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Read more about [The Patient Protection and Affordable Care Act \(H.R. 3590\)](#)

Hot Topic!

April 2010



Health Care Reform Affects FSAs, HRAs and HSAs

The much anticipated Patient Protection & Affordable Care Act signed by the President on March 23, 2010 and its subsequent "side car" revisions will result in several pre-tax benefit changes:

CHANGES TO THE LAW

Effective 1/1/2011:

Over-the-counter (OTC) drugs will only be eligible with a doctor's prescription.

Over-the-counter drug purchased after 12/31/2010 will no longer be eligible for reimbursement under healthcare Flexible Spending Accounts (FSA), Health Reimbursement Arrangements (HRA) or Health Savings Accounts (HSA) unless the OTC drug is prescribed by a physician.

What this means to participants:

The Inventory Information Approval System (IIAS) which currently allows participants to use pre-tax dollars to purchase eligible over-the-counter drugs with their debit cards will be "shut off" with respect to OTC items beginning 1/1/2011. The debit cards will, however, continue to work for purchases of other eligible out-of-pocket expenses such as prescription drugs, medical plan co-payments, lab work, deductibles, co-insurance, vision, dental expenses, etc.

Sample categories of OTC items expected to be affected by the change include:

Acid Controllers	Cough Suppressants	Pain Relievers
Allergy & Sinus	First Aid Supplies	Sleep Aids
Cold & Flu	Laxatives	Sunscreen

This requirement will take effect for all OTC purchases made after 12/31/10 despite the TPA handling the FSA administration or the effective date of the employer's pre-tax plan.

In summary, beginning next year, FSA participants will be responsible for providing Certificates of Medical Necessity (doctor's notes) whenever submitting claims for OTC items. A form is available on the PBS website to facilitate this new requirement.



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Health Care Reform continued...

MORE CHANGES TO THE LAW

Effective 1/1/2011:

The HSA tax penalty for non-qualified distributions will increase from 10% to 20%.

The health care reform law increases the penalty for using Health Savings Account (HSA) funds for ineligible expenses from 10% to 20% effective 1/1/2011.

What this means to participants:

Currently, when HSA funds are used for non-qualified HSA distributions, the HSA owner is subject to ordinary income tax as well as a 10% penalty tax. For disbursements made after 12/31/2010, the 10% penalty tax will increase to 20%.

Remember: Neither the 10%, nor the new 20% penalty tax applies to HSA distributions made due to death, disability, or after the HSA account holder attains age 65.

A “non-qualified” distribution is one that does not meet the requirements of IRC 213(d), meaning that “qualified” distributions must be for eligible health care expenses. It is the responsibility of the HSA account holder to retain necessary substantiation and to report qualified and non-qualified distributions to the IRS.

Questions? Please feel free to contact your PBS Account Manager. We're here to help!

Effective 1/1/2013:

Healthcare Flexible Spending Account contributions will be capped at \$2,500.

Beginning in 2013, the new law limits annual health care FSA contributions to \$2,500 per plan year with an annual cost of living adjustment.

What this means to participants:

In the past, employers could set the health care FSA maximum contribution amount as high as they wished—many of which are \$3,000 - \$5,000 per year. While the average PBS health care FSA enrollee elects about \$1600 per year, many elect much more in years when they know they have big expenses.

What this means to employers:

Employers with FSA plan documents allowing health care maximums in excess of \$2500 per year must amend their plans to abide by this new regulation.

