

CUT AND PASTE POST JULY, 2019

It's been kind of a slow news month in HR Land. I hope at least one of the following may be of interest to GVHRA members.

5th Circuit Hears ACA Challenge

According to a July 8, 2019 [CBS News Report](#), on July 9, 2019, the 5th Circuit Court of Appeals will consider the fate of the Affordable Care Act, setting the stage for a major decision later this summer that could impact health care for millions of Americans and supercharge debate over the law in the heat of the 2020 campaign.

In December, 2018, in *Texas v. United States*, Judge Reed O'Connor of the Northern District of Texas declared the ACA's individual mandate unconstitutional and inseverable from the rest of the law, invalidating all aspects of Obamacare.

A group of 18 Republican-led states backed by the Trump administration is asking the court to uphold Judge O'Connor's decision and invalidate Obamacare. California leads a group of 20 states, supported by the Democrat-led House of Representatives, in defending the law and asking the Court to overturn the decision.

Both sides will present oral arguments in New Orleans before a three-judge panel from the 5th Circuit. The panel includes judges appointed by former Presidents Jimmy Carter and George W. Bush, and by President Donald Trump.

If Judge O'Connor's decision stands, Americans will no longer receive protections for pre-existing conditions, free preventive benefits coverage in all plans, mandatory acceptance of children on their parents' plans up to age 26, premium subsidies to buy policies on the exchange, or greater access to Medicaid in dozens of states.

Legal analysts see three possible outcomes in the appeals case: the court could affirm the lower court ruling, striking down the individual mandate and entire ACA as unconstitutional; it could invalidate the mandate alone and sever it from the rest of the law, leaving much of the ACA in place; or it could leave the law functioning as-is.

Regardless of the decision, both sides expect an appeal to the U.S. Supreme Court. If the Supreme Court justices agree to hear the case, it could happen sometime in 2020.

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PCORI Fees Deadline

PCORI stands for the Patient-Centered Outcomes Research Institute. Federal law imposes a small annual fee on most health plans that include medical benefits in order to raise revenue to finance the Institute's work. Employers that *self-insured* any group health plans in 2018, including health reimbursement arrangements (HRAs), are responsible for determining whether annual PCORI fee applies to their plan. **PCORI fees are due by July 31, 2019.**

Find more information at this [link](#).

Two New HRA's Available In 2020

The June 20, 2019 *Federal Register* included a Final Rule on Health Reimbursement Arrangements (HRAs). This Rule was the combined effort of the Departments of Labor, Treasury, and Health and Human Services. Several types of HRAs are already allowed under current tax rules and those rules are not changing. The new rule adds two new types of HRAs starting in 2020. Very briefly, these are:

- **Individual Coverage HRA (ICHRA)** - The ICHRA is designed for employers that either do not have a group medical plan or do not offer group coverage to some classes of employees. ICHRAs can be used to pay individual (not group) medical insurance premiums, or Medicare premiums, and out-of-pocket costs. So, this includes employees who are not offered group coverage at work and buy an individual policy either on or off the Exchange (or who enroll in Medicare).

Under the ICHRA program, there are no caps on annual allowance amounts. The business can vary allowance amounts according to permitted employee classes as well as age and family size. *(Check with legal counsel to make sure your benefits offerings comply with Montana law.)*

- **Excepted Benefit HRA (EBHRA)** - Employers will be able to offer EBHRAs only to employees who also are eligible for traditional group coverage, although actual enrollment in the group plan will not be required. Examples include all ACA-compliant group medical plans, such as major medical plans, PPOs and HMOs.

The employer may fund up to \$1,800 per year for the employee's health expenses and/or premiums for excepted benefits (e.g., dental, vision, short-term limited-duration insurance). The \$1,800 limit will be adjusted for inflation after 2020. Medical insurance premiums for individual insurance, group coverage (other than COBRA), or Medicare will not be eligible under the EBHRA.

Need more information? Find the June 20th [Final Rule Here](#).



Don't Worry – Be Happy!

An April 7, 2019 article in the New York Times gave a fresh perspective about small things you can do to improve your (and your employee's) happiness at work. Read the article [here](#).