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HEALTH CARE REFORM ACT NEW GUIDANCE CLARIFIES USE OF DEBIT CARDS AND DELAYS COMPLIANCE DEADLINES

The Departments of Health and Human Services, Labor, and the Treasury recently issued additional guidance under the Patient Protection and Affordable Care Act (the "Health Care Reform Act"). A few highlights of the new guidance include:

- **Use of Debit Cards to Purchase Over-the-Counter ("OTC") Drugs.** Plan sponsors may allow participants to use health flexible spending account and health reimbursement account debit cards to purchase prescribed OTC drugs after January 15, 2011, if the following procedures are implemented:
 - the prescription for the OTC drug must be presented to the pharmacist;
 - the OTC drug must be dispensed by the pharmacist in accordance with applicable law;
 - the pharmacist must assign an Rx number;
 - the debit card system must not accept a charge for an OTC drug unless an Rx number has been assigned; and
 - proper records must be kept by the pharmacist and must be available to the health plan or its agent on request.
- **Delay of Nondiscrimination Requirements for Insured Group Health Plans.** Plan sponsors will not be required to comply with the Health Care Reform Act's nondiscrimination requirements for insured group health plans until regulations or other guidance has been issued.
- **Extension of Other Health Care Reform Act Compliance Deadlines.** Plan sponsors will not be required to comply with the Health Care Reform Act's automatic enrollment requirements for group health plans or to provide 60-days prior notice of a material modification of group health plan benefits until additional guidance is issued.

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