Debit Cards Used to Reimburse Participants in Self-Insured Medical Reimbursement Plans and Dependent Care Assistance Programs

I. ADDITIONAL USE OF CARDS TO SUBSTANTIATE HEALTH FSA AND HRA MEDICAL EXPENSES

In addition to the substantiation methods approved in Rev. Rul. 2003-43, as described below, an employer may adopt additional methods for substantiating claimed medical expenses. Employers that adopt these methods must also comply with requirements of Treas. Reg. § 1.105-2, Prop. Treas. Reg. § 1.125-2, Q & A-7, Notice 2002-45, 2002-2 C.B. 93, and Rev. Rul. 2003-43, including, but not limited to, employee certifications and adoption of meaningful correction procedures for amounts that are not automatically substantiated at the point-of-sale or within a reasonable time after the transaction.

A. *Copayment Amounts*

As described in Rev. Rul. 2003-43, the copayment match substantiation method is only permissible at merchants or service-providers that have health care related merchant category codes. Consistent with this approach, this notice expands the copayment match substantiation method to include as automatic substantiations certain matches of multiple copayments. Under this method, if the employer's accident or health plan has copayments in specific dollar amounts, and the dollar amount of the transaction at a health care provider (as identified by its merchant category code) equals an exact multiple of not more than five times the dollar amount of the copayment for the specific service (*i.e.*, pharmacy benefit copayment, copayment for a physician's office visit, etc.) under the accident or health plan (*i.e.*, the major medical plan, health maintenance organization, etc.) covering the specific employee-cardholder, then the charge is fully substantiated without the need for submission of a receipt or further review. In addition, if a health plan has multiple copayments for the same benefit, (*e.g.*, tiered copayments for a pharmacy benefit), exact matches of multiples or combinations of the copayments (but not more than the exact multiple of five times the maximum copayment) will similarly be fully substantiated without the need for submission of a receipt or further review.

If the dollar amount of the transaction at a health care provider exceeds a multiple of five or more times the dollar amount of the copayment for the specific service, the transaction must be treated as conditional pending confirmation of the charge by the submission of additional third-party information. In the case of a plan with multiple copayments for the same benefit, if the dollar amount of the transaction exceeds five or more times the maximum copayment for the benefit, the transaction must also be treated as conditional pending confirmation of the charge by the submission of additional third-party information. Similarly, if the dollar amount of the transaction is not an exact multiple of the copayment (or an exact match of a multiple or combination of different copayments for a benefit in the case of multiple copayments for the same benefit), the transaction must be treated as conditional pending confirmation of the charge, even if the amount is less than five times the copayment. In these cases, the employer must require that additional third-party information, such as merchant or service provider receipts, describing (1) the service or product, (2) the date of the service or sale and, (3) the amount, be submitted for review and substantiation.

The copayment schedule required under the accident or health plan must be independently verified by the employer (*i.e.*, the copayment amount must be substantiated by a third-party; statements or other representations by the employee are not sufficient).

Example 1. Employer W reimburses health FSA claims through debit cards, as described in Situation 1 of Rev. Rul. 2003-43. Employee A and Employee B are participants in the health FSA and are enrolled in W's medical plan. The plan has a $5 copayment for generic prescriptions and a $10 copayment for all other prescriptions.

A uses the card at a pharmacy to purchase five non-generic prescriptions, for a total card transaction of $50. W's system matches the amount of the transaction, $50, with the $10 copayment for non-generic prescriptions under A's coverage and the fact that the transaction is at a pharmacy. Because the amount of the transaction is an exact multiple not in excess of five times the maximum copayment for prescriptions under A's medical coverage and the transaction is at a pharmacy, the transaction is substantiated without further review or documentation.

B uses the card at a pharmacy to purchase three generic prescriptions and three non-generic prescriptions for a total card transaction of $45. Because the transaction is at a pharmacy and the amount of the transaction is an exact match of a combination of the copayments and does not exceed fives times the maximum copayment for prescriptions under B's medical coverage, the transaction is substantiated without further review or documentation.

Example 2. The facts are the same as *Example 1* except that A uses the card at a pharmacy to purchase six non-generic prescriptions for a total charge of $60. Because the amount of the transaction exceeds five times the maximum copayment for prescriptions under A's medical coverage, the entire transaction must be further substantiated through the submission of a receipt indicating that A purchased prescription drugs, the date of the purchase, and the amount of the purchase.

Example 3. The facts are the same as *Example 1*, except that A uses the card at a pharmacy to purchase two non-generic prescriptions and a nonprescription medication. The amount of the transaction is $27. Because the amount of the transaction is not an exact match of a multiple or combination of the copayments for generic and non-generic prescriptions under A's medical coverage, the transaction must be further substantiated through the submission of a receipt indicating that A incurred a medical expense (the prescription drugs and nonprescription medication), the date of the purchase and the amount of the purchase.