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Employee Benefits | Life Insurance | Retirement Planning

TO: Clients of Sitzmann Morris & Lavis Inc.

RE: Annual and lifetime limit provisions and HRAs

In our SML Update of July 13, 2010, we reported on the interim final regulations and model notices related to the Patient's Bill of Rights. We would like to again focus on the relationship between these annual and lifetime limits and Health Reimbursement Accounts (HRAs). In our SML Update we reported:

Health Reimbursement Accounts (with Rollover of Unused Balances). The new Rule explicitly allows these specific types of reimbursement plans to have annual limits so long as they are "integrated with" other group health coverage (e.g. HRA reimburses enrollee for outpatient surgery deductibles) when the other group health coverage itself complies with the Health Reform Laws. Health Reform Law allows for pre-2014 annual limits but only for essential health benefits as defined by the Law and determined as such by the Secretary of Health and Human Services. The new Rule also makes it clear that retiree-only HRAs are not subject to Section 2711.

SF HCSO HRAs: An HRA set up specifically to satisfy the SF Health Care Security Ordinance minimum health care expenditure requirement is an example of a "stand-alone HRA". As health care reform currently stands, **such a plan would not comply with the new annual and lifetime limit provisions. The penalty for non-compliance is up to \$100 day per individual affected.**

Health and Human Services has requested comments regarding the application of annual limit restrictions to stand-alone HRAs (e.g. a SF HCSO HRA) that are not retiree-only plans. After reviewing the comments they will issue further guidance.

Effective dates:

Plan years beginning on or after September 23, 2010. With a calendar year HRA these provisions are effective January 1, 2011.

Action Steps:

In the absence of changes to these rules prior to January 1, 2011, plan sponsors must decide whether to:

- 1) maintain their current HRA without change while awaiting further guidance; OR
- 2) abandon their HRA entirely and make contributions to Healthy SF.