

Over-the-Counter Products

Effective January 1, 2011, the Patient Protection and Affordable Care Act of 2010 changes the rules for the purchase of over-the-counter (OTC) products using funds from Flexible Spending Accounts (FSAs) and Health Reimbursement Accounts (HRAs).

Here are some of the key changes to remember:

1. OTC items are classified as either “drugs and medicine” or “not drugs and medicine”.
2. There are no changes to the “not drugs and medicine” items. These items will continue to be covered by FSA and HRA Plans. If part of your Plan’s program, the EBS Flex Card will continue to be accepted as a method of payment for these items (dependent on the merchant’s IAS participation).
3. Items classified as “drugs and medicine” will no longer be covered by FSA and HRA Plans, *unless* specified on a Certification of Medical Necessity form completed by a physician. Certification of Medical Necessity forms can be found in the Document Library section of this website.
4. Items classified as “drugs and medicine” that are allowable due to the Certification of Medical Necessity, must be paid for at the point of sale, and a Reimbursement Request form must be submitted for repayment. The EBS Flex Card *cannot* be used to pay for “drugs and medicine”, per the IRS rules. Reimbursement Request forms can be found in the Document Library section of this website.

Participants should:

1. Consider the new OTC rules when determining FSA and HRA elections for the next Plan year.
2. Plan ahead and possibly purchase “drugs and medicine” items before January 1, 2011 to properly spend down the current Plan year election. *(Note: Stockpiling OTC “drug and medicine” items is not allowed and requests for quantities deemed to be stockpiled will be denied).*
3. Remember that the CMN requirement for “drugs and medicine” purchase is effective on January 1, 2011. This applies to all purchases in 2011 even if they are attributable to a prior year’s account balance. *(Note: January 1, 2011 is a set date, and is not tied in any way to your Plan year).*

It is important to note that these rules are subject to interpretation and changes to the rules may occur between now and the effective date. Please continue to check EBS-RMSCO’s myebsaccount.com website for updated information.