



### How Prescription Requirement for OTC Drugs Applies to FSA Grace Period and Run-Out Period Claims

*The following information, provided by EBIA, is being sent as a courtesy to keep you informed on the status of the Health Care initiatives taking place in our government.*

**Question: Our calendar-year health FSA has a 2-1/2 month grace period and a 4-month run-out period. Should we require a prescription for OTC drugs that were purchased during our health FSA's grace period and will be reimbursed from the participant's unused 2010 amounts? Is a prescription required for OTC drugs that were purchased in 2010, if the request is submitted in 2011 (i.e., during our plan's run out period)?**

Answer: Whether a prescription is required will depend on when an OTC drug was purchased. Under IRS rules regarding the new prescription requirement for medicines and drugs other than insulin, OTC drugs that were purchased in 2010 can be reimbursed in 2011 without a prescription (as long as all other applicable requirements were met). OTC drugs that were purchased in 2011 cannot be reimbursed without a prescription. This is the case even if the expenses were incurred during a grace period following the end of the 2010 plan year (i.e., during the first 2-1/2 months of 2011) and reimbursement is being sought from unused 2010 health FSA amounts. If you receive reimbursement claims for OTC drugs during the run-out period that follows the close of your health FSA's 2010 plan year (i.e., during the first 4 months of 2011), you'll need to check the date of purchase in order to determine whether a prescription is required.

**As always, we'll keep you posted of significant developments as they occur.**

*If you have any questions, please contact your HARDEN Employee Benefits Account Manager.*

**Sources:**

EBIA Weekly (02/24/2011). [www.ebia.com/WeeklyArchives/Questions/20475](http://www.ebia.com/WeeklyArchives/Questions/20475)