



The Complete Guide to Offering an ICHRA in 2020

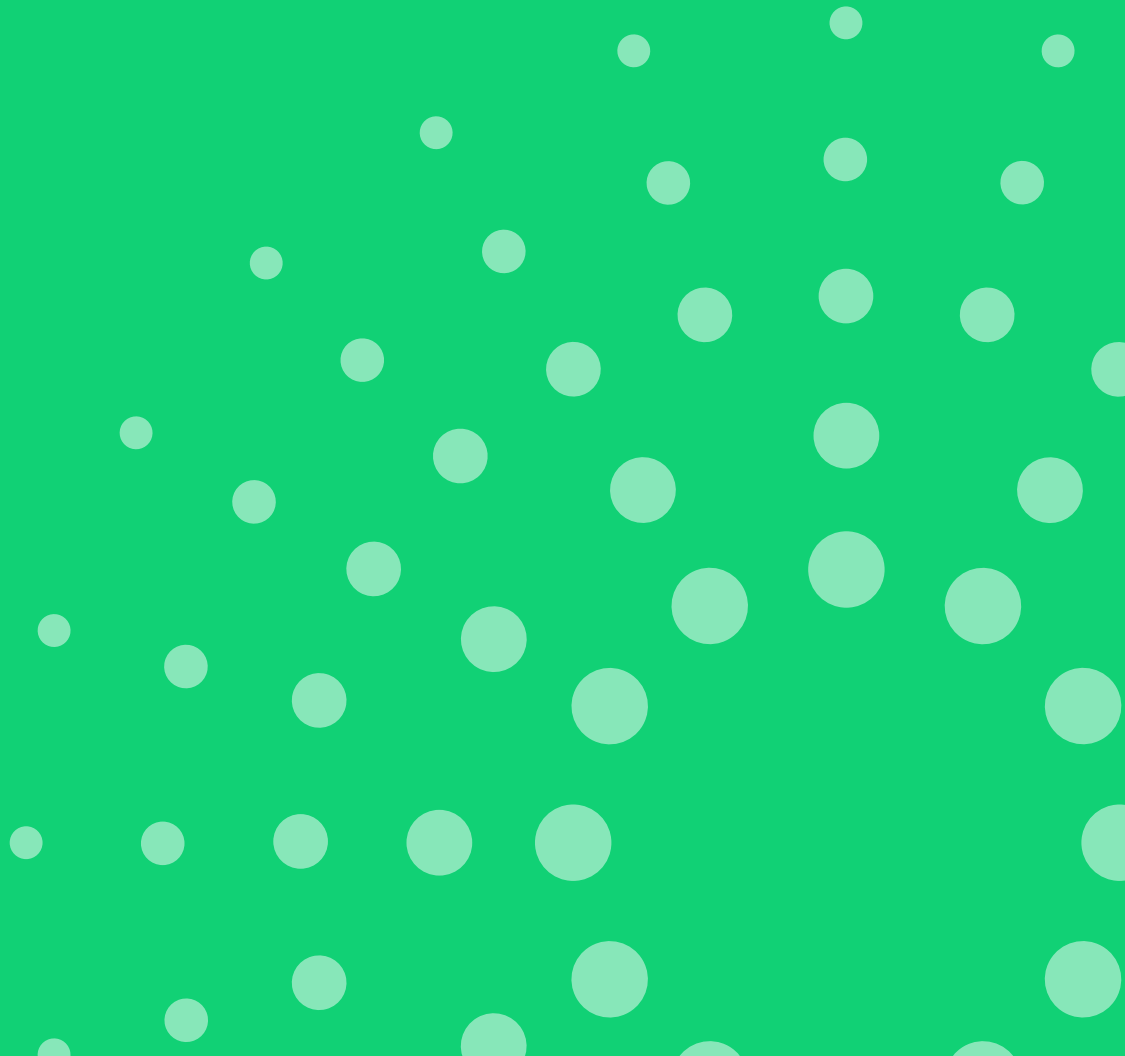


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The Complete Guide to Offering an ICHRA in 2020

Group insurance may be the traditional choice for employee health benefits, but it doesn't work for everyone. For many businesses, group health is too expensive, too complex, and too one-size-fits-all to meet the needs of the business and its employees.

