



## **Over-the-Counter Drugs Reimbursable under Flexible Spending Accounts**

On September 3, 2003, the Treasury Department and the IRS issued a revenue ruling that authorized Flexible Spending Accounts and Health Reimbursement Arrangements to reimburse employees for certain over-the-counter (OTC) drugs. Prior to this ruling, drugs that did not require a physician's prescription were not allowable expenses under a Flexible Spending Account (FSA) or Health Reimbursement Arrangement (HRA).

### **Which OTC Drugs can be reimbursed under an FSA or HRA?**

The only OTC drugs that can now be reimbursed under an FSA or HRA are those that are used to treat or alleviate personal injury or sickness. The IRS specifically named allergy, cold, antacid and pain reliever medications as examples of OTC drugs that CAN be reimbursed. Products such as vitamins and supplements that are merely beneficial to the employee's health are NOT eligible for reimbursement.

### **Can our FSA or HRA plan reimburse for OTC drugs immediately?**

It's important to know that it is NOT REQUIRED that your FSA or HRA plan cover OTC drugs. If you decide that you want your plan to cover OTC drugs, you may be able to reimburse your employees for certain OTC drug purchases immediately and retroactively from the beginning of your plan year. Whether or not you can offer immediate coverage depends on how your plan is worded. You should make this determination by reviewing the documentation that describes an eligible expense under your FSA or HRA.

Most employers will need to check with their FSA or HRA plan administrator to verify that the administrator will be accepting OTC drug reimbursement requests from employees and to determine if their plan needs to be updated. Some plans list each category of eligible expenses such as eyeglasses, hearing aids and prescription medications. In this case, OTC drugs would specifically be excluded. You or your administrator would need to modify your plan document to include OTC drugs before reimbursement to employees could be allowed. Other plans, however, simply refer to Section 213 of the Internal Revenue Code to define an eligible expense under the plan. In this case, you could begin to reimburse for OTC drugs immediately since the IRS expanded the definition of an allowable expense under Section 213.

### **What type of documentation does an employee need to provide in order to get reimbursed?**

Since most employers have an FSA or HRA administrator that handles their claims, you will need to communicate with your administrator to determine what documentation they will be requiring. If you decide to allow OTC drugs to be an eligible expense under your FSA or HRA plan, you will need to communicate this to your employees. You will also need to explain what types of documentation will be required in order to verify the eligibility of their claim. At a minimum, employees should expect to provide dated receipts that identify the name and the cost of the product.

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**For your reference, we have attached a list of eligible expenses permitted under an FSA or HRA.**

- [Flexible Spending Account / Health Reimbursement Arrangement Eligible Medical Expenses](#)

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