On Tuesday, President Obama signed the 21st Century Cures Act, which includes a new type of health reimbursement arrangement for eligible small employers. Below are bullet points of the new law. To view OCA's formal white paper, please click here.

- This new provision allows for eligible small employers (under 50 full time employees) to offer Health Reimbursement Arrangements (HRAs) that are funded solely by the employer to reimburse employees for qualified medical expenses, including health insurance premiums. For an employer to qualify for this new HRA allowance, they must have less than 50 full time employees, do not offer a group health plan and must provide the HRA on the same terms to all eligible employees.

- This provision overturns Department of Labor and IRS guidance that currently prevents employers from funding employee HRAs because these arrangements were found to violate the Affordable Care Act insurance market reforms. The agency guidance would still prohibit these arrangements for larger employers.

- The maximum reimbursement small employers can provide under the plan is **$4,950 for individuals and $10,000** for families, and the provision is effective for plan years beginning after December 31, 2016.

- The coverage and payments under a qualified HRA are excluded from gross income, unless the employee does not have minimum essential coverage for the month in which the medical care was provided.

To learn more on how OCA can assist you in offering this new type of HRA, please contact your OCA sales representative.

President Obama has signed into law The 21st Century Cures Act (the "Act"), which includes a new type of health reimbursement arrangement called a *Qualified Small Employer Health Reimbursement Arrangement* (QSEHRA). QSEHRA's will allow certain small employers to reimburse an employee's premiums for health insurance purchased in the individual market and other Internal Revenue Code Section 213(d) medical expenses. The legislation provides welcomed relief for many small employers who want to assist employees with the purchase of health insurance without having to sponsor a group health plan arrangement.

A QSEHRA is a defined contribution health plan that meets the following requirements:

- Only employers who are not "applicable large employer" may establish and maintain a QSEHRA. Thus, only employers with less than 50 full-time or full-time equivalent employees (determined on a controlled group basis) may establish and maintain a QSEHRA.

- The employer may not offer a "group health plan" to any of its employees. A literal interpretation of the legislation seems to preclude offers of other group health coverage, including but not limited excepted benefits like vision, dental, and Health FSA coverage.

- The QSEHRA must be funded *solely* by employer contributions.

- Only employees who show proof of health "coverage" qualify for reimbursement from the QSEHRA. The legislation does not define "coverage" and does not prescribe any particular substantiation requirements.

    - The QSEHRA reimbursements are taxable if the employee's health coverage is not minimum essential coverage.

- Reimbursements are limited to medical expenses, as defined under section 213(d) of the Internal Revenue Code. This would seem to include reimbursement of unreimbursed medical expenses as well as reimbursements of premiums for medical coverage, including but not limited to vision, dental, Medicare and Medicare supplement coverage (subject to the requirements of Medicare Secondary Payor rules).

- The maximum amount of reimbursement under the plan *for a year* is $4,950 or $10,000 in the case of an arrangement that provides for reimbursement for family members. This dollar limitation will be indexed (in $50 increments) to reflect cost of living increases.

- All employees are eligible for the QSEHRA on the same terms and conditions, except that the following employees may be excluded:
    - Employees who have not completed 90 days of service with the employer;
    - Employees who have not attained age 25;
    - Part-time and seasonal employees;
    - Employees covered by a collective bargaining agreement; and
    - Employees who are non-resident aliens who receive no US-source income.

- The reimbursements offered under the plan must be the same for all eligible employees of the employer.
    - There can be a difference in the maximum amount reimbursed if the difference is based on the price of an insurance policy in the relevant health insurance market based on (i) the age of the eligible employee and family members covered or (ii) the number of family members covered under the arrangement. The same insurance policy must be used for all employees.

We expect the IRS to issue guidance with respect to QSEHRAs in the near future. If you have questions about QSEHRA's, contact your OCA representative.