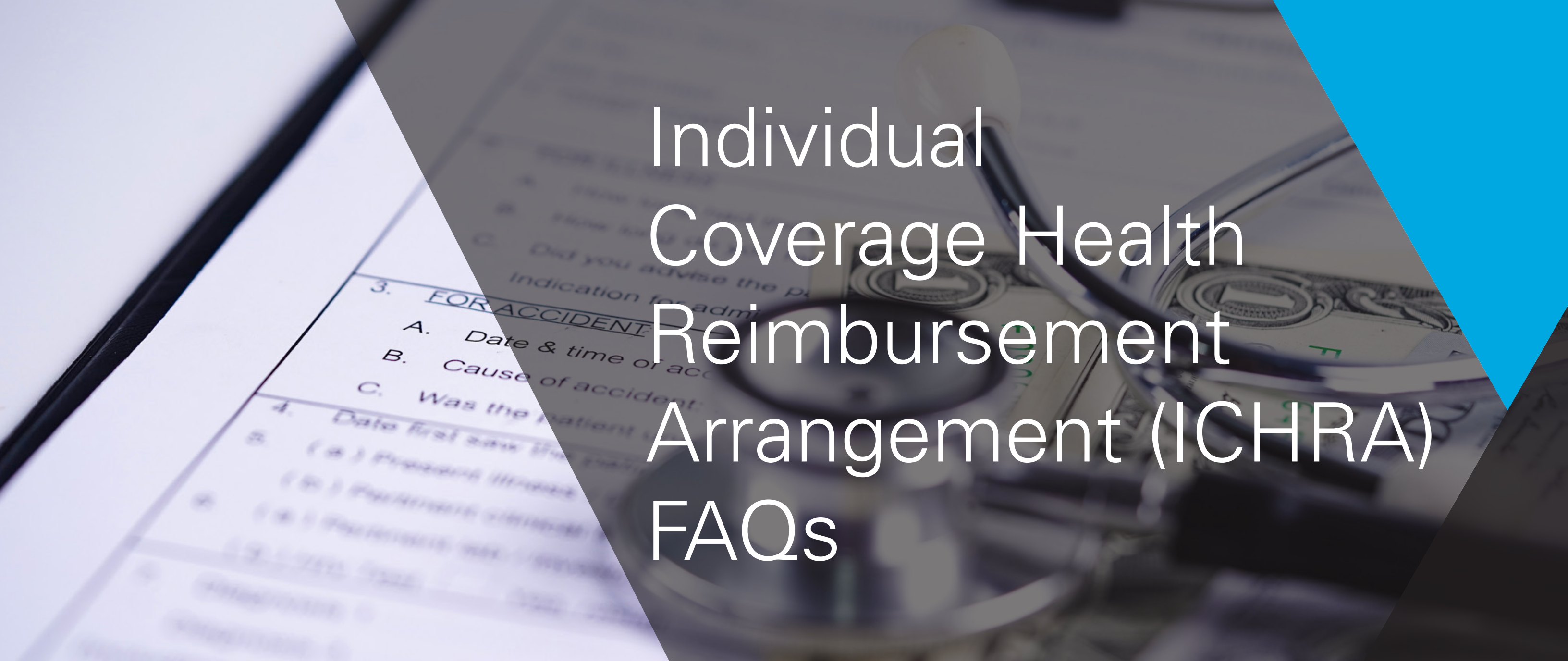

Individual Coverage Health Reimbursement Arrangement (ICHRA) FAQs

1. What is an Individual Coverage Health Reimbursement Arrangement?

ICHRA is a new type of HRA available to employers of all sizes effective 1/1/2020 to reimburse individual market health insurance premiums (conditioned on a few requirements) and/or medical expenses while maintaining the same tax-favored status for employer contributions towards a traditional group health plan. It is offered instead of a group major medical plan; an employer may not offer employees the choice between an ICHRA or their employer group medical plan.

2. How does an ICHRA work?

An ICHRA is an employer funded account that employees may use to reimburse medical expenses and/or individual insurance coverage (purchased on or outside of the exchange) or Medicare Part A, B or C.

3. What are the differences between an ICHRA and a traditional HRA?

a. A traditional HRA may not reimburse individual insurance premiums

b. An ICHRA works with individual insurance plans and Medicare, whereas a traditional HRA must be integrated with an employer group health plan. An employer may not offer a traditional group health plan to the same class of employees it offers an ICHRA

4. What are the requirements for an employer to offer an ICRHA?

a. An employer may not offer a traditional group health plan to any employee whom you offer an ICHRA

b. Must offer the ICHRA on the same terms and conditions to all eligible employees within a designated class.

Permitted Designated Classes:

- Full-time vs. Part-time employees
- Employees in the same geographic area (e.g., same rating area, state, or multi-state region)
- Seasonal employees
- Collectively bargained (union) employees
- Employees who have not satisfied a waiting period
- Non-resident aliens with no U.S.-based income
- Salaried workers vs non-salaried (e.g. hourly)
- Temporary employees of staffing firms, or
- A combination of two or more classes

ALERAGROUP

c. May offer variations to benefits based on family size and age (up to 3 x maximum dollar available to youngest participant)

d. Minimum Class Sizes

   i. No minimum sizes for classes if employer is not offering a group health plan to a class

   ii. If employer is offering a group plan, then the classes shown in red font (above) are subject to the following minimums:

      - 10 for employers with fewer than 100 employees
      - 10% (rounded down) for employers with 100-200 employees
      - 20 for employers with 200+ employees

   iii. Minimums apply to combo classes unless it's the "waiting period" class

   iv. Minimums only apply to "rating area" if designing a class smaller than a state

5. What are the requirements for an employee to participate in an ICHRA?

a. Employees and dependents covered by the ICHRA must also be enrolled in individual health insurance coverage (purchased on or outside of the exchange) or Medicare Part A, B or C. Group health coverage of any type (including spouses plan) and excepted benefit only coverage would not constitute qualifying individual coverage.

b. Coverage is required for each month of ICHRA enrollment – if an employee drops or loses coverage they are no longer eligible to participate in an ICHRA or submit claims for reimbursement

c. Employee cannot be offered a traditional employer group health plan.

