



HEALTH CARE REFORM – OVER THE COUNTER UPDATE

Under new Internal Revenue Code § 106 (f), added by the Patient Protection and Affordable Care Act (PPACA) effective **January 1, 2011**, medicine and drug purchases other than insulin qualify for tax-free reimbursement under health FSAs, HRAs, and other employer sponsored health plans only if they are prescribed. The January 1, 2011 effective date applies regardless of whether the plan year for the employer's plan is a fiscal or calendar year. This means that over the counter (OTC) drugs or medicines will require a prescription to be reimbursed under an employer-sponsored health FSA and HRA.

The new rules do not apply to OTC items that are not "medicines or drugs". Items that are not medicines or drugs include medical supplies and equipment, such as crutches, bandages and diagnostic devices, such as blood sugar test kits. This means that effective January 1, 2011 participants will be unable to purchase OTC medicines or drugs with their FSA or HRA funds without a prescription.

If a health FSA or HRA plan reimburses these expenses, the participant needs to provide the prescription and the customer receipt. Documentation could consist of a receipt from the pharmacy that identifies the purchaser (or the individual to whom the prescription was issued), the date, the amount and the prescription number. If the receipt does not include the prescription number and the purchaser, a copy of the prescription and receipt would need to be submitted.

According to the IRS, current debit card systems are not capable of substantiating compliance with the new rules with respect to OTC medicines or drugs because the systems are incapable of recognizing and substantiating that the medicines or drugs were prescribed. Health FSA and HRA debit cards may not be used to purchase OTC medicines or drugs. Debit cards may continue to be used for medical expenses other than OTC medicines or drugs, those expenses may include medical supplies and equipment, crutches, bandages and diagnostic services such as blood sugar test kits.

Some of the OTC drugs or medicines affected include:

Acid Controllers	Digestive Aids
Allergy & Sinus	Feminine Anti-Fungal/Anti-Itch
Antibiotic Products	Hemorrhoidal Preps
Anti-Diarrheals	Laxatives
Anti-Gas	Motion Sickness
Anti-Itch & Insect Bite	Pain Relief
Antiparasitic Treatments	Respiratory Treatments
Baby Rash Ointments/Creams	Sleep Aids & Sedatives
Cold Sore Remedies	Stomach Remedies
Cough, Cold & Flu	

We are taking a proactive approach to developments regarding health care reform and Lawley Benefits Group will keep you informed as new details emerge and clarification becomes available. In the meantime, Lawley Benefits Group is here to support your needs.