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Health Care Reform: Over-the-Counter Medications and FSAs, HSAs, HRAs and MSAs

The recently passed health care reform legislation brings changes to what is considered a qualified medical expense for reimbursement purposes from FSAs, HSAs, HRAs and Archer MSAs starting on January 1, 2011.

For the purposes of reimbursements from account-based health plans including health flexible spending arrangements (FSAs) or health reimbursement arrangements (HRAs), as well as distributions from health savings accounts (HSAs) or Archer medical savings accounts (Archer MSAs), qualified medical expenses will refer only to medication or a drug

prescribed by a physician starting on January 1, 2011, with the exception of insulin. Insulin will not require a prescription to be considered a qualified medical expense. If a medication or drug is available over-the-counter (without a prescription), but it is prescribed by a physician, it will be considered a qualified medical expense.

What Does This Mean?

This means that employees with an FSA or HRA cannot use funds in those accounts for over-the-counter medications, unless prescribed by a physician, as of January 1, 2011. Employees may continue to use FSA and HRA account funds for medications prescribed by a physician or insulin. Also, distributions from an HSA or Archer MSA

may not be used to pay for over-the-counter medications, unless prescribed by a physician.

Tax Implications

Currently, distributions from HSAs are subject to a 10 percent excise tax on the amount used on non-qualified medical expenses and Archer MSAs are subject to a 15 percent excise tax. This excise tax will increase to 20 percent on January 1, 2011.

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