6. May an employee also have an HSA?

ICHRAs that are designed to only reimburse premiums (not medical expenses) do not disrupt HSA eligibility.

7. Is there a plan document required?

Yes. ERISA applies to an ICHRA. Therefore, a written plan document is required as are other reporting and disclosure obligations (e.g. Form 5500 if 100+ participants).

8. What are the contribution limits?

There is no statutory limit on how much an employer can offer for reimbursement – the employer defines the amount in the plan document and may offer different amounts to different classes and increase the amount available based on the employee's age or number of dependents.

9. What is the Tax Benefit to Employees?

ICHRA contributions and reimbursements provided to employees do not count towards the employees' taxable wage base. In other words, they are income tax free for federal and almost all state taxes.

Employers may also allow employees to pay for any portion of their off-exchange individual health insurance not covered by the ICHRA on a tax-favored bases, using salary reduction arrangement under a cafeteria plan.

Employers may not permit employees to make salary reduction contributions under a cafeteria plan to purchase coverage offered through an Exchange.

10. What is the Tax Benefit to Employers?

No FICA or Medicare taxes on contributions

11. Are Section 105(h) nondiscrimination rules applicable?

An ICHRA is a self-insured health plan which may not discriminate in favor of highly compensated employees (HCEs). However, employers are permitted to provide different contribution amounts to employees based on an employee's age & family size. If an HCE receives a larger amount solely due to age or family size, this will not automatically be considered discriminatory.

12. When are the funds available?

The employer decides the schedule for funds availability

13. Do the funds Carryover year to year?

The employer decides if any unused funds rollover from year to year.

14. Are the funds portable?

No. They may not be rolled over to a new employer

15. Is an ICHRA Subject to COBRA?

Yes, an ICHRA is considered a group health plan and therefore unless an exception applies (e.g. church, government, under 20 employees in the previous calendar year) employees who lose ICHRA coverage due to a qualifying event (e.g. termination, death, divorce) would be eligible for continuation coverage under COBRA.

16. What expenses are eligible?

The employer may design their plan to allow for:

a. Premiums for individual major medical insurance (including Medicare & TriCare) and/or

b. Any or a subset of eligible unreimbursed medical expenses under IRC Section 213(d)

17. Can an employer administer their own ICHRA?

Best practice due to the compliance and substantiation obligations is to work with a Third Party Administrator who is equipped to handle the regulations and requirements.

18. Does offering an ICHRA satisfy the employer mandate under the Affordable Care Act?

a. For purposes of the 4980H(a) employer mandate – an ICHRA is considered an offer of minimum essential coverage (MEC). That is, it does meet the employer's obligation to offer coverage to 95% or more of its full-time employees and their dependent children.

b. It may satisfy the 4980H(b) employer mandate, (i.e. affordable coverage) if the amount of the ICHRA offered to employees is enough so that if the employee were to purchase the lowest cost silver plan in their market, it would not cost them more than 9.78% (in 2020) of their income out of pocket.

c. Knowing the lowest cost silver plan varies based on factors such as age and market, the IRS does offer safe harbors to help satisfy the affordability requirement.

Location-Based Safe Harbor	The employer is **not required** to use an employee's actual residence to determine affordability. Instead, the employer may use the location of the employee's primary site of employment, **unless** the employee's worksite is their home (due to remote or telecommute work). The primary site of employment is the location the employer expects the employee to perform services on the first day of the plan year or the first day the employee is eligible to participate in the ICHRA ("effective date").
Look-Back Month Safe Harbor	If the ICHRA operated on a... **Non-calendar basis:** the employer may use the monthly premium amount from January of the current calendar year. **Calendar year basis:** the employer may use the monthly premium amount for the PTC affordability plan from January of the prior calendar year. (look-back month safe harbor) If the employer chooses to use this safe harbor, the employer **must** use the employee's **current** applicable location and current age, **regardless** of whether the lowest-cost silver plan is determined based on the current or prior year.
Age-Related Issues	The proposed regulations **do not establish** any specific safe harbors based on age. Employers must apply the safe harbors on a consistent basis to all employees within a class. However, an employer may use the age of the oldest employee to determine the ICHRA contribution for employees in that class (i.e., take the lowest-cost silver plan based on the age of the oldest employee). An employer **may vary** the amount ICHRA contributions based on age by no more than a **3:1 ratio** (oldest participant: youngest participant) An employer making age-based contributions may use the employee's age on the first day of the plan year or the effective date.

19. Are employees eligible for a Premium Tax Credit (PTC)?

ICHRAs eliminate premium tax credit eligibility - Employees and dependents covered by an ICHRA—or offered an affordable ICHRA—are ineligible for premium tax credit (PTC)

a. Participants must be able to opt out of/waive future reimbursements annually, before each plan year (e.g. ICHRA that is considered "not affordable", could receive PTC.)

b. At termination, must either forfeit remaining balance (subject to COBRA) or be able to permanently opt out/waiver of future reimbursements

20. What other responsibilities does the employer have?

a. Must provide a notice to eligible participants regarding the ICHRA & its interaction with premium tax credits.

b. Must have reasonable procedures to substantiate the employees & their families are enrolled in individual health insurance or Medicare while covered by the ICHRA.

c. Must permit employees to opt out at least annually