



## Health care reform changes to Consumer-Directed Health Plans (CDHPs)

### *Frequently Asked Questions*

Health care reform includes several short-term changes to CDHPs. Below is an overview of these changes. This overview is designed to help you understand the implications of this provision and how to implement it.

**Q: What is changing because of health care reform?**

**A:** The following changes will go into effect January 1, 2011:

- **No reimbursement of over-the-counter medicines** without a prescription by health care Flexible Spending Accounts ( FSAs), Health Reimbursement Accounts (HRAs) and Health Savings Accounts (HSAs).
  - All plans, including fully and self-insured grandfathered plan, must comply.
  - Over-the-counter medicines are those that typically do not require a prescription and are not covered by pharmacy benefits.
  - Prescription medicines are still eligible for reimbursement.
  - Reimbursements will NOT be allowed for the grace period following 2010.
  - Over-the-counter medicines with a letter of medical necessity do not count as a prescription under these regulations – it must be an actual prescription from someone authorized to provide a prescription.
  - Other non-medicine items that you can purchase over-the-counter, including bandages and contact solution, do not require a doctor's prescription for reimbursement.
  
- **Eligible small employers (100 or fewer workers) are given a safe harbor from nondiscrimination requirements for cafeteria plans.** A cafeteria plan is a program offered pursuant to Section 125 of the Internal Revenue Code that employers can use to help employees pay for certain expenses (e.g. health insurance and dependent care) on a pre-tax basis.
  - The employer must satisfy minimum eligibility and participation requirements and minimum contribution requirements.
  - This allows all employees to participate (with exceptions) and allows each employee to elect any benefit available under the plan.
  - This requires an employer to contribute an amount equal to:
    - At least two percent of each employee's compensation for the year, or an amount which is not less than the lesser of six percent of each employee's compensation for the year or twice the amount of the salary reduction contributions of each qualified employee.

This summary is provided for your information and is subject to further clarification and correction. Many provisions may be subject to change and/or further guidance from regulators. This summary is not intended as legal advice and you should consult with your own tax and benefit plan advisors regarding your particular situation.