

Impact of Health Reform on Health FSAs, HRAs and HSAs

As you know, the House passed the Patient Protection and Affordable Care Act (PPACA) and the President signed the bill into law on March 23rd. The House also passed a Reconciliation Bill making some changes to the Senate. This bill was passed by the Senate, with two minor changes affecting Pell Grant provisions. That bill has also been signed by the President.

Title IX of PPACA contains several provisions intended to raise revenue to offset the cost of other parts of the law. Sections 9004 and 9005 affect HSAs, Health Reimbursement Arrangements (HRAs) and Health Flexible Spending Arrangements (Health FSAs) under cafeteria plans. Section 1403 of the Reconciliation Bill delayed the effective date of some of the Health FSA changes.

The following summarizes the changes made by PPACA and the Reconciliation Bill to Health FSAs, HRAs and HSAs:

- Effective for reimbursements for expenses incurred after December 31, 2010, the cost of over-the-counter medicines may not be reimbursed with excludible income through a Health FSA, HRA, HSA or Archer MSA unless the medicine is prescribed by a physician.
- Effective for taxable years beginning after December 31, 2012, the maximum salary reduction contribution to a Health FSA cannot exceed \$2,500. The \$2,500 cap will be indexed for cost of living beginning in 2014.
- The tax penalty (i.e. tax in addition to ordinary income tax) for using funds in an HSA for expenses other than qualified medical expenses is increased from 10% to 20% effective for distributions made after December 31, 2010.