



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

I apologize for the delay responding to your August 8 and October 26, 2020, inquiries. Your plan administrator, \_\_\_\_\_, advised you that Treasury Regulations require documentation to substantiate medical expenses paid with a debit card linked to a health flexible spending arrangement (FSA) under a Section 125 cafeteria plan. You asked the IRS to provide information about these rules and about using a card with a chip and contactless payment options.

Medical expenses paid or reimbursed from a health FSA are excludible from gross income. An independent third party that substantiates the expenses must verify medical expenses paid or reimbursed from a health FSA. Substantiation for medical expenses includes:

- information describing the service or product,
- date of service or sale, and the
- amount of the expense.

Under Proposed Treasury Regulations Section 1.125-6, there are special rules for medical expenses reimbursed with a debit card. These rules take into account the information that a debit card transaction provides. Some debit card transactions require more information to substantiate that the expense is a medical expense. For example, a debit card transaction may provide the amount of the transaction, a general category for the service merchant, and the specific service provider. However, it may not show the specific items or services provided in the transaction. Therefore, if the debit card transaction does not satisfy the substantiation requirements, the plan administrator must request more information to substantiate the medical expense.

An independent third party must provide the employer with a statement verifying the medical expense, either automatically or after the transaction. If, at the time and point of sale, an independent third party provides information to verify that the charge is for a medical expense, then that expense is substantiated without the need for further review. This substantiation method is known as real-time substantiation. In addition, the health FSA sponsor may coordinate with an individual's insurance provider to use information provided in an explanation of benefits to substantiate a debit card charge without requiring more information.

Under the debit card rules, payment of recurring expenses for medical expenses incurred at certain providers that match the amount, medical care provider, and time period of previously approved expenses can be approved without additional substantiation. This substantiation method is known as automatic substantiation. An employer's health FSA, however, may impose stricter standards than those described above to ensure that the health FSA is used only to pay or reimburse medical expenses.

You should contact your employer or plan administrator to ask about the availability of chip-enabled cards and contactless payment options, like the option to submit a claim for reimbursement directly to the plan with the documentation that the plan requires. For more information about debit card reimbursements, see IRS Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans, on IRS.gov at <https://www.irs.gov/publications/p969>.<sup>1</sup>

I hope this information is helpful. If you have additional questions, please contact me or  
at .

Sincerely,

Denise Trujillo  
Branch Chief, Health and Welfare  
Office of Associate Chief Counsel  
(Employee Benefits, Exempt Organizations,  
and Employment Taxes)

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<sup>1</sup> Also see Prop. Treas. Reg. § 1.125-6 for more information about substantiation of expenses for a Section 125 cafeteria plan.