



The Interaction of HRAs, Medical FSAs, and HSAs

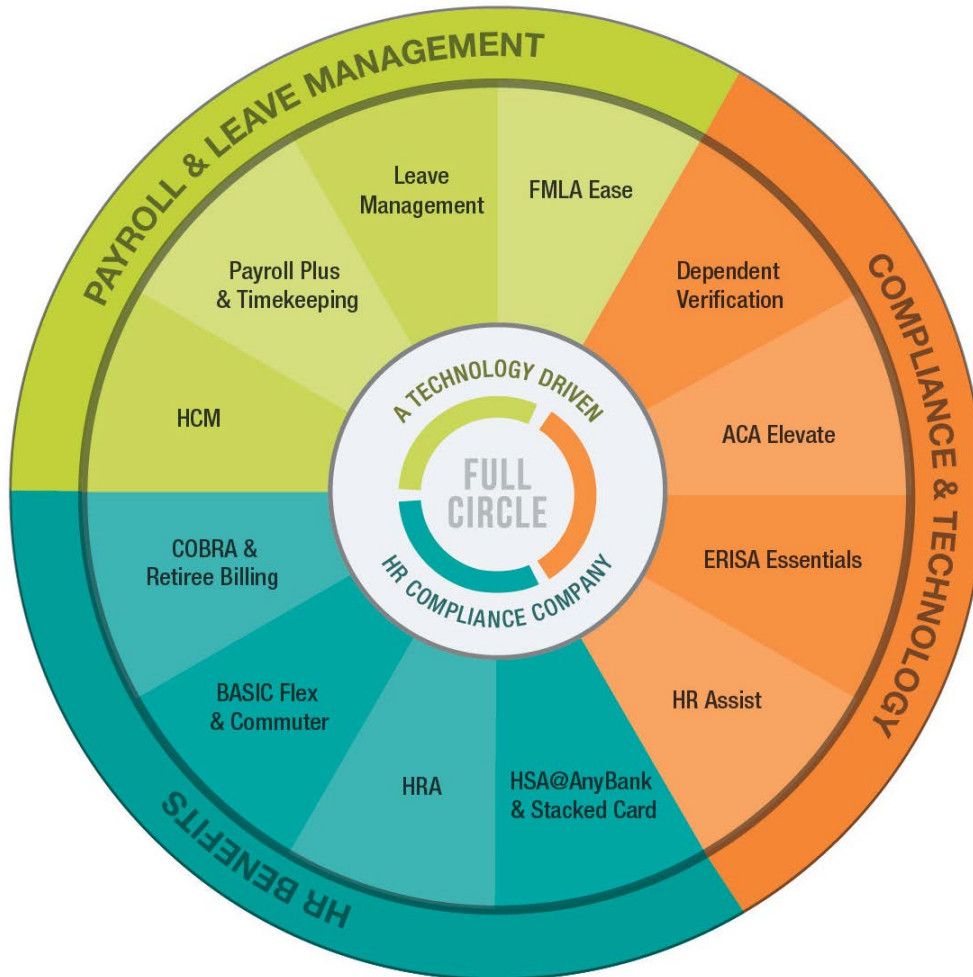
Presented by: Tripp VanderWal



- HR Benefits
- Compliance
- Payroll & Leave

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BACKGROUND



- A Health Reimbursement Arrangement (“HRA”) is an employer-funded arrangement that reimburses employees for certain medical expenses incurred by the employees and their spouses, dependents, and children who are under age 27 as of the end of the taxable year



- A Medical Flexible Spending Account (“FSA”) is a combination of:
 - A self-insured medical reimbursement plan under Section 105(h) of the Code; and
 - A flexible spending arrangement under Section 106(c) of the Code

Background



- A Health Savings Account (“HSA”) is a tax-favored IRA-type trust or custodial account that can be contributed to by, or on behalf of, “eligible individuals” to pay for certain medical expenses of the eligible individuals, their spouses and tax dependents



SIMILARITIES

Similarities



- An HRA, medical FSA, and HSA are all “account-based” plans. In other words, a participant in any of these arrangements may only be reimbursed for eligible expenses up to the maximum amount in the participant’s account

