

**Health Reimbursement Accounts (HRA)  
2011**

Health Reimbursement Accounts (HRA) represent a defined contribution approach to health expense funding that relies upon employer contributions alone, either through regular contributions or a compensated leave buyout program (e.g. payments for accrued but unused sick leave) to pay for qualified medical expenses as defined in Internal Revenue Code § 213(d). There is no limit on the amount of money employers can contribute to the accounts. In addition, employers do not pay FICA taxes on their contributions while earnings grow tax-free for employees. Distributions are not included in an employee's gross income so long as they are made for *qualified* medical expenses and made by the employee, the employee's spouse and dependents. An HRA may be offered with other health plans, including high deductible health plans and flexible spending accounts (FSA or Section 125 plans). Employees do not have to be covered under any other health care plan to participate in the employer's HRA plan.

IRS Publication 969 details many of the issues which arise under HRA plans. The laws that govern HRA operations lend some flexibility to employers in constructing and maintaining these accounts. In the context of Ohio public school districts, they have been established by collective bargaining pursuant to post-employment health expenses after separation of service. In this instance, the HRA can be thought of as an individual savings account for the purpose of medical expenses. In such cases, assets are held in trust for the benefit of the employees and qualified dependents and do not revert back to the employer. Year to year carryovers, contribution maximums, subsequent payments into the HRA and roll-overs to another employer's HSA or HRA are similarly controlled by the employer.

Once the plan is adopted by a district, all eligible employees must participate. If negotiated, a 501(c)(9) voluntary employee beneficiary trust (VEBA) can be established to accept employer contributions. These contributions can flow from accumulated sick leave cash conversions, early retirement incentives or other available dollars within a collective bargaining agreement. Earnings in the trust generate interest over time and are withdrawn by employees at separation from service.

Each qualified expense that is submitted for reimbursement must be substantiated. According to Internal Revenue Service Notice 2002-45, "Reimbursements for insurance covering medical care expenses defined in Internal Revenue Code § 213(d)(1)(D) are allowable reimbursements under an HRA, including amounts paid for premiums for accident or health coverage for current employees, retirees, and COBRA qualified beneficiaries" (p. 3). To be reimbursed, the qualified expense must have been incurred on or after the date that the person enrolled in the HRA. Other items that may be reimbursed include dental or vision premiums, Medicare Part B payments, long-term care premiums (not expenses) and out of pocket medical expenses such as prescription drug payments.

In 2010, federal health care reform legislation restricted the use of health savings account funds for medicines and drugs. Specifically, HDHP/HSA plans can only cover or reimburse medicines and drugs if the drug: 1) requires a prescription, 2) is available without a prescription

(i.e., over the counter [OTC]) but the individual obtains a prescription for it, or 3) is insulin. A prescription is defined as “any written or electronic order that meets the legal requirements of a prescription in the state in which the medical expense is incurred and is issued by an individual who is legally authorized.” The new rule applies to OTC drugs purchased on or after January 1, 2011.

For more information, please visit the U.S. Department of the Treasury’s website at <http://www.ustreas.gov> and consult IRS Publication 969, which is available at <http://www.irs.gov/publications/index.html>. Questions regarding HRA plans should be directed to Gregg Gascon in the Collective Bargaining and Research Division at [gascong@ohea.org](mailto:gascong@ohea.org). This document is for general education purposes only, and does not constitute legal or tax advice; such assistance should be sought from an attorney or accountant.

**COLLECTIVE BARGAINING & RESEARCH DIVISION (CBaR)**