



The Vita Viewpoint Important Information for Decision Makers

Section 125 – “New Proposed Regulations on Debit Cards”

Background

The IRS published Notice 2006-69 on July 12, 2006 which included guidance on the use of debit cards to reimburse participants through Flexible Spending Accounts, Health Reimbursement Accounts, and Health Savings Accounts.

Highlights

- The notice blessed auto-substantiation for any transaction that matches a multiple of a copay up to *five* times.
- The notice affirmed the use of SKU (Stock Keeping Units) level adjudication which allows expenses to be verified as eligible or ineligible at the point of sale. It also established a specific requirement that merchants maintain records surrounding their SKU level adjudication methodology.
- The notice confirmed that participants are not allowed to self-substantiate or self-certify their benefit payment amounts. These must be substantiated by a third party, such as an insurance carrier Explanation of Benefits or receipt.
- In the notice, authorities raised some questions regarding the use of debit cards at non-health care related merchants such as grocery stores and variety stores. Unfortunately, no definitive conclusion was offered and we are awaiting further guidance in this area.
- The notice also delivered new restrictions on how the debit cards can be used to pay for qualified Dependent Care expenses. We believe that the proposed regulations are absolutely not workable in the real world and plan to offer commentary to the IRS on the non-workability of these directives.

Commentary

In general, we are pleased with the proposed regulations, as they provide useful clarification regarding multiple copay auto-adjudication and issues with SKU level adjudication. The proposed regulations leave us with a very clear idea of what is acceptable in both of these areas. On the other hand, the new Dependent Care guidelines leave us with a process that is very difficult and cumbersome. We hope that the IRS will rethink this portion upon further commentary.

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