HSAs, HRAs, and FSAs: 
Health Savings Account Eligibility & 
Other Account-based Health Plans

This information piece is provided by VEBA Service Group, a Division of Gallagher Benefit Services, Inc. (VSG) to help employers that might offer (or do offer) an HSA-qualified high-deductible health plan (HDHP) along with other account-based health plans, specifically the HRA VEBA plan, a funded health reimbursement arrangement (HRA), and/or a health flexible spending account (FSA). This general overview describes our understanding of how HSAs, HRAs, and health FSAs can work together and what your employees should do if they have an HRA and/or a health FSA and want or need to become HSA-eligible.

References and discussion about HRAs in this document are specific to HRA VEBA. If you use a different HRA provider, you should consult with them regarding how participation in their specific plan may or may not affect your employees’ ability to become HSA-eligible. You should also seek specific HSA eligibility information from your health FSA and HSA providers.

Please keep in mind the following when reading this document:

1. In Northwest governments, HRAs are most often offered by a multiple-employer VEBA trust and are commonly referred to as “VEBA accounts.” So, in this document, “HRA” also means “VEBA account.”

2. This document provides information about the general eligibility requirements to make (or receive) contributions to an HSA; however, it does not discuss or address the rules that determine the maximum annual contribution amount for an individual. An individual’s maximum annual HSA contribution is determined by their HDHP coverage (self-only, family, etc.) and the months during which they have such coverage. Contact your HSA provider for additional information on how to determine maximum annual contribution amounts.

3. Only qualified distributions (withdrawals) from an HSA for unreimbursed medical care expenses as defined by Internal Revenue Code § 213(d) are contemplated in this document. HSA funds can be withdrawn for nonmedical reasons, but such nonmedical distributions are included in gross income and generally subject to a 20% federal excise tax.

4. HRA VEBA’s Plan document requires a participant to use up their FSA before benefits are available from their HRA VEBA account. If you use a different HRA provider, you should check with them to find out how the ordering rules apply to your HRA plan. The ordering rules contained in IRS Notice 2002-45 generally require participants to use up their HRA before using their FSA unless their HRA plan document specifies otherwise.

5. A “limited purpose” HRA VEBA Plan coverage option is available for participants who want or need to limit their coverage to become HSA-eligible. HRA VEBA’s limited purpose coverage option provides reimbursements only for certain dental and vision expenses. All other expenses incurred while coverage is limited, including qualified insurance premiums, are not covered. Other HRA or health FSA plans may have different limited purpose coverage provisions.
HEALTH SAVINGS ACCOUNTS (HSAs)

<table>
<thead>
<tr>
<th>1. Who can contribute to an HSA?</th>
<th>Any adult can make (or receive) contributions to an HSA if they:</th>
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<tbody>
<tr>
<td></td>
<td>• Have coverage under an HSA-qualified high-deductible health plan (HDHP) (i.e. a health plan that meets the statutory requirements for annual deductibles and out-of-pocket expenses)</td>
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<td></td>
<td>• Have no other first-dollar(^1), non-HDHP medical coverage</td>
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<td></td>
<td>• Are not enrolled in Medicare(^2)</td>
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<tr>
<td></td>
<td>• Cannot be claimed as a dependent on someone else’s tax return</td>
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\(^1\)First-dollar coverage provides benefits before you meet your deductible. \(^2\)HSA contributions must stop once an employee is enrolled in Medicare. However, the employee will keep the money in their HSA account and may use it to pay for qualified medical expenses tax-free.

| 2. What effect does a spouse’s health plan coverage have on an employee wanting to contribute to an HSA? | To be eligible to make (or receive) contributions to an HSA, an employee must have no other first-dollar, non-HDHP coverage. As such, an employee cannot be covered under a spouse’s PPO plan, HMO plan, general purpose\(^3\) health FSA, HRA, etc. Such coverage will make the employee ineligible to make (or receive) contributions to an HSA. |

| 3. Can an employee have a health FSA and/or an HRA and still contribute to an HSA? | Yes, employees can have a general purpose health FSA and/or HRA account and still make (or receive) contributions to an HSA. But, they cannot have a general purpose health FSA or HRA that provides first dollar, non-HDHP coverage before their deductible is met. Generally, health FSA and HRA coverage must be limited to provide only “permitted coverage” (i.e. dental, vision, and/or preventive-care expenses), which will allow an employee to become eligible to make (or receive) contributions to an HSA. This type of coverage is often referred to as “limited purpose” coverage. |

\(^3\)“General purpose” means the plan will reimburse most qualified medical, dental, and vision expenses under IRS rules.
### 4. Are there ordering rules that define in what order an employee must use their HSA, health FSA, and HRA?

An HSA generally is not subject to any ordering rules. HSA account holders are free to seek reimbursement from a health FSA or an HRA before their HSA balance is exhausted, so long as they certify that they will not seek reimbursement from any other source, including the HSA.