A health reimbursement arrangement (HRA) is a great alternative. Instead of choosing one expensive policy for all employees, businesses with an HRA offer a monthly allowance of tax-advantaged money. Employees buy the health care products and services they want, and the business reimburses them up to their allowance amount.

With an HRA, employers have complete control over their health benefits budget and employees are free to make personal decisions about their care.

Until recently, HRAs available to pay for individual health insurance have been available exclusively to small businesses. Beginning January 1, 2020, though, businesses of all sizes have a new HRA option: **the individual coverage HRA (ICHRA)**.

In this eBook, we'll explain the unique value provided by the ICHRA as well as everything you need to know to offer it successfully in 2020.

What is an ICHRA?

The individual coverage HRA (ICHRA) is a new health reimbursement arrangement available to businesses of all sizes.

With an ICHRA, a company offers employees an allowance of money. Employees then purchase an individual health insurance policy and, potentially, other health care costs, like prescriptions. Employees submit proof of the expenses and the business reimburses them up to their allowance amount.

The ICHRA differs from other currently available HRAs in several ways:

- Businesses of all sizes can offer the ICHRA.
- Applicable Large Employers (ALEs) can meet the employer mandate with an ICHRA.
- Businesses can offer both the ICHRA and a group health insurance policy, but not to the same group (or class) of employees.
- Businesses can define benefit eligibility and offer different allowance amounts based on 11 employee classes.
- There are no caps on the allowances made available through the ICHRA.
- Employees have the option of collecting premium tax credits or participating in the ICHRA.

With these features, the ICHRA appeals to businesses in unique ways not seen in the existing HRA landscape. **Businesses without access to an HRA currently will be able to offer one for the first time in 2020.**

Where did the ICHRA come from?

To understand where the ICHRA came from, we need to revisit the basic history of health reimbursement arrangements.

HRAs thrived as both stand-alone and supplemental benefits through the early 2000s, until they were seriously limited by a 2013 interpretation of the Affordable Care Act (ACA). That interpretation, issued by the IRS in Notice 2013-54, essentially prevented businesses from offering HRAs that integrated with individual health insurance except in very limited circumstances.

Congress provided some relief for small businesses with the creation of the qualified small employer HRA (QSEHRA) in December, 2016. The QSEHRA, offered exclusively to groups with fewer than 50 full-time employees, was an exception to the IRS Notice and helped thousands of businesses provide a health benefit for the first time.

In an effort to expand HRAs even further, President Donald Trump issued an executive order in 2017 directing the Departments of the Treasury, Labor, and Health and Human Services to review IRS Notice 2013-54 and find ways to further integrate individual health insurance with HRAs.

The Departments responded with a final rule in June, 2019. The rule is a direct revision of the IRS Notice and states that, if certain rules are followed, HRAs may integrate with individual health insurance for businesses of any size.

The result was the creation of the individual coverage health reimbursement arrangement, or ICHRA, which will be available starting January 1, 2020.

How does the ICHRA work?

Like all HRAs, the ICHRA follows a simple, five-step process: 1) the company defines employee eligibility and 2) offers an allowance, 3) employees buy health care, 4) employees submit proof of incurred expenses, and the 5) company approves and pays the reimbursement directly to the employee.

However, when examined in detail, there are guidelines in each step specific to the ICHRA.

1. The business defines employee eligibility. The business has some flexibility in defining ICHRA eligibility. It can craft eligibility according to **11 different employee classes**:

- Full-time employees
- Part-time employees
- Seasonal employees
- Salaried employees
- Hourly employees
- Temporary employees working for a staffing firm
- Employees in a waiting period
- Employees covered under a collective bargaining agreement
- Foreign employees who work abroad
- Employees who live in different geographic areas
- Any combination of the above classes

Additionally, all employees (and their families, if eligible) must be covered by an individual health insurance policy or Medicare to participate in the ICHRA.

