

Qualified Small Employer Health Reimbursement Account (QSEHRA) – Eligibility and Regulations Follow Up Information

“21st Century Cures Act”

January 12, 2017

Eligibility

- 1) Employer must not be considered an Applicable Large Employer (ALE) with over 50 fulltime equivalent employees.
- 2) Per the “21st Century Cures Act” legislation, only employers with less than 50 fulltime employees are eligible.
- 3) Non-Eligible Employees include employees working less than 90 days, employees under 25 hours per week, part-time or seasonal employees, non-resident Aliens with no source of US income, and union employees unless a union contract makes them eligible.

Regulations

- 1) The maximum QSEHRA contribution per year is \$4,950 for singles and \$10,000 for families. The contribution will offset any Marketplace credits. It is possible for the QSEHRA to disqualify, or completely offset any credits, if the QSEHRA is affordable. If the QSEHRA is affordable, there is no credit.
- 2) After qualifying as a small employer, there is an affordability test, as used for the large employer “Play or Pay” test, applied to the small employer QSEHRA contribution. If the employees remaining health insurance premium, after the QSEHRA contribution, when applied to the second lowest silver plan, does not exceed 9.5% of an employee’s household income, the QSEHRA is affordable. There must be less than 9.5% of household income in the insurance premium due.
- 3) Employees cannot contribute to the QSEHRA and must have proof of Minimum Essential Coverage (MEC) to receive the premium payment.
- 4) Employees must be notified of the QSEHRA and contribution level 90 days prior to the effective date.
- 5) The QSEHRA contribution for reimbursement of premiums are considered “applicable employer sponsored coverage” and are added to that total of coverages for applying the Cadillac Tax.
- 6) The QSEHRA must be reported on the employee’s W-2 (Box 12), along with all other pre-tax employer paid coverages for the Cadillac Tax.
- 7) QSEHRA’s are “accepted benefits” and not a health plan. They are not governed by ERISA, PHS, Affordable Care Act and HIPAA and Cobra. There is no portability under HIPAA, just privacy requirements.
- 8) A lot of clarification is to come. Some believe the QSEHRA plan is disqualifying coverage and make the employee not eligible for a Health Savings Account.

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