There are ordering rules in place for health FSA and HRA reimbursements. An employee who has all three types of accounts must still comply with the ordering rules for their health FSA and HRA, but they do have flexibility in deciding when to use their HSA. Below is a summary of the ordering rules:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Rules</th>
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<tbody>
<tr>
<td><strong>If contributing to an HSA and have an HRA:</strong></td>
<td>No ordering rules apply; however, employees must limit their HRA coverage.</td>
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<tr>
<td><strong>If contributing to an HSA and have a health FSA:</strong></td>
<td>No ordering rules apply; however, employees must limit their health FSA coverage.</td>
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<tr>
<td><strong>If contributing to an HSA and have a limited purpose HRA and limited purpose health FSA:</strong></td>
<td>No ordering rules apply to the HSA. However, employees must exhaust their health FSA prior to filing eligible claims to their HRA (per the HRA VEBA plan document; other HRA providers may have different rules).</td>
</tr>
<tr>
<td><strong>If no longer contributing to an HSA, but still have a positive HSA balance and have a general purpose HRA and general purpose health FSA:</strong></td>
<td>No ordering rules apply to the HSA. However, employees must exhaust their health FSA prior to filing eligible claims to their HRA (per the VEBA Plan document; other HRA providers may have different rules).</td>
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</tbody>
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**NOTE:** Only qualified distributions (withdrawals) from an HSA for unreimbursed medical care expenses as defined under IRC § 213(d) are discussed in this section. HSA funds can be withdrawn for nonmedical reasons, but such nonmedical distributions are included in gross income and generally subject to a 20% federal excise tax.

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4Special ordering rules may apply in the rare situation when an individual has a health FSA and an HSA that is considered an ERISA-covered health plan. Most HSAs offered by governmental employers are not “health plans” covered by ERISA, but certain employer activities could convert private sector HSAs into ERISA-covered plans.
5. If an employer offers an HSA-qualified HDHP to employees, must it also provide HSA contributions to employees who choose the HDHP option?

No, employers do not have to contribute to an HSA for employees who enroll in the HSA-qualified HDHP, but many do. HSA contributions from employers and employees are voluntary. Any employee can open an HSA account and fund it on their own, if eligible. Employers may allow employees to have money deducted from their paychecks pre-tax for deposit into their HSA. In some cases, an HSA contribution is included in the HDHP premium, like Washington State’s CDHP/HSA option through PEBB.

**NOTE:** Instead of contributing to an HSA, an employer may provide a contribution to a health FSA and/or HRA for employees. Some employers contribute the premium savings from lower-cost medical plans (such as HDHPs) to a health FSA or HRA to help employees avoid having to limit their health FSA or HRA coverage to become eligible to contribute to an HSA.

6. Does an employee have to limit their health FSA or HRA coverage if they won’t be making or receiving contributions to an HSA?

No, limited purpose coverage is generally required only when an employee (or the employer) will be sending money to an HSA during the year. Limited purpose coverage is typically not required if the employee will not be making or receiving any HSA contributions during the year.

### HEALTH REIMBURSEMENT ARRANGEMENTS (HRAs) – HRA VEBA PLAN

1. What should we, as the employer, do if we offer an HSA-qualified HDHP and continue our current contributions to the HRA VEBA plan?

You should tell employees who select the HSA option that they must elect limited purpose HRA VEBA plan coverage if they need or want to become eligible to make or receive contributions to an HSA. Limited purpose HRA VEBA plan coverage limits the coverage (benefits) available to the HRA VEBA participant. It does not prevent you from continuing contributions to their HRA VEBA account.

You should also invite your local VSG client consultant to attend your next benefits fair. Or, schedule a meeting with employees who are thinking of participating in your HSA plan.

2. What does an employee need to do if they have an HRA VEBA account and either they or their spouse enroll in an HSA-qualified HDHP and want to contribute to an HSA?

An employee who enrolls (or has a spouse who enrolls) in an HSA-qualified HDHP will need to elect limited purpose HRA VEBA plan coverage if they (or their spouse) want to become eligible to make (or receive) contributions to an HSA.

**NOTE:** Keep in mind that limiting HRA VEBA plan coverage is not the only HSA contribution eligibility requirement. Eligibility to contribute to an HSA is determined by several factors (see Question #1 under Health Savings Accounts (HSAs)). Check with your HSA provider for more details.

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HSA = Health Savings Account  
HRA = Health Reimbursement Arrangement  
FSA = Flexible Spending Account
3. **What happens if an employee who has a general purpose HRA or health FSA makes or receives ineligible contributions to an HSA?**

Ineligible HSA contributions, including those that exceed the annual maximum, are considered “excess contributions.” Such contributions are taxable to the employee and subject to a 6% federal excise tax, which is imposed on the employee for not following IRS rules.

