

Relief Bill Enhances Access to Self-Treatment Options Amid COVID-19 Pandemic

On March 27, 2020 Congress passed the CARES Act. This legislative package is designed to help Americans and businesses handle the challenges associated with the COVID-19 coronavirus pandemic. The law includes a bipartisan provision, which enhances Americans' access to self-care options including over-the-counter (OTC) medicines and menstrual care products by making these items eligible for purchase using Health Savings Account (HSA) and Flexible Spending Arrangement (FSA) funds.

What are HSA/FSA accounts?

Health Savings Accounts (HSA) and Flexible Spending Arrangements (FSA) are benefits that millions of Americans use to set aside pre-tax dollars for future healthcare needs. Contribution limits vary by family size and are [updated](#) by the Internal Revenue Service (IRS) annually. If you have questions about whether you are eligible to participate in an HSA or FSA plan, you should check with your employer.

What does this bill mean for Americans with HSA/FSA accounts?

Consumers who manage their healthcare needs using HSA/FSA accounts will no longer need a prescription to buy OTC medicines with HSA/FSA funds. Consumers can now also buy menstrual products like pads, tampons, and cups using these accounts.

Weren't OTCs already eligible under FSA/HSA accounts?

In 2003, the Treasury Department [announced](#) that OTC drugs were eligible for purchase using HSA/FSA funds. Since OTC drugs do not require a prescription, consumers did not need to obtain a prescription in order to buy OTCs using HSA/FSA funds. The Affordable Care Act, which became law in 2010, added a [prescription requirement](#) for medicines purchased using HSA/FSA funds. This change created confusion for consumers and increased the burden on medical providers as Americans began seeking prescriptions for non-prescription products.

When does this FSA/HSA provision go into effect?

This part of the law goes into effect at the beginning of the 2020 calendar year. As a result, newly eligible products that were purchased in 2020, even before the law was signed, may be retroactively eligible for purchase with HSA/FSA funds. Your benefits provider can help you with information about the reimbursement process for your individual plan.

How is this relevant to the COVID-19 pandemic?

In the wake of the COVID-19 pandemic, the Centers for Disease Control and other government agencies are [recommending](#) that Americans engage in social distancing to slow the spread of the disease and postpone elective procedures to free up medical resources for COVID-19 patients.

Many states and municipalities are operating under ‘Stay at Home’ orders that limit business to essential needs only. Removing the OTC prescription requirement makes it easier for the people who are experiencing less serious symptoms to treat themselves without needing to go to the doctor.

Self-treatment reduces stress on the U.S. medical system at this critical moment and decreases community contact which could spread the virus. Additionally, this provision makes it easier for Americans to access funds that have been set aside for healthcare needs at a time when many are experiencing financial hardships like unemployment.

Why was menstrual care included?

The menstrual care HSA/FSA benefit was first included in legislation, called the [Restoring Access to Medication Act](#), in 2018 as part of a bipartisan compromise to expand support for the legislation. Prior to being included in the COVID-19 relief package, the menstrual care compromise was a part of [legislation](#) that the House of Representatives passed in June 2018. The House Ways and Means Committee [considered and passed](#) it again in October 2019.

The bill text seems focused on menstrual care, where are OTCs included?

The [legislative](#) text regarding this provision can be confusing to read because the portion of the bill that impacts OTC medicines is not spelled out as specifically as the part that includes menstrual care products. The OTC benefit is restored by the language that strikes the HSA/FSA prescription requirement in the Affordable Care Act. With the removal of the prescription requirement, policy about OTC eligibility reverts back to the [2003 ruling by the Treasury Department](#). The menstrual care product benefit is described in greater detail because it is new and has not previously been included in law or administrative rulings related to HSA and FSA accounts.