2. The business sets an allowance amount for employees. The business offering the ICHRA chooses a monthly amount of tax-free money it will make available to employees. This

represents the maximum amount for which employees can be reimbursed through the benefit. With the ICHRA, there are no minimum contribution requirements or maximum contribution caps. Additionally, businesses can offer different allowance amounts to different employees based on the 11 different employee classes listed above.

Businesses can also vary allowance amounts within each class by employee age or family status, as long as contributions based on age don't exceed amounts three times greater for the oldest employees versus the youngest employees in the class.

3. Employees buy health insurance. Using their own money, employees purchase the health insurance policy that fits their personal needs. This includes an individual health insurance policy, as employees and their family members who participate in the ICHRA must be covered by an individual policy. Generally, all items listed in IRS Publication 502 are eligible for reimbursement through the ICHRA. Businesses can choose to limit this list if they choose, however. Some employers opt to pay for only health insurance premiums.

4. Employee submit proof of purchase. After incurring an expense, employees submit proof of it to the business. Employees must also attest to having individual health insurance every time they submit a reimbursement request before it can be approved. To be approved, this documentation must include three items: a description of the product or service, the cost of the expense, and the date the expense was incurred. Invoices or receipts typically satisfy this request, but so do other documents, including an explanation of benefits from the employee's insurance company.

5. The business reimburses employees. If the documentation provided by the employee meets requirements, the expense is eligible for reimbursement and the employee has the

appropriate insurance coverage, the business must approve the employee's request and reimburse them up to their allowance amount. If the expense doesn't qualify, the business must follow the procedure for denied claims according to its ICHRA plan documents. Typically, businesses include the tax-free reimbursement in the employee's next paycheck.

In addition to these five steps, the ICHRA comes with other operational requirements businesses should know.

The ICHRA and premium tax credits: what are the rules?

The ruling issued by the Departments of the Treasury, Labor, and Health and Human Services states that an employee (or any member of the employee's family) **cannot collect premium tax credits if they participate in the ICHRA.** Premium tax credits are designed to help eligible individuals and families with low or moderate incomes afford health insurance purchased through the individual health insurance marketplace. An employee's premium tax credit is calculated on a sliding scale, with lower income households getting a larger credit to help cover the cost of health insurance.

Should the ICHRA benefit qualify as "unaffordable" under the definition laid out in the Affordable Care Act (ACA), employees can opt out of the ICHRA and collect premium tax credits instead. Importantly, if the ICHRA is considered "affordable," employees cannot collect premium tax credits by opting out. Additionally, employees who are otherwise eligible for premium tax credits may choose to waive access to those credits and participate in the ICHRA.

An ICHRA is considered affordable if the cost of health insurance for an employee is less than 9.78% of the employee's household income. The lowest-cost silver plan on the local exchange is the standard for the calculation with an employer's ICHRA contributions being subtracted from the premium. That means the monthly premium for the lowest-cost silver

ICHRA affordability example

In 2020, Derrick, an employee at Big Build Construction, has a household income of \$45,000. His employer is offering an ICHRA. The lowest-cost silver plan in his area is \$550. The calculation for affordability in this case is:

$$\$45,000 * .0978 = \$4,401$$

$$\$4,401 / 12 = \$366.75$$

$$\$550 - \$366.75 = \$183.22$$

In this scenario, the lowest allowance that can be considered affordable to the employee is \$183.22.

Wayne is another Big Build Construction Company employee who qualifies for premium tax credits. His total annual household income for 2020 is \$30,000 a year. One-twelfth of his income is \$2,500; multiplied by 9.78 percent, the figure is about \$245. Because \$245 is less than the company's required HRA contribution of \$300, Wayne's ICHRA benefit is not considered affordable. Wayne can waive ICHRA participation and collect his premium tax credits instead.

plan, minus the ICHRA monthly allowance being offered, should not exceed 9.78% of the employee's household income for the month. If this requirement is met, the ICHRA is considered affordable and may satisfy the employer mandate.

