

CRC BENEFITS

There Is a Deadline Coming. Do Your QSEHRA and ICHRA Clients Know?



October 2 is a date that may not be on an employer's radar. It is not tax season, not open enrollment, not a major ACA filing deadline. And yet for employers offering a QSEHRA or ICHRA with a January 1 plan year, it is one of the most important dates on the compliance calendar. Written notice must be in employees' hands at least 90 days before the beginning of the plan year, which means October 2, not October 14, not sometime before the holidays. It may not feel urgent yet. It will.

Employers who offer a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) or an Individual Coverage Health Reimbursement Arrangement (ICHRA) chose these arrangements because they wanted something more flexible and more manageable than traditional group health. Both allow employers to reimburse employees tax-free for individual health insurance premiums and qualified medical expenses, and both carry the same notice obligation before the plan year begins. A missed notice requirement is the last thing they need, and unfortunately, it is one of the most common compliance gaps we see.

WHY THIS NOTICE MATTERS AND WHAT HAPPENS WITHOUT IT

For QSEHRA employers, the penalty for failing to provide proper written notice is \$50 per employee per day, up to a maximum of \$2,500 per calendar year.¹ For a small employer who chose a QSEHRA precisely because they were trying to keep benefit costs manageable, that is not a number to ignore. Beyond the financial exposure, employees who do not receive proper notice cannot make informed decisions about their marketplace coverage or premium tax credit eligibility, and those downstream problems are genuinely difficult to untangle after the fact.



**The penalty for a missed QSEHRA notice
is \$50 per employee per day, up to \$2,500
per calendar year.**

For ICHRA employers, the stakes are just as real. One of the things we talk to brokers about consistently is how connected the notice timing is to everything else in the ICHRA process. Employees need that advance notice to shop for individual coverage during open enrollment, which runs November 1 through January 15. An employee who does not receive ICHRA notice in time can miss the federal or state Marketplace open enrollment window entirely, which means they cannot enroll in the individual coverage they need to participate in the benefit their employer is offering them.²

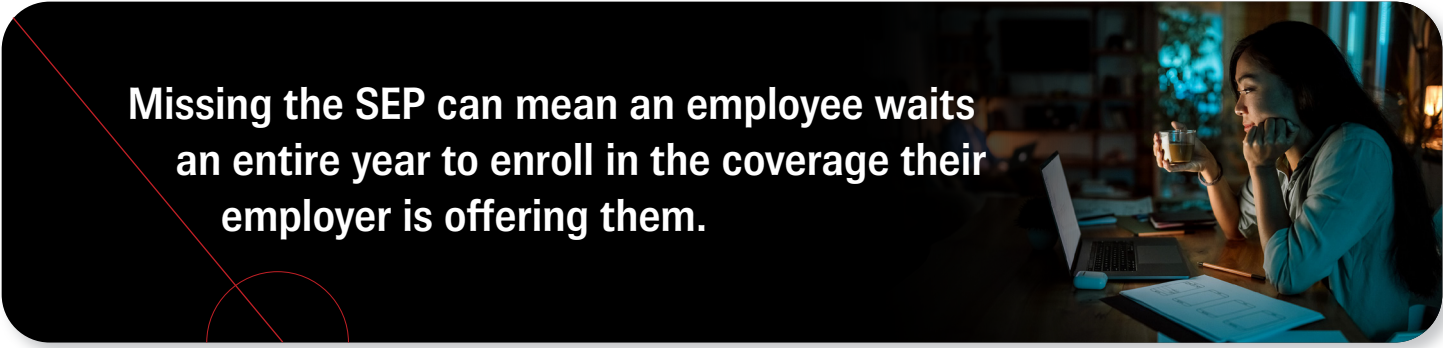
WHAT THE NOTICE MUST INCLUDE

Getting the timing right is only half of it. The content requirements are specific, and a notice that is missing even one required element can create the same compliance exposure as a notice that was never sent.

