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Flex plans more flexible

Health-care flexible-spending reimbursement now applies to over-the-counter drugs, IRS says.

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Buying over-the-counter Claritin is nothing to sneeze at for many people at companies that offer flexible-spending accounts for health-care costs.

New cost savings
Here's who can benefit from a new IRS ruling that allows workers to be reimbursed from health-care flexible-spending accounts for over-the-counter drugs: • You must have signed up for and contributed to a health-care flexible-savings account to get the reimbursement. • Your company must agree to reimburse for over-the-counter drugs, which it is not required to do. Some plans' administrators may not adopt the new rule until next year. • The expenses must be for medical care, like Claritin, above. Vitamins and herbal remedies are not included. • The new rule might encourage more companies and workers to set up health-care flexible-savings accounts, which reduce workers' income taxes and companies' payroll taxes since the accounts are funded from pretax earnings.

The Internal Revenue Service has expanded its rules for these accounts to allow reimbursement for nonprescription medications ranging from aspirin to new over-the-counter drugs such as Claritin and Prilosec. Drug expenditures previously could be reimbursed only for medication issued by prescription. Even though the IRS issued the ruling Sept. 3, many companies aren't aware of the expanded benefits now allowed by the IRS. Carol Ramsey, human-resources manager at **BitCentral Inc.** in Irvine, just learned about it this week when contacted for this story. "It's a great enhancement," said Ramsey, who said she might start getting reimbursed for purchases of aspirin and other pain relievers. John Melbon, who does employee-benefit planning and flexible-spending accounts for **Benefit Partners** in Irvine, said the ruling would be a boon to employees enrolled in these plans. "It simply expands the opportunities," said Melbon, noting that more and more prescription drugs like Claritin, which formerly were covered by health insurance, are now becoming over-the-counter medications that aren't covered. "It will help employees more effectively handle their expenses with pretax dollars," he said.

By using flexible-spending accounts, workers can save money by setting aside pretax dollars from their paychecks to pay health-care expenses not covered by insurance. For instance, a worker in the 30 percent tax bracket would save $30 in taxes for every $100 contributed to a flexible-spending account.

According to **Hewitt Associates**, an international human-resources consulting and outsourcing firm, most companies allow employees to set aside up to $3,000 a year. That would translate into a $900 annual tax savings for someone in the 30 percent tax bracket. Jeffrey Kolsin, a Fountain Valley CPA, called the ruling "a great benefit," but cautioned about some potential pitfalls. The new IRS rule allows reimbursement for medicine and drugs for "medical care," which includes payments for "diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body."

Vitamins or other dietary supplements are not included because they are only beneficial for a person's general health but not for their medical care, the ruling said. The IRS also excludes toiletries such as toothpaste, cosmetics and sundries that aren't medicines or drugs, but there are gray areas. "What about nose sprays and eye drops and other kinds of things?" Kolsin asked. The ruling doesn't specify.

Kolsin also was concerned about whether receipts for over-the-counter medications would be detailed enough. Prescription-drug receipts usually itemize the drug and the name of the person for whom it is prescribed so they can easily be submitted for reimbursement. Most receipts for over-the-counter medications don't identify the person who will use it, and some don't identify the medication itself by name. That could not only complicate efforts to get reimbursement but Kolsin also worries about the potential for fraud by employees buying medications for family members and friends not covered under the plan. "Ultimately, the business will be held liable," he said. Jesse Weller, an IRS spokesman, cautioned workers not to assume that they're covered by the new rules without first checking with their plan. In some cases, Weller said, flexible-spending plans only allow for reimbursements for medical expenses that are deductible from income taxes – a much narrower definition than now allowed by the IRS.

Other plans may have language that's loosely worded enough to allow the reimbursements now, but plan administrators may decide not to allow them until next year.

"If their plan doesn't permit it, (the company) doesn't have to change it," Weller said.

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