



Plan Design Comparisons

Use the below chart to compare plan design and compliance issues between Health Flexible Spending Accounts (FSAs), Health Reimbursement Arrangements (HRAs), and Health Savings Accounts (HSAs).

Description	Health FSAs	HRAs	HSAs
Internal Revenue Code	Sections 105, 106, 125	Sections 105, 106	Section 223
Small employers	Yes	Yes	Yes
Large employers	Yes	Yes	Yes
C-Corp owners	Yes	Yes	Yes
Self employed	Yes, if spouse works in business	Yes, if spouse works in business	Yes
Plan Document	Yes	Yes	No
Summary Plan description	Yes	Yes	No
High deductible health plan required	No	No	Yes
Employer contributions	Optional	Required	Optional
Employee contributions	Optional	No	Optional
Employee tax savings	Contributions are tax-free	Claim reimbursements are tax free	Contributions are tax-free
Employer tax savings	7.65% of employee contribution	7.65% of employer contribution	7.65% of employee contribution
Uniform coverage rule	Yes	Based on plan design	No
Roll unused dollars to next plan year	No	Based on plan design	Yes
Reimburse IRC Section 213(d) medical expenses not covered by any other plan	Yes	Yes, depending on plan design	Yes
Claims substantiation	Yes	Yes	Yes, upon audit
Debit Card	Yes	Yes, based on plan design	Yes
Long-term care premiums paid from account	No	Yes	Yes
Banking	Employer assets	Employer assets	Trust account

Insurance premiums paid from account	No	No	Yes. Not expenses for insurance other than premiums for COBRA, qualified long-term care contract, or health plan while individual is receiving unemployment compensation.
Convert account to taxable income	No	No	Yes
Annual IRS-DOL Form 5500 (no tax due)	Yes (Welfare benefit rules apply if over 100 participants)	Yes (Welfare benefit rules apply if over 100 participants)	No
COBRA applies	Yes, Health FSA only. Special rules apply.	Yes	No
Account retained by employee upon termination of employment	No	No	Yes
Salary reduction funding	Permitted. FSA may be funded with employee and employer contributions	Not permitted	Permitted. HSA may be funded with employee and employer contributions
Carryover of unused amounts	2.5-month extension or \$500 Carryover	Permitted. Employer elects option in plan design	Permitted
Medical expenses eligible for reimbursement	All Code 213(d) medical expenses incurred during coverage period	All otherwise unreimbursed Code 213(d) medical expenses incurred while coverage is in effect.	All otherwise unreimbursed Code 213(d) medical expenses incurred while coverage in effect. Not for expenses for COBRA, qualified long-term care contract or health plan while individual is receiving unemployment compensation.
Cash-out unused amounts (if no medical expenses)	Not permitted	Not permitted	Permitted. Amounts are taxable, subject to 20% excise tax.
12-month period of coverage with no mid-year changes without qualified change in status	Applies, except for HSA	Does not apply	Does not apply
Health FSA uniform coverage requirement	Applies. Maximum amount of coverage must be available throughout coverage period.	Permitted. Based on plan design; may also pro-rate	Does not apply
Spend down unused amounts after termination	May not use unused amounts to pay for claims incurred after termination; COBRA rights apply	Permitted. Based on plan design	Subject to certain restrictions. May spend unused amounts after termination or retirement for eligible expenses.
Requirement that claims be incurred during current period of coverage	Applies	Subject to plan design	Does not apply

Claims adjudication	Required	Required	Not required
Ordering rules	Required. Generally, FSAs must be payers of last resort vis-à-vis an HRA, but can draft HRA and FSA plan documents so HRA pays only after FSA amounts are exhausted.	Required. Generally, FSAs must be payers of last resort vis-à-vis an HRA, but can draft HRA and FSA plan documents so HRA pays only after FSA amounts are exhausted.	Generally, an individual is not eligible for an HSA if, while covered under a high deductible health plan, he/she is covered under any other health plan (including an HRA or Health FSA) which provides coverage for any benefit covered under the high deductible health plan.
Code 105 non-discrimination requirement	Applies	Applies	If not pre-taxing employee contributions, subject to comparability rules. Applies if pre-taxing through Section 125.
Is a trust account required?	No, not by the Code. It may be required by ERISA unless the FSA complies with ERISA Technical Release 92-01 including that reimbursements are made directly out of the general assets of the employer.	Not applicable if reimbursements are made directly out of the general assets of the employer and account funds are not set aside in a separate account. If funded with a VEBA, earnings are generally not taxable.	Yes
Funding requirement	Not required. There is no requirement to set funds aside in a separate account: but if an employer does so, ERISA trust requirement may apply.	Not required. Employers can decide to fund (i.e., set aside funds) as potential liability increases. But, any such funding can invoke the ERISA trust requirement if amounts are segregated from general assets.	Employer and employee HSA contributions required to be put in trust or custodial account.
ERISA plan asset issues	Even though a plan may be treated as “unfunded” under ERISA Technical Release 92-1, salary reduction amounts are plan assets.	Generally no plan assets unless found (i.e., generally no plan assets if all reimbursements paid directly out of general assets of employer).	For plans with employer contributions, generally employer and employee contributions would be placed in an HSA trust or custodial account.
ERISA form 5500	Applies if more than 100 participants	Applies if more than 100 participants	Applies, if employer places restrictions on the HSA trust or custodial account

ERISA SPD and other disclosures, and adherence to ERISA's benefits claim procedures.	Required	Required	May apply if employer imposes controls. Claims are self-reported and self-adjudicated, so claims procedures should not apply.
HIPAA Portability, certificates of creditable coverage, and health status non-discrimination	Non-discrimination applies	Non-discrimination applies	Applies to high deductible health plan component if pre-taxing contribution
HIPAA Privacy	Applies	Applies	Does not apply to employer-funded self-administered HSA or to HSAs receiving no employer contributions. Would apply to high deductible health plan component and HSAs that are not self-administered.
COBRA	Applies for current plan year	Applies	Does not apply to HSA component. May apply to high deductible health plan component



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