

# New OTC Rule Fact Sheet

## For Health Care Account Participants

### Background

In early 2010, the Affordable Care Act was passed as part of the health care reform initiative. Included in the law was a new rule that requires a doctor's prescription for the reimbursement of Over-the-Counter (OTC) drugs and medicines from a health flexible spending or savings account.

### What Accounts Are Affected by the New OTC Rule?

The law applies to Health Flexible Spending Accounts (FSAs), Health Reimbursement Arrangements (HRAs), Health Savings Accounts (HSAs) and Archer Medical Savings Accounts (Archer MSAs). FSA and HRA participants will need to submit either a receipt listing an Rx number or the prescription along with a receipt detailing the purchase in order to be reimbursed. HSA and Archer MSA participants will need to keep the prescription along with the receipt for their tax records in order to avoid IRS penalties.

### When Does the Change Take Effect?

The law takes effect on January 1, 2011, which means that any OTC drug or medicine purchase made in 2011 will require a doctor's prescription before it can be reimbursed from one of the covered health care accounts.

### What about Plans with a Grace Period?

If your employer's plan includes a grace period that extends the reimbursement period into 2011, you will still need to get a doctor's prescription for any OTC drug or medicine purchased in 2011.

### What Does the Change Mean for Accountholders?

To put it simply, the new rule adds an extra step in the process. Prior to 2011, eligible purchases could be debited directly from the account with a WageWorks Health Care Card at a merchant that met IRS-rules for the use of debit cards. And, for purchases at other merchants, all that was required for reimbursement was a valid receipt. Now any accountholder seeking reimbursement will have to first go to a doctor for a prescription, which will then need to be submitted to WageWorks along with the receipt. It's important to remember that you will still be able to use your account for the same OTC drugs and medicines as before. You will just need a doctor's prescription before you can be reimbursed.

### What Exactly Is a Prescription for an OTC Drug or Medicine?

A prescription for an OTC drug or medicine should be exactly the same as one for a drug or medicine that can only be obtained with a doctor's prescription. When you go to the doctor, simply ask him or her to write you a prescription for the item for which you want to be reimbursed. The prescription will need to comply with state prescription laws, but generally, if the prescription is written on a prescription pad, it should be sufficient.

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## Can the WageWorks Health Care Card Be Used to Purchase OTC Drugs and Medicines?

In most instances, no. The WageWorks Health Care Card is coded so that it can only be used for eligible items at qualified merchants with an IRS-approved inventory system. When the new law takes effect in 2011, OTC drugs and medicines will be removed from the list of items eligible for purchase with the Card. In some instances, you may be able to purchase OTC items at specialized pharmacies that meet IRS exceptions to accept the Card without the inventory system. In those instances, FSA and HRA participants will need to submit either the receipt listing an Rx number or the prescription along with a receipt detailing the purchase for verification and to avoid having the Card suspended.

## What Specific OTC Drugs and Medicines Will Require a Prescription and Which Will Not?

As a general rule, any OTC drug or medicine that you take orally or topically will require a prescription. What will not require a prescription are medical devices (such as monitors) and supplies (such as bandages and contact lens solution). Insulin and diabetic supplies are also items that will not require a prescription. For your convenience, we've created a summary list of common items that can and cannot be reimbursed without a doctor's prescription.

FSA Eligible Medical Items That <u>Do NOT</u> Require a Doctor's Prescription	FSA Eligible Medical Items That <u>NOW</u> Require a Doctor's Prescription
<ul style="list-style-type: none"> <li>Bandages and related items (over-the-counter)</li> <li>Birth control (over-the-counter)</li> <li>Blood pressure monitors</li> <li>Cholesterol test kits and supplies</li> <li>Condoms</li> <li>Contact lenses, cleaning solutions, etc.</li> <li>Crutches, canes, walkers or like equipment (purchase or rental)</li> <li>Dentures, bridges, etc.</li> <li>Diabetic monitors, test kits, strips and supplies</li> <li>Eye related equipment/materials</li> <li>Eyeglasses (over-the-counter)</li> <li>Fertility monitors (over-the-counter)</li> <li>First aid kits (over-the-counter)</li> <li>Hearing aids and batteries</li> <li>Incontinence supplies</li> <li>Insulin, testing materials and supplies</li> <li>Magnetic therapy (over-the-counter)</li> <li>Medical equipment (for treatment of medical condition) &amp; repairs</li> <li>Medical monitoring and testing devices</li> <li>Medical supplies (for treatment of a medical condition)</li> <li>Monitors &amp; test kits (over-the-counter)</li> <li>Occlusal guards to prevent teeth grinding</li> <li>Orthotics</li> <li>Orthopedic and surgical supports</li> <li>Over-the-counter bandages and related items</li> <li>Ovulation monitor (over-the-counter)</li> <li>Pregnancy tests (over-the-counter)</li> <li>Reading glasses (over the counter)</li> <li>Teeth grinding prevention devices</li> <li>Urological products</li> <li>Walking aids (canes, walkers, crutches and related supplies)</li> <li>Wheelchair and repairs</li> <li>Wound care (over-the-counter)</li> </ul>	<ul style="list-style-type: none"> <li>Acne treatments</li> <li>Allergy &amp; sinus medicine and products</li> <li>Antacids</li> <li>Antibiotic ointment</li> <li>Aspirin or other pain relievers</li> <li>Asthma medicines or treatments</li> <li>Canker &amp; cold sore treatments</li> <li>Chest rubs</li> <li>Cold &amp; flu medicines</li> <li>Corn and callus removers</li> <li>Cough drops &amp; sore throat lozenges</li> <li>Cough syrup</li> <li>Diaper rash ointments and creams</li> <li>Ear drops &amp; wax removal</li> <li>Gastrointestinal medications</li> <li>Herbal or homeopathic medicines</li> <li>Laxatives</li> <li>Lice treatments</li> <li>Motion &amp; nausea medicines</li> <li>Over-the-counter products for dental, oral and teething pain</li> <li>Pain relievers</li> <li>Propecia (for treatment of a medical condition)</li> <li>Retin-A (for non-cosmetic purposes)</li> <li>Sleep aids</li> <li>Toothache and teething pain relievers</li> <li>Wart removal treatments</li> </ul>