



Benefits Briefing

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Editor's Note

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In an effort to keep you informed of regulation issues and new developments, we will be sending quarterly issues of our newsletter, Benefits Briefing. If there are HR contacts at your company who would benefit from this, please give us their names and email addresses, and we will add them to the distribution list.

IRS Allows Reimbursement for Over the Counter Drugs from FSAs

On September 3, 2003 the IRS released Revenue Ruling 2003-102 addressing the reimbursement of over the counter drugs. The ruling addressed medicines, drugs, and dietary supplements purchased by an employee without a physician's prescription. The Revenue Ruling's Holding reads:

“Reimbursements by an employer of amounts paid by an employee for medicines and drugs purchased by the employee without a physician's prescription are excludable from gross income under Section 105(b). However, amounts paid by an employee for dietary supplements that are merely beneficial to the general health of the employee or the employee's spouse or dependents, are not reimbursable or excludable from income under Section 105(b).”

Employers will need to review their plan documents and communication materials which may contain the IRS Code Section 213(b) language that permits only amounts paid for a medicine or drug if it requires a prescription of a physician for its use. You may want to amend them to include the more liberal terms of RR 2003-102. There is no effective date for the ruling, so the amendment could be effective in 2003 (prospectively from the date of the amendment) or January 1, 2004. For the remainder of current plan years, we will assume reimbursement for OTC Drugs is prohibited in employers current plan documents and will not honor claims unless specifically directed by an employer.

The Ruling does not affect Section 213(b), so over the counter drugs will continue to not be deductible as medical expenses on Schedule A of employees' tax returns. This should make participation in FSAs even more attractive to employees.

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Debit Card Update

Harry Becker, Chief of the Health and Welfare Branch at the IRS, spoke at the ECFC's 16th Annual Cafeteria Plan Administrators' Symposium on August 15, 2003. In his comments, he indicated the IRS was revisiting Revenue Ruling 2003-43 on Debit Cards with respect to issuing 1099s. The ruling requires employers using debit cards to issue 1099s to providers paid more than \$600 in aggregate from debit cards used in an FSA. He hoped that the IRS would have a decision by the end of the year on delaying the enforcement of the 1099 requirement or waiving the requirement entirely, but that currently the requirement would be in effect for 2004.

Mr. Becker also reiterated his position that all debit card reimbursements require substantiation from an independent third party. With the exception of prescription co-pays electronically

substantiated by a Pharmacy Benefit Manager (PBM) or medical provider co-pays matched to the exact co-pay amounts specific to the plan an employee is enrolled in, debit card charges must be substantiated by submission of a claim form and statement from a third party – similar to current claims submission procedures. If not substantiated, the employer, TPA, administrator, or service provider must seek reimbursement –“ pay and chase”.

You may have seen articles in a business or professional publication, or even the Wall Street Journal article on September 2, 2003 about what a great deal Benefit Debit Cards are for employees. Keep in mind that most of these articles are written “with the help of” the card vendors. From the employer’s standpoint, there may be additional administrative burdens associated with both the issuing of debit cards and collecting unsubstantiated payments from employees.

It was the consensus of the administrators participating in the ECFC conference that there was no reduction in their workload administering plans with debit cards and that they were passing on the card cost to the employer, or in some cases to the employee. Costs averaged \$1.50 per card per month. In accounts where debit cards have been introduced, employers have seen significant increases in both the number of participants and the average contribution amounts. Payroll tax savings on the increased contributions often offsets the card cost.

Tri-Star will be issuing the mbi Debit Card for plans beginning on or after January 1, 2004 for employers desiring this option. .

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ONLINE ENROLLMENT / EMPLOYEE ACCESS

2003 Online Enrollment was such a success that almost all of our clients are doing it for 2004. Although all employees should be encouraged to enroll online, paper based enrollment will still be offered as an alternative.

Each employee is given the web address to enroll, as well as their own password. After the employee has logged onto our site, there will be links to modify address and dependent information, and to change benefits. The benefits link will show all the options available, “price tags” for each, and will allow the employee make any changes to the benefits for the upcoming plan year. Beneficiary information will also be asked for. After making any changes, the employee will have the opportunity to print out a confirmation statement for their records showing their benefit options they and per pay period costs.

Throughout the year, employees can check their elections, as well as their Flexible Spending Account balances, claims history, and status of pending claims. Contact Ken Dixon (ken.dixon@tri-starsystems) for further information and a demo.

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DIRECT DEPOSIT

Just a reminder that Tri-Star offers direct deposit of Dependent Care and Health Care reimbursements. Instead of receiving a check via the mail, the amount will be deposited in the employee's account (checking or savings) 48 hours after the processing date. If this option is selected, the employee will also have the opportunity to receive the Explanation of Benefits that appears on the bottom of each check via e-mail if they provide us with an e-mail address. Enrollment in this option is easy—it only involves completion of a Direct Deposit authorization (available at <http://www.tri-starsystems.com/Forms/Direct Deposit Form Manual.pdf>) sent in with a copy of a cancelled check (for deposit into a checking account) or savings deposit form (for deposit into a savings account). Please contact us for more information on setting this option up for your employees.

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Contact Us

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