ICHRA Guide

Imagine a world where offering health insurance was easy and affordable for employers of all sizes. **It *is* possible with an ICHRA.** An Individual Coverage Health Reimbursement Arrangement (ICHRA) is a group health benefit based on a pre-determined contribution that gives individuals choice and employers flexibility.

By offering an ICHRA (pronounced "ick-rah"), employers can now build a health benefits package around a set dollar amount. Employees then have the freedom to select a policy in their rating area that best fits their unique needs.

For many businesses, an ICHRA can provide a welcome alternative to traditional group health benefits, representing a big shift in the way health insurance is delivered. Effective January 1, 2020, employers of all sizes may offer ICHRAs to their employees.

Greater Cost Control

Employers can confidently set their health plan budget year after year by defining a monthly pre-determined contribution for each employee.

Freedom of Choice

The doors are now wide open for employees to shop the individual insurance marketplace to find the coverage that best fits their needs.

Easy Administration

Leveraging an ICHRA-specific benefits technology solution can eliminate recurring tasks and simplify the employee management process.

2010

Affordable Care Act
Comprehensive health care reform designed to extend health care to millions.

2013

Affordable Care Act Notice 2013–54
Interpretation issued preventing businesses from offering HRAs that integrated with individual health insurance.

2016

21st Century Cures Act
Creation of Qualified Small Employer Health Reimbursement Arrangement.

2019

Regulations Finalized
Expanded usability of HRAs approved.

2020

ICHRA Established
Effective plan years beginning in January 2020.

Understanding ICHRAs

An ICHRA is an employer-funded, tax-free health benefit used to reimburse employees for individual health insurance premiums and other qualified medical expenses. With an ICHRA, the choice and responsibility shift from employer to employee – it is the employee who determines where and how to spend the employer's pre-determined contributions.

By offering an ICHRA:

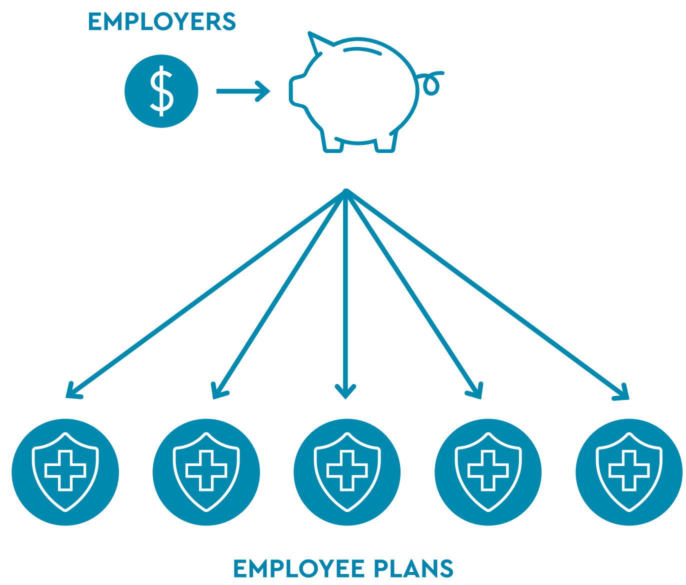
- Employers define contribution limits and have more flexibility in plan design that will better fit the unique needs of their employees. The employer establishes the reimbursement allowance per employee class.
- Employees shop, select, and purchase an individual health insurance policy from the marketplace that works best for them. Employees provide proof of coverage and the employer reimburses them up to the pre-determined contribution allowance. Anything due above and beyond the contribution amount, the remainder, is the employee's responsibility.

ICHRAs are centered on a reimbursement model (sometimes referred to as a *defined contribution* approach), which gives employees greater cost control and predictability and employees more coverage options to choose from. This is very different from the traditional group insurance market model (sometimes referred to as a *defined benefit* approach) where employers select a one-size-fits-most group plan and employees are limited to options selected by the employer.

