
LEGAL ALERT

Deadline Looming To Amend Cafeteria Plans

The healthcare reform laws enacted a provision that restricts healthcare flexible spending arrangements (Health FSAs) and health reimbursement arrangements (HRAs) from reimbursing amounts expended by participants and their dependents in various ways. Effective January 1, 2011, there can be no reimbursement for over-the-counter medicines or drugs (except insulin) purchased without a prescription. The IRS has also provided special rules regarding the types of transactions and substantiation requirements for which prescribed over-the-counter drugs may be purchased using a Health FSA or HRA debit card, effective January 16, 2011. Plan sponsors need to amend their Health FSA (cafeteria plans) and/or HRA plan documents to reflect this change **no later than June 30, 2011**.

These dates may appear to be a misprint since the effective date has already passed, but the amendment must be effective retroactively to apply to expenses incurred on or after January 1, 2011 (January 16, 2011, with respect to debit card purchases). Many plan sponsors already adopted the necessary plan amendments at or near the end of the 2010



calendar year. But for any plan sponsors that have not yet done so, we wanted to make sure you were aware that the deadline to adopt these plan amendments is rapidly approaching. For more information, please contact a member of the Employee Benefits Practice Group.

This Legal Alert is intended to provide information on an important provision of a new law. It is not intended to be, nor should it be construed as, legal advice for any particular fact.