



ECFC Weekly Legislative Update  
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ECFC efforts resulted in a partial victory today with regard to MSP reporting for HRAs. As you know, we have worked closely for quite some time with CMS regarding the overly broad application of the MSP reporting rules to HRAs. While we had all wished for a complete exemption, CMS felt constrained by statutory language to include HRAs. Nonetheless, we were able to convince CMS of the appropriateness of a partial exemption for some HRAs as well as additional helpful clarification.

You can find the updated guide at <http://www.cms.hhs.gov/MandatoryInsRep/Downloads/GHPUserGuideV3.pdf> and you will find the HRA specific information on page 68.

We received word from CMS today that the GHP Reporting Guide had been updated with respect to reporting requirements for HRAs and it is good news overall. The following is a brief overview of the applicable updates:

- 1.. Registration for HRA administrators (i.e., "required Reporting Entities or "RREs") that have not previously registered should begin May 1, 2010 so that registration is completed by June 30, 2010.
- 2.. Reporting for HRAs begins in the 4th quarter 2010 "for HRA effective dates of October 1, 2010." **No retroactive reporting is required.** This is good news for all HRA administrators. Prior conversations with CMS indicate that administrators should look to the effective date of the individual's account--not the effective date of the HRA itself. Additional clarification is needed with regard to the scope of the phrase "for HRA effective dates of October 1, 2010". Is it referring to all individual HRA accounts *in existence* on that date or all those with a coverage start date for 2010 on October 1, 2010? If the latter, all HRAs in effect prior to 10/1/2010 would not be reported until the first quarter of 2010.
- 3.. An "HRA" for purposes of reporting is a medical expense reimbursement arrangement funded entirely by the employer **without regard to whether it has a carry over or not.** Thus, arrangements that have no carryover (such as deductible reimbursements plans or "DRPs") would qualify for the delayed reporting date and \$1000 exemption below. In addition, FSAs with employer seed money would not be required to report.
- 4.. Only free standing HRAs with an annual benefit of \$1000 or more need to be reported as a separate file. Presumably the \$1000 exemption would be lost based on the coverage level and not claims that are actually paid.
- 5.. Embedded HRAs (i.e .HRAs linked with a traditional group health) should be reported in the same file as the group health plan in which the HRA is embedded.

We will continue to keep you posted on developments and clarifications that we receive with regard to these reporting requirements.