For a QSEHRA, the written notice must include the employee's permitted benefit amount for the year, a statement that the employee must have minimum essential coverage to receive reimbursements on a tax-free basis, a statement that the QSEHRA may affect the employee's eligibility for premium tax credits, and the date by which the employee can request a special enrollment period if they need to obtain individual coverage.³

For an ICHRA, the notice must include the amount of the monthly or annual reimbursement, an explanation of the coverage requirements employees must meet to participate, information about the special enrollment period that the ICHRA offer triggers, and contact information for someone who can answer employee questions.⁴

Our strong recommendation is always to use the model notices available from the IRS and CMS. They are designed to meet all the requirements, they are available in both English and Spanish, and they save a meaningful amount of time and second-guessing. Custom notices are permitted, but every element has to be there.



Missing the SEP can mean an employee waits an entire year to enroll in the coverage their employer is offering them.

THERE IS A SPECIAL ENROLLMENT PERIOD TIED TO THIS. HERE IS HOW IT WORKS.

Here is the piece that surprises brokers most when we walk through it with them. When an employer offers an ICHRA or QSEHRA, eligible employees gain access to a 60-day special enrollment period to obtain individual health insurance coverage. That SEP is triggered by the notice itself, specifically by the date on which coverage under the arrangement can first take effect. An employee who does not receive proper notice cannot access that special enrollment period, which means they are limited to the standard annual open enrollment window. For an employee who needs to change their coverage to participate in the benefit, missing that SEP can mean waiting an entire year.

Getting notices out on time is not just about avoiding penalties. It gives employees the runway they need to make good decisions about their coverage before the window closes.

WHAT TO DO IF YOU MISS IT

If October 2 passes without notices going out, the situation is recoverable. But how you respond matters.

Send the notices as soon as possible. A late notice does not eliminate the obligation or the penalty exposure, but acting promptly rather than waiting demonstrates good-faith effort, which regulators do take into account. Document when the notices went out and how they were delivered. And reach out to a compliance resource to understand whether any additional remediation steps make sense given the specific circumstances.

For employers considering a QSEHRA or ICHRA for the first time with a January 1 effective date, now is the time to have that planning conversation, not November when open enrollment pressure is already building and the notice deadline is already upon you.

BOTTOM LINE

QSEHRA and ICHRA arrangements give employers real flexibility and real cost control. Protecting that investment means taking the compliance obligations seriously, and the October 2 notice deadline is one of the most important ones on the calendar. There is enough runway right now to get this right. There will not be in a few months.

CRC Benefits connects advisors with QSEHRA and ICHRA resources, compliance guidance, and Individual and Senior team support to help clients navigate both the opportunity and the obligations of these arrangements. The clock is running. Your CRC Benefits team is here to help.

CONTRIBUTORS

- + **Misty Baker** is the Director of Compliance and Government Affairs for CRC Benefits. With deep expertise in ACA requirements, employer mandates, and benefit plan compliance, she is the resource brokers and advisors rely on when the regulatory details matter most.
- + **Patti Reimer** is a Sales Executive with the CRC Benefits Value Added Products team, specializing in ICHRA, QSEHRA, and alternative benefit strategies. A nationally recognized voice in the ICHRA space, she brings both the technical knowledge and the practical broker support to help advisors confidently introduce these solutions to their clients.

END NOTES

1. <https://www.cms.gov/files/document/individual-coverage-hras-policy-hcgov-application-overviewfinal-8282020.pdf>
2. Healthcare.gov. "Health Reimbursement Arrangements for Small Employers." <https://www.healthcare.gov/small-businesses/>
3. IRS. "Notice 2017-67: Qualified Small Employer Health Reimbursement Arrangements." 2017. <https://www.irs.gov/pub/irs-drop/n-17-67.pdf>
4. U.S. Department of Health and Human Services. "Individual Coverage Health Reimbursement Arrangements." CMS. <https://www.cms.gov/files/document/individual-coverage-hras-policy-hcgov-application-overviewfinal-8282020.pdf>

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