



UPDATE!! UPDATE!!

OTC Drug Purchases with Debit Cards

IRS Issues New Guidance on OTC Drug Purchases with Debit Cards

The IRS has issued a notice that provides additional guidance on the use of health debit cards to purchase over-the-counter medicines and drugs. **The notice modifies the process and allows the use of debit cards to purchase prescribed OTC drugs after January 15, 2011 if certain requirements are met.**

The IRS has also updated its Q & A on OTC medicines and drugs (**see the link at the end of this bulletin**).

After January 15, 2011, health debit cards may be used to purchase OTC drugs at drug stores and pharmacies, non-health care merchants that have pharmacies, and mail-order or web-based vendors that sell prescription drugs if the following requirements are met:

- (1) prior to purchase, a prescription (as defined in IRS Notice 2010-59) is presented to the pharmacist, the OTC drug is dispensed by the pharmacist in accordance with applicable legal requirements, and an Rx number is assigned;
- (2) the pharmacy or other vendor retains a record of the Rx number, the name of the purchaser or patient, and the date and amount of the purchase in a manner that meets IRS recordkeeping requirements for card programs;
- (3) the records are available to the employer or its agent upon request;
- (4) the card system will not accept a charge for an OTC drug unless an Rx number has been assigned; and
- (5) the requirements of other IRS guidance regarding card programs are satisfied.

If these requirements are met, the transaction is considered to be fully substantiated at the point of purchase. Cards can also be used to purchase OTC drugs at a 90% pharmacy as provided in IRS Notice 2010-59.

Health FSA and HRA debit cards can be used after January 15, 2011 to purchase OTC drugs from vendors with health care-related merchant category codes (MCCs) if the following requirements are met:

- (1) the pharmacy or other vendor retains a record of the name of the purchaser or patient and the date and amount of the purchase in a manner that meets IRS recordkeeping requirements for card programs;
- (2) the records are available to the employer or its agent upon request, and
- (3) the requirements of other IRS guidance regarding card programs are satisfied.

Transactions meeting these requirements are considered to be fully substantiated at the point of purchase.

Insulin is not subject to health care reform's prescription requirement and will continue to be reimbursable without a prescription.

Note also that the prescription requirement does not apply to OTC items, such as equipment and medical devices. The rules for reimbursing these items or purchasing them with a debit card remain unchanged.

[IRS Notice 2011-5 (Dec. 23, 2010)]

Notice: <http://www.irs.gov/pub/irs-drop/n-11-05.pdf>

News Release:

<http://www.irs.gov/newsroom/article/0,,id=233483,00.html>

Q&As:

<http://www.irs.gov/newsroom/article/0,,id=227308,00.htm>