

Comparison of Health FSAs-HRAs-HSAs

<i>Plan Design or Compliance Issue</i>	<i>Health FSAs</i>	<i>HRAs</i>	<i>HSAs</i>
<i>Internal Revenue Code</i>	<i>Section 125</i>	<i>Section 105</i>	<i>Section 223</i>
High Deductible Health Plan (HDHP) required	No.	No.	Yes. HDHP must be established on the first day of the month for the individual to be eligible to make a contribution for that month.
Contribution limits	None, except by plan design. Limit suggested to comply with nondiscrimination rules. In 2020, an indexed limit of \$2,750 applies.	None, except by plan design.	For 2020: <ul style="list-style-type: none"> • Single: \$3,550 • Family: \$7,100 • Catch-up contributions of \$1,000 for age 55 and over For 2021: <ul style="list-style-type: none"> • Single: \$3,600 • Family: \$7,200 • Catch-up contributions of \$1,000 for age 55 and over
Who owns it	Employer.	Employer.	Employee.
Employer contributions	Permitted.	Mandatory.	Permitted, subject to the following: Contributions must be comparable for ALL employees (same amount or percent of deductible); OR Contributions may favor non-highly compensated employees over highly compensated employees; OR Contributions must be through cafeteria plan (but must satisfy nondiscrimination rules)
Salary reduction funding	Permitted.	Not permitted for HRA, but permitted for HDHP.	Permitted for both HSA and HDHP. Also, the HSA may be funded with deductible (after tax) employee contributions.
Employee Assistance Plan (EAP)	Permitted, without a limit.	Permitted, without a limit.	Permitted, if it does not provide significant benefits and is not considered a health plan.
Carryover of unused amounts	Not permitted, unless plan allows up to a 2½ month grace period to submit claims under IRS Notice 2005-42 or unless plan allows up to \$500 carry over under IRS Notice 2013-71.	Permitted.	Required.

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Medical expenses that are eligible for reimbursement	Otherwise unreimbursed Code §213(d) medical expenses incurred during the coverage period. Cannot reimburse insurance premiums. Cannot reimburse qualified long-term care services.	Otherwise unreimbursed Code §213 (d) medical expenses incurred while coverage in effect. Premiums for HIPAA Excepted Benefits and long-term care insurance.	Otherwise unreimbursed Code § 213(d) medical expenses incurred while coverage in effect. Can reimburse insurance premiums in these situations: COBRA qualified long-term care, other health coverage, if individual is in receipt of unemployment compensation, or over age 65 (other than for a Medicare supplement policy).
Preventive care coverage	Permitted.	Permitted.	The HDHP may cover preventive care. See Notices 2004-23 and 2004-50.
Cash outs of unused amounts (if no medical expenses)	Not permitted.	Not permitted.	Permitted, but such amounts are taxable and also subject to a 20% excise tax, unless disabled, deceased or over age 65.
12-month period of coverage and prohibition of midyear changes	Applies unless permitted by plan design with Permitted Election Changes	Does not apply.	Applies to HDHP if funded through cafeteria plan. Participants may change HSA election at any time as long as it is prospective.
Uniform coverage requirement	Applies (i.e., maximum amount of coverage must be available throughout coverage period, generally 12 months).	Does not apply (i.e., coverage level may be prorated by plan design).	Does not apply, but unused amounts belong to participant after termination.
Ability to spend down unused amounts after termination of active participation	Cannot use unused amounts to pay for claims incurred after termination; but COBRA rights may apply.	HRA can permit unused amounts to be used until depleted to pay for claims incurred after termination; COBRA rights will apply, too.	Applies, unused amounts belong to individual.
Claims must be incurred during current period of coverage	Yes, unless plan permits grace period.	No, claims incurred in current period of coverage may be paid in later plan year.	No, claims incurred in current period of coverage may be paid in later plan year. However, claim must be incurred after HSA is established.
Claims substantiation	Employer requirement.	Employer requirement.	Employee requirement.
Claims adjudication	Employer requirement.	Employer requirement.	Employee requirement.

Can funds be used for nonmedical expenses?	No.	No.	Yes, but distribution is taxable and subject to the 20% penalty, unless over age 65.
Ordering rules	HRA first; unless otherwise specified.	HRA first; unless otherwise specified.	HRAs/FSAs precluded, unless they are post-deductible or limited purpose.
Code § 105(h) nondiscrimination requirement	Applies.	Applies.	Applies to employer contributions made through cafeteria plan. Otherwise, employer contributions must be comparable (same dollar amount or percentage of deductible) for similarly situated participants, based on coverage category (employee only, family) or employment status (full-time, part-time, former).
Is a trust account required?	No, not by the IRC, but possibly by ERISA (no trust if health FSA complies with ERISA Tech. Rel. 9201, including that reimbursements are made directly out of the general assets of the employer).	No, not by the Code, but possibly by ERISA (no trust if HRA reimbursements are made directly out of the general assets of the employer).	Yes.
Are account earnings taxable?	Not applicable if reimbursements are made directly out of the general assets of the employer. If funded with a Voluntary Employee Beneficiary Association (VEBA), earnings are generally not taxable.	Not applicable if reimbursements are made directly out of the general assets of the employer. If funded with a VEBA, earnings are generally not taxable.	No, as long as there is a qualified HSA trust (see rules regarding cash out amounts).
Rollovers from other plans	Not permitted.	Not permitted.	<ul style="list-style-type: none"> • Not permitted from Health FSA/HRA. • Permitted once from IRA, but counts toward annual contribution maximum. • Permitted a second time from IRA if first rollover was during self-only HDHP coverage and later rollover is during family HDHP coverage. • NOTE: Rollovers are subject to other conditions under the Tax Relief and Health Care Act.

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ERISA (for ERISA covered employers)	Applies.	Applies.	Does not apply, unless employer involvement is limited, per DOL Field Assistance Bulletins 2004-01 and 2006-02.
Funding requirement	Not required. If an employer does fund, ERISA's trust requirement may apply.	Not required. If an employer does fund, ERISA's trust requirement may apply.	Employer and employee HSA contributions require establishment of trust.
ERISA Form 5500	Applies. Exception for small (fewer than 100 participants) unfunded plan.	Applies. Exception for small (fewer than 100 participants) unfunded plan.	Does not apply unless it is an ERISA plan.
ERISA SPD and other disclosures, and adherence to ERISA's benefit claims procedures	Required.	Required.	Does not apply unless it is an ERISA plan.
Health status nondiscrimination	Does not apply.	Applies. Health FSA exception generally not available.	Does not apply unless it is an ERISA plan.
HIPAA Privacy/Security	Applies.	Applies.	Does not apply unless it is an ERISA plan.
COBRA	Applies. There is a special rule for qualifying health FSAs.	Applies. Special rule for qualifying health FSAs generally not available.	Does not apply unless it is an ERISA plan. Applies to HDHP.

Need detailed information about various features and options available for Health FSAs, HRAs and HSAs? Infinisource clients may contact us at fbamail@infinisource.com or 800-796-7910. If you are interested in becoming an Infinisource client, contact us at 800-779-6384 or solutions@infinisource.com.