For the 2019 plan year the required contribution percentage is 9.86 percent. For 2020, it is 9.78 percent. If this requirement is met, the ICHRA is considered affordable and may satisfy the employer mandate.

Is the ICHRA right for my business?

In today's climate, health care benefits are an important incentive for attracting and retaining employees. An ICHRA is a welcome option for many businesses that can't afford to offer group health insurance and also realize the risk of losing current and future employees by dropping health benefits altogether.

The ICHRA and the qualified small employer HRA (QSEHRA), are two options small businesses with limited resources to spend on health benefits can consider. Both the ICHRA and the QSEHRA are valuable benefits that can help businesses hire and keep talented employees. However, they each have different strengths and weaknesses.

In considering the right benefit for your business, evaluate the differences between the ICHRA and the QSEHRA closely. The primary differences are in how the plans work, what size of employer can offer them, and who is eligible to participate in them.

QSEHRA overview

With the QSEHRA, a small business can offer employees a set monthly allowance of tax-free funds and employees can use the allowance to be reimbursed for their insurance premiums and certain eligible out-of-pocket medical expenses. There is an annual contribution limit set by the federal government. Allowances can roll over year to year, however, the total annual allowance can never exceed the annual contribution limit.

Eligibility requirements. The QSEHRA can be offered by qualified small employers with fewer than 50 full time employees. The business decides whether to include part-time employees or limit the offer to only full-time employees, all of whom are automatically eligible. If the company includes part-time employees, they must offer the benefit the same way to both employment statuses (same allowances varying

only by family status, waiting periods, and eligible expenses). 1099 employees aren't eligible for the QSEHRA. Businesses can't offer a QSEHRA and a group plan at the same time. Employees that qualify for a premium tax credit can participate in the QSEHRA, but the tax credit must be reduced by the amount of their QSEHRA allowance.

The QSEHRA might be best suited for companies:

- That have fewer than 50 full time employees
- That have employees who are on their spouse's insurance and want to provide a benefit that helps them too
- That have employees on a health care sharing ministry plan or who don't have health insurance
- That don't have a high number of employees on premium tax credits
- That don't offer group health insurance and have no plans to do so

ICHRA overview

Like the QSEHRA, the ICHRA allows businesses to set an allowance of tax-free money for employees. Employees make health care purchases, like individual insurance policies, and the business reimburses them up to the set allowance amount. There are no annual contribution limits, therefore allowances can roll over from year to year. Businesses can also limit the benefit to specific classes of employees, as well as offer different allowance amounts based on family size and certain employee classes.

Eligibility requirements. The ICHRA can be offered by businesses of any size. If a company decides to offer the ICHRA, they can't offer the QSEHRA or any other HRA. They can offer a group health insurance policy, but they can't offer the same employee class a choice between the ICHRA and the group policy. For an employee to be eligible to participate in the ICHRA, they must have individual insurance coverage. The stipulations regarding premium tax credits and affordability covered in the previous section of the eBook are also a consideration.

The ICHRA might be best suited for companies:

- That are subject to and want to comply with the ACA employer mandate
- That want to limit eligibility or vary allowances by one of the 11 class options
- That choose to offer an allowance higher than the annual contribution limits for the QSEHRA
- That want to restrict the benefit to apply to health insurance premium costs only
- That have employees with premium tax credits who would like the choice to either participate in the ICHRA or opt out
- That have a group health insurance plan they would like to continue offering
- That have few or new employees on a spouse's group health insurance plan or who have other non-individual health insurance coverage

ICHRA... QSEHRA... Why not just give employees a pay raise?

Many small businesses, in the face of having to analyze, understand, and ultimately choose between HRA benefit options, might think it's easiest to just give employees a raise instead of offering an HRA.

But there are some key points to keep in mind. Unlike an HRA, a salary increase is taxable for both the company and the employee. That's less money for the employee to use on a health insurance policy than they might receive through an HRA, and it costs the company additional payroll taxes, which adds hundreds of dollars per year per employee in company taxes. Additionally, the salary increase is lost to the company, even if the employee doesn't use it on health insurance or medical expenses. An HRA allows the company to keep unused funds.

