

Change in drug payment rule may trigger headaches

November 15 2010, By LAURAN NEERGAARD , AP Medical Writer

(AP) -- A headache awaits people who use those tax-free health spending accounts to pay for over-the-counter allergy relievers, heartburn blockers and other drugstore remedies. Starting next year, you'll need a prescription for the drugs to qualify.

The change in so-called Flexible Spending Accounts is part of the new [health care law](#), and doctors are bracing for patient confusion and annoyance as they decide how to handle prescription requests for products that people normally use on their own.

"A huge hassle," predicts Dr. Roland Goertz, president of the American Academy of Family Physicians.

Flexible spending accounts, or FSAs, are pretax dollars that workers can set aside through their employers to pay out-of-pocket [health care costs](#). That includes insurance copays and deductibles, treatments that an [insurance plan](#) may not cover, eyeglasses, dental work and, yes, nonprescription medications.

But the new health care law says over-the-counter drugs qualify for reimbursement through FSAs starting Jan. 1 only if the patient has a doctor's prescription. The only exception is for insulin bought without a prescription. (The new rule applies to similar Health Savings Accounts, too.)

Another change comes in 2013, when the new law will set a \$2,500 cap

on how much can be set aside in an FSA. Many employers currently allow up to \$5,000 to be put into the accounts - reflecting that they tend to be used for pricier expenses than OTC drugs. Today's average set-aside is about \$1,500, says Rose Stanley of WorldatWork, a human resources association.

For now, what do savvy patients need to know in planning for over-the-counter purchases in next year's FSA?

- The estimated 35 million FSA users must spend all their set-aside money each year or lose it. People tend to use leftover dollars by stocking up on aspirin and other drugstore staples at year's end, and the prescription requirement may put a crimp in that spree next fall.

- According to the Internal Revenue Service, the prescription requirement is only for OTC medications, not other non-drug health supplies such as contact lens solutions, bandages, crutches and blood-sugar test kits. These will merely require a receipt for reimbursement, just like today.

- Next year the health care law also eliminates preventive service copays, such as for well-child visits, mammograms and vaccinations, possibly altering how much people put into an FSA in the first place.

- Most affected by the OTC rule will be daily users of those drugs - like people who treat arthritis with ibuprofen, or gastric reflux with Prilosec OTC, or hay fever with Claritin. They will have to calculate if any extra doctor visits offset the pretax savings.

The change shouldn't cost extra if your doctor knows you've been taking OTC medicines routinely and thus has no trouble writing a prescription by phone or at your next regularly scheduled visit, says Dr. Gary Rogg, an internist with Montefiore Medical Center in New York. In that case,

the change wouldn't cost anything extra.

If you've never mentioned taking a particular OTC drug, the doctor may demand an office visit, with its copay, before pulling out the prescription pad.

"If a 20-year-old wants to buy Prevacid because of heartburn, odds are it's diet-related. If it's a 60-year-old, you really are obligated to do a 'workup'" in case the pain signals something worse, Rogg says.

People who use high doses of OTC drugs might find a prescription-only version a better deal depending on their insurance copay rules, he adds, even if that's costlier for the health care system overall.

Increasing communication about OTC drug usage would be a good side effect of the rule change, says Dr. Joshua Freeman, family medicine chairman at the University of Kansas Hospital.

"If you're taking something I think is bad for you, I'm glad I found out," he says.

But Goertz says it's not clear exactly what's required for an OTC prescription. If he writes one for a 30-day supply of ibuprofen with 11 refills but the arthritis patient buys once in bulk, will the FSA provider honor that reimbursement?

And there's an added wrinkle for the millions who use special FSA debit cards to pay for purchases straight from their account. IRS guidelines say those debit cards can't be used for over-the-counter drugs under the new change, and will have to be reimbursed by turning over a copy of their receipt and prescription to their FSA provider.

The National Association of Chain Drug Stores has asked the IRS to

reconsider, predicting customer anger if the debit card works for one kind of purchase but not another.

Stay tuned: It's not clear if the IRS will alter its guidelines, which are open for public comment until Dec. 27.

More information:

IRS info: <http://www.irs.gov/>

Preventive care information:

<http://www.healthcare.gov/law/provisions/preventive/index.html>

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