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Exemption for Removal of Annual Dollar Cap Requirement on HRA Plans

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PPACA removed the ability of group health plans to include an annual dollar cap on essential health benefits. Group health plans were, however, allowed to request a waiver from the Department of Health and Human Services (HHS) for this requirement (with certain other requirements). New guidance has now been issued by HHS regarding the waiver process.

The first piece of guidance is the announcement of a deadline for new waivers or waiver extensions of September 22, 2011. Probably more directly applicable to many however is the blanket exemption of this requirement for certain Health Reimbursement Arrangement (HRA) plans. Thanks to the guidance, HRA plans that were in effect before September 23, 2010 do not have to file a waiver, and are exempt from the annual limit requirements for plan years beginning before January 1, 2014.

Even before this guidance, there were already some exceptions for HRA plans—HRAs integrated with health plans; retiree-only HRAs; and HRAs that also qualify as Health FSA's. Be-

cause of the rules already in place, many HRAs are considered Flexible Spending Accounts for these purposes and qualify for an exemption even without the waiver. An HRA qualifies as a Health FSA primarily if the maximum reimbursement amount does not exceed 500 percent of the annual HRA contribution. Most HRAs will fall within this exception.

Those that would not be exempt include HRA designs that are stand-alone HRA plans (not including dental-only or vision-only plans) that do not have a rollover feature. These plan designs will need to apply for a waiver by September 22, 2011. The waiver and instructions are available [here](#).

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