Similarities



- Reimbursement is generally limited to eligible medical expenses, except HSA owners can withdraw funds from their HSA for non-eligible expenses subject to income taxes (and, possibly, additional excise taxes)



DIFFERENCES

Differences



- Eligible expenses incurred by dependent children:
 - For HRAs and medical FSAs, expenses incurred by dependent children are eligible for reimbursement until the end of the tax year in which the child attains age 27

Differences



- For HSAs, expenses incurred by dependent children are eligible for reimbursement only if the dependent is:
 - The HSA owner's child under the age of 19 at the end of the tax year or, if the child is a full-time student, under the age of 24 at the end of the tax year; or
 - A member of that HSA owner's household for whom the HSA owner provides over half of the individual's support

Differences



- HRAs and medical FSAs are generally subject to most federal laws that apply to employer-sponsored group health plans, such as:
 - ERISA
 - The Internal Revenue Code
 - The Affordable Care Act
 - COBRA (or the PHSA)
 - HIPAA
- HSAs, however, are generally only subject to Internal Revenue Code requirements



ORDER OF REIMBURSEMENT

Order of Reimbursement

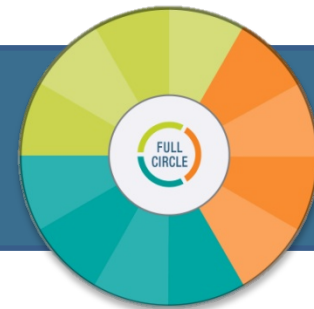


- Reimbursements of the same medical expenses are not permitted from more than one source, which includes a group health plan, HRA, medical FSA or HSA
- Ordering Rules
 - HRA and medical FSA
 - Default rule: medical FSA is the payer of last resort
 - An employer-plan sponsor can affirmatively amend its HRA and medical FSA plan documents to require payment from medical FSA before HRA
 - No ordering rules for HSAs, unless the HSA is subject to ERISA



HSA ELIGIBILITY ISSUES

HSA Eligibility Issues



- In order to be HSA-eligible, an individual must generally satisfy both of the following requirements:
 - Have coverage under a qualified High Deductible Health Plan (“HDHP”)
 - Not have coverage under any non-HDHP, except for permitted insurance or permitted coverage

HSA Eligibility Issues



- Permitted insurance:
 - Insurance in which substantially all of the coverage relates to:
 - Liabilities incurred under workers' compensation laws
 - Tort liabilities
 - Liabilities relating to ownership or use of property (e.g., homeowner or auto insurance)
 - Insurance for specified disease or illness (e.g., cancer insurance)
 - Insurance that pays a fixed amount per day (or other period) of hospitalization (e.g., hospital indemnity)

HSA Eligibility Issues



- Permitted coverage includes coverage for:
 - Accidents
 - Disability
 - Dental care
 - Vision care
 - Long-term care

HSA Eligibility Issues



- Common examples of coverage that may make an individual ineligible for an HSA:
 - Some Veterans Affairs or Indian Health Service Benefits
 - Medicare
 - Medicaid
 - TRICARE
 - On-site clinics
 - Telemedicine benefits

HSA Eligibility Issues



- Coverage under a general-purpose HRA or medical FSA will generally make an individual ineligible to make or receive HSA contributions
 - This includes during a medical FSA grace period, if any
 - This includes a medical FSA carryover, unless the carryover is limited-purpose
- HRA and medical FSAs can be designed to preserve HSA eligibility



HRA AND FSA DESIGNS THAT PRESERVE HSA ELIGIBILITY

Limited-Purpose HRAs and FSA



- An HRA or medical FSA that limits reimbursement to medical expenses incurred for only the following types of expenses will not make an individual HSA ineligible:
 - Dental expenses;
 - Vision expenses; and/or
 - Preventive care expenses

Suspended HRAs



- This is an HRA in which the participant may elect, before the coverage period (or plan year), to suspend his or her HRA
 - Medical expenses (other than those for dental, vision or preventive care) incurred during the suspension are not eligible for reimbursement from the HRA
 - Employer contributions to the HRA during the suspension are permissible
 - A suspended HRA must satisfy ACA requirements
- Not available for FSAs (i.e., impermissible deferral of compensation)

