

Health Care Reform Update

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New Guidance on Applicability of ACA's Market Reforms to Family HRAs

The U.S. Departments of Labor, Health and Human Services, and Treasury have published new FAQs clarifying how **family HRAs** (HRAs available to reimburse the medical expenses of an employee's spouse and/or dependents) can be integrated with other group health plan coverage to satisfy the market reforms of the Affordable Care Act (ACA).

Background

With the exception of [qualified small employer HRAs](#), retiree-only HRAs, and HRAs consisting solely of [excepted benefits](#), HRAs are considered group health plans that do not comply with the [group market reform provisions](#) of the ACA. Thus, stand-alone HRAs and HRAs used to purchase individual market coverage may be subject to a **\$100 per day excise tax per applicable employee**, unless they are properly "integrated" with an underlying group health plan in accordance with [agency guidance](#), as modified by IRS [Notice 2015-87](#).

Q&A #4 of Notice 2015-87 clarifies that an HRA available to reimburse the medical expenses of an employee's spouse and/or dependents (a family HRA) **may not be integrated** with self-only coverage under the employer's non-HRA group health plan. As a result, questions have arisen regarding the integration of a family HRA in cases in which the employee is enrolled in self-only coverage and the employee's spouse and dependents are enrolled in a non-HRA group health plan sponsored by the spouse's employer.

New Guidance

The new FAQs make clear that a family HRA may be integrated with:

- A **non-HRA group health plan sponsored by the employer of the employee's spouse** that covers all of the individuals covered by the family HRA, so long as that non-HRA group health plan otherwise meets the applicable integration requirements (referred to as a "**qualifying non-HRA group health plan**"). For this purpose, an employer **may rely on the reasonable representation of an employee** that the employee and other individuals covered by the family HRA are also covered by another qualifying non-HRA group health plan.
- A **combination of coverage under other qualifying non-HRA group health plans**, provided that all of the individuals who are covered under the family HRA are also covered under other qualifying non-HRA group health plan coverage. For example, a family HRA covering an employee, spouse, and one dependent child may be integrated with the combination of (1) the employee's self-only coverage under the non-HRA group health plan of the employee's employer, and (2) the spouse and dependent child's coverage under the non-HRA group health plan of the spouse's employer, provided that both non-HRA group health plans are qualifying non-HRA group health plans.

[Click here](#) to read the FAQs in their entirety.

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