

## SUMMARY OF CHANGES TO FLEXIBLE SPENDING ACCOUNTS effective 1-1-2011

Under the provisions of the recently enacted healthcare reform legislation, please be aware that as of January 1, 2011 over-the-counter (OTC) medications are not eligible for reimbursement under an FSA without a prescription. Outlined below are some details that you may find helpful. This January 1 date applies to expenses incurred on/after that date, even if the FSA plan has the 2.5 month extension in place.

### What Does it Mean?

This legislation affects the eligibility and reimbursement of **OTC MEDICATIONS OR DRUGS ONLY**. It does not affect medications that legally require a prescription to be dispensed (including co-pay prescriptions) or over-the-counter items that **do not** fall in the medicines or drug category, such as bandages, crutches, etc.

### Doctor's Prescription Required for Reimbursement of OTC Medicines or Drugs

In the latest statement released by the IRS, a Letter of Medical Necessity is not an acceptable form of substantiation for over-the-counter medications or drugs, such as aspirin or cough syrup, that are used to treat a medical condition. The IRS notice states that *"a 'prescription' means a written or electronic order for a **medicine or drug** that meets the legal requirements of a prescription...and that is issued by an individual who is legally authorized to issue a prescription..."* Therefore, until further guidance is provided, eflexgroup interprets this notice to mean that OTC **medicines or drugs** MUST be accompanied by a physician's prescription to be eligible for reimbursement under an FSA, HRA or HSA.

### Debit Cards Can No Longer Be Used for OTC Medicines or Drugs starting January 1, 2011

The IAS\* system will not be able to recognize which OTC medications have been prescribed and which have not. Therefore, participants will be required by the IRS to submit manual claims and supporting documentation either online, by fax or mail for all prescribed OTC medicines or drugs.

*\*IAS is a point-of-sale technology and inventory system approved by the IRS to track the eligibility of purchases made by debit cards that are issued in conjunction with Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs) and Health Reimbursement Accounts (HRAs).*

### Debit Cards Can Still Be Used for Pharmacy Prescriptions and other Medical Expenses

The good news is, these rules do not apply to medications that legally require a prescription to be dispensed (e.g., antibiotics or pain medications) or OTC items that are not medicines or drugs. Participants may still purchase a wide range of medical expenses with their debit card after January 1, 2011, including:

- Medical supplies, such as bandages, band-aids, crutches, and wrist supports.
- Vision exams, eyeglasses (including reading glasses), contact lenses and solutions
- Doctor and dentist co-pays
- Health insurance deductibles
- Laser eye surgery
- Orthodontia
- Diabetic supplies (*note: Insulin does not require a prescription to remain an eligible expense*)

*Please note: Because OTC medications can be purchased "off-the-shelf", participants may choose to have their OTC medications dispensed through the pharmacy (thereby receiving an Rx number). Or, according to the latest IRS release, participants may purchase their medicines over the counter and submit a manual claim with their receipt and a copy of their prescription. In either case, the prescription should include the name of the prescribed OTC item, the date the prescription begins and the number of refills allowed, if applicable.*

While we as participants certainly enjoy having over-the-counter drugs reimbursable through our Health FSAs, the statistics show that the vast majority of annual election amounts gets used for items such as deductibles, copays and coinsurance, dental and vision expenses, and that over-the-counter drugs represent a very small percentage of reimbursements. Even with the new change, the Health FSA remains a significant and effective tool for employees to save valuable tax dollars on their out-of-pocket medical, dental and vision expenses.