



20 Most Common CPA Questions re a SIMRP

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A SIMRP is a SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLAN.

A SIMRP is sponsored by the employer and is a program for the workplace. Employees have the ability to enhance their benefit package with a wellness program that is certified. This reduces health care costs and expenditures for both the employer's and employees.

Employers who struggle with rising costs in health insurance and supplemental benefits may find the way to expand employee benefits and limit u he in a self-funded I

With the rapid rise of average health insurance premiums, employers are choosing consumer-directed health plans (CDHPs) and transferring more burden to their workers through higher deductibles, premium contributions, copays, and coinsurance.

The following 20 questions give answers to how Wellness and Integrated Medical Plan Expense Reimbursement (WIMPER) programs provide incentives for employers to pay employees cash reimbursements for individual and family medical care based on participation in health and wellness plans. The Affordable Care Act (ACA) describes strategies for rewarding quality care by establishing payment structures to give reimbursements for certain health and wellness activities. Use of the healthcare platform results in additional employee benefits and reduced costs for employers and employees alike.

1. Self-Insured Expense Medical Reimbursement Plan (SIMRP) - What is it?

A self-insured medical reimbursement plan (SIMRP) is a plan, under state or federal law, designed to reimburse workers for medical expenses over those allowed by health and accident insurance policies or prepaid healthcare plans (e.g., HMOs). A Section 105 SIMRP is simply a direct reimbursement plan, allowing employers to refund employees for expenses related to medical care, including insurance premiums.

2. What is the structure of a SIMRP?

Establishing a SIMRP requires a plan document that includes reimbursable medical expenses, methods of reimbursement, and those eligible for reimbursement. A SIMRP is a group health plan that falls under the ACA, which disallows limiting coverage for essential health benefits. However, as insurance premiums are not counted as essential, total reimbursements may be limited by the plan.

Submit a Quick Census and we will then provide a customized healthcare cost analysis showing the employee's additional benefits and the cost savings to you the employer.

1. The employee makes a pre-tax premium payment to the (SIMRP) medical health plan each paycheck. (Just like he/she can for HSAs, HRAs, 401Ks, Pensions, Health Insurance Premiums etc...)
2. The employee's taxable income is reduced because the premium is "pre-tax" and is set up on a Section 125. (*lower taxable income also potentially reduces workman's comp premiums.)
3. The payroll tax savings is realized by the employer and the employee because neither party is required to pay tax on pretax deductions that utilize the section 125 /Cafeteria Plan.
4. A "SIMRP" is sanctioned under Section 105(b) and the IRC (1.105-11). A SIMRP is a separate written plan for the benefit of employees that provides a tax-free reimbursement per pay period, on a tax-free basis and *usually* no reduction in their take home pay. Employers have a FICA savings per each participant.
5. The employee's participation in the wellness program generates a "Preventative Medical Reimbursement" payment to the employee. This is complaint under IRC code 213(d). This process produces the funds which create the wellness reserve of an average of \$150 per month.
6. We use the wellness reserve to purchase life insurance, accidental insurance, critical illness, disability and cancer and/or any of the allowable types of products which are deemed "ancillary" by the IRC.
7. Based on the structure of the program and compliant procedures the employee experiences little or no reduction in his/her NET take home paycheck. The employer experiences a reduction in their payroll tax obligations on each payroll run beginning in month one of the program, once the pay to play administrative fees are met by the employer through the structure of the section 125 plan documents.
8. A MERP differs from an FSA in that it funds are not set aside ahead of time. There's no minimum or maximum amount by law.

3. What are the eligibility requirements to participate in a SIMRP?

For SIMRP participation eligibility, the employer must pass both of these tests:

- *Percentage test.* A minimum of 70% of all employees must be eligible for plan benefits, or a minimum of 80% of the eligible employees must benefit under the plan, given that a minimum of 70% of all employees are eligible for plan benefits.
- *Classification test.* All qualifying employees under a specific classification must benefit from the plan, and it cannot favor workers receiving greater compensation. Although the exclusion of certain employees is permitted, and the plan may establish a maximum reimbursement, it must be uniform for all participants.

Employees who fall into the certain classifications may be excluded, including employees who:

1. have completed less than 3 years of service by the start of the plan year;
2. are under age 25 by the start of the plan year;

3. are part-time employees (working 35 or fewer hours per week);
4. participate in a collective bargaining agreement; or
5. are classified as nonresident aliens and receive no earned income.

4. May employers create healthcare platforms that are self-funded for employees to cost-effectively participate in wellness plans that provide payment for ancillary or supplemental health benefits?

