

Patient Protection and Affordable Care Act (the "Reform Act")
Changes to "Account-Based" Plans -- Flexible Spending Accounts (FSAs); Health Reimbursement Arrangements (HRAs); Health Savings Accounts (HSAs) and Archer Medical Savings Accounts (Archer MSAs)

As you know, in March 2010, President Obama signed the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively "the Reform Act"). The Act includes a number of modifications to employee benefit programs.

One provision that will affect employee participants beginning January 1, 2011 is the requirement for over-the-counter (OTC) drugs, medicines and biologicals to be accompanied by a physician's prescription in order to be reimbursed under health flexible spending accounts (FSAs), health reimbursement arrangements (HRAs) and health savings accounts (HSAs). Below is a summary of this change and how it will impact plans and the participants' experience.

Under the Reform Act, OTC drugs, medicines and biologicals will continue to be eligible for reimbursement as long as the request is accompanied by a doctor's prescription. This means items such as cough medicines, pain relievers, acid controllers, and diaper rash ointment will now require a doctor's prescription to be submitted along with the reimbursement request. Insulin and other OTC items, such as band-aids, will continue to be eligible without a prescription.

Since this change applies to all expenses incurred on or after January 1, 2011 it will affect all plans and participants at the same time, regardless of the plan year. OTC drug expenses incurred on or after January 1, 2011 will require a doctor's prescription in order to be reimbursed under a health FSA, HRA or HSA. Expenses incurred prior to January 1, 2011 will not.

This is an overview regarding the Reform Act that was signed into law in March, 2010. It is intended for general information purposes only, and is not intended as legal advice. The information contained herein is current, and should be reviewed with both counsel and an accountant to determine if/how the information applies to your group health plan.



Though the specific list of items affected by the Reform Act has yet to be completely assessed and categorized, below are two charts identifying several commonly purchased items and the corresponding status:

The following are examples of some of the OTC items that **will require a doctor's prescription** in order to be reimbursed:

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

The following are examples of some of the OTC items that will remain available **without a doctor's prescription**:

- Band Aids
- Birth Control
- Braces & Supports
- Catheters
- Contact Lens Supplies & Solutions
- Denture Adhesives
- Diagnostic Tests & Monitors
- Elastic Bandages & Wraps
- First Aid Supplies
- Insulin & Diabetic Supplies
- Ostomy Products
- Reading Glasses
- Wheelchairs, Walkers, Canes

Should you have any questions, please do not hesitate to contact Christine Rathbun in our Flexible Spending Account Department; toll free (800) 698-4753 or (518) 283-8500.

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