Giving employees raises might save a company from compliance requirements associated with an HRA, but it will wind up costing both parties more in taxes, which may be unwelcome. Also consider the psychology behind issuing a pay raise. Even if the purpose and spirit of the raise is to function as a health benefit, employees may not see it that way; they may just view it as a raise instead of a company health benefit.

How to set up an ICHRA for 2020

There are six steps required to set up an ICHRA and start offering the benefit to employees:

1. Choose who will be eligible. As outlined above, there are [11 employee classes](#) that qualify as ICHRA-eligible. Your first step is deciding who will be eligible for your ICHRA.

2. Set employee allowance amounts. Set your budget and determine employee allowance amounts.

- There are no minimum contribution requirements or maximum contribution caps associated with the ICHRA.
- Businesses can offer different allowance amounts to different employee classes.
- You have the option to offer different allowance amounts based on an employee's age or family size.
- You can also offer different allowance amounts based on employee age.

Note: If a company uses age to offer different allowance amounts within the same class, it should be aware that it can offer allowances to the oldest employees that are no more than three times higher than the allowances made available to the youngest employees.

3. Pick a start date. Once you've made initial decisions on how you'll structure the ICHRA, you should choose a date on which the ICHRA benefit will begin. Many organizations choose to offer benefits alongside the calendar year, but you can start an ICHRA at any point. If you're choosing to cancel a group health insurance policy, you should set the ICHRA start date one day after the cancellation takes effect.

4. Provide legal plan documents. Both the IRS and the Department of Labor require that your business establish a formal plan document and summary plan document (SPD) to govern

any employer-sponsored health benefit, including the ICHRA. These documents cover a [significant amount of information](#), including eligibility requirements, monthly allowances, expenses eligible for

reimbursement, claims processes, and federally required information on HIPAA and other privacy procedures. Companies that don't have these documents are subject to heavy penalties. [Read more about ICHRA plan document requirements here.](#)

[Note: Employers are required to give 90 days notice before the ICHRA's start date. They must send employees a notice including required information and notifying them of their eligibility for the benefit. For full details of the notice requirement, read this article.](#)

5. Communicate the ICHRA to employees. The ICHRA is new to your business, but it's also brand new to your employees. For many employees, the ICHRA will be their first experience with a reimbursement-based health benefit and they'll need some guidance. Make sure your employees know all the particulars of the ICHRA, including the amount of their allowance, what can be reimbursed, how to request reimbursement, and how participation in the benefit affects their eligibility for premium tax credits.

6. Provide resources to help employees choose individual health insurance. All employees covered by the ICHRA must have individual health insurance. However, shopping for health insurance is new to many employees. As their employer, you're a valuable resource to employees who may need guidance. Provide employees with information on where they can go to shop for benefits as well as who they can consult for private financial advice. Just remember that federal rules prohibit you from directly advising employees on which policy to choose—you can give informal information and support, but you can't influence actual purchasing decisions. In order to remain compliant, the business can not select or endorse any particular issuer or insurance coverage.

How to manage an ICHRA

Managing an ICHRA is not overly complex, but it can be time consuming if you go at it alone. Use these three tips for effectively managing your ICHRA, and to be aware of areas where you may benefit from a technology assist.

1. Update your plan concurrently with staff changes. Your company will almost certainly have staffing changes during the lifetime of your ICHRA, so regularly ensure the roster of employees receiving monthly allowances is up to date. This is especially important because the eligibility criteria in your plan documents must match current roster of employees enrolled in the benefit. Making this update is typically a tedious manual process, but it can be streamlined by using a small business HRA administration software solution that allows you to add or remove an employee easily.

