



## Qualified Small Employer HRA —Frequently Asked Questions—

The 21<sup>st</sup> Century Cures Act (Cures Act), enacted in late 2016, applies to “qualified” small employers that do not offer group health coverage to their employees, by creating a way for them to provide healthcare relief to their employees at a tax savings.

The Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) allows Participant reimbursements for individual insurance premiums and 213(d) expenses.

Please refer to the following Frequently Asked Questions for QSEHRA plan specifics. For more comprehensive QSEHRA Guidance, please [click here](#).

<p>Who is eligible to offer a QSEHRA?</p>	<ul style="list-style-type: none"> <li>• “Small” employers that are <i>not</i> Applicable Large Employers (ALEs) (have not employed 50 or more fulltime employees, including fulltime equivalent employees, in the prior calendar year) under the Affordable Care Act (ACA) and are <i>not</i> subject to ACA employer responsibility penalties.</li> <li>• “Small” employers (fewer than 50 full-time employees) that do <i>not</i> offer employees a group health insurance plan.</li> </ul>
<p>Who may <i>not</i> offer a QSEHRA?</p>	<ul style="list-style-type: none"> <li>• Employers with more than 50 full-time employees, including fulltime equivalent employees, in the prior calendar year (under ACA counting rules).</li> <li>• Employers that offer a group health plan, including a Health Reimbursement Arrangement (HRA) or a medical Flexible Spending Account (FSA), to any employee. A group health plan includes a plan that provides only excepted benefits described in section 9831(c) (for example, a vision or dental health plan that qualifies as an excepted benefit) if that plan is offered by an employer to its employees.</li> <li>• Employers who provide continued access to amounts accumulated in an HRA in prior years or carryover amounts in an FSA.</li> <li>• Controlled group of businesses as defined under section 414(b), (c), (m), or (o) if one or more offers its employees a group health plan.</li> </ul>
<p>Who may or may not be an eligible employee for QSEHRA purposes?</p>	<ul style="list-style-type: none"> <li>• An eligible employee means any employee of an eligible employer; however, the terms of a QSEHRA may exclude the following employees:             <ul style="list-style-type: none"> <li>○ Employees who have not completed 90 days of service with the employer;</li> <li>○ Employees who have not attained age 25 before the beginning of the plan year;</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>○ Part-time or seasonal employees;</li> <li>○ Employees covered by a collective bargaining agreement if health benefits were the subject of good faith bargaining; and</li> <li>○ Employees who are nonresident aliens with no earned income from sources within the United States.</li> </ul> <ul style="list-style-type: none"> <li>● An eligible employee is NOT a retiree, other former employee, or non-employee owner.</li> <li>● An eligible employee may NOT waive participation in QSEHRA.</li> </ul>
<p>What terms apply to a QSEHRA?</p>	<ul style="list-style-type: none"> <li>● QSEHRA is an arrangement that is provided on the same terms to all employees of the eligible employer. To satisfy the same terms requirement, eligible employers must provide the QSEHRA on the same terms, uniform and consistent basis, to all eligible employees. Retirees, other former employees, or non-employee owners are not eligible employees.)</li> <li>● If QSEHRA is provided to employees in an excludable category (for example, part-time employees), those employees must be provided the QSEHRA on the same terms as all employees to whom the QSEHRA is provided.</li> <li>● If two or more eligible employees are covered under single family health insurance policy or separate health insurance policies (i.e. two eligible employees who are married to each other), they must each be provided a separate QSEHRA family permitted benefit.</li> <li>● QSEHRA will satisfy the same terms requirement if it provides for reimbursements up to a single dollar amount regardless of whether an eligible employee has self-only or family coverage.</li> <li>● QSEHRA may limit reimbursements to certain medical expenses as long as the limitation doesn't cause the arrangement to effectively be available to all eligible employees.</li> <li>● If QSEHRA allows for carryover, the eligible employee's total permitted benefit (carryover plus newly available- amount) may not exceed the applicable statutory dollar limit.</li> <li>● Employers cannot provide that one category of employees can be reimbursed for all medical expenses and another category of employees can be reimbursed for individual insurance premiums. This would not meet the same term requirement. All eligible employees must have same availability to reimbursement requirements.</li> </ul>
<p>What is required to be eligible for reimbursement from QSEHRA?</p>	<ul style="list-style-type: none"> <li>● Before an expense can be reimbursed from QSEHRA, the QSEHRA must obtain proof that the eligible employee and the individual who incurred the expense (if different) have Minimum Essential Coverage (MEC) for the month in which the expense was incurred. After that initial proof, which must be repeated</li> </ul>

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	<p>annually, an additional attestation from the employee is required with each request for reimbursement. An eligible employer may rely on the employee’s attestation unless the employer has actual knowledge that the individual whose expense is submitted does not have MEC.</p> <ul style="list-style-type: none"> <li>• QSEHRA cannot reimburse an eligible employee on a taxable basis if the employee fails to provide proof of MEC for the individual for whom the employee seeks reimbursements.</li> </ul>
<p>What is reimbursable under a QSEHRA?</p>	<ul style="list-style-type: none"> <li>• The employee’s individual insurance premium, including family coverage and any 213(d) expense per the Internal Revenue Code, as allowed by QSEHRA.</li> </ul>
<p>What is the maximum reimbursement allowed through a QSEHRA?</p>	<ul style="list-style-type: none"> <li>• <b>Limits are adjusted each year.</b></li> <li>• Employers may set permitted benefit by rounding amounts in increments of \$50 to the nearest whole dollar amount that does not exceed the applicable statutory dollar limit. For example, single permitted benefit may be rounded to \$5,000, but not \$5,100.</li> <li>• In the case of an individual who is not covered by a QSEHRA for the entire year, the statutory dollar limits are required to be prorated to reflect the number of months that the individual is covered by the QSEHRA.</li> </ul> <p><b>2018</b></p> <ul style="list-style-type: none"> <li>• Single: \$5,050 annually; \$420 monthly if not covered for the full year</li> <li>• Family: \$10,250 annually; \$854 monthly if not covered for the full year</li> </ul>
<p>Who funds the QSEHRA?</p>	<ul style="list-style-type: none"> <li>• Solely employer funded.</li> </ul>
<p>What are the employer reporting requirements for the QSEHRA?</p>	<ul style="list-style-type: none"> <li>• Eligible employers must furnish initial written notice to eligible employees for 2017 or 2018 QSEHRA plan years the later of February 19, 2018, or 90 days before the first day of the plan year.</li> <li>• The eligible employer must report the amount of payments and reimbursements that the eligible employee is entitled to receive from the QSEHRA for the calendar year in box 12 of the Form W-2 using code FF, without regard to the amount of payments or reimbursements actually received.</li> <li>• Employers are advised to have a Plan Document and Summary Plan Document (SPD).</li> <li>• Employers maintain Employee Certification of Minimum Essential Coverage (MEC) for tax purposes; benefits are taxable income for employees who do not maintain MEC through an individual plan or their spouse’s coverage.</li> </ul>

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Will a QSEHRA impact the individual's eligibility for subsidy in the Marketplace?	<ul style="list-style-type: none"> <li>• If an employee enrolls in a qualified health plan on the Marketplace, his or her premium tax credit/subsidy will be reduced by the benefit available under the Qualified HRA.</li> </ul>
Are QSEHRAs subject to COBRA?	<ul style="list-style-type: none"> <li>• No.</li> </ul>
Are QSEHRAs subject to ERISA?	<ul style="list-style-type: none"> <li>• The QSEHRA, although not a group health plan, is subject to ERISA disclosure requirements, such as Plan Document and Summary Plan Description, and 5500 reporting requirements (if applicable), similar to a 401(k) plan. TASC administrative processes meet these requirements by producing the plan documents and providing to Clients.</li> </ul>
Are QSEHRAs subject to HIPAA?	<ul style="list-style-type: none"> <li>• Until the IRS issues further guidance, TASC will treat all QSEHRAs per initial guidelines and protect any Personal Health Information (PHI) received.</li> </ul>
Can an employer contribute to an employee's HSA, including allowing an eligible employee to make pre-tax contributions through a cafeteria plan?	<ul style="list-style-type: none"> <li>• Yes. However, employees' HSA eligibility may be lost if the QSEHRA's coverage is not HSA-compatible coverage.</li> </ul>
Are QSEHRAs subject to Patient-Centered Outcomes Research (PCOR) fees?	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
Can a QSEHRA allow for carryover of unused benefit amounts (carryover) from a prior plan year?	<ul style="list-style-type: none"> <li>• Yes. However, the sum of the carryover amount and the permitted benefit amount under the QSEHRA for the later year cannot exceed the statutory dollar limit in that later year.</li> </ul>

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