What are the main differences between an ICHRA and a traditional HRA?

1 **An ICHRA can reimburse individual medical insurance premiums, while most traditional HRAs cannot.**

2 **Most traditional HRAs must be "integrated" with a group health plan, whereas an ICHRA works with individual insurance policies.**



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Benefits

Employers

- **Eliminates the guesswork** of which plans will meet the needs of all (or most) employees by opening the door to the individual insurance marketplace.
- **Enables cost predictability by giving the employer complete control** over the contribution amounts to all employees within a class.
- **Allows businesses to focus on what they do best**—serve their customers—instead of navigating the complex world of health benefit design and administration.
- **Removes some of the burdens** of managing a health plan and underlying health risks off of the employer.
- **Reduces the administrative stress** of handling renewals—plus there are no participation minimums to worry about.
- **The employer gets to keep the money** if an employee doesn't buy insurance or use all the money.

Employees

- **Presents more options, therefore more freedom**, to shop and choose individual coverage that better suits their needs.
- **Provides tax advantages** because the reimbursements do not count toward the employees' taxable wages.
- **Provides coverage portability,** allowing employees to take the insurance with them if they leave the company.

Considerations

An ICHRA is a group health plan. It is subject to many of the same general legal requirements as a traditional group health plan. The ICHRA must comply with all of the general Employee Retirement Income Security Act (ERISA) requirements applicable to traditional group health plans, including:

- Reporting requirements (e.g., Form 5500)
- Disclosure requirements (e.g., distributing Summary Plan Descriptions and Summaries of Material Modification)
- Requirements regarding claims and appeals procedures (unless a specific exemption applies)

An employer adopting an ICHRA, as the ERISA plan administrator, is responsible for ensuring the ERISA requirements are satisfied and will have ERISA fiduciary duties with respect to the operation of the ICHRA. Furthermore, ICHRAs are generally subject to other laws that apply to group health plans, such as COBRA and HIPAA.

In most cases ERISA and the other laws apply only to the ICHRA itself; the individual health insurance policies purchased through the ICHRA are not considered to be a group health plan for purposes of these rules.

Setting up an ICHRA

STEP 1

Pick a Start Date

Many employers think about benefits on a calendar year basis and align with Open Enrollment. An ICHRA is different because it may be started on any date. Once you start an ICHRA, it will trigger a Special Enrollment Period allowing employees to purchase coverage on the individual market outside of the Open Enrollment dates. If an employer cancels an existing group health insurance plan, the ICHRA start date should begin one day after the cancellation takes effect.

Note: For ICHRAs established for a short plan year (a start date other than Jan. 1), all subsequent ICHRA plan years will follow the calendar year.

STEP 2

Design Employee Eligibility by Class

Flexibility in designing the program to better fit the needs of employees is one of the most valuable features of an ICHRA. Employers can choose to structure the eligibility and contribution criteria based on 11 employee classes defined by the ICHRA regulations. Employers can decide to offer an ICHRA to all employees, or only to certain classes of employees. However, the same terms must apply to all individuals within a class of employees.

There are a few rules to prevent discrimination, including:

- Employers must offer the same amount of reimbursement to all employees in a class, although amounts can be increased for workers who are older or have dependents.
- Employers cannot offer an ICHRA to an employee to whom the employer also offers a traditional group health plan. However, an ICHRA may be offered to one class, such as part-time workers, and a traditional group health plan to another, such as full-time employers.

Should an employer offer a traditional group health plan to a class of employees and an ICHRA to another class, class size guidelines must be followed if the employer uses any of the following classes:

- Full-time employees
- Part-time employees
- Salaried employees
- Non-salaried employees
- Employees working in the same rating area

In these cases, classes must be larger than:

- Ten employees, for an employer with <100 employees.
- Ten percent of the total number of employees, for an employer with 100–200 employees.
- Twenty employees, for an employer with >200 employees.

