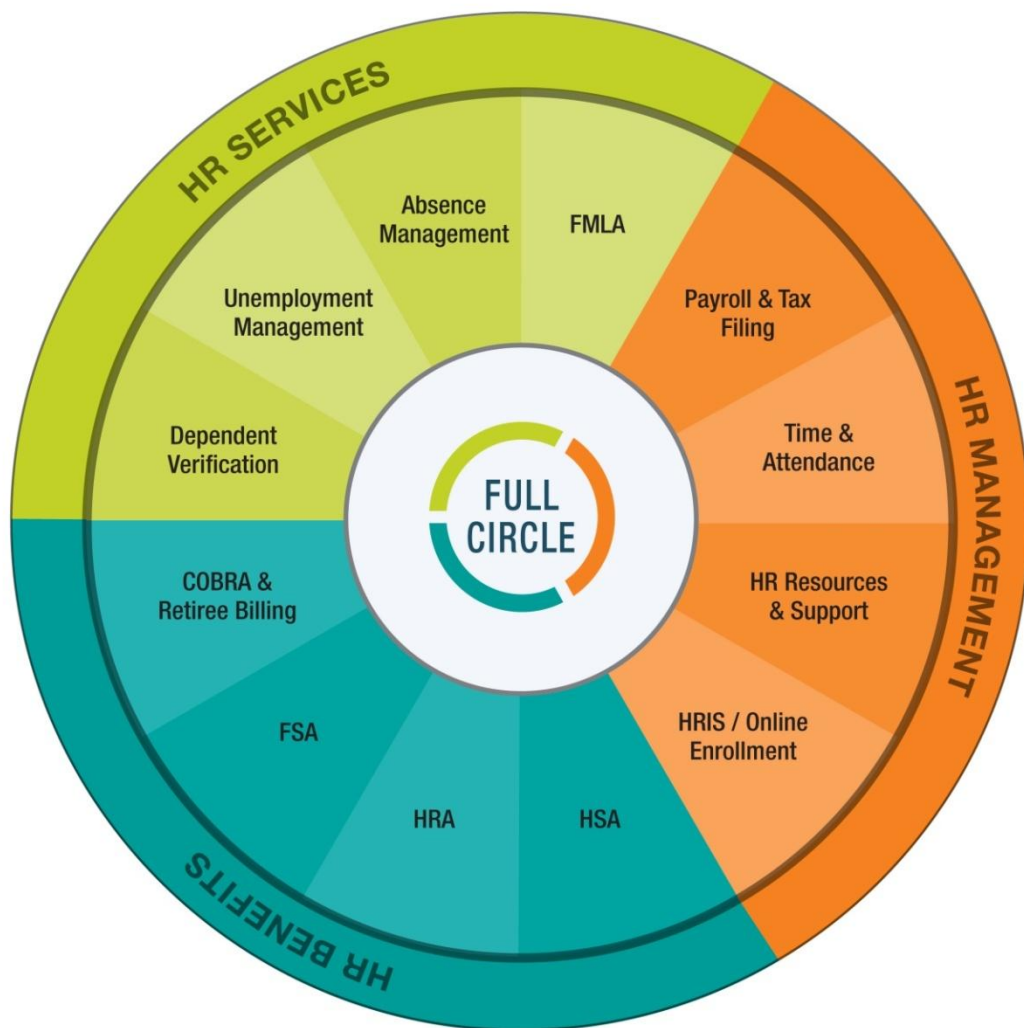
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