



# IRS Clarifies Timing of OTC Drug Reimbursements

Information provided by TASC



The Internal Revenue Service has issued new guidance regarding the Patient Protection and Affordable Care Act. Specifically addressed (Section 106-f) are provisions regarding workplace health Plans that reimburse employees for their Over-the-Counter (OCT) medicine purchases. Effective January 1, 2011, the cost of OTC drugs may be reimbursed from these tax-free arrangements only when the medicine has been **prescribed**.

IRS Notice 2010-59 clarifies that in order to be reimbursable after December 31, 2010 the OTC drug must have been prescribed, even if the reimbursement funds were set aside in 2010. Meanwhile, OTC medicines need no prescription prior to January 1, 2011, and may be reimbursed tax-free at any time, pursuant to the terms of the employer's Plan.

As of January 1, 2011, Participants may no longer use a health Flexible Spending Account to purchase OTC medicines. Because this mandate requires complex and significant changes to existing systems, said debit card purchases will not be challenged by the IRS until after January 15, 2011.

IRS Notice 2010-59 defines "prescription" as (a) a written or electronic order for a medicine or drug that meets the legal requirements of a prescription in the state in which the medical expense is incurred and (b) that is issued by an individual who is legally authorized to issue a prescription in that state. The prescription must include a length of time and a new one must be obtained as needed.

TASC will provide additional information regarding required prescriptions and Letters of Medical Necessity as it becomes available.



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