2. Record reimbursements and store documentation. Before submitting an expense for approval, employees must also attest that they are covered under an individual coverage policy. The IRS and the Department of Labor require that employees submit proper documentation verifying their expenses and that supporting documentation is saved on file for seven years. Therefore, your company should have an ongoing record of what has been disbursed through your HRA and why. This should include all reimbursement requests, the supporting documentation, and whether those requests were approved or rejected. To do this, your company's HRA administrator should review employee reimbursement requests once a month and approve qualified expenses, storing all related documentation. Keep in mind, however, that under HIPAA privacy laws, businesses can't review employees' medical information. Businesses will need to appoint an HRA administrator to complete this task in order to avoid a potential penalty. Or, a company may choose to stop paper or electronic records

completely in favor of a software solution that automates the review and approval process for reimbursement requests while complying with HIPAA regulations and storing all necessary documentation.

3. Evaluate allowance amounts annually. Your company can change monthly allowance amounts, provided you give adequate notice. For most businesses, it makes sense to evaluate allowance amounts as part of an annual benefits review.

How to communicate an ICHRA to employees

Whether your business is changing its health benefit structure to include an ICHRA or making the transition to offering a health benefit for the first time, communicating what is happening is critical. You must be prepared to educate your employees quickly and transparently on your change to an ICHRA. During your initial communication, be clear that by offering an ICHRA, you're giving employees access to better benefits by providing them with the opportunity to choose individual health insurance policies for themselves.

An initial email from a leader in the organization is a good way to start. Follow this up with a meeting or series of meetings to go over the ICHRA and address questions and concerns. Socialize the ICHRA around the office by printing informational signs or posters. If possible, hold one-on-one meetings with each employee so they are free to ask how an ICHRA will impact them specifically.

Announcing your ICHRA benefit

Exactly how you choose to communicate your switch to ICHRA will depend on your own organizational structure and resources. The following tips should assist in developing your ICHRA announcement.

1. Anticipate questions, prepare your answers. As soon as your plan date is finalized, send a company-wide memo that communicates what the ICHRA is and its benefits. Your memo should try to anticipate the questions your team will have. Plan to explain HRAs generally and individual insurance. Explain how employees will use your ICHRA, how the company is contributing, and how reimbursement will work. If you are changing your health benefits to include an ICHRA, explain why you are making the change. Explain the ICHRA start date, and be clear about the timeline for termination of any health benefits that are being phased out.

2. Communicate the value of the ICHRA. It's possible the employees may not immediately understand the ICHRA. If you're making a shift from group health insurance to ICHRA, employees may even bristle at the change. To avoid confusion and to deliver a positive message, consider these speaking points regarding the ICHRA:

- "Your new health insurance will be portable, which means you won't lose it if you leave the company. You'll also be able to choose between a number of different policies, and the final decision will be up to you, not the company."
- "Since you'll choose your own policy, you can pick one that includes your doctor and prescriptions instead of hoping a group policy covers them."
- "Your allowance is completely tax-free, so the amount we're giving you is the amount you can spend. It will not be reported as income."
- "Our group health insurance costs have become unsustainable. Instead of cutting benefits, we've decided to reimburse you for your own individual health insurance."

3. Prepare a welcome letter. Because the ICHRA allows the employer to limit the ICHRA benefit to specific classes of employees, as well as offer different allowance amounts based on family size and certain employee classes, it is likely that not every employee will have the same experience with ICHRA. A customized letter detailing how the ICHRA will work on an individual level is an extremely useful communication asset. However, a document like this would be cumbersome to generate manually for every employee. A good HRA administration tool can automatically generate these welcome letters for your workforce.

Helping employees select insurance for the ICHRA plan

As an employer, HIPAA regulations prevent you from knowing the specifics of your employee's individual health insurance plans. This means your company cannot be involved in any employee's selection of an individual health insurance plan. You are not privy to which insurer an employee uses, nor any details of the employee's plan.

These regulations put many business owners in a difficult position. Employees may need assistance. You may want to help, but your hands are tied. A third-party health benefits advisor would serve as an important resource in helping employees shop for policies and get questions answered about plan specifics. The best small business HRA administration tools have a benefits advisor service integrated into the application.

