

# Quarterly Review

Vol. XVI; Number 3

October, 2006

## From the Desk of the Editor

As I finalize this newsletter, the election is just one week away. Will we have a change in “management,” will we see a significant change in the direction of health benefits, will Congress *stay the course*?

Regardless, Treasury and the IRS have issued their new business plan and as you will read there are a few items of interest for pension and flex-plans that we will be watching. Any bets on whether we will get those §125 Regs this business cycle? We are also promised a grab bag of HSA rules (that may or may not be impacted by the elections.).

A few last minute rulings from last year’s business plan were published that we have included in this newsletter for your interest.

As our feature this quarter, I am including the entire text of a letter to clients by Lorraine Strickland, FBMC’s President and CEO in reaction to a recent scandal in our industry. As Chief Compliance Officer I am often asked by new clients to explain or “defend” FBMC’s strict adherence to the rules when their previous Administrator wasn’t so strict and they got along just fine. It’s hard without a level playing field, but anytime there are accusations of wrongdoing by someone in our industry, our approach becomes more convincing. We are proud that on our watch no client’s plan has ever been challenged or disqualified, and as Lorraine’s letter will emphasize, we do not take our responsibilities to our clients lightly.

I am very interested in your feedback to the Question of the Quarter. We believe an informal HIPAA association is needed in North Florida – we are wondering if it would be of value to our clients as well.

Trish Neely

Fringe Benefits Management Company  
3101 Sessions Road Tallahassee, FL 32303  
850-425-6200 1-800-872-0345 FAX 850-425-6220

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## Featured Article

### **Integrity: More than a Buzzword** *Lorraine Strickland, President and CEO*

Over the past two years the insurance, brokerage and benefits industry has been shaken by several highly publicized investigations of both civil and criminal wrongdoing. First was the national publicity surrounding broker/consultant compensation arrangements with findings by the New York and other Attorneys General of conflict of interest and bid-rigging. More recently, we have witnessed a series of lawsuits alleging mishandling of **millions** of dollars in pension and other employee benefits money – reportedly by a benefits management company.

This most recent scandal was particularly stunning to us since 1) it involves one of our service industry counterparts, and 2) because of the flagrant nature of the firm’s fiduciary breaches as alleged and reported by the media. While transitioning some of the employers left without a viable plan and without an administrator as a result of the lawsuits and our competitor’s abrupt closure, we gained a clear perspective of how FBMC’s core values, and the following controls, processes and practices serve to absolutely protect our clients and their employees from a similar crisis.

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FBMC creates a separate bank account for each client. We recommend and prefer to establish accounts using the Client's EIN; most clients consent. FBMC is granted signatory authority to pay claims or insurance premiums from these plan assets; FBMC has no authority to transfer money from the clients' accounts to FBMC's general account or any other account.

FBMC receives no interest from plan assets and has no incentive to delay payments to providers or customers. In fact our standard practice is to pay FSA claims daily.

FBMC regularly provides bank reconciliation reports to clients, and a monthly or quarterly statement to every tax-favored account customer.

FBMC has no offshore bank accounts. We will never have offshore accounts unless and until our client base expands offshore.

Numerous yearly audits validate FBMC's strong internal controls and we are proud of never receiving an adverse audit opinion.

For example, it is common for public sector clients and health providers to perform their own annual audits of our claims processing and practices. We welcome them.

Long before Sarbanes Oxley made the SAS 70 Audit a necessity for publicly held companies, we hired an outside firm to conduct a SAS 70 Audit of our internal controls. It became an annual practice even though we are privately held, owned by our employees and stockholders and not subject to the same requirements.

An independent accounting firm conducts our annual financial statement audit which provides assurance of our financial stability. FBMC makes its audited financials available to any client upon request. We have nothing to hide – we believe strongly in full disclosure.

We have our own proprietary system that includes our own electronic payment card. We have an emergency management plan in place to protect our clients in the event of a disaster – including

the inconceivable - a disaster of malfeasance or misfeasance.

