



Legislative Update

OTC Rx Requirement to be Repealed and Menstrual Care Products Added in Stimulus Deal

A Legislative Update for our Valued Partners

WE HAVE SOME BREAKING NEWS TO SHARE WITH YOU. THE \$2-TRILLION STIMULUS PACKAGE PASSED FRIDAY, 3/27/2020, INCLUDES TWO KEY PROVISIONS THAT WILL UNDOUBTEDLY HELP THE MILLIONS OF AMERICANS WITH FSAS AND HSAS DURING A TIME WHERE THESE PLANS MAY BE NEEDED MOST. THE WELCOME CHANGES INCLUDE:

- **OTC Rx Repeal:** Prescriptions (Rx) will no longer be required for over-the-counter (OTC) drugs, including items like Tylenol, Claritin, Tamiflu, etc. when purchased with an FSA and HSA effective immediately and retroactive to January 1, 2020. As you know, FSA and HSA OTC drug purchases have required a prescription since 2011 per the Patient Protection and Affordable Care Act. This change caused confusion and unnecessary trips to the doctor, and the welcome relief will mean that Americans with FSAs and HSAs can again buy the OTC medicines they need to stay healthy now and in the future.
- **Menstrual Care Products:** The new allowance of menstrual care products as eligible under an FSA and HSA, effective immediately and retroactive to January 1, 2020. The bill indicates that this addition means a “tampon, pad, liner, cup, sponge, or similar product used by individuals with respect to menstruation” will qualify.

PBS understands that these changes mean new opportunities for FSA and HSA holders, and as always, we are committed to bringing your participants the information, products and experience they need and deserve to make the most of their tax-free funds.

PBS is ready today, but full rollout requires SIGIS and merchants to take action. The key driver behind the change will be the availability of an updated list of eligible products from SIGIS and the implementation of that list by participating merchants. SIGIS is starting the process to create the list and is working closely with its members to complete this task.

We anticipate that SIGIS and merchant implementation of the new eligible item list will occur gradually within 4-6 weeks of the President signing the bill into law. The first step is SIGIS updating its eligible products list and publishing it to merchants for download. Current SIGIS rules require merchants to update their point of sale systems on at least a monthly basis, and we anticipate many will likely do this as soon as the new list is available. **However, it is important to emphasize that each merchant will adhere to their own timeline for completion of this process based on their own internal considerations, and card processors have no ability to influence this.**

All of this will undoubtedly result in inconsistencies in shopping experiences for the consumer (i.e. OTCs may be allowable at one merchant, but not another) as the industry makes this important transition. We expect any issues like this to be temporary and resolved in a fairly short timeframe. The PBS Manual Claim Process will be available to handle this.

From a PBS Health systems point of view, no new configuration will be required for this change to be effective. Any plans that currently cover OTC items such as saline solution and medical supplies, will provide coverage for the expanded OTC items as soon as the merchants complete implementation and OTCs are eligible in standard 213(d) plan templates for manual claims processing.