



**The Patient Protection and Affordable Care Act bill enacted on March 23, 2010 imposes a significant change to the ability to seek reimbursement for certain over the counter items through your Health Flexible Spending Account / Health Reimbursement Arrangements (HRA/VEBA).**

**What the bill says in regards to this change:**

SEC. 9003. DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

(c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) REIMBURSEMENTS FOR MEDICINE RESTRICTED TO PRESCRIBED DRUGS AND INSULIN.—For purposes of this section and section 105, reimbursement for expenses incurred for a medicine or a drug shall be treated as a reimbursement for medical expenses only if such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin.”.

(d) EFFECTIVE DATES.—

2) REIMBURSEMENTS.—The amendment made by subsection (c) shall apply to expenses incurred with respect to taxable years beginning after December 31, 2010.

**What this means to you:**

Your Health Flexible Spending Account / Health Reimbursement Arrangement (HRA/VEBA) will not be able to reimburse over the counter drug or medicine expenses that incur on or after January 1, 2011 without a prescription. Under the new law, only expenses for drugs or medicines that are “prescribed” will be eligible for reimbursement. Without further clarification from the IRS we believe this means that drugs or medicines sold without a prescription will be eligible for reimbursement **only** if the individual obtains a doctor’s prescription for the drug or medicine ( even though it could be purchased without one). This means that the reimbursement of drugs or medicines like, pain relievers, cough medicines, allergy relievers, acid controllers, etc. **will not be allowed** under your plan(s) starting on January 1, 2011, **unless** you submit a prescription from a physician (on a prescription pad) when requesting reimbursement.

Also understand that this change **does not** impact the reimbursement of over the counter items such as contact lenses cleaners / solutions, bandages or other medical care expense items, these are still eligible expenses and will be reimbursed with proper documentation.

In the event IRS issues additional guidance regarding this new requirement that would expand or narrow our current understanding of the law we will provide an update as it becomes available.

**Action you should take:**

**Please take this change into consideration when making your health flexible spending account election for the upcoming plan year.**