



Healthcare Reform and Changes to FSAs/HSAs/HRAs

The Health Care Act was signed into law the end of March with some dramatic changes that will affect Flexible Spending Accounts, Health Savings Accounts and Health Reimbursement Arrangements.

HSA Changes

For account holders of an HSA, non-qualified distributions before the account holder reaches age 65 or is disabled will see an increase in the additional tax due. Starting in 2011, the additional tax will be 20% of the non-qualified distribution (it is currently 10%.) This will continue to discourage HSA account holders from miss using their contributions for non-qualified medical expenses.

FSA and HRA Changes

- Starting January 1, 2011, Over the Counter Drugs and Medications cannot be reimbursed from an FSA, HSA or HRA (Health Reimbursement Arrangement) unless they are accompanied by a Doctor's prescription. This ruling does not exclude all OTC expenses. Items like aspirin and cough syrup would be out, unless a Doctor's prescription is obtained for their use. Items like adult diapers, diabetes monitors and test strips can still be purchased on a pre-tax basis without a doctor's prescription. The unfortunate part of this change in the law, is that the FSA/HSA/HRA Debit Card holders will no longer be able to use their cards at the Drug Store or Pharmacy for OTC drugs and medications. **But, all is not lost, employees can STILL BE REIMBURSED FOR THESE EXPENSES BY SIMPLY FILING A MANUAL CLAIM TO BMS LLC ALONG WITH A DOCTOR'S NOTE TO KEEP ON FILE AND RECEIVE REIMBURSEMENT VIA OUR CHECK OR FREE DIRECT DEPOSIT METHOD.**
- Over-the-counter Medicines, drugs and biological treatments are about 35% of the current eligible list that are available for purchase with an FSA/HSA/HRA Debit Card. Effective January 1, 2011, the affected items would be deleted from the Debit Card-eligible items.
- It is important to note that not all items on the Debit Card-eligible items list would be affected. Only those items that represent OTC drugs, medicines and biologicals are expected to be precluded from purchase using the medical Debit Cards. All other items like Rx, Dental, Vision, Hospital and

Physician expenses will continue to be available with the Debit Card. The items affected include items in the following categories (again, note that the following are still eligible using manual claims along with a medical practitioner's note):

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

- More importantly, the change would also impact those vendors treated as 90% merchants, in that the calculation for who meets the 90% exception would be based on the new definition of eligible expenses, which excludes products in the above categories.

Note: If your Plan Year does not end until after 1/1/2011, Participants cannot make a change in their current election based on this change in the law. They must use their account for other expenses and then re-adjust their **next** election (if necessary) at the next Open Enrollment.

- A contribution limit will apply to Health FSAs starting January 1, 2013. Previously, there were no IRS limits placed on individuals or 125 Plans and the Employer set the maximum election limit for their Plan. As of 1/1/2013, the maximum election limit for the Health FSA will be limited to \$2,500. The dollar amount will be indexed for inflation starting after 2013. The Dependent Daycare maximum will remain at the current \$5,000.

Again, not all is lost on the change to the OTC requirement as of 1/1/2011. Although the convenience of the Debit Card will not be available for OTC drugs and medicine, simply obtaining a medical practitioner's note to have on file at BMS LLC will satisfy this requirement and open up the use of the Health FSA for these expenses via a manual claim submission. Employees can still receive the pre-tax savings that they are afforded!

If you have any questions, please feel free to contact our office. We strongly encourage you to forward this notice to your employee participants. BMS will continue to post updated information at our website www.bmsllc.net. We will be adjusting our Open Enrollment materials to include this change. Thank you.