

CONCIERGE ARRANGEMENTS AND HRAs MAY BECOME EVEN MORE ATTRACTIVE AS A RESULT OF RECENT IRS RULING



I continue to follow closely the related guidance pertaining to health reimbursement accounts (HRAs) as a potential offering for companies to consider as a viable alternative to traditional health care offerings. HRAs offer a shift to a defined contribution approach since an employer can establish a desired spending level. The proposed regulations and certain additional rulings provide additional positive considerations for these options.

Recently, the IRS issued a proposed rule that would expand the ability of HRAs to offer employees tax-free reimbursement for the cost of direct primary care arrangements (DPCA) and health care sharing ministries (HCSM). The proposed rule would allow payments for DPCA and for membership in an HCSM to qualify as expenses for medical care so they may be reimbursed by an HRA and be deductible under the tax code.

What are DPCAs and HCSMs?

A DPCA is a contract between an individual and a primary care physician, where the physician agrees to provide medical care for a fixed annual or periodic fee without billing a third party. These are often labeled as *concierge care*.

An HCSM is an arrangement where members who share religious beliefs make payments to a common pool and then the pooled money pays for the medical expenses of the other members. Unlike DPCAs, HCSMs do not actually provide any medical care or services. Instead, they provide a method to share the burden of the expenses for medical care. However, the IRS determined in the proposed rule that amounts paid for membership in an HCSM are considered payments for medical insurance under the tax code, even though the HCSM is not considered medical insurance.

The proposed regulations also clarify that amounts paid for certain arrangements and programs such as Medicaid, the Children's Health Insurance Program (CHIP), TRICARE, and certain veterans' health care programs are considered medical insurance under the tax code. That means, if a government-sponsored health program requires individuals to pay premiums or enrollment fees for coverage, those premiums or fees may be deducted or reimbursed.

Impact on Health Savings Accounts

The downside of the IRS classifying both DPCAs and HCSMs as medical insurance is that employees who participate in either of these arrangements will likely be ineligible to participate in a health savings account (HSA). Employees with coverage under a DPCA or HCSM would be unable to use the HSA for these plans, as the ability to do so is limited to those enrolled solely in a high-deduction health plan.

Next Steps for Employers

As companies look to contain costs, shifting away from a defined benefit health care approach to a defined contribution health care approach should continue to be evaluated. HRAs may ultimately be a suitable option either as a total replacement or in some other permissible manner. The recent ruling on these programs can add to the positive view of HRAs.



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