



The Vita Viewpoint

Important Information for Decision Makers

Section 125 Health FSA IRS Releases Change of Rules Over-the-Counter Drugs Now Okay to Reimburse!

The Release

- On September 3, 2003, the IRS issued Revenue Ruling 2003-102, which offers a sweeping change from prior IRS policy.
- This ruling re-categorizes non-prescription drugs and medicines purchased over the counter as eligible expenses under health FSA plans.
- Effective immediately! Non-prescription drugs and medications may be reimbursed under health FSA plans for the remainder of the 2003 Plan Year.
- The change was motivated by the shift of so many prescription drugs to OTC status. However because lines cannot be drawn to apply only to drugs that previously required a prescription, the result is a significant expansion in the number of drugs and medicines that can now be considered eligible expenses.

Which Medicines are Okay Now?

- Any non-prescription drugs that are used to treat an illness or injury are eligible for reimbursement.
- This includes antacids, allergy medications, pain relievers, cold medicines, or similar medicines.

Which Medicines are Still Not Okay?

- The ruling clarifies that eligible drugs and medicines must still be used to treat a medical condition and not used simply for the general health of a participant or dependents.
- This means vitamins, dietary supplements, and any other drugs that are merely beneficial for general health, rather than for the treatment of a specific medical condition, are not eligible.
- Cosmetic drugs and medicines are still not eligible. Additionally, personal toiletries such as deodorant, ChapStick, soap, and shampoo remain ineligible.

Effect on 2004 Elections

- This is good news for participants in the process of making elections for the 2004 Plan Year.
- The change will allow participants to seek reimbursement for expenses under their own control, rather than solely under a physician's control. It provides a significant shift in participants' ability to manage their own health FSA expenses.
- We anticipate this change will enable more participants to feel comfortable participating in health FSA plans and relax some fears about the use-it-or-lose-it rule.

How will VitaFlex Claims be Administered?

- Vita will begin accepting non-prescription drugs and medicines as eligible expenses effective immediately, if the expense was incurred on or after September 3, 2003.
- Required documentation will be a copy of a cash register receipt which itemizes the individual product and the associated expense.

For questions or additional information, please contact Vita Benefits Group at (650) 968-8811.