The ACA has increased employer incentives for adopting healthcare programs that are self-insured. Consumer-driven strategies that emphasize preventative care are in greater focus. One method is establishing a Wellness and Integrated Medical Plan Expense Reimbursement (WIMPER) program, a unified healthcare approach that offers a tax-advantaged and economical medium for purchasing secondary health insurance packages. Medical insurance plans and well-developed wellness programs together encourage employees to be personally responsible for minimizing the costs of healthcare. When a SIMRP is integrated with wellness and medical plans, participating employees can see rewards of cash reimbursements for covered medical expenses.

5. How does a WIMPER program save employers money?

Employers save money with WIMPER programs by reducing FICA tax responsibility, since the portion an employee elects to contribute to the plan is not considered as wages and is, accordingly, not taxable for the purposes of Social Security. Additional savings are available through the platform in the form of reduced paid time off with healthier employees. A WIMPER program is also subject only to federal law, not state insurance guidelines.

6. Why would employees choose participation in a WIMPER program that combines a healthcare plan with a wellness plan and a SIMRP?

A WIMPER program is a unified platform that provides employees with the chance to buy additional benefits the employees might not be able to afford without subtracting from net pay.

IRC Section 106(a) allows employers to contribute, pretax, to wellness plans known as accident and health plans. Employees elect to make pretax payments through a written agreement for salary reduction that is the foundation for a section 125 Cafeteria Plan. This plan allows employees to choose between two or more benefit options that consist of one taxable (e.g., cash) and at least one qualified (e.g., accident insurance policy). By contributing part of their salary to cover qualified benefits, employees reduce their compensation, but the contributions are not considered wages for the purposes for filing income tax.

WIMPER programs permit businesses to offer a benefit allowance to reimburse employees for participating in wellness plans. This is unlike the traditional benefit programs that give the employer the responsibility for choosing and administering the healthcare plan. Healthcare reimbursement plans are increasingly popular

because they not only allow employees the opportunity to choose benefits but also offer more flexible solutions for businesses through tax-free reimbursements that employees can use to purchase ancillary insurance packages, such as disability and accident policies. Again, this lowers the Federal Insurance Contributions Act (FICA) taxes for both the employer and the worker.

7. How should a WIMPER program be designed?

When determining the benefits allowable for reimbursement, the following must be considered for a compliant self-insured platform to exist:

- **Salary reduction agreement:** allows the worker to contribute, pretax, to a section 125 cafeteria plan to cover qualified benefits like health and accident benefits or group term life insurance;
- **IRC section 106 wellness plan:** is covered by pretax dollars from a cafeteria plan or another qualified plan;
- **SIMRP:** provides for the tax-free medical care expense refunds described in IRC section 105(b) and defined in IRC section 213(d), including medical care insurance coverage.

8. Are reimbursements for LTC insurance premiums subject to the same requirements as other medical care insurance?

Unlike other insurances, long-term care (LTC) insurance is not contingent on the same strict requirements that restrict medical care to amounts paid for diagnosing, treating, and preventing disease or issues with body functions or structures. Although LTC insurance premiums do qualify for reimbursements under SIMRPs, cafeteria plans do not allow the contributions. The pretax methods for paying for LTC insurance are establishing a health savings account (HSA) or creating a voluntary employees' beneficiary association (VEBA) trust.

9. What is an HSA?

An HSA is a tax-exempt custodial account or trust that permits the pretax deduction of funds, reducing a person's total medical expenses through funding from tax-deductible contributions. The IRS allows banks, insurance companies, or other approved HSA trustees to pay or reimburse participants on a pretax basis for certain medical expenses, including copay, deductibles, coinsurance, and premiums for health insurance (including LTC insurance) for medical care. To qualify for an HSA, a person:

- must have a high deductible health plan (HDHP) at the first of the month;
- must have no other health coverage unless otherwise allowed under other health coverage;
- must not be enrolled in Medicare;
- cannot be claimed as a dependent on another person's tax return; and
- cannot be covered by an FSA or HRA that refunds qualified medical expenses.

Joining an HDHP with an HSA permits both the employer and employee to save money with lowered insurance premiums and reduced FICA taxes through the HSA pretax contributions. Earnings accumulate tax-free in an HSA account, and any unused funds can roll over to the following year. The 2020 contribution has a \$3,550 limit for an individual and a \$7,100 limit for a family, plus \$1,000 for individuals aged 55 and over. The 2021 contribution has a \$3,600 limit for an individual and a \$7,200 limit for a family, plus \$1,000 for individuals aged 55 and over.

10. Voluntary Employee Benefits Association (VEBA) Trust - What is it?

A cooperative of employees forms a VEBA, which provides certain benefits for its members or assignees and may be used in building a platform for self-insured healthcare. A VEBA trust can receive funding from the employer or the employee, and those funds are used to pay for such benefits as life, health, medical, and accident plans. The trust may be founded by several employees sharing a common bond related to their employment, an employer representing the employees (e.g., corporations and their subsidiaries), or employees joining a collective bargaining agreement. Any money used to purchase commercial insurance assists in avoiding underfunding complications where promises of a current benefit may not be rendered later.