Post-Deductible HRA or FSA



- An HRA or medical FSA that only reimburses medical expenses that are incurred after the individual satisfies the minimum deductibles for an HDHP under the Code (not necessarily the minimum deductibles under the HDHP). In 2018 and 2019, those amounts are:
 - \$1,350 for self-only coverage
 - \$2,700 for family coverage

Retirement HRA



- An HRA in which the employer contributes while an individual is employed, but is only available to reimburse expenses that are incurred after the individual retires
- In order to avoid the ACA insurance market reforms, the employer must stop contributions once the employee retires
- Note: the individual ceases to be HSA eligible upon retirement

Combinations of the Previous Arrangements



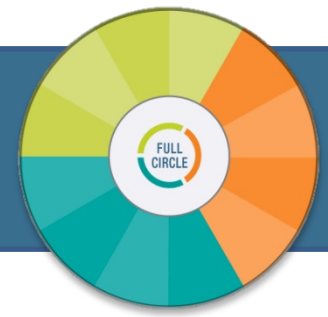
- Examples:
 - Limited-Purpose/Retirement HRA
 - HRA reimburses an individual for dental, vision and preventive care expenses while employed
 - Once the individual retires, the HRA reimburses all Section 213(d) medical expenses
 - Limited-Purpose/Post-Deductible HRA
 - Reimburses an employee for dental, vision and preventive care expenses at any time
 - Once the individual has satisfied the minimum annual deductibles for an HDHP under the Code, the HRA reimburses all Section 213(d) medical expenses



COMPARISON OF HRAS, FSAS AND HSAS



	HRAs	FSAs	HSAs
Account Ownership	Employer (general assets)	Employer (general assets)	Employee
Permissible Contributions	Employer only	Employer and Employee	Employer and Employee
Maximum Contribution Amount	None	In 2018, \$2,650 by employer (if matching), \$2,650 by employee	2018: \$3,450 (self-only); \$6,900 (family) 2019: \$3,500 (self-only); \$7,000 (family) \$1,000 catch-up (55 & over)
Other Coverage Requirements	Integrated, excepted-benefit, or retiree-only	Excepted-benefit, or integrated	Coverage under a Qualified HDHP, and no non-HDHP coverage



	HRAs	FSAs	HSAs
Rollover	Permissible at employer's discretion	Up to \$500 at the employer's discretion (or 2.5 month grace period)	No forfeitures
Claims Adjudication	Required	Required	Not applicable
Subject to ERISA?	If employer is subject to ERISA, yes	If employer is subject to ERISA, yes	Generally, no
Subject to COBRA?	Yes	Yes, but usually on a limited basis	No
2% Shareholders of an S Corp, Sole Proprietors or Partners	Not eligible	Not eligible	Eligible, but pre-tax contributions cannot be made through a Section 125 plan
Distributions for ineligible expenses	No	No	Yes, subject to tax



PROPOSED FEDERAL LEGISLATION IMPACTING HRAS, FSAS, AND HSAS



- Restoring Access to Medication and Modernizing Health Savings Account Act of 2018 (H.R. 6199)
 - Passed the House of Representatives on July 25, 2018
 - Allows an HDHP to reimburse up to \$250 (or twice that amount for family coverage) for “specified services” before the HDHP minimum deductible without affecting HSA eligibility
 - Allows individuals to be covered by certain “direct primary care arrangements” without affecting HSA eligibility

H.R. 6199



- Allows individuals to receive “qualified items and services” in connection with employment through an on-site or retail clinic before satisfying HDHP minimum deductible without affecting HSA eligibility
- Potentially allows an individual to be HSA-eligible, even if the individual’s medical expenses are eligible for reimbursement under the individual’s spouse’s general-purpose FSA
- Restores qualified HSA distributions (direct transfers to an individual’s HSA from an HRA or FSA)



- Allows distributions from HSAs for expenses incurred for medicine or drugs, regardless of whether the medicine or drug was prescribed by a physician
- Allows HRA, FSA, and HSA distributions for menstrual care products
- Allows HRA, FSA, and HSA distributions up to \$500 for qualified sports and fitness expenses (e.g., gym memberships) or \$250 for certain safety equipment



- Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018
 - Passed the House of Representatives on July 25, 2018
 - Allows a participant to carry forward their FSA account balance (up to 3x the limit on FSA salary reductions) to future plan years (any carryforward in excess of 2x the limit will reduce the limit on salary reduction in the subsequent plan year)
 - Allows an individual who is covered by just Medicare A to be HSA-eligible

H.R. 6311



- Increases the maximum annual HSA contribution to equal the applicable limit on out-of-pocket maximums for an HDHP for the taxable year
- Allows both spouses to make a “catch-up” contribution to the same HSA
- Potentially permits HSA distributions for medical expenses incurred up to 60 days before the establishment of the HSA
- Treats all bronze and catastrophic plans to be treated as HDHPs for purposes of HSA eligibility



Questions



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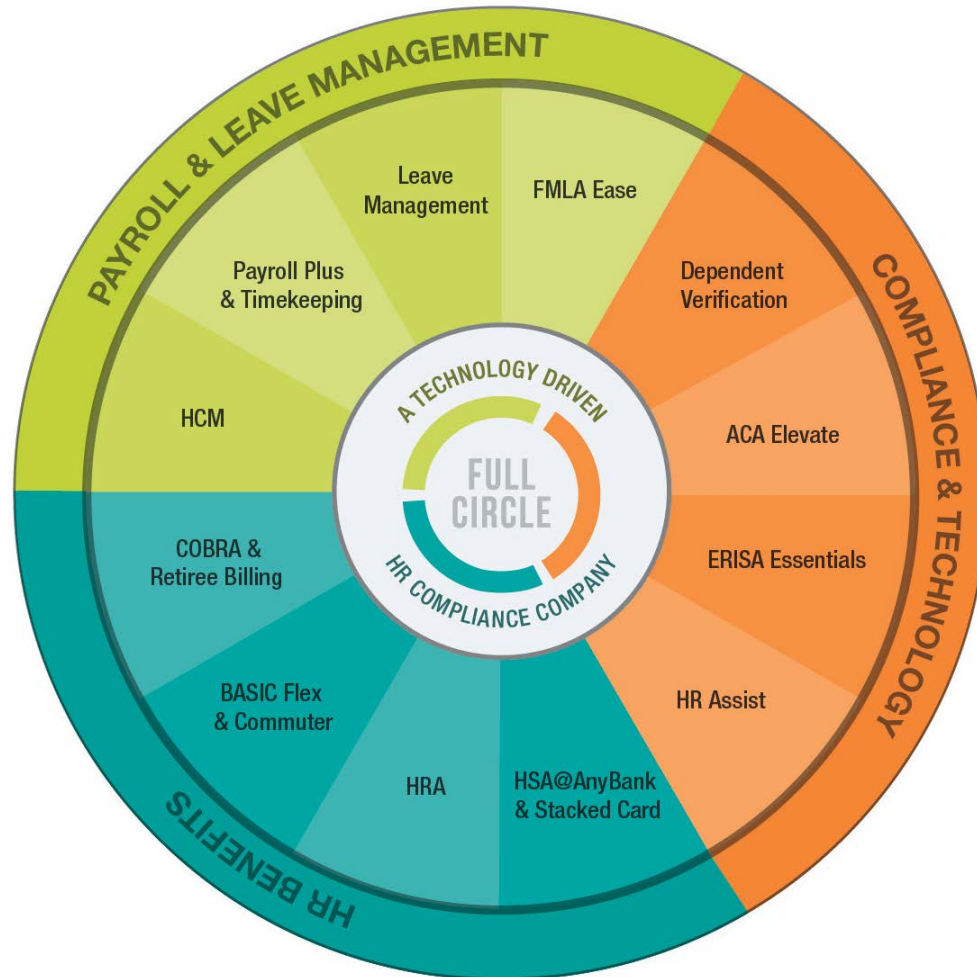
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