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Center for Health



WEB CONFERENCE

Health Reimbursement Accounts (HRA) for Working Retirees

Introduction



Recent Discussion Topic

- Retired UMC clergy returning to work with a retiree Health Reimbursement Arrangement (HRA) from a UMC entity
- Potential Affordable Care Act (ACA) compliance concern

Agenda

- Applicable ACA Rules
- Situations and Level of Risk
- Options for Compliance/Next Steps

Impact of ACA Rule on HRAs



The IRS previously allowed employers to reimburse medical expenses on a tax-free basis if provided under a health plan

- Included HRAs, so HRAs were considered a health plan (a “group health plan” if >1 “current employee”)

Impact of ACA Rule on HRAs



Under the ACA, the IRS clarified that HRAs are considered health plans if used to reimburse medical care expenses

- ACA penalty when health plan in violation of annual dollar limit prohibition = \$100/day for each impacted individual (\$36,500 annually)

Exceptions to ACA Rule Applied to HRAs

One Employee Plan	Less than two employees on first day of plan year <ul style="list-style-type: none">• Includes retiree-only plans
Integrated Plan	Integrated with ACA-compliant group major medical plan
Medicare Rules	MSP-SEE integration with Medicare—effective January 1, 2017
Limited Nature	Limited scope HRA

Questions for the UMC Entity



- Who employs the retired individual?
- Who provides the HRA?
- Could these be perceived as the same employer by the IRS?

Potential Situations and Related Risks

SITUATION	LEVEL OF RISK
Retired UMC clergy person working for non-UMC entity (e.g., department store, golf course)	No risk
Retiree appointed/assigned to UMC church in a different conference than the one from which he or she retired	Very little risk
Retiree hired by a local church without action by bishop or DS (not a church where retiree served prior to retirement)	Low risk
Retiree hired by a local church without action by bishop or DS (church where retiree served prior to retirement)	Some risk

Potential Situations and Related Risks

SITUATION	LEVEL OF RISK
Retired UMC clergyperson assigned by DS to work at local church	More risk
Retiree appointed by bishop to same UMC church where he or she worked prior to retirement	Higher risk
Retiree appointed by bishop to conference office where he or she worked prior to retirement (e.g., as a DS or conference officer)	Higher risk

What If You Do Nothing?



- May be considered out of compliance
- Have an argument prepared if audited by IRS
- Possible repeal of some/all ACA regulations under new Administration

Seven Options for Resolving Issues

1. Terminate HRA

May combine with increase in taxable compensation*

- Add to *W2* from church vs. *1099* from conference



* Ensure no Medicare Secondary Payer Issue; see slide 15

Seven Options for Resolving Issues

2. Suspend HRA

- Convert the suspended HRA to a “retiree-only” HRA
- Allow contributions but no reimbursements
- Consider administrative complexities
- Consider increasing compensation* to cover same-year health expenses



*** Ensure no Medicare Secondary Payer Issue; see slide 15**

Seven Options for Resolving Issues

3. Integrate HRA with Medicare (Beginning January 1, 2017)

If < 20 employees with approved
Medicare Secondary Payer Small
Employer Exception (MSP-SEE)



4. Integrate HRA with a group health plan (e.g., an active health plan)

Seven Options for Resolving Issues

5. Convert HRA to “Limited-Scope”
Dental or vision only

6. Ensure HRA plan has less than two (only 1) current employees
(e.g., not a “group” health plan)

Administered by local church
instead of conference

7. Terminate the individual’s employment

Other risks involved



Medicare Secondary Payer (MSP) Issue

- If providing additional compensation in lieu of HRA, confirm there is no MSP issue
- MSP statute—certain employees (65 and over) must be offered same health plan as younger employees
- Employees may waive plan, but MSP rules* prohibit:
 - “Incentives” to waive the plan
 - Plans supplementary to Medicare

* Unless qualify for the MSP Small Employer Exception (MSP-SEE)



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