Also, through a new hire rule, employers can offer new employees an ICHRA while grandfathering existing employees in a traditional group health plan.

ICHRA EMPLOYEE CLASSES

- Full-time employees
- Part-time employees
- Seasonal employees
- Salaried employees
- Non-salaried employees (such as hourly)
- Employees covered by a particular collective bargaining arrangement (different bargaining units can be separate classes)
- Employees who have not satisfied a waiting period
- Temporary employees of staffing firms
- Non-resident aliens with no US-based income
- Employees working in the same insurance rating area (i.e., the same geographic location such as state or multi-state region)
- Any combination of two or more of the above

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STEP 3

Determine Budget and Set Contribution Allowance

The next step for the employer is to determine the annual budget and how much it will provide employees on a monthly basis for reimbursement, which represents the maximum amount for which the employees can be reimbursed through the benefit.

CONTRIBUTION ALLOWANCE EXAMPLES

Provide same to all employees	$300/mo.
Vary by Full-Time/ Part-Time workers	$300/mo. FT $100/mo. PT
Vary by employee age[3]	$100/mo. 18–59 $300/mo. 60+

Keep in mind:

- There are no minimum or maximum contribution allowance requirements.
- Different contribution allowances may be offered to different employee classes.
- Within a class, different contribution allowances may be offered to an employee based on age and family size.

In addition, employers can choose what is reimbursable under the ICHRA:

- Insurance premiums only (**Nexben's ICHRA solution only supports this option**)
- Insurance premiums and qualified medical expenses[1]
- Qualified medical expenses only[2]

Affordability

The Affordable Care Act (ACA) requires employers with more than 50 full-time equivalent employees to offer comprehensive health coverage to their full-time employees (30 hours per week), known as the "employer mandate." Employers may be subject to steep penalties (i.e., shared responsibility payments) for failing to offer health coverage to substantially all of their full-time employees or for not offering full-time employees coverage that is affordable and provides a certain minimum level of coverage.

An ICHRA can help employers satisfy the employer mandate. First, by offering an ICHRA to substantially all (generally 95%) of its full-time employees, the employer can avoid the larger of the two employer mandate penalties. Furthermore, if the ICHRA offered by an employer to substantially all full-time employees is "affordable," then the employer can also avoid the second type of employer mandate penalty. If the ICHRA is deemed unaffordable, the employer may be subject to the second type of employer mandate penalty, the ACA's shared responsibility payments.

An ICHRA is considered affordable for an employee if the monthly premium for the lowest-cost silver plan for self-coverage only (on the exchange in the employee's primary site

[1] Qualified medical expenses are defined by the IRS in publication 502

[2] Must have individual health insurance coverage

[3] Individual market plans for older people typically cost more, so employers may elect to offer higher contribution allowances to older employees. Contribution allowances must be structured using a 1:3 ratio from the youngest to the oldest employee.

AFFORDABILITY EXAMPLES

Mary

Household Income	$50,000
Lowest Cost Silver Plan	$600

Affordability Calculation

($50,000 / 12) X .0912 = $380

$600 – $380 = $220

The lowest allowance that can be considered affordable for Mary is $220. The employer contribution allowance must be ≥$220/mo. to be considered affordable. The employer's contribution is set at $350/mo., which is above the affordability limit. Mary will pay any difference for the coverage she selects.

Jack

Household Income	$35,000
Lowest Cost Silver Plan	$650

Affordability Calculation

($35,000 / 12) X .0912 = $266

$650 – $266 = $384

The lowest allowance that can be considered affordable for Jack is $384. The company's contribution allowance of $350/mo. is below the affordability limit. Jack can opt out of the ICHRA, go to the state exchange for coverage and claim his premium tax credit instead. If this happens, the company will be assessed a shared responsibility payment by the IRS.

Affordability, cont.

of employment), minus the monthly amount made available to the employee under the ICHRA (not including any increased amount made available under the ICHRA based on the number of covered dependents), is less than 9.12% of 1/12 of the employee's annual household income.

