

Unintended Consequences of Health Care Reform: OTC Drugs Now Ineligible for Reimbursement from Health Care Account Funds

With the passage of the Patient Protection and Affordable Care Act (Public Law No. 111-148) and the Health Care and Education Reconciliation Act (Public Law No. 111-152), The Foundation for HealthSMART Consumers is concerned about the ensuing confusion among consumers and health care professionals regarding medication access, choice and use of health care account funds. We believe the confusion will build and can drive health care costs out of the consumer market and back into the health care system. New IRS rules limit the eligibility of over-the-counter (OTC) medicines as health care purchases, stipulating that health care savings account funds cannot be used to pay for OTCs without a doctor's prescription. Several stakeholder scenarios illustrate The Foundation's concern for the impending negative impact of this regulation:

Negative Consumer Effects: Health Debit Cards Denied, Increased Costs for Doctor Visits

- Beginning in 2011, uninformed consumers who present OTC products at pharmacy/retail registers will have their health debit account denied as a means of payment for these medicines, unless they have a prescription. They must decide whether to pay on their own or to consult the pharmacist, benefits administrator, health care provider and/or doctor. All of these efforts take time (lost productivity), while a visit to a doctor will also add additional costs for the consumer, health funder and nation's health system.

Negative Effects on Doctors: Office Disruptions, More Paperwork, Changed Prescribing Behavior

- The new rule is likely to result in disruptions in the doctor's office with confused patients calling after they have been unable to have their OTC medicines covered with their health debit accounts without a prescription.
- Doctors, already stretched to the limit, must now spend more time and paperwork "prescribing" OTCs. This also means consumers will make extra doctors' visits just to obtain a "prescription" for a medicine that is sold over-the-counter. It recreates a problem the OTC format set out to alleviate.
- Some doctors may decide to prescribe an alternative Rx, which could cost more money than the OTC.

Negative Effects on Pharmacists: Adjudication Fees; Consumer Confusion/Complaints

- At the pharmacy, the consumer may get an ORx (over-the-counter medication adjudicated through the pharmacy) or may be offered an alternate generic, driving pharmacy adjudication fees.
- As patients begin to present at the pharmacy with questions about what purchases are and are not eligible, the pharmacist and pharmacy techs will need training to prevent customer abrasion. There is little the pharmacist can do to solve the problem of debit cards not working, other than offer to call the doctor's office to discuss prescription alternatives.

Economic Risks of Not Protecting Self-Care Behaviors: Billions in Extra Health Care Costs

The risk of not protecting self-care behaviors could reach \$2.5 billion, if office visits and lab tests increase for even 10 percent of the population. Potential new pharmacy costs could reach \$3 billion. The complete position paper with cost models, entitled *Concerns for Unintended Consequences Regarding the Ineligibility of OTCs for Purchase with Health Care Account Funds*, can be found on The Foundation website.