



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

The Internal Revenue Service is responding to your letter concerning the refusal of a flexible spending arrangement ("FSA") to reimburse health claims for services provided by an alternative medicine practitioner. This letter provides a general overview of the rules regarding FSAs. You may receive correspondence from other sources concerning other issues raised in your letter.

FSAs are described in Publication 969, Health Savings Account and Other Tax-Favored Health Plans. Generally, an FSA allows employees to be reimbursed for medical expenses. FSAs are usually funded through voluntary salary reduction agreements with your employer. No employment or federal income taxes are deducted from your contribution. Generally, distributions from an FSA must be paid only to reimburse you for qualified medical expenses you incurred during the period of coverage. For the FSA to maintain tax-qualified status, employers must comply with requirements that apply to certain fringe benefits. For example, there are restrictions for plans that cover highly compensated employees. An FSA may also limit its coverage to certain qualified medical expenses; it is generally not required to pay for all qualified medical expenses.

Qualified medical expenses are described in Publication 502, Medical and Dental Expenses. Qualified medical expenses are those specified in the plan that would generally qualify for the medical and dental expenses deduction. Medical expenses are the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body. These expenses include payments for legal medical services rendered by physicians, surgeons, dentists, and other medical practitioners. They include the costs of equipment, supplies, and diagnostic devices needed for these purposes. Medical care expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or a vacation. In Publication 502 the Internal Revenue Service identifies medical fees for

acupuncture, chiropractor, and Christian Science practitioner services as qualified medical expenses. In addition, treatment at a health institute is considered a qualified medical expense only if the treatment is prescribed by a physician and the physician issues a statement that the treatment is necessary to alleviate a physical or mental defect or illness of the individual receiving the treatment. Finally, the cost of medicines prescribed by a doctor may be a qualified medical expense.

This letter has called your attention to certain general principles of the law. I hope this information is helpful. If you have any questions, please contact our office at

Sincerely,

Robert M. Casey
Senior Technician Reviewer, Branch 3
Associate Chief Counsel
(Income Tax & Accounting)

cc: