

As a group health plan, health reimbursement arrangements (HRAs) are subject to a wide variety of compliance requirements. Such requirements range from HIPAA, COBRA, Medicare, compliance with the Affordable Care Act, ERISA, and more. Here we will identify some unique compliance considerations for *Individual Coverage* HRAs (ICHRA) specifically.

### No Traditional Group Health Plan

Employers cannot offer a traditional group health plan to an employee who also is offered an ICHRA group health plan. However an ICHRA may be offered to one class, such as part-time workers, and a traditional group health plan to another class, such as full-time workers. Guidelines protecting workers must be followed.

Employees offered an ICHRA must enroll in ACA-compliant individual coverage. Medicare is considered individual coverage for this purpose. Further, employees are required to **attest to such individual coverage** at enrollment and with each claim for reimbursement.

### Employee Classes

Unlike other group health plans, ICHRA regulations have specific rules regarding the grouping of employees, otherwise known as *classes*. The classes in which employers can divide employees is an enumerated list from the final regulations (e.g., full-time employees, part-time employees, seasonal workers, etc.). Employers cannot make up new classes. Employers may, however, combine the class characteristics. While employers can divide employees up into as many designated classes as needed, the employer must offer the ICHRA on the same terms *within* each class. Also be aware that there are certain rules regarding minimum class size that may pertain to the ICHRA.

### Varying Contributions

Notably, employer contributions to the ICHRA may vary per ICHRA employee class.

Additionally, employers are permitted to offer higher contributions based on dependents and/or age. However, when a higher contribution amount is offered to an employee based on age, such contribution cannot exceed a three to one ratio.

### Notice Requirement

ICHRA come with their own unique notice requirement. When employees are offered an ICHRA, they must be given an advanced 90-day notice before the plan year starts. The purpose of this notice is to help employees navigate purchasing individual coverage on the marketplace and understand how the ICHRA interacts with the premium tax credit.

### Premium Tax Credit

Participation in an ICHRA will disqualify a participant (and possibly his or her dependents) from qualifying for a premium tax credit on the Exchange. However, if the ICHRA contribution is deemed unaffordable, the participant may waive coverage under the ICHRA and obtain a premium tax credit. If the ICHRA contribution is considered affordable under the Affordable Care Act, the employee cannot qualify for the premium tax credit, even if he or she waives ICHRA coverage.

### Limited Reimbursement of Premiums

Differing again from traditional HRAs, the ICHRA cannot be used to reimburse group health plan premiums (with the exception of COBRA premiums). However, the ICHRA may be used to reimburse Medicare premiums and individual coverage premiums for ACA-compliant plans.

