



AMERICAN BENEFITS COUNCIL

Benefits Briefing Webinar: Proposed Rules on Application of Employer Mandate & Nondiscrimination Rules to Individual Coverage HRAs

Guest Panelist: CMS Official Elijah P. Wood

Tuesday, December 3, 2 p.m. ET

The American Benefits Council will hold a webinar on **Tuesday, December 3, at 2 p.m. Eastern Time** to review the [recently proposed regulations](#) by the U.S. Department of the Treasury and the Internal Revenue Service (IRS) that address the application of the Affordable Care Act (ACA) employer mandate and nondiscrimination rules for self-insured group health plans to individual coverage health reimbursement arrangements (HRAs), as described in the [October 2 Benefits Byte](#).

In this webinar, moderator **Katy Johnson**, *the Council's senior counsel, health policy*, will be joined by [Seth Perretta](#) and [Rachel Levy](#), *principals with Groom Law Group, Chartered*, who will provide an overview of the proposed regulations and what they mean for employers.

We will also be joined by [Elijah P. Wood](#), *health insurance specialist in the Marketplace Plan Management Group at the U.S. Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS) Center for Consumer Information and Insurance Oversight*. He will provide an overview of tools and resources that the agency has created to help employers offering individual coverage HRAs.

We will solicit feedback and take questions from webinar participants throughout the session. Members are encouraged to [submit questions for the webinar in advance](#).

A recording of this session will be sent to all registrants. Even if you will not be able to attend in person, please register to receive a digital playback of the webinar automatically.

NOTE: Participation in Council webinars may be used toward continuing education/renewal requirements for many professional accreditation programs, but only by means of self-certification. Descriptions of past programs are available by [clicking here](#). Please retain your registration confirmation for your verification records.

BACKGROUND

As we reported in the [June 17 Benefits Byte](#), beginning on or after January 1, 2020, employers can provide and fund an individual coverage HRA that an employee can use to purchase health insurance coverage on the individual market. While this particular approach may not fit the benefit strategies for all employers, it may be attractive to those companies and employees who are seeking a more defined contribution approach to health care coverage.

Although the final regulations allowing individual coverage HRAs released in June provided extensive guidance on individual coverage HRAs, those final regulations did not address the application of the ACA employer mandate (under Internal Revenue Code section 4980H) or nondiscrimination rules for self-insured group health plans (under Code section 105(h)) to individual coverage HRAs. Instead, in November 2018, Treasury and IRS issued [Notice 2018-88](#), which set forth a number of anticipated proposed approaches on those issues and requested comments (see the [November 20, 2018, Benefits Byte](#)). The Council submitted [comments](#) on that notice early this year.

On September 27, Treasury and IRS issued [proposed regulations](#) addressing the interaction between the employer mandate and nondiscrimination rules for self-insured group health plans and individual coverage HRAs and provided a number of safe harbors, as summarized in the [October 2 Benefits Byte](#). Some of the Council's comments in response to Notice 2018-88 were taken, including clarifying that employers are considered to offer an individual coverage HRA even if the employee opts not to enroll, but others, including use of a nationwide or employer-wide standard to determinate affordability, were not adopted. Comments on the proposal are due by December 30.

CMS has developed a tool that employers may use in determining whether an offer of an individual coverage HRA to an employee is affordable for purposes of the employer mandate. For more information, see: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Employer-Initiatives/Employer-Initiatives>

For questions related to registration – If you have colleagues at your organization who would like to participate in this session, but do not regularly receive Council materials, please contact [Deanna Johnson](#), senior director, membership, [Sondra Williams](#), manager, member and staff engagement, or [Mary Lindsay](#), executive assistant, at (202) 289-6700.

The American Benefits Council is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits system. The Council's members represent the entire spectrum of the private employee benefits community and either sponsor directly or administer retirement and health plans covering more than 100 million Americans.

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