The percentage rate applies in 2023 and is indexed yearly. The employer can use certain safe harbors to determine annual household income (e.g., the W-2 safe harbor, the rate of pay safe harbor, or the federal poverty line safe harbor).

An individual may pay more than 9.12% of their household income on premiums if they enroll in the exchange coverage with a spouse or child. Note that affordability is determined only by the amount that must be paid by the individual for self-only coverage.

STEP 4

Provide Legal Plan Documents

The Internal Revenue Code and ERISA (if applicable) require employers to establish a formal written plan document. In addition, ERISA requires the presentation and distribution of a Summary Plan Description (SPD).

These legal documents cover a significant amount of information and must include the terms and conditions of the ICHRA including monthly reimbursement amounts, class structures, claims processes, reimbursement eligibility, and federally required information on HIPAA (if applicable) and other procedures involving privacy.

There are potentially significant adverse consequences if an employer fails to adopt a written plan document or, if subject to ERISA, to present and distribute an SPD.

STEP 5

Select and Purchase Individual Health Insurance Coverage

An employee falling within one of the designated classes defined by the employer is eligible to participate in the ICHRA. All employees participating in the ICHRA (and any covered dependents) must be covered under one of the following categories at all times: individual insurance coverage that is minimum essential coverage (MEC); Medicare Part A and Part B; or Medicare Part C (Medicare Advantage).

Employees must provide proof of such coverage on an annual basis. This can be as simple as having employees fill out a form that states they are enrolled in an appropriate policy. Alternatively, employers may leverage an outside service provider for documentation or have their insurance premiums paid directly. If the employee loses or cancels their individual health insurance, coverage under the ICHRA ends.

For many employees, the ICHRA will be their first experience with a reimbursement-based health benefit. Practical information to communicate includes: start date, how to obtain coverage (including a special enrollment period, if applicable), their allowance amount, how premium tax credits interact with the ICHRA, what can be reimbursed, and how reimbursements are processed.

Shopping for health insurance will be a new experience for many employees and may feel like an overwhelming task. Employers are in a position to provide guidance, information, and tools to aid in the decision-making process. Employers can direct employees on where to shop for benefits and whom to consult for private advice. However, employers must not guide or influence employees when it comes to selecting an insurance carrier or policy.

How an ICHRA Impacts Premium Tax Credits

Employees' eligibility for premium tax credits is based on income and ICHRA affordability. An ICHRA's affordability is determined by the definition laid out by the Affordable Care Act.

If the ICHRA benefit offered by the employer is deemed unaffordable: Employees may waive enrollment in the ICHRA and claim premium tax credits through a federal or state-based health insurance exchange.

If the ICHRA benefit offered by the employer is deemed affordable: Employees may not claim premium tax credits, even if they opt-out of the ICHRA and purchase coverage through the exchange.

No opt-out means no premium tax credits. Regardless of the ICHRA's affordability, any employee who does not opt-out of their ICHRA will not be eligible for a premium tax credit.

POLICY PREMIUMS EXCEEDING EMPLOYER CONTRIBUTION

An employee may select health insurance policy that costs more than the employer's monthly contribution allowance. The amount of premium over the employer contribution (the "remainder") is the employee's responsibility.

An employer may allow pre-tax payment of this remainder through the employer's existing cafeteria plan or may establish a stand-alone cafeteria plan that only addresses the remainder. Alternatively, the employer may make arrangements with the employee to pay for the remainder on an after-tax basis (e.g., through after-tax payroll deduction). Pre- or post- tax payroll deduction of the remainder also depends on where the individual policy is purchased (see page 9).

NOTE

In most cases, employers are required to provide a 90-day notice before the ICHRA's start date. The notice must include key information about the ICHRA and information regarding employee eligibility for the benefit.

