

WHAT'S NEW ABOUT YOUR FLEX PLAN?

The Internal Revenue Service announced that the cost of non-prescription drugs will qualify for reimbursement from flexible spending accounts. IRS officials have indicated that the change acknowledges the fact that an increasing number of prescription drugs have been converted to over-the-counter (OTC) status--a change that usually lowers the price of the medications, but increases the out-of-pocket cost to employees.

This ruling, which is intended to clarify existing law (Code Section 213(d): “medical care to include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.”), nonprescription medications such as antacids, allergy medicines, pain relievers and cold medicines purchased without a doctor's prescription will qualify for reimbursement.

Cosmetics, toiletries such as toothpaste, and dietary supplements that merely contribute to overall health do NOT qualify as eligible expenses.

However, for purposes of the itemized medical expense deduction (Employee's personal tax filing/1040 Form), the cost of such over-the-counter drugs continues to be non-deductible.

IMPORTANT POINTS:

- Over-the-Counter (OTC) drugs for personal use, or for use by the Participant's Spouse or Tax Dependents, to alleviate or treat personal injuries or sickness (e.g., antacid, allergy medicine, pain reliever, cold medicine) are considered eligible Code Section 213 expenses.
- This “clarification” is **retroactively effective as of January 1, 2003**. Participants may submit requests for reimbursement for OTC drugs purchased on or after January 1, 2003.
- This “clarification” is NOT a Qualified Change in Status and does NOT allow:
 - New enrollment (retroactively or currently)
 - Increase, decrease or any change in annual elections (retroactively or currently)
- Specifically, the following OTC drugs were **excluded**:
 - Vitamins
 - Dietary Supplements (herbal, homeopathic and all non-FDA approved remedies)
 - Toiletries / Sundry Items (toothpaste, tissue, etc.)
 - Lotions, soaps, creams, etc. that are for general good health (considered cosmetic)
- ALL reimbursements will require clear, accurate and detailed receipts. For example, receipts indicating “General Pharmacy Item” or “Miscellaneous” may require additional substantiation (or the request may be denied).
- The Participant is responsible for the truthful and accurate submission of all reimbursement requests and accepts all IRS liability due to fraudulent charges or misrepresentations.

For more information, please contact:



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