



OFFICE OF
CHIEF COUNSEL

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

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The Honorable Chris Collins
Member, U.S. House of Representatives
2813 Wehrle Drive, Suite 13
Williamsville, NY 14221

Attention:

Dear Representative Collins:

I am responding to your inquiry dated December 1, 2016, on behalf of your constituent, [REDACTED], who asked about the rules on submitting Medicare premium expenses as claims under a health flexible spending arrangement (health FSA). She also asked why she was required to enroll in the Medicare program after experiencing renal failure.

[REDACTED] submitted her Medicare premium expenses to her health FSA for reimbursement. The administrator of her health FSA denied her claims, citing to an IRS regulation that prohibits the reimbursement of medical premiums. See Prop.Treas. Reg. 1.125-5(k)(4). As stated in the proposed regulation and IRS Publication 969, a health FSA cannot reimburse health insurance premium payments. Medicare premiums are premiums for other health coverage and thus are not reimbursable expenses. While health insurance premiums, including Medicare premiums, are medical expenses for purposes of the itemized deduction for medical expenses (see Publication 502), the rules for health FSAs do not allow them to be reimbursed by a health FSA.

I am sorry [REDACTED] was unable to get her questions answered when she contacted us. I have enclosed a copy of the regulation her health FSA administrator referred to when denying her claim.

In response to her final question, we do not administer the Medicare program and therefore, cannot answer her questions about the requirements to enroll in Medicare

coverage for individuals experiencing renal failure.

I hope this information is helpful. If you need additional information, please contact me or _____ of my staff at _____.

Sincerely,

Christine Ellison, Acting Chief
Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure