

# OTC Medicines and Drugs : Changes Effective January 1, 2011

## What Changed?

In March, 2010, President Obama signed Public Law 111-148, the Patient Protection and Affordable Care Act. Section 9003 of that legislation amended previous legislated definitions of which over-the-counter (OTC) healthcare expenses are eligible for tax-advantaged benefits plans like FSAs, HRAs, and HSAs. The language made the current definition very clear: "...reimbursement for expenses incurred for a medicine or drug shall be treated as a reimbursement for medical expenses only if such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin."



## What is a "Letter of Medical Necessity"?

Basically a note from your medical practitioner, the Letter of Medical Necessity is needed when purchasing certain OTC medications to treat a condition. Such a Letter should clearly state:

- The individual's name and the medicine you or your family member requires.
- The dosage, duration, and frequency for each OTC medicine needed.

For example, if you require a packet of acid reflux medication each month for twelve months, the Letter or prescription must clearly state this. In most cases, it should also be signed by the medical practitioner.

## Important Points

- Over-the-counter (OTC) medicines and drugs purchased after December 31, 2010, require a prescription or Letter of Medical Necessity. **SEE PAGE 2 FOR A LIST OF EXAMPLES**
- OTC medical supplies continue as eligible after December 31, 2010.
- Only a small percentage of your total FSA election amount should be affected.
- TASC suggests that you continue to make your FSA elections as usual.

## What Does This Mean to Me?

Interpreted literally and as it pertains to your FlexSystem Medical FSA elections, this legislation is clarified as follows:

- While all medically necessary medicines continue to be FSA eligible, some items may require additional substantiation.
- OTC medicines and drugs are FSA ineligible as of January 1, 2011, unless you retain a prescription or Letter of Medical Necessity from your medical practitioner, or if it's insulin.
- OTC health-related supplies continue to be FSA eligible after December 31, 2010.

If you require a medicine or drug for a medical condition you will need to request a prescription or Letter of Medical Necessity for such from your healthcare provider. This medical practitioner authorization will then render the expense(s) eligible under your FlexSystem Medical FSA Plan.

This change for OTCs will likely affect only a small percentage of your medical FSA reimbursements. Therefore, TASC suggests that you continue to make your FSA elections as usual. Like other Plan Participants, it is highly likely that you will use these funds for reimbursement of other expenses in lieu of those now deemed ineligible due to this change.



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## What Should I Do During My FlexSystem Reenrollment?

This change for OTC medicines is expected to affect only a small percentage of your medical FSA reimbursements. Therefore, TASC suggests that you continue to make your FSA elections as usual. Like other Plan Participants, it is highly likely that you will use these funds for reimbursement of other expenses in lieu of those now deemed ineligible due to this change.

If additional legislative clarification subsequently affects previous medical FSA election decisions, TASC will allow Participants to alter previously elected amounts. This flexibility reflects our pro-Participant corporate philosophy, and helps ensure that Participants are not adversely affected by the use-it-or-lose-it rule. Further, we will back this policy with our exclusive Audit Guarantee.

## What Should I Do For the Remainder of This Plan Year?

The new rules go into affect January 1, 2011. Therefore, if you expect to make OTC medicine or drug purchases, we encourage you to make those purchases on or before December 31, 2010. If you incur OTC expenses after that date, you may need to obtain a prescription or Letter of Medical Necessity from your medical practitioner.

## Examples of Expense Types

Items that will require a prescription or Letter of Medical Necessity AFTER December 31, 2010 include the following.

Acid Controllers	Anti-Itch and Insect Bite	Digestive Aids	Pain Relief
Allergy and Sinus	Antiparasitic Treatments	Feminine Anti-Fungal/Anti-Itch	Respiratory Treatments
Antibiotic Products	Baby Rash Ointments and Creams	Hemorrhoidal Medications	Sleep Aids and Sedatives
Anti-Gas and Diarrheals	Cough, Cold and Flu	Laxatives	Stomach Remedies

Items that will remain eligible and need no physician authorization include the following.

Bandages & First Aid Dressings	Contact Lens Solution	Heating Pads	Orthopedic Aids
Birth Control Products	Denture Products	Hot, Cold & Steam Packs	Pregnancy & Fertility Kits
Blood Pressure Kits	Diabetes Testing Supplies	Incontinence Products	Splints, Supports & Braces
Canes & Walkers	Durable Medical Equipment	Insulin	Thermometers
Contact Lenses	Hearing Aid Batteries	Nebulizers	Wheelchair & Accessories

