

# Employee Benefits & HR Update

## IMPORTANT LINKS

- [Affordable Care Act](#) (HHS)
- [COBRA](#) (DOL)
- [Department of Labor](#)
- [Federal Marketplace](#) (HHS)
- [Medicare & Medicaid](#) (CMS)
- [Tax Credits & Deductions](#) (IRS)

## FIND A PROVIDER

- [Aetna](#)
- [Amerihealth New Jersey](#)
- [Horizon Blue Cross Blue Shield](#)
- [Independence Blue Cross](#)
- [Oxford Health Plans](#)
- [United Healthcare](#)

## FIND A DENTIST

- [Aetna](#)
- [Delta Dental](#)
- [Guardian](#)
- [Metlife](#)
- [United Concordia](#)
- [United Healthcare](#)

## Brought to you by:

Brown & Brown Consulting  
The Curtis Center  
601 Walnut Street, Suite 275W  
Philadelphia, PA 19106  
Phone: 888.880.2212  
Fax: 215.561.0395  
[www.consultbb.com/brokers](http://www.consultbb.com/brokers)

## New Law Exempts Certain Small Employer HRAs From ACA Market Reforms

President Obama has signed into law the 21st Century Cures Act, which, among other things, allows small employers to offer new "**qualified small employer health reimbursement arrangements**" to reimburse employees for qualified medical expenses, **including individual health insurance premiums**, for years **after December 31, 2016**. Small employers are defined as those with fewer than 50 full-time equivalent employees who do not offer a group health plan.

### Background

Under [prior agency guidance](#), stand-alone HRAs (except for retiree-only HRAs and HRAs consisting solely of [excepted benefits](#)) and HRAs used to purchase coverage on the individual market are considered group health plans that do not comply with certain [market reforms](#) of the Affordable Care Act. As a result, these HRAs may be subject to a **\$100 per day excise tax per applicable employee under the federal tax code**.

### New Law Creates Qualified Small Employer HRAs

The 21st Century Cures Act exempts so-called **qualified small employer HRAs** from the ACA's market reforms. To be a qualified small employer HRA, the arrangement generally must:

- Be funded solely by an eligible employer without salary reduction contributions;
- Provide, after an eligible employee provides **proof of coverage**, payment or reimbursement of [qualified medical expenses](#) (which generally includes **individual health insurance premiums**) incurred by the employee or his or her family members;
- Limit annual payments and reimbursements to **\$4,950 per employee or \$10,000 per family** (which are prorated where coverage is less than the entire year); **and**
- Be provided on the **same terms to all eligible employees**.

### Definitions of 'Eligible Employer' and 'Eligible Employee'

Under the law, the term **'eligible employer'** means an employer that has **fewer than 50 full-time equivalent employees and does not offer a group health plan to any of its employees**. Thus, large employers and employers who offer a group health plan must still comply with the [prior agency guidance](#).

The law defines an **'eligible employee'** as any employee of an eligible employer. Employers **may**, however, exclude employees who:

- Have not completed 90 days of service;
- Have not attained age 25;
- Are part-time or seasonal;
- Are covered by certain collective bargaining agreements; or
- Are nonresident aliens whose income did not come from a U.S. source.

(cont'd)



# Employee Benefits & HR Update

## IMPORTANT LINKS

- [Affordable Care Act](#) (HHS)
- [COBRA](#) (DOL)
- [Department of Labor](#)
- [Federal Marketplace](#) (HHS)
- [Medicare & Medicaid](#) (CMS)
- [Tax Credits & Deductions](#) (IRS)

## FIND A PROVIDER

- [Aetna](#)
- [Amerihealth New Jersey](#)
- [Horizon Blue Cross Blue Shield](#)
- [Independence Blue Cross](#)
- [Oxford Health Plans](#)
- [United Healthcare](#)

## FIND A DENTIST

- [Aetna](#)
- [Delta Dental](#)
- [Guardian](#)
- [Metlife](#)
- [United Concordia](#)
- [United Healthcare](#)

## Brought to you by:

Brown & Brown Consulting  
The Curtis Center  
601 Walnut Street, Suite 275W  
Philadelphia, PA 19106  
Phone: 888.880.2212  
Fax: 215.561.0395  
[www.consultbb.com/brokers](http://www.consultbb.com/brokers)

## New Law Exempts Certain Small Employer HRAs From ACA Market Reforms

(cont'd)

### Employer Notice & Reporting Requirements

An employer funding a qualified small employer HRA for any year must provide a **written notice to each eligible employee** that includes the following information:

- A statement regarding the maximum dollar amount of payments and reimbursements that may be made for the year with respect to the employee (the "**permitted benefit**");
- A statement that the employee **should provide information regarding his or her permitted benefit to any Health Insurance Marketplace** to which the employee applies for advance payment of the premium tax credit; **and**
- A statement that if the employee is not covered under minimum essential coverage for any month, the employee may be subject to the **individual mandate penalty** for such month **and reimbursements under the HRA may be includible in gross income.**

**Effective for years beginning after December 31, 2016**, the notice generally must be provided **no later than 90 days** before the beginning of the year in which the HRA is funded—or, if an employee is not eligible to participate in the arrangement as of the beginning of such year, the date on which the employee is first eligible. While failure to provide the notice may generally result in a **penalty of \$50 per employee** (with the total penalty not to exceed \$2,500 in a calendar year), penalty relief is available with respect to years beginning after December 31, 2016 as long as the notice is provided **no later than 90 days after December 13, 2016**.

In addition, effective for years **beginning after December 31, 2016**, an employee's total permitted benefit for the year **must be reported on his or her Form W-2**.

### Prior Transition Relief Also Extended

Previously, IRS [Notice 2015-17](#) provided transition relief from the assessment of excise taxes to small employers who reimbursed, or directly paid, the premium for an employee's individual health insurance policy (these arrangements are referred to as "employer payment plans").

**The 21st Century Cures Act has extended this relief, which previously expired on June 30, 2015, to any plan year beginning on or before December 31, 2016.** Employers are strongly advised to consult knowledgeable benefits counsel to determine whether a particular arrangement is entitled to this extended relief.

[Click here](#) to read the 21st Century Cures Act in its entirety. For individualized guidance on funding a qualified small employer HRA, employers should consult knowledgeable benefits counsel.

For information on this subject, please log into your [HR Library account](#) which includes information on the above subject, as well as other State and Federal updates, laws and regulations concerning Employee Benefits, HR, and Reform.

Be sure to check out our [Legislation/Compliance](#) section on our website to stay on top of the latest news in Health Care Reform. If you have any questions, please feel free to reach out to your dedicated Brown & Brown broker consultant.



Simplifying your Business