



**Affordable Care Act: Questions and Answers on
Over-the-Counter (OTC) Medicines and Drugs
Important Changes Effective January 1, 2011**



Q. How are the rules changing for reimbursing the cost of over-the-counter (OTC) medicines and drugs from General-Purpose Medical Flexible Spending Accounts (FSAs), Health Reimbursement Arrangements (HRAs), and Health Savings Accounts (HSA)?

A. Section 9003 of the Affordable Care Act established a new uniform standard for medical expenses. Effective **January 1, 2011**, distributions from General-Purpose Medical FSAs, HRAs, and HSAs will be allowed to reimburse the cost of OTC medicines and drugs **only if they are purchased with a prescription**. This new rule does not apply to reimbursements for the cost of insulin, which will continue to be permitted, even if purchased without a prescription. **IRS Notice 2010-59** (the “OTC Notice”), issued on September 3, 2010, provided some clarification regarding the limitation imposed by the Patient Protection and Affordable Care Act (PPACA).

Q. When will the changes become effective?

A. The changes are effective for purchases of over-the-counter medicines (OTC) and drugs without a prescription after **December 31, 2010**.

Q. How do I prove that I have purchased an over-the-counter medicine (OTC) or drug with a prescription so that I can get reimbursed from my employer's General-Purpose Medical FSA or an HRA?

A. If your employer’s General-Purpose Medical FSA or HRA reimburses these expenses, you would provide the prescription (or a copy of the prescription or another item showing that a prescription for the item has been issued) and the customer receipt (or similar third-party documentation showing the date of the sale and the amount of the charge). For example, documentation could consist of a customer receipt from the pharmacy that identifies the name of the purchaser (or the name of the person for whom the prescription applies), the date and amount of the purchase **and an Rx number**.

Q. What types of OTC items will be impacted by the new rule?

A. A **partial listing** of types/examples of expenses that **will now require a prescription** for reimbursement below:

Acid Controllers (i.e. Prilosec)	Baby Rash Ointments/Creams (i.e. Desitin)	Motion Sickness (i.e. Dramamine)
Allergy and Sinus (i.e. Claritin)	Cold Sore Remedies (i.e. Abreva)	Pain Relief (i.e. Tylenol/Motrin)
Antibiotic Products (i.e. Neosporin)	Cough, Cold & Flu (i.e. Nyquil)	Respiratory Treatments (i.e. Mucinex)
Anti-Diarrheals (i.e. Imodium)	Digestive Aids (i.e. Lactaid)	Sleep Aids (i.e. Unisom)
Anti-Gas (i.e. Gas-Ex)	Feminine Anti-fungal (i.e. Vagisil)	Stomach Remedies (i.e. Pepto Bismal)
Anti-itch/Insect Bite (i.e. Cortaid, Calamine Lotion)	Hemorrhoidal Medications (i.e. Preparation H)	Laxatives (i.e. Metamucil)

Q. Will I need a prescription to use my General-Purpose Medical FSA, HRA, or HSA for insulin purchases after December 31, 2010?

A. No. You can continue to use your General-Purpose Medical FSA, HRA, or HSA to purchase insulin without a prescription after December 31, 2010.

Q. How does this change affect over-the-counter medical devices and supplies?

A. The new rule does not apply to items for medical care that are not medicines or drugs. Thus, items such as crutches, supplies such as bandages, and diagnostic devices such as blood sugar test kits will still qualify for reimbursement by a General-Purpose Medical FSA or HRA if purchased after December 31, 2010, regardless of whether the items are purchased using a prescription. You may still receive reimbursement for these items by submitting the cash register receipt containing a description of the item, the date purchased, and the name of the dependent the item was purchased for along with your FSA or HRA Claim Form.

A **partial listing** of types/examples of expenses that **will not require a prescription** for reimbursement below:

Ankle/Knee/Wrist braces	Durable Medical Equipment (i.e. Hospital beds, wheelchairs, crutches, etc.)	Reading glasses
Bandages	Heating Pads	Thermometers
Band-aids	Contact Lens Solutions	Ice Packs
Diabetic Test Strips	Blood Pressure Cuffs	Compression Stockings

Q. How does this change affect over-the-counter vitamins and herbal supplements?

A. The Federal Drug Administration (FDA) does not recognize Vitamins and Supplements as “medicine” therefore, the new OTC standards do not apply. While Vitamins and Supplements will not qualify if used to maintain general health, **Vitamins and Supplements may qualify if recommended by a medical practitioner for treatment of a specific medical condition.** To show the expense is primarily for medical care, a letter from a medical practitioner recommending the item to treat a specific medical condition (letter must state the condition and must be updated once per plan year) will be required to approve as a qualifying medical expense under the General-Purpose Medical Reimbursement.