

IRS Rules Allow FSAs to Reimburse for Over-The-Counter Drugs

IRS Revenue Ruling 2003-102 - Over-The-Counter Drug Reimbursement Under Health Care Flexible Spending Accounts (FSA)

On September 3, 2003, the IRS and the Treasury Department released Revenue Ruling 2003-102 that allows for reimbursement of over-the-counter medicines under health care flexible spending accounts. In order for the over-the-counter drug to be reimbursable, it must be purchased to alleviate or treat personal injuries or sickness – not merely for benefiting one's general health.

Most plans will need to be amended to allow for coverage of over-the-counter drugs. If your health care FSA Plan Document requires an amendment, the amendment will be completed and sent to you for signature unless you are notified otherwise. The changes will be effective on the first day of the next plan year.

Claims must be submitted with the proper documentation including a signed Flexible Spending Reimbursement Form, the name of the family member for whom the drug was purchased, the name of the drug and the dated receipt from the store where the drug was purchased.

For plans that offer automatic rollover of balances from the medical plan to the FSA account, employees may not submit claims for over-the-counter drugs to the medical plan and expect it to rollover directly to their FSA account. A Flexible Spending Reimbursement Form is required to be submitted with any claim for over-the-counter drugs, therefore, those claims need to be submitted directly to the FSA processing unit at:

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PO Box 6309
Syracuse, NY 13217-6309

See Reverse for A Full List of Drugs Which Are/Aren't Covered By This Ruling

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Summary of Over-The-Counter Drugs Affected*

The following is a list of non-prescription drugs that are reimbursable under an FSA:

Drug	Example(s)
<ul style="list-style-type: none"> Acne medicines with non-prescription active ingredients such as benzoyl peroxide or salicylic acid 	<i>Clearasil</i>
<ul style="list-style-type: none"> Allergy medicines 	<i>Claritin, Sudafed</i>
<ul style="list-style-type: none"> Antacids 	<i>Prilosec, Pepcid AC</i>
<ul style="list-style-type: none"> Anti-fungal foot creams 	<i>Lotrimin AF</i>
<ul style="list-style-type: none"> Cold medicines 	<i>Benadryl, Nyquil</i>
<ul style="list-style-type: none"> Gastrointestinal medications 	<i>Imodium, Pepto-Bismol</i>
<ul style="list-style-type: none"> Genital and urinary tract infection drugs 	<i>Gynolotrimin, miconazole cream</i>
<ul style="list-style-type: none"> Insomnia medications 	<i>Tylenol PM, Unisom</i>
<ul style="list-style-type: none"> Pain relievers 	<i>Motrin IB, aspirin</i>
<ul style="list-style-type: none"> Wart removal medications 	<i>Compound W, Clear Away, etc</i>
<ul style="list-style-type: none"> Any other drug or medicine that is purchased to alleviate or treat personal injuries or sickness – not merely for the benefit of one’s general health 	

The following is a list of non-prescription drugs that are not reimbursable under an FSA:

Drug	Example(s)
<ul style="list-style-type: none"> Cosmetics 	<i>face creams, make-up, etc</i>
<ul style="list-style-type: none"> Dietary supplements used for the general health of an individual - the Plan will only cover prescription dietary supplements for the treatment of disease 	<i>prescription strength iron supplements for the treatment of anemia</i>
<ul style="list-style-type: none"> Herbal supplements 	<i>Ginko Biloba, St. John’s Wart</i>
<ul style="list-style-type: none"> Sundry items and toiletries 	<i>toothpaste, toothbrushes, make-up brushes, soap, cotton balls, alcohol prep pads, etc</i>
<ul style="list-style-type: none"> Items used for cosmetic purposes 	<i>Propecia, Rogaine</i>

**Note: These lists are not all-inclusive. There may be drugs or classes of drugs not mentioned above that are reimbursable or excluded. A good rule of thumb is this: If the drug contains an active ingredient that was once only available by prescription (e.g. Claritin, Prilosec, Zantac, Imodium, benzoyl peroxide) or if the active ingredient is available by prescription if it is used in a higher strength (e.g. Motrin/Advil/ibuprofen, Aleve/naproxen sodium), it should be reimbursed under the FSA.*

This ruling does not change any other provision of the IRS Code except for the coverage of over-the-counter drugs under FSA’s. Over-the-counter drugs are still not eligible for deduction on your income tax return. All other covered and excluded expenses according to the IRS will remain the same.