COBRA Administration:
Don’t Let it Bite You!

By Michelle Turner, MBA

If an employer is subject to COBRA (COBRA generally applies to all private-sector group health plans maintained by employers that have at least 20 employees on more than 50 percent of its typical business days in the previous calendar year) they must offer their employees (and enrolled dependents) an opportunity to elect to continue the same health coverage they had on the date of the triggering event.

A health reimbursement arrangement (HRA) by definition is a “group health plan” and if the employee’s coverage consisted of the employer’s group health plan combined with an HRA plan, then the same combination must be offered under COBRA when they experience a COBRA qualifying event (e.g. termination of employment).

How do you determine the COBRA premium?

There is little guidance on the subject, but the IRS has stated the applicable premium can be calculated either on:

- the basis of past cost, or
- an actuarial basis

The applicable premium under an HRA may not be based on a qualified beneficiary’s reimbursement amounts available from the HRA.

The IRS has not issued specific guidance on how to determine the applicable premium under either method. However, in my experience:

Basis of past cost: When there is history (i.e. not the first year for the HRA) the premium usually is based on past claims experience of participants and in general, it reflects the cost to the employer of administering the HRA. It’s “blended” so it’s the same for all HRA qualified beneficiaries regardless of their account balance. For example, if the annual funding is $1,200 but employees only use $600 on average, the monthly COBRA premium is $50 (600/12) + the permitted 2% administrative fee.

An actuarial basis: If it’s the first year the employer is offering the HRA, an actuarial method is used, and an employer must make a *reasonable* determination as to what utilization is likely. What’s reasonable? That is a facts/circumstances determination, (e.g. how high is the deductible, is it a first dollar HRA) with the calculation best being left up to the experts (i.e. HRA Third Party Administrator (TPA), licensed actuary) and even then, there may be different logic on what utilization average is reasonable. However, for most, their TPA may be able to provide some general utilization trends based on similar plan designs as a benchmark to help make an estimate.

Example:
Post-deductible HDHP compatible HRA, similar plan designs employees who participate in the HRA spend 30% of available HRA dollars. An annual $3,000 HRA contribution is provided.

- $3,000 x 30% (.3) = $900
- $900 ÷12 (months) = $75
- $75 x 2% (COBRA admin fees) = $76.50

Regardless of what method used, the HRA premiums must be calculated in the same fashion as the existing COBRA rules (calculated each year, prior to the 12-month determination period and different HRA COBRA premiums may not be charged to different beneficiaries.)

There are penalties for failing to offer COBRA to HRA participants….don't let it bite you!