FSA and HSA Changes in the Health Care Reform Law

The health care reform law enacted on March 23, 2010 changes how employees can use their FSA and HSA funds. Employees need to consider the following new rules when estimating how much money to put into their FSAs or HSAs for the next benefit year.

Changes Effective January 1, 2011

- Employees with an FSA or HSA can no longer use their account funds to purchase over-the-counter (OTC) drugs and medicines unless they have a prescription for those drugs from their doctor or it is insulin.
- If an employee has a prescription for an OTC drug or medicine:
  - ~He or she must pay at the point of service and submit a manual claim for any FSA reimbursement.
  - ~For HSA debit card, check or cash, he or she does not need to file a manual HSA claim, but should keep all receipts in the event of a substantiation audit.
- For FSA money, these new rules apply to expenses incurred on or after January 1, 2011.

These changes are especially important for groups who are preparing for open enrollment for new plan years that begin before January 1, but whose benefit year will cross into 2011. For example: a group's new plan year begins August 1, 2010. For the first five months of the plan year (August 1 – December 31, 2010), OTC drugs will qualify for reimbursement. But starting on January 1, 2011, OTC purchases without a prescription will not qualify for reimbursement.

Employees need to be careful in predicting their FSA expenditures so that they do not overestimate what they will need to put into their accounts.

For taxable years beginning after December 31, 2012, the Health FSA salary reduction amount will be capped at $2,500, adjusted by inflation in subsequent years.

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