Lawley Benefits U

KEEPING YOU INSURED AND INFORMED

HRA Annual Limits Prohibited

May 2, 2013

The Affordable Care Act (ACA) generally prohibits health plans and health coverage issuers from imposing lifetime or annual limits on the dollar value of essential health benefits. This requirement is found in section 2711 of the Public Health Service Act (PHS Act), which was added by the ACA.

Interim final regulations addressed the application of section 2711 to health reimbursement arrangements (HRAs) and certain other account-based arrangements. The interim final regulations distinguish between stand-alone HRAs and HRAs integrated with other group health coverage. The rules indicate that an HRA integrated with other group health coverage is not required to satisfy the annual limit restrictions if the other coverage alone satisfies ACA's annual limit restrictions. Other limited exceptions apply for stand-alone HRAs offering only retiree coverage, or reimbursement limited to dental, vision or long-term care benefits as a separate policy.

On Jan. 24, 2013, the Department of Labor (DOL) issued **Frequently Asked Questions** (FAQs) that clarify which health reimbursement arrangements must comply with the ACA's prohibition on annual or lifetime limitations on essential health benefits. The FAQs also provide transition relief, allowing amounts credited to any HRA before Jan. 1, 2014, to be used to reimburse medical expenses incurred even after Dec. 31, 2013 without violating section 2711.

FAQS ON COMPLIANCE OF HRAS WITH PHS ACT SECTION 2711

Q2: May an HRA used to purchase coverage on the individual market be considered integrated with that individual market coverage and therefore satisfy the requirements of PHS Act section 2711?

No. The Departments intend to issue guidance providing that for purposes of PHS Act section 2711, an employer-sponsored HRA cannot be integrated with individual market coverage or with an employer plan that provides coverage through individual policies and therefore will violate PHS Act section 2711.

Q3: If an employee is offered coverage that satisfies PHS Act section 2711 but does not enroll in that coverage, may an HRA provided to that employee be considered integrated with the coverage and therefore satisfy the requirements of PHS Act section 2711?

No. The Departments intend to issue guidance under PHS Act section 2711 providing that an employer-sponsored HRA may be treated as integrated with other coverage only if the employee receiving the HRA is actually enrolled in that coverage. Any HRA that credits additional amounts to an individual when the individual is not enrolled in primary coverage meeting the requirements of PHS Act section 2711 provided by the employer will fail to comply with PHS Act section 2711.

Q4: How will amounts that are credited or made available under HRAs under terms that were in effect prior to Jan. 1, 2014, be treated?

The Departments anticipate that future guidance will provide that, whether or not an HRA is integrated with other group health plan coverage, unused amounts credited before Jan. 1, 2014, consisting of amounts credited before Jan. 1, 2013, and amounts that are credited in 2013 under the terms of an HRA as in effect on Jan. 1, 2013, may be used after Dec. 31, 2013, to reimburse medical expenses in accordance with those terms without causing the HRA to fail to comply with PHS Act section 2711. If the HRA terms in effect on Jan. 1, 2013, did not prescribe a set amount or amounts to be credited during 2013 or the timing for crediting such amounts, then the amounts credited may not exceed those credited for 2012 and may not be credited at a faster rate than the rate that applied during 2012.