



On Thursday, December 23, 2010, the IRS issued new guidance allowing the continued use of Health Flexible Spending Accounts (FSA), Health Reimbursement Arrangements (HRA) and Health Savings Accounts (HSA) debit cards for the purchase of prescribed OTC medicines and drugs.

Beginning January 1, 2011, Health FSA, HRA and HSA Debit Cards may continue to be used to purchase OTC medicines and drugs if:

- Prior to the purchase, the prescription for the OTC medicine is presented (in any format, i.e., electronic or paper) to the Pharmacist;
- The OTC medicine is dispensed by the Pharmacist in accordance with applicable law;
- An Rx number is assigned;
- The Pharmacy must retain a record of the Rx number, the name of the purchaser (or name of the person for whom the prescription applies) and the date and amount of the purchase;
- All of these records are available to the Employer, Third Participant Administrator or agent upon request;
- The debit card system will not accept a charge for an OTC medicine unless an Rx number has been assigned; and
- All the requirements of this guidance are met.

The above requirements must be met for the following types of vendors:

- Drug stores and pharmacies
- Non-health care merchants with pharmacies (e.g. Wal-Mart)
- Mail order and web-based vendors that sell prescription drugs

If these requirements are met, the debit card transaction will be considered fully substantiated at the time and point-of-sale.

Even with this late change in the law, the overall OTC rules have not changed much. A prescription, written by a physician, must be obtained for OTC medicine and drugs in order for them to be paid from the FSA or HRA. (The employee must maintain the prescription on file as proof for us under the HSA.)

This clarification simply allows the use of a debit card to pay for OTC medicines and drugs. The prescription must be presented to a Pharmacist and the prescription must be filled by the Pharmacist. The same rules apply as they do for any other "prescribed" drug, comparable to a prescription for an antibiotic. The Pharmacist reads the prescription and fills it according to instructions outlined by the physician.

For more information, please go to <http://www.irs.gov/pub/irs-drop/n-11-05.pdf> to view the IRS Notice. The IRS has also updated its Q&As on OTC medicines and drugs and can be reviewed at <http://www.irs.gov/newsroom/article/0,,=2273018,00.html>.