Health Reimbursement Arrangements Final Rule Summary

On June 13, 2019, the Department of the Treasury, Department of Labor, and Department of Health and Human Services (HHS) released the "Health Reimbursement Arrangements and Other Account-Based Group Health Plans" (HRA) final rule which amends federal regulations governing HRAs.

The final regulation:

- Creates an "individual coverage integrated HRA" (ICHRA) that allows an employee to pay premiums and other associated costs of individual market coverage. HRAs were previously only permitted to be coupled with traditional group health insurance coverage.
- Creates an "excepted benefit HRA" that allows an employee to utilize HRA funds to pay premiums for excepted benefit plans (like dental or vision coverage), short-term limited-duration plans, or COBRA coverage.
- Requires employers to provide adequate notice to eligible employees, including information on the impact of an HRA on Premium Tax Credits (and provides sample notices).
- Creates an arrangement that is much more expansive than QSEHRAs:
  - Applies to all employers (as opposed to only permitting qualified small employers).
  - No contribution cap for ICHRAs (a cap exists for QSEHRAs).
  - Permits salary reduction agreements, to allow pre-tax premium contributions for the employee, which prevent on-Exchange enrollment (can only be used for off-exchange individual market coverage).
- Establishes a new special enrollment period (SEP) in the individual market for individuals who gain access to an ICHRA or who are provided a QSEHRA.

Affordability & QSEHRA/ICHRA interaction with Premium Tax Credits

ICHRAs and QSEHRAs interact with APTC/PTC in different ways. However, both revolve around an "affordability" determination which differs in important ways.

For ICHRAs, the benchmark plan used in the "affordability" calculation is the *lowest cost silver plan* available on the Marketplace for self-only coverage. However, for QSEHRAs, the benchmark plan used in the "affordability" calculation is the *second lowest cost silver plan* available on the Marketplace for self-only coverage.

For ICHRAs, an employee covered by an ICHRA would be ineligible for premium tax credits through the Marketplace. Thus, even if the ICHRA is considered unaffordable, if the employee opts into the ICHRA, they cannot receive premium tax credits. An employee could be eligible for APTC only if they decline the offer of an ICHRA (opt-out of the ICHRA) and the ICHRA is considered "unaffordable."

For QSEHRAs, an employee cannot opt out of the arrangement. An employee could be eligible for APTC only if the QSEHRA is considered unaffordable. However, the APTC they are eligible for is then reduced by the QSEHRA contribution on a dollar-for-dollar basis.

	QSEHRA		ICHRA	
	Affordable	**Unaffordable**	**Affordable**	**Unaffordable**
APTC/PTC Interaction	Not eligible for APTC/PTC	QSEHRA offsets APTC/PTC (reduces tax credit dollar for dollar)	Not eligible for APTC/PTC	Employee chooses (must opt out of the ICHRA in order to receive APTC/PTC)
Benchmark Plan for Affordability	Second Lowest Cost Silver Plan (SLCSP)	Second Lowest Cost Silver Plan (SLCSP)	Lowest Cost Silver Plan (SLCSP)	Lowest Cost Silver Plan (SLCSP)

<u>Example of ICHRA "affordability" calculation</u>

- Tom is single, 40 years old, lives in Denver, and has an annual income of $28,000 (approx. 225% FPL)
- Tom's employer offers an ICHRA with an annual contribution of $2400 ($200/mo.)
- The monthly premium for the lowest cost silver plan is $456
- Tom's "required contribution percentage" is $256 (the excess of $456 over $200)
- Because $256 is more than $228 (Tom's household income times 9.78% divided by 12), the ICHRA is considered "unaffordable"
- Tom could opt-out of the ICHRA and receive APTC instead (approx. $287/mo.)

<u>Example of QSEHRA "affordability" calculation</u>

- Tom is single, 40 years old, lives in Denver, and has an annual income of $28,000 (approx. 225% FPL)
- Tom's employer offers an QSEHRA with an annual contribution of $2400 ($200/mo.)
- The monthly premium for the <u>second lowest cost silver</u> plan is $465
- Tom's "required contribution percentage" is $265 (the excess of $465 over $200)
- Because $265 is more than $228 (Tom's household income times 9.78% divided by 12), the QSEHRA is considered "unaffordable"
- Tom's QSEHRA contributions reduce the amount of premium tax credits he is eligible to receive dollar-for-dollar. The total APTC amount <u>without</u> the QSEHRA would be $287/mo. So his new APTC amount with the QSEHRA reduction would be $87/mo. ($287 – $200).

New Special Enrollment Period (SEP) for ICHRAs and QSEHRAs

The final regulation establishes a new special enrollment period (SEP) in the individual market for individuals who gain access to an ICHRA or who are provided a QSEHRA.

Exchange Implementation Timeline

Connect for Health Colorado is currently working on developing a plan to implement requirements of the final regulation. However, given the timing of the release of this final rule, we do not expect to have all aspects of the rule integrated into our eligibility application for PY2020. More information and details will be forthcoming.