How to choose an ICHRA administration software solution

While it's possible to self-administer your ICHRA, experts don't recommend it. Offering and administering an ICHRA requires businesses to create legal plan documents; collect, process, and store employee reimbursement requests; and monitor the health care landscape for changing regulations. In addition to being laborious, many businesses that self-administer HRAs overlook important compliance obligations, which puts them at financial risk. Failure to comply with certain federal requirements is common and can be costly. There are a lot of opportunities to make a mistake, and privacy concerns could violate both federal law and employees' trust.

For these and other reasons, many businesses offering an HRA choose to use benefits automation software like PeopleKeep to help administer it.

An ICHRA benefits automation software solution will allow your company to administer your HRA online, easily record reimbursements that were added to payroll, and change plan rules and documents while giving employees the required amount of notice. Most importantly, the software will help your company stay in compliance by keeping your benefits up to date with all current statutes and regulations.

Key ICHRA administration software features to consider

There are several important features an ICHRA administration tool should provide your company. When you're evaluating a prospective tool, look for the following functionalities.

- **Automated compliance and software updates.** Your administration tool should keep your benefit plan up to date and compliant with applicable rules and regulations as they change by including, at a minimum, the following:
 1. Legal plan document and summary plan document (SPD)
 2. Electronic enrollment signatures
 3. Verification and HIPAA privacy compliance

4. ERISA compliance
 5. Internal and external documentation appeal process
 6. Notice requirements
- **Employee tools and resources.** Your ICHRA administration tool should make it easy for employees to purchase health insurance and request reimbursement for individual insurance and medical expenses. It should provide resources including, but not limited to, the following:
 1. Employee welcome letter
 2. Online access and balance tracking
 3. HSA compatibility
 4. Easy reimbursement requests
 5. Fast reimbursement request review service
 6. Reimbursement of large expenses over time
 - **Business tools and resources.** Your company must designate someone as plan administrator for your ICHRA. The plan administrator will be responsible for recording reimbursements, accessing reporting tools, and managing employee enrollment. Your ICHRA administration software should ensure your company's plan administrator receives proper training with access to resources such as whitepapers, eBooks, webinars, and online tools. Business tools in the software should include:
 1. Online administrative access
 2. Real-time accounting
 3. Streamlined employee enrollment
 4. Employee reimbursement and recordkeeping
 5. Automated renewals

As you can see, there is a lot to consider regarding the undertaking of ICHRA benefits administration. While it's possible to go it alone, you have to ask yourself whether it's worth spending your own internal resources to ensure program compliance, onboarding, and the many additional administrative tasks that could otherwise be outsourced, automated, or simplified with an ICHRA benefits administration software solution like PeopleKeep.

How PeopleKeep raises the bar for ICHRA benefits administration

The PeopleKeep ICHRA software provides businesses with a single-source solution for their ICHRA administration needs. Use PeopleKeep to create and update legal plan documents, support employees in purchasing health insurance and using the benefit, process and verify reimbursement requests, and stay updated about any changes to the law. PeopleKeep, meanwhile, notifies the business when an employee reimbursement request has been verified. The business then needs only approve the payment of the requested amount. Businesses that use PeopleKeep typically spend less than 15 minutes a month administering their HRA.

In the new world of ICHRAs, your business stands to save money while still providing an extremely valuable health care benefit to your most important resource: your employees.

PeopleKeep's ICHRA solution allows your business to stay focused on what it does best, and leaves the complicated, time-consuming—but critically important—task of HRA administration to the experts.



About PeopleKeep

PeopleKeep helps small businesses offer competitive benefits at a price they can afford. Personalized benefits automation software from PeopleKeep allows businesses to manage their benefits in minutes per month. PeopleKeep automates benefits compliance and employee support. Employees receive tax-advantaged reimbursements to pay for health insurance and other medical, dental, and vision expenses. Today more than 3,000 companies across the United States trust PeopleKeep to automate their benefits and keep employees happy. PeopleKeep is based in Salt Lake City, Utah.

To learn more about PeopleKeep, visit www.peoplekeep.com.

Got an ICHRA question for PeopleKeep?

We've got an ICHRA answer. Ask your questions to a Personalized Benefits Advisor here: <https://www.peoplekeep.com/offers/contact-sales-ichra>

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