

Reimbursement Accounts: Health Care FSA, HRA, Commuter

beneTIPS™

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New releases help clarify reimbursement account rules heading into 2011

Two new sets of information were released last week that helped clarify two particular sources of confusion for employers and administrators:

- < On December 23rd, the Internal Revenue Service (IRS) offered new guidance allowing the continued use of Health Care FSA and HRA debit cards for the purchase of prescribed Over-the-Counter (OTC) medicines and drugs.
- < Congress acted to extend the higher transit account limit of \$230 per month. On paper, this extension was set to expire at the end of this year.

Both of these subjects serve as the basis for discussion in this BeneTIP.

OTC Medicines/Drugs and FSA/HRA Debit Cards - The Latest

In a July 2010 BeneTIP released shortly after the impending January 1, 2011 OTC medicines and drugs exclusion was announced, we issued a statement that participants with access to the Benny™ Prepaid Benefits Card will no longer be able to use the Card to receive automatic reimbursement for OTC medicines. On December 23, 2010, the IRS issued new guidance that

QuickTIP

Over-the-counter items first became eligible for pre-tax treatment through an FSA or HRA with the passing of Internal Revenue Ruling 2003-102 on September 22, 2003. With the enactment of the Affordable Care Act (ACA), effective January 1, 2011, OTC items classified as “medicines or drugs” will only be reimbursable through an FSA or HRA with a prescription.

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modifies the previous guidance to permit participants to continue using FSA and HRA debit cards such as the Benny to purchase OTC medications “for which the taxpayer has a prescription”.

After January 15, 2011, in accordance with the new guidance, the use of debit cards must comply with procedures reflecting those currently followed by pharmacies when selling prescribed medicines or drugs. In a revised Questions and Answers on OTC Medicines and Drugs that was released by the IRS coincident with this announcement, the following information was published:



“Q. If my health FSA or HRA issues a debit card that I use to pay for over-the-counter medicines or drugs, will I still be able to use the card to purchase over-the-counter medicines or drugs after December 31, 2010?”

A. Generally, yes, if you have a prescription for the medicine or drug. For expenses incurred in 2010, you may continue to use an FSA or HRA debit card to purchase over-the-counter medicines or drugs (whether or not you have a prescription) at pharmacies and from mail order and web-based vendors that sell prescription drugs. Starting after January 15, 2011, you may continue to use an FSA or HRA debit card to purchase over-the-counter medicines or drugs at these vendors, so long as you obtain a prescription for the medicine or drug, the prescription is presented to the pharmacist, and the medication is dispensed by the pharmacist and given an Rx number.”

Transit Account Limit

In 2009, Congress increased the limit for transit accounts to be equal to the limit for parking accounts. This temporary increase was enacted as part of the American Recovery and Reinvestment Act. Prior to 2009, the parking limit was \$230 per month while the transit limit was only \$120. **As part of the recent tax package that extended the Bush-era tax cuts, the temporary increase for transit accounts was extended another year** and is now set to expire on December 31, 2011. Unless Congress acts again, on January 1, 2012 the transit limit will revert back to its pre-2009 level of \$120.

Next Steps

The uncertainty of these benefits has presented challenges to employers, who now will need to examine their benefits materials and plan summaries to make changes where applicable. Vantagen is preparing its servicing specialists to handle participant questions on these subjects, as confusion over payment procedures followed at the point-of-sale is anticipated. Also, Vantagen’s planned release of 2011 FSA Welcome Kits (to participants that enrolled effective January 1, 2011) will be delayed until early-to-mid-January as a consequence of the late OTC debit card guidance and need to modify approved materials to reflect this guidance.

Contact

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