

# Texas Insurance Commissioner Issues Bulletin Clarifying Applicability of Texas Small and Large Employer Health Plan Requirements in Light of Recent Federal Rules Expanding Availability of HRAs

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On Thursday, February 20, 2020, the Commissioner of the Texas Department of Insurance issued a [bulletin](#) clarifying the applicability of Texas' small and large employer health plan laws and regulations to individual coverage HRAs (ICHRAs) and excepted benefit HRAs.

These clarifications were prompted by Departments of Treasury, Labor, and Health and Human Services rules adopted in June 2019 which permit both large and small employers to fund ICHRAs that employees can use to purchase individual health coverage. The new federal rules also created an "excepted benefit HRA." If certain conditions are met, an employer offering traditional group coverage may also offer an excepted benefit HRA of up to \$1,800 per year (adjusted for inflation after 2020) that can be used to reimburse employees for certain qualified medical expenses, including vision and dental premiums, and short-term, limited-duration insurance.

In Texas, if an insurer or HMO offers individual health benefit coverage through an employer's HRA, or if an employer pays for part or all of the premium for individual coverage either directly or by reimbursing the employee, the coverage is regulated as a group health benefit plan under Chapter 1501 of the Texas Insurance Code. Chapter 1501 also applies if an employer's health benefit plan is an employee welfare benefit plan regulated under the Employee Retirement Income Security Act.

The Commissioner's bulletin explains that Chapter 1501 **does not apply** if the small or large employer plan satisfies the ICHRA or excepted benefit HRA requirements. The Commissioner's bulletin expands on a 2018 Commissioner's bulletin, # B-0013-18, which stated that Chapter 1501 does not apply to Qualified Small Employer Health Reimbursement Arrangements (QSEHRAs).