11. Are employees required to have major medical insurance (whether through their employer or a spouse or domestic partner) to qualify for medical reimbursements?

The type of wellness program offered determines whether or not federal law applies. Some plans are offered as part of the employer's group health plan, but some may be stand-alone, voluntary plans. There are plans that include limited benefits like educational health-related information, and others that may involve biometric testing or personalized coaching or may be involved in a disease management program.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the ACA require that wellness programs provided through group plans have nondiscriminatory incentives. Nonetheless, even though a recent federal court ruling canceled certain fundamental rules of the Equal Employment Opportunity Commission, which include limits on wellness program incentives, employers should know that these plans must comply with the Department of Labor and the American with Disabilities Act (ADA) mandates in addition to the ACA and HIPAA regulations.

12. What are the most common wellness plans offered with group health plans?

Participating policies are the most common wellness program type. They may offer either no reward or one that has no health-related standard requirement (i.e., it is awarded with no regard to the person's health status). Although the enrollee is required to participate in the program, receiving the reward does not depend on reaching a certain goal, such as participating in a smoking cessation program and eventually quitting smoking. Other examples of rewards include seminars, refunds for gym memberships, and diagnostic testing programs.

Two types of health contingent plans require the enrollee to meet a health-related standard to receive a reward:

- *Activity only.* These programs are based on health and require the enrollee to complete a health-related activity in order to receive a reward. Common examples are diet and exercise programs.
- *Outcome based.* These programs require the enrollee to meet a standard relevant to the person's health, such as obtaining or maintaining a certain outcome to receive a reward. Common examples are participating in programs to quit smoking or achieving specified biometric screening results.

13. How does a wellness plan comply with HIPAA regulations and the newly revised ADA rules that limit refunds for wellness plans if the plan requests health-related information or requires a medical examination?

HIPAA regulations do not impose limits on participating programs, such as asking employees to complete Health Risk Assessments (HRAs). The wellness programs are not in violation of HIPAA and the ADA as long as all participating employees within a given group receive the same incentive regardless of their answers to HRA questions about medical history or health status. This helps to clarify the term incentives to include both financial and in-kind incentives (e.g., novelty gifts, cash, insurance premium reductions, time off, prizes, and other items of value). If the wellness model only provides a refund for preventive medical care expenses and does not include incentives (e.g., meeting a health-related goal does not determine the reward), then the amounts to be refunded are not limited.

14. To remain compliant with IRS requirements, how is the deduction and reserve handled under a WIMPER program for an employee who no longer meets all the plan's participation requirements (i.e., the employee terminates contributions under the plan year)?

Compliance is the same as any section 125 cafeteria plan. The plan selections are irreversible unless a change in status occurs based on one of the following:

- marital status,
- number of dependents,
- employment status,
- a dependent because eligible or ceases to be eligible,
- change in residence, or
- commencement or termination of adoption proceedings.

Participants may also be able to change elections based on the following:

- significant cost changes or reduction of coverage, or
- addition or improvement of benefit package options.

Failure to maintain compliance voids the pretax advantages, and the participant must pay future premiums on an after-tax basis.

15. If the program does not refund participants for medical care, how can cash refunds from a WIMPER program qualify as medical care as defined under 213(d) for healthy workers without risk factors?

If an employee did not incur expenses throughout a plan month, the healthcare program is not affected, and the pretax savings are not voided. Similarly, the pretax contributions an employee makes to a major medical plan one month are not affected if there are no claims during that month. The condition for providing tax-free refunds is wellness plan participation, not the services used or expenses incurred each month.

16. If an employee elects to receive a cash refund vs. purchasing qualified benefits, is it taxable?

Generally, the value of a reward, including cash or cash equivalents, is taxable as wages unless it can be excluded, such as a de minimis (minimal) fringe benefit—any property or service that is given to an employee by an employer and has such a small value that it is administratively unreasonable or impractical to determine. Examples include employee picnics, tickets to events, or other occasional benefits.

Additionally nontaxable are any amounts employees receive, directly or indirectly, as medical refunds under a SIMRP and an employer-provided health or accident plan. However, cash rewards or equivalents that are neither excludable nor qualified medical expenses are taxable.

17. Is a highly compensated employee eligible to contribute more to a cafeteria plan and later receive more medical refunds through a WIMPER program?

Highly compensated employees (HCE) might be eligible for more in refunds, but they may be taxable. A test is required each year to ascertain whether the plan does not discriminate in favor of HCEs. Employers are responsible for ensuring company plan benefits for most of the employees who are eligible.