STEP 6

Process Reimbursements and Premium Payments

ICHRAs require a process for verifying employees meet the requirement of being enrolled in the appropriate individual health insurance coverage. The employer must approve the employee's expense request and reimburse them up to the monthly contribution allowance.

Should the expense not qualify, the employer must follow the procedure for denied claims according to its ICHRA plan documents. Typically, for a traditional reimbursement model ICHRA, employers include the tax-free reimbursements in the employee's paycheck.

Nexben's Simplified Reimbursement Process

Nexben solves for an often-cumbersome reimbursement process by facilitating premium payments directly to the insurance carrier and capturing the required verification information.

With Nexben's ICHRA solution, the employer defines the monthly contribution allowance that will be available to each employee class. That contribution amount will be applied to the monthly insurance premiums of the policy selected by each individual employee; any remaining premium balance due may be taken care of via employee payroll deduction.

Nexben's ICHRA solution provides a consolidated insurance carrier bill that requires one click of a button by the plan administrator. The uniquely automated premium billing feature facilitates the premium payments to each individual insurance carrier based on the employee's individual policy selection.

TWO METHODS OF PAYROLL DEDUCTION

On-Exchange

Federal or state exchange. The employee's portion of the premium may be payroll deducted on a post-tax basis (included in their taxable income).

Off-Exchange

Non-federal or non-state exchange. The employee's portion of the premium may be payroll deducted on a pre-tax basis (excluded from their taxable income).

Administration

While it is possible for an employer to administer an ICHRA, it requires managing a number of important components, including:

- Written Plan Document
- Summary Plan Description (if subject to ERISA)
- COBRA Administration (if employer is large enough)
- Compliance with general HRA and group healthplan requirements
- Contribution Allowance Evaluation
- Claim Processing
- Reimbursement Mechanism
- Record Keeping
- Tax Reporting
- HIPAA privacy and security compliance (unless an exemption applies)

The items listed above, and other administrative tasks, are often time-consuming and labor intensive. Self-administration may also leave an employer vulnerable to liability and legal action. The following are a number of areas where outside assistance may be of great value and service:

Employee Privacy

For reimbursements to be tax-free, employers must substantiate that employees are using funds to pay for health insurance and medical expenses. Having an employee submit receipts directly to the employer for review creates a significant privacy issue. Information about an employee's medical expenses (including individual insurance premiums) is considered Protected Health Information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In most cases, employers asking for and reviewing such Protected Health Information must ensure the privacy and security of that information to comply with HIPAA. Leveraging an administrator provides a necessary layer of privacy.

Record Keeping and Document Storage

Before submitting an expense for approval, an employee must attest that they are covered under an individual insurance policy. The IRS and Department of Labor require that employees submit proper documentation verifying their expenses and that supporting documentation be kept on file for up to 8 years. Record keeping can become problematic considering the sheer volume of claims, documentation required, and whether those requests were approved or denied. An outside service provider can provide an automated technology solution that keeps all digital records organized and secure, while complying with guidelines and regulations.

Contribution Allowance Evaluation

Employers may change monthly contribution allowances, provided adequate notice is given to employees. For most businesses, it makes sense to complete the evaluation as part of an annual benefits review and apply the changed contribution allowances with the start of the new plan year.

Annual ICHRA Opt-Out Requirement

At least once a year, employees must be allowed to opt-out of the ICHRA. For some employees, the opt-out option allows them to claim the premium tax credit if they cannot afford an individual policy. An ICHRA requires all participating employees to enroll in either an individual insurance policy or Medicare, and employers need to implement an annual process to ensure employees are registered and to verify their enrollment in the ICHRA. This can be as simple as having employees fill out a form that states they are enrolled in an appropriate policy. Alternatively, employers may leverage an outside service provider for documentation or have their insurance premiums paid directly to the insurance carriers.

