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Benefit Strategies, LLC

December 31, 2010

### IRS Provides Further Guidance with Respect to Health Debit Cards and OTC Drugs

As a result of the Health Care Reform Act there are significant changes to the eligibility of over-the-counter (OTC) drug expenses through Flexible Spending Accounts (FSAs). Effective January 1, 2011, FSA, participants will be required to obtain a prescription from a licensed health care professional for all OTC drugs or medicines in order to assure eligibility.

On December 23, 2010 the IRS has provided additional clarification on how health expense debit cards may be used to pay for prescribed over-the-counter drugs. IRS Notice 2011-5 clarifies that participants have the following two options available to obtain reimbursement:

**Option 1:** Purchase prescribed over-the-counter drugs or medicines at the pharmacy - Health FSA debit cards may be used for OTC medicines and drugs if:

- a. Prior to the purchase a prescription is presented to a pharmacist
- b. The pharmacist then dispenses the drug in accordance with applicable law
- c. Rx number is assigned (The health debit card system will not work unless an Rx number is assigned)
- d. The pharmacist retains certain records (the Rx number, the name of the purchaser or the name of the person for whom the prescription applies, and the date and amount of the purchase), and the records are accessible by the employer's plan or its agent.

**Option 2:** Purchase OTC drug or medicine over-the-counter - Should the participant obtain the appropriate prescription for the OTC drug or medicine, he or she can pay out of pocket at the normal register and then submit for reimbursement. To be reimbursed through their FSA the participant must submit a completed claim form, receipt of purchase and a legal prescription that corresponds with the OTC drug or medicine purchased to Benefit Strategies for review.

Sincerely,

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