Built within our proprietary system is a tight system of security controls that restricts access along our organizational segregation of duties. Our accounting system monitors funds at a client level and separately at a customer level and aggregates and matches totals. This assures that no one has the ability to post contributions, process an erroneous premium or claims payment, and then divert the payment to or from an unauthorized bank account via check or electronic funds transfer.

Finally, we are not associated with any political party and we have a company policy against making corporate campaign contributions. We value our independence. For the same reason we are independent of any insurance carrier or product provider. We focus exclusively on value to the customer.

**Quality, integrity and longevity** – the cornerstones of our corporate beliefs - have served us well for 30 years. We have an unblemished reputation in our industry – both with our peers and with our regulating agencies. Clients who rely upon our guidance and expertise have never had a regulatory problem or plan disqualification.

During more than thirty years of service to our clients, we have managed **billions** of dollars in premium and benefit contributions. Our Clients have never had cause to question the safety of their plan assets -- and we solemnly pledge that they never will.

## In the News

### New List of Eligible Expenses on [myFBMC.com](http://myFBMC.com) website

Celeste Pullen, AVP  
Customer Service

**EBIA's Health Care Expenses Table** (Employee Benefits Institute of America, Inc. domiciled in Seattle, WA) is now available as a link on FBMC's

website for every customer wanting to determine if expenses are eligible (or potentially eligible) for reimbursement to his/her tax-favored account(s). There are a number of sites available; however we selected the EBIA list for two reasons: EBIA is well-known in our industry for producing excellent resource manuals; and like FBMC, for their conservative and well-reasoned interpretations of flexible benefit plan requirements. EBIA updates the table periodically to assure compliance with Treasury regulations and IRS guidance.

The link includes the caveat that while the Table provides general information, individual circumstances and Client-specific requirements must also be taken into consideration.

## Regulation E: Does it Apply to Electronic Payment Cards?

Tina Bischoff CFCI

A question came up in the banking industry of whether Regulation E applied to electronic funds transfers tied to electronic payment card transactions permitted by the IRS under various tax-favored arrangements. What this might mean to **EZ Reimburse**® MasterCard® Card holders was of considerable concern.

Never heard of Regulation E? Federal banking regulations are designed to protect consumers; certifying that this protection is in place means that financial institutions must comply with specific FRS disclosure and authorization requirements under Reg. E for electronic funds transfers. One you are likely very familiar with just by opening an account at a financial institution is signing authorization forms - sometimes several - in order that the financial institution may be permitted under the federal banking regulations to handle your money transactions. As a card vendor, we have testified before the IRS to help identify ways to reduce or eliminate paper - not increase it.

**For now**, FRS guidance provides that "cards used solely for health-related expenses - such as cards linked to flexible spending accounts, health savings accounts, or health reimbursement arrangements...whether funded by the employer or the employee" are **not** subject to Reg. E.

For a copy of the full text log onto:

<http://edocket.access.gpo.gov/2006/pdf/06-7223.pdf>.

## MMD Notices Due

Trish Neely, CFCI

Don't forget, the annual Medicare Part D (MMD) Notice to plan participants is due no later than November 15th (regardless of your plan year).

The purpose of the Notice is to inform your Medicare-eligible employees and/or their Medicare-eligible dependents whether your prescription drug program is comparable to or better than the RX program available through Medicare.

A Medicare-eligible individual risks paying a higher premium through Medicare in the future if he/she remains in an employer-sponsored RX program that currently provides less benefit than Medicare.

## HRA Payments to Non-spouses and Non-dependents Not Allowed

Tina Bischoff, CFCI

In Revenue Ruling 2006-36 the IRS held that amounts paid as medical benefits to a deceased employee's **designated beneficiary** (*other than an employee's surviving spouse or an employee's dependents*) "are **not** excludable from the employee's gross income under section 105(b) of the Code." (Emphasis Added)

The facts that the IRS reviewed to reach this determination are very interesting and discussed in more detail in the ruling itself but a brief description of some of those facts leading to this ruling is worth noting. As is permitted under the regulations, an Employer sponsoring an HRA Plan (the Plan) may allow eligible employees to be reimbursed solely for substantiated medical care expenses as defined in § 213(d). Upon an employee's death, unused funds in the deceased employee's HRA may pay for the substantiated medical care expenses incurred by the employee, employee's surviving spouse and dependents.

