

Re: Your Health Savings Account – Important Health Care Reform Change

Dear \_\_\_\_\_:

A recent change in the tax treatment of over-the-counter (non-prescription) medications may affect you personally. The federal government changed these rules as part of the new federal health reform law, and these new rules apply across the entire country.

If you participate in our health savings account, you currently are able to buy over-the-counter medications using the account funds. As part of federal health reform, the rule changes effective January 1, 2011.

On and after that date, you can no longer buy over-the-counter medications or drugs using the amounts in your account. Two important exceptions apply:

1. You have obtained a valid physician's prescription for that particular medication prior to its purchase, or
2. The drug or medication is insulin.

You can still use over-the-counter medications, but they will not be proper expenses in the absence of a prescription and will face a tax penalty. Currently, the penalty for inappropriate expenses is 10%, but it is increased to 20% as of January 1, 2011. People generally are being wise medical consumers by using over-the-counter medications. Obtaining a prescription defeats that approach. Most people will choose not to get a prescription for these medications if they have to spend time away from work or leisure, particularly if they would incur expenses for visiting a physician. (Some ideas around this situation are mentioned below.)

**How can you prepare for this change, especially if you have counted on these expenses when making your election?**

- If you usually purchase over-the-counter medications, you may have elected a higher amount for your health savings account to take into consideration the cost of these items. You still can complete these purchases prior to January 1, 2011. You certainly may choose to buy those items in advance of when you will actually need to use them. You can use your account for these purchases in 2010, even if you may use the medications or drugs after January 1, 2011. Just be aware of issues such as expiration dates, and consider the supply of these medications you would actually use.
- Do not include the expense for over-the-counter medications when considering the dollar figure for your future election amounts (unless you intend to carry over funds anyway or have good reason to believe you can comply with the prescription requirement).
- If an over-the-counter medication truly is best for you, do ask your physician to provide a prescription for the medication.
  - You may attempt to request that prescription without the hassle and expense of an office visit if your physician previously recommended use

of the medication. Some people plan to send a letter to their physician addressing the request, in lieu of making an appointment. Be sure to include your phone number and other contact information for any questions your doctor's office may have.

- The prescription you request ideally will reflect the longest period of time or highest number of "refills" your physician possibly will authorize. That way you can avoid additional requests and/or additional actual office visits to see your physician. You would simply save your receipts for the medication the same as you usually do and retain the prescription for substantiation to the IRS in the event you are audited.

Over-the Counter Items Other Than Medication -- Please be aware that only over-the-counter *medications* are subject to this rule. Any over-the-counter items other than medications or drugs -- such as crutches or diabetic supplies -- are proper expenses even without a prescription.

Insulin -- As mentioned above, insulin remains a proper expense regardless of a prescription; you would retain your records as you currently do.

Please be aware this description reflects how these rules affect your health savings account. Other similar accounts are subject to these same rules – health flexible spending accounts (funded through a cafeteria plan) and "Archer" medical savings accounts (which are fairly rare).

If you have any questions about this change in the law, please contact me at

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Sincerely,

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