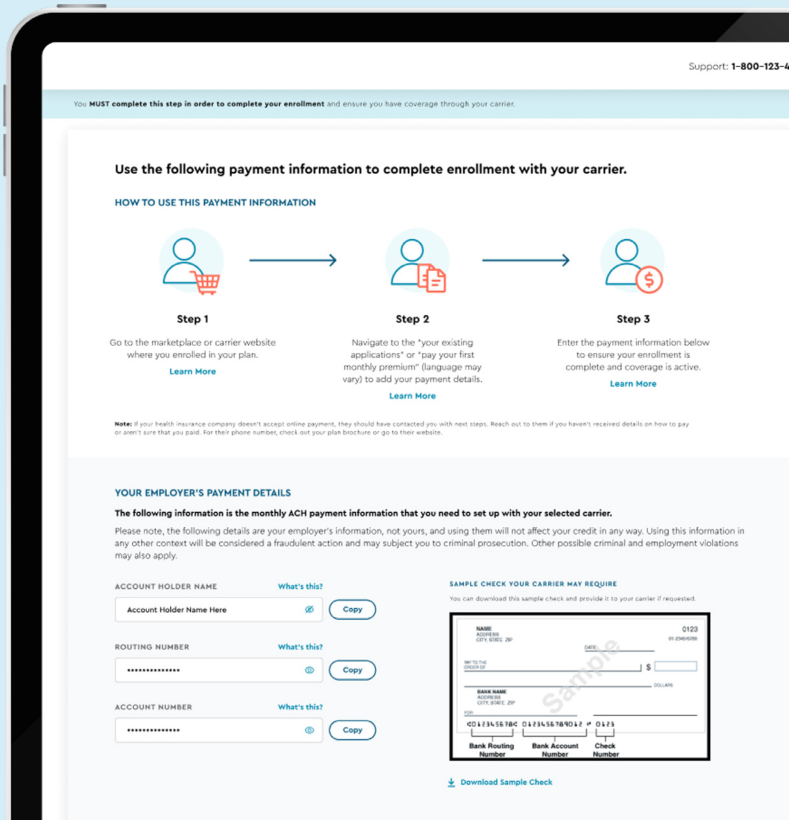
Changing Regulations

Healthcare policy continues to evolve. As the landscape shifts and changes, an outside service provider will stay up to date on regulation changes.

The Nexben ICHRA Solution

Nexben's ICHRA solution is intelligently designed to **simplify the entire experience** – from shopping and enrolling in a plan to billing and managing benefits.

Powered by Nexben's scalable, end-to-end technology, our ICHRA offers the premier insurance solution that gives employers the power to rein in costs, while also giving employees freedom of choice. Employers have the flexibility to select a comprehensive benefits package that helps their employees and fits their bottom line. Employees are empowered to shop the open market for individual insurance coverage that best suits their needs.



1 ADOPT

Employers work with their broker to determine their employee needs, run side-by-side comparisons and adopt the benefit package.

- Run side-by-side plan comparisons for benefit plan selection.
- Upload employee census in an industry-standard format.
- Establish employer contribution amount.

2 ENROLL

Employees access a consumer-friendly, personalized benefit portal to shop, compare, and enroll in an individual plan that best fits their needs.

- Run side-by-side coverage comparisons to guide their decision-making.
- Get expert advice and support.
- Enjoy easy payroll-deducted premiums, if any.
- Say goodbye to uploading receipts or reimbursement forms (not required!).

3 MANAGE

Employers manage the benefits package through a single interactive platform. Employers receive one bill to pay for all employee policies.

- Quickly access plan documents and summary plan documents.
- Easily monitor and manage employee enrollment in real-time, easing overall benefit plan administration.
- Enjoy automated premium billing, which eliminates the cumbersome reimbursement process.
- Receive one monthly consolidated bill for all employee policies. Nexben enables premium payments to each carrier based on each employee's individual coverage selection.

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With Nexben's ICHRA solution, companies of all sizes can simplify the process of offering and managing health insurance benefits.

Call 1-877-487-6842 or visit nexben.com to learn more.

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