4. **Why must an employee limit their HRA VEBA plan coverage in order to contribute to an HSA?**

The IRS requires an employee to “have no other first-dollar medical coverage” if they want to make or receive contributions to an HSA. HRA VEBA plan coverage is considered first-dollar, non-HDHP coverage unless the participant elects limited purpose HRA VEBA plan coverage.

5. **What expenses can be reimbursed if an employee elects limited purpose HRA VEBA plan coverage?**

The following expenses can be reimbursed under limited purpose HRA VEBA plan coverage:

- Standard dental care services (not related to a medical condition or accident), including dentures
- Orthodontia
- Routine eye exams, contact lenses, and eyeglasses (excluding initial lenses and standard frames after cataract surgery)

All other expenses incurred while coverage is limited, including qualified insurance premiums, are not covered.

6. **How does an employee elect limited purpose HRA VEBA plan coverage?**

Employees can elect limited purpose HRA VEBA plan coverage by completing and submitting an Election of Limited Purpose HRA VEBA Plan Coverage form. This form is available online at [veba.org](http://veba.org) or by request from the third-party administrator, Meritain Health, by calling 1-888-828-4953.

7. **How often can an employee change their limited purpose HRA VEBA plan coverage election?**

Employees can make one limited purpose coverage election per calendar year. However, more than one change during a calendar year may be allowed for certain life events that permit a HIPAA special enrollment right. For instance, employees may be allowed to make a change within 30 days of losing other health coverage (due to separation of employment or other reason) or adding a spouse or dependent through marriage, birth, or adoption. Limited purpose coverage elections remain in force (from year to year) until the employee makes a change.

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**HSA** = Health Savings Account  **HRA** = Health Reimbursement Arrangement  **FSA** = Flexible Spending Account
8. If an employee stops participating in the HSA-qualified HDHP and chooses a non-HDHP plan next year, or does not wish to contribute to their HSA next year, must they keep their HRA VEBA account limited?

Typically, an employee does not need to keep their account limited if they are no longer enrolled in the HSA-qualified HDHP or making or receiving contributions to their HSA (this includes both employee and employer HSA contributions). Keep in mind that employees generally may make only one limited purpose coverage election per calendar year. See the previous question for additional information.

**NOTE:** Special rules may apply to mid-year HDHP enrollees under the "full-contribution rule." Individuals who make contributions under the full-contribution rule must remain HSA-eligible during a 13-month testing period to avoid tax consequences.

9. Do ordering rules apply when an employee is no longer contributing to their HSA account and has a general purpose HRA VEBA account?

No, HSA account holders are free to seek reimbursement from their HRA VEBA account before their HSA account is used up. Qualified expenses are eligible for reimbursement from one account or the other, but not both.

### HEALTH FLEXIBLE SPENDING ACCOUNTS (FSAs)

1. **What do we, as the employer, need to do if we’re thinking of offering an HSA-qualified HDHP and a health FSA plan to employees?**

In addition to your current health FSA plan, which is likely a general purpose health FSA, you may want to offer a limited purpose health FSA plan for employees who elect the HSA-qualified plan and want or need to become eligible to make or receive contributions to an HSA. A general purpose health FSA will cause an employee to be ineligible to make or receive contributions to an HSA. You should contact your FSA provider for more information.

2. **What if an employee’s spouse elects an HSA-qualified plan and wants to contribute to an HSA?**

If an employee’s spouse elects an HSA-qualified plan and wants to contribute to an HSA, the employee typically cannot participate in a general purpose health FSA. Coverage for the employee’s spouse under a general purpose health FSA will cause the spouse to be ineligible to make or receive contributions to an HSA. You may want to contact your FSA provider about offering a limited purpose health FSA option to employees.

3. **What types of expenses are typically covered under a limited purpose health FSA?**

A limited purpose FSA typically covers dental and vision expenses and may also cover preventive care. You should contact your FSA provider for more information.

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HSA = Health Savings Account  
HRA = Health Reimbursement Arrangement  
FSA = Flexible Spending Account
### 4. If an employee stops participating in the HSA-qualified HDHP and chooses a non-HDHP health plan next year, or does not wish to contribute to their HSA next year, do they have to continue using a limited purpose health FSA?

Typically, an employee does not need to continue using a limited purpose health FSA for the next plan year if they stop participating in the HSA-qualified plan or stop making or receiving contributions to their HSA.

**NOTE:** Special rules may apply to mid-year HDHP enrollees under the “full-contribution rule.” Individuals who make contributions under the full-contribution rule must remain HSA eligible during a 13-month testing period to avoid tax consequences.

### 5. Do ordering rules apply when an employee is no longer contributing to their HSA account but has a general purpose FSA?

No, HSA account holders are free to seek reimbursement from their FSA before their HSA account is used up. Qualified expenses are eligible for reimbursement from one account or the other, but not both.