



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

OFFICE OF THE CHIEF COUNSEL

November 15, 2018

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The Honorable Martin Heinrich
United States Senator
7450 East Main Street
Farmington, NM 87402

Attention:

Dear Senator Heinrich:

I am responding to your inquiry dated October 16, 2018, on behalf of your constituent, . explained that his Flex Benefits debit card was declined at the Health Service medical facility in . The information you provided includes an email from that states the debit card was declined for the following reason: "This is not an IRS qualified merchant based on its merchant code." asked us to explain why the IRS does not recognize the medical facility as a qualified merchant for payment with his Flex Benefits debit card.

Generally, employer-sponsored health plans, including health flexible spending arrangements (FSAs), that pay or reimburse medical expenses using a debit card must comply with IRS rules. Under these rules, the plan administrator must limit use of the debit card to physicians, dentists, vision care offices, hospitals, and other medical providers (as identified by the merchant category code (MCC)).¹ While the IRS requires that debit card charges for health FSAs be limited to certain health care providers, the IRS does not control the MCCs the debit card issuers use. The MCC assigned to any provider is determined by the provider and the debit card issuer.

Your constituent may want to contact his health plan to find out other methods that may be available to have medical expenses reimbursed without the use of the card, for example, by submitting a claim for reimbursement supported by third-party information supporting the claim to the health plan.

¹ See Prop. Treas. Reg. Section 1.125-6(d)(5)(i), 72 Fed. Reg. 43937, 43963 (Aug. 6, 2007); Rev. Rul. 2003-43, 2003-21 I.R.B. 935; Notice 2006-69, 2006-31 I.R.B. 107.

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

Sincerely,

Branch Chief
Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)