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Revised Guidance for Health Reimbursement Arrangement Annual Limit

This Employee Benefits Update provides information on special rules for Health Reimbursement Arrangements needing annual limit waivers under Health Care Reform.

As indicated in the Employee Benefits Update of August 19, the annual limit waiver provides a temporary reprieve from compliance with the Health Care Reform benefit limit rules. CCIIO 2011 – 1D provides information on the waiver process, including new forms and requirements. For a copy of the guidelines, go to: http://cciio.cms.gov/resources/files/06162011_annual_limit_guidance_2011-2012_final.pdf. The deadline for filing is **September 22, 2011**.

The government issued additional guidance with respect to Health Reimbursement Arrangements (CCIIO 2011 – 1E). You can find a copy at: http://cciio.cms.gov/resources/files/final_hra_guidance_20110819.pdf. There is a partial exemption from some of the requirements. According to this guidance, “[a]n HRA that is exempt from applying for an annual limit waiver still must comply with the record retention and Annual Notice requirements to participants and subscribers...” Be sure to evaluate whether your Health Reimbursement Arrangement fits the legal definition in the guidance.

What should employers do?

1. Evaluate all health-related benefits, including Health Reimbursement Arrangements and wellness benefits to determine whether they are subject to the Health Care Reform annual limit provisions and to see if a waiver filing or other action is in order. If a waiver is needed, prepare and file the waiver application by September 22, 2011. Note that if you have already filed for your plan, an extension may be needed by the September 22, 2011 deadline.
2. If necessary, take additional steps that include new Annual Notice to participants, record retention requirements for possible audit, and new Annual Limit Updates due by December 31, 2012 and December 31, 2013.

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