



August 26, 2010

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration, Room N-5653
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Attn: RIN 1210-AB43

RE: Comment with Regard to Annual and Lifetime Dollar Limits on Benefits

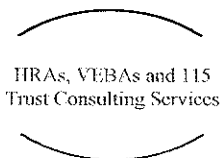
To Whom It May Concern:

INTRODUCTION

This comment is submitted on behalf of our local governmental clients which provide HRAs to their employees and retirees. We work with governmental HRA programs in 11 states. We are aware of provisions in many other parts of the country that provide HRA benefits to many other governmental employers. Here is a small sampling of our local governmental clients participating in such HRA programs:

- Over 800 local government entities
- In excess of 80,000 plan participants
- Over 90% of such participants are covered by collective bargaining
- Below is a sample of a few larger governmental entities which participate
 - City of Seattle, Washington
 - City of Portland, Oregon
 - King County, Washington
 - Multnomah County, Oregon
 - State of Washington
 - State of Montana
 - County of Riverside, California
 - Indianapolis School District, Indiana
 - Seattle School District, Washington
 - Tacoma School District, Washington
 - University of Washington
 - Washington State University
 - City of Boise, Idaho

These HRA programs are 100% funded and the assets in each program are held in trust; either a IRC § 501(c)(9) VEBA trust or a governmental trust governed under IRC § 115. The HRAs are designed and operated consistent with IRS Notice 2002-45.



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PROBLEM WITH ANNUAL LIMIT PROPOSAL UNDER PPACA

Most all of the programs offered for the employees and/or retirees of municipalities of the local governments listed above provide benefits to their active employees. If the employees do not use the benefits while actively employed, they are available as supplemental retirement benefits, usually used to help fund the purchase of retiree medical insurance and/or Medicare supplement plans or to supplement non-covered benefits when retirees become Medicare eligible. These governmental employers and their employees view these programs very favorably. Many of these HRA plans are supplemental in some manner to a traditional medical insurance plan, and used to help pay expenses not covered by a medical plan, particularly after retirement.

It is our understanding that the annual limit provision in the regulations as currently designed may severely limit thousands of these employees's ability to use the benefits. Most of these HRA plans have been implemented as a result of collective bargaining. They are used as important recruitment and retention compensation tools for local government entities to acquire and keep valuable employees in competitive labor markets.

We request that the regulations confirm that such stand-alone HRAs may continue to be offered, particularly with respect to governmental groups. Below please find some suggested solutions which the regulations could provide so that these programs can continue to help governmental employers provide these valuable benefits.

- Provide blanket waivers for HRA plans which would not expire in 2014
- Expand the definition of the exemption from benefits other than essential health benefits (we believe stand-alone HRAs are the type of group health plan which is not required to provide essential health benefits)
- Confirm that HRAs meet the exemption for "health flexible spending arrangements" as defined by the requirements in IRC 106(c)(2)(B)
- Expand the definition of the "integrated with other coverage" exemption (confirm that stand-alone HRAs, if offered by an employer who also offers a traditional medical insurance plan which meets the requirements of PPACA, would satisfy this exemption)
- Confirm that stand-alone HRAs, which do not impose any limits on participant benefits (all 213(d) medical benefits) and by definition have a reimbursement limit of the current account balance; are permitted and do not violate the PPACA limit provisions

If you have any questions, please feel free to contact me at 1-800-888-8322. Thank you.

Sincerely,



Mark R. Wilkerson, CFP®
HRA Consultants, a Division of VEBA Service Group, LLC