A SIMRP, as part of a WIMPER program, permits distinct employee classifications; therefore, if the WIMPER program satisfies all other requirements for participation, the combined platform may allow HCEs to receive higher after-tax refunds to purchase more benefits (e.g., disability policies). Even if all participants are under the same classification and refunds are the same (e.g., no allowance for higher levels of reimbursement), these plans may still appeal to HCEs, as the supplemental insurance can cost-effectively cover a portion of the risk.

18. What is fixed indemnity, and can it be included in a wellness plan?

A fixed indemnity insurance plan is a supplemental health plan that offers a predetermined amount to the insured per specific injury or illness covered by the policy. Fixed indemnity plans are not embedded in wellness programs but are allowed as separate reimbursements if the value of the wellness plan that provides medical care is not included in gross income. Any payments or medical care refunds made by salary reduction through a cafeteria plan and paid to an employee for fixed indemnity insurance plan coverage are not taxable.

19. Did the IRS provide guidance regarding self-funded health plans?

The IRS Office of the Chief Counsel issued memorandums to offer guidance for the tax treatment of benefits within self-funded health plans, including wellness programs and the ensuing employer insurance premium refunds.

Memorandum 201703013, which was issued December 12, 2016 by the IRS Chief Counsel, announced that funds an employee received under a fixed indemnity health plan provided by the employer were counted as gross income under IRC section 106(a) provided that the coverage value was excluded from the employee's wages and gross income. However, the value of an employer-provided wellness program that offers medical care refunds to employees according to IRC section 213(d) is generally not included in an employee's gross income under IRC section 106(a), as are any amounts refunded for medical care (e.g., incentives, rewards, or other benefits) under IRC section 105(b).

This memorandum clarifies that payments received from a fixed indemnity health plan are considered gross income if the contributions were paid pretax, as the exclusions under IRC sections 105(b) and 104(a)(3) do not apply. However, if the fixed indemnity health plan premium contributions were paid with after-tax dollars received from the plan, these are counted as tax-free reimbursements.

Memorandum 201622031, issued April 14, 2016, addresses the question about whether cash rewards payable to an employee for wellness program participation may not be included in that employee's gross income according to IRC sections 105 or 106 if that employee contributed pretax to the wellness program through salary reduction in an IRC section 125 cafeteria plan. The Chief Counsel announced that cash rewards employees receive for wellness program participation cannot be excluded from an employee's gross income according to IRC sections 105 or 106 but are, therefore, taxable except when the premium reimbursements are used for medical care according to IRC section 213(d). Additionally, occasional or irregular non cash rewards, such as tickets to events, are considered nontaxable de minimis fringe benefits.

Memorandum 201719025, issued April 24, 2017 by the Chief Counsel, offered the conclusion that benefits issued through an employer-provided self-funded health plan are counted as income and are, consequently,

taxable if either the average amount an employee receives for health-related activity participation significantly exceeds after-tax contributions or, if self-funded, the health plan involves no insurance risk (i.e., it is neither insurance nor has the effect of insurance). It also offered the conclusion that wellness plans separately qualify as health and accident plans according to IRC section 106 and contributions to an IRC section 125 cafeteria plan are counted as pretax. The Chief Counsel further expressed that rewards of flex credits under a wellness plan are not taxable if applied for purchasing qualified benefits like group term insurance but are taxable if applied for purchasing benefits that are not qualified, such as gym memberships or whole life insurance.

These memorandums reference wellness plans that give refunds to employees for their medical expenses that are qualified, including LTC insurance through a SIMRP. As mentioned above, a correctly structured wellness plan receives funds from pretax contributions that allow employees who are participating in wellness programs to receive money tax-free through a SIMRP. Such amounts must be paid indirectly or directly to employees to refund medical care expenses.

20. Would a repeal of the ACA impact wellness plans that are part of a WIMPER program?

A repeal of the ACA would carry a potential implication that depends on the type of wellness plan offered. ACA repeal would not impact participating wellness plans linked to WIMPER programs. The ACA amended the Employee Retirement Income Security Act (ERISA) to prohibit wellness plans from health status discriminations against individual participants and beneficiaries. Programs that reward participants for attending occasional health education seminars or offer coaching to provide education and support in several areas, including nutrition and exercise, will likely remain permitted even without the ACA.

In conclusion, the concept of WIMPER provides employees with an opportunity to receive cash refunds for participating in wellness and health programs with a tax-saving benefit of reducing FICA tax liability for both the employee and the employer. In addition, employees can reduce income taxes owed because, when part of a WIMPER program, pretax contributions from gross pay are made to an IRC section 125 cafeteria plan.

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