



REYNOLDS & REYNOLDS INC.

Health Care Flexible Spending Accounts UPDATE

On September 3, 2010, the IRS provided additional guidance to better clarify the changes in over-the-counter (OTC) healthcare expenses for tax advantaged benefits plans, such as flexible spending accounts (FSAs), health reimbursement accounts (HRAs) and health spending accounts (HSAs) to be effective January 1, 2011. These clarifications provide answers to the outstanding questions in the previous e-mail blast dated 4/30/10 which outlined the elimination of over-the-counter medicines and drugs ineligible for reimbursement.

IRS Clarifications

- ✓ Plans cannot reimburse medicines and drugs after December 31, 2010 unless a prescription or letter of medical necessity is obtained from a physician. Insulin will still be considered an eligible expense.
- ✓ Prescriptions must be written or must be an electronic order by an authorized individual that satisfies the legal requirements for a prescription in the state.
- ✓ An OTC medication can be reimbursed if the prescription is accompanied by documentation of patient name, date, amount of purchase and rx number (if one exists).
- ✓ Any FSA plan that includes a “grace period” that allows unused contributions to roll over to the next year during the first 2 ½ months will not be allowed OTC reimbursements after December, 31, 2010.
- ✓ Reimbursement of OTC medicines or drugs from an HSA or Archer MSA purchased after December 31, 2010 will be includible in gross income and subject to a 20% excise tax. If purchased before December 31, 2010 and reimbursed from the account after December 31, 2010, the restrictions do not affect the reimbursement.
- ✓ Medical equipment, supplies and devices must still be for medical care and not merely beneficial to an individual’s general health. Documentation may be necessary to substantiate such a claim.
- ✓ IRS will not challenge the use of debit cards for expenses incurred prior to January 15, 2011 as long as current debit card rules are met.
- ✓ Debit cards are to be reprogrammed to decline all OTC drug purchases beginning January 16, 2011. However, cards may be used to purchase prescribed OTC medication at pharmacies where 90% of the store’s gross receipts consist of items that qualify as medical care expenses under the IRS code.

OTC Drugs and Medicines Requiring Documentation*

- Acid Controllors	- Digestive Aids
- Allergy & Sinus	- Feminine Anti-Fungal / Anti-itch
- Antibiotic Products	- Hemorrhoid Preps
- Antidiarrheals	- Laxatives
- Anti-Gas	- Motion Sickness
- Anti-itch & Insect Bite	- Pain Relief
- Anti-Parasitic Treatments	- Respiratory Treatments
- Baby Rash Ointments / Creams	- Sleep Aids & Sedatives

- Cold Sore Remedies - Cough, Cold & Flu	- Stomach Remedies
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*The OTC Drugs and Medicine list requiring documentation is still being clarified by the IRS. More information will be provided as it becomes available.

Examples of Covered Expenses Not Requiring Documentation

- Artificial teeth - Band-Aids - Birth control - Braces and supports - Braille books and magazines - Catheters - Contact lens supplies and solutions - Denture adhesives - Diagnostic tests and monitors - Elastic bandages and wraps	- First aid supplies - Hearing aids and batteries - Insulin and diabetic supplies - Orthopedic Aids - Oxygen and oxygen-equipment - Pregnancy test kits - Reading glasses - Thermometers - Wheelchairs, walkers, and canes
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Things to consider:

- ✓ Through December 31, 2010, OTC drugs and medicines are eligible for reimbursement without a prescription.
- ✓ Starting January 1, 2011, employees may want to consider the new changes when deciding on their contributions to a FSA, HRA, or HSA reimbursement account.
- ✓ Employees should also be made aware that current debit cards systems are incapable of recognizing and substantiating that the medicine or drug was prescribed.
- ✓ Cafeteria plan sponsors have until June 30, 2011 to amend their plans to conform to the new restrictions, so long as the amendment is effective January 1, 2011.

The content in this article is intended for general information purposes as a service to you. While some of the information deals with legal issues, it does not constitute legal advice. Legal advice depends on the specific facts and circumstances of each individual situation. If you have specific questions related to the information available in this article, you are encouraged to consult an attorney who can investigate the particular circumstances of your situation.