But what if a deceased employee's surviving spouse and last dependent subsequently die, or the deceased employee had no surviving spouse

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or dependents, and funds remain unused in the employee's HRA? Can the deceased employee's designated beneficiary (*other than the employee's surviving spouse and dependents, if any*) be paid out of the unused funds remaining in the deceased employee's HRA for substantiated medical care expenses incurred by the deceased employee, his or her spouse and dependents?

The IRS explains in its ruling that if an Employer's HRA Plan allows for the reimbursement of substantiated medical expenses to designated beneficiaries *other than the employee's surviving spouse or dependents*, the Plan will be in violation of Treas. Reg. §§ 105(b) and 1.105-2.

The ruling further states that if a designated beneficiary, who is not the employee's surviving spouse or dependent, receives some or all of the medical reimbursements under the Plan, "...amounts paid under the Plan are not excludable under § 105(b) even if those amounts are paid to reimburse the medical expenses of the employee or the employee's spouse or dependents. Because the benefit is provided in connection with the performance of services by the employee, the benefit is considered provided to the employee and must be included in the employee's gross income."

For HRA plans containing provisions allowing reimbursements to non-spouses and dependents on or before Aug. 14, 2006, this ruling is **effective for plan years beginning after Dec. 31, 2008**.

For further information log onto [http://www.irs.gov/irb/2006-36\\_IRB/ar07.html](http://www.irs.gov/irb/2006-36_IRB/ar07.html).

## IRS: 06-07 Priority Guidance Plan

FBMC Staff

In August Treasury released its Business Plan for the next year. The Plan contains 264 projects; we will be monitoring those projects that pertain to flexible benefits plans, pension plans and self-funded medical plans. This includes:

- 6 projects related to 401(k) and Roth IRA programs;
- Grab bag of HSA guidance
- Electronic payment card guidance under §132;

- Proposed Regs under §125 (rolled over from last year and the year before . . .);
- Final regulations under §21 (credit for dependent care expenses);

Copies of the complete Plan are available by calling (202) 622-2960 or from the IRS website [www.irs.gov](http://www.irs.gov).

## GAO Report: Consumer-Directed Health Plans . . . HSAs

Trish Neely, CFCI

In September, the General Accounting Office (GAO) made public a report it prepared for Congress regarding health savings accounts. The complete report is available at the GAO website: [www.gao.gov](http://www.gao.gov). Some highlights:

- 66% of Employer's offering HSA-eligible plans made a contribution to employees' accounts;
- The average Employer contribution to an HSA in 2004 was \$1,064;
- In general, HSA-eligible plan enrollees have higher incomes;
- HSA participants who attended GAO Focus groups generally reported positive experiences with HSA plans; of these
- Most would recommend plans to healthy consumers but would not recommend to families with maintenance medication, chronic conditions or with children.
- HSA enrollees with low to moderate use of health care incurred lower costs than average PPO plan participants;
- HSA enrollees with high health care utilization incurred higher annual costs than average PPO plan participants.

## Dependent Care Expenses

### Who Gets to Claim Suzy?

Trish Neely, CFCI

Notice 2006-86, published in September, provides interim guidance on the "**tiebreaking**" rule under Code Sections 152(c)(4) and 152(e). We can rely upon the guidance in this **Notice** until the IRS issues further **Regulations**.

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This is welcome guidance for taxpayers trying to determine how to apply the qualifying child rules under the following provisions:

- Head of Household filing status under §2(b);
- Child and dependent care credit under §21;
- Child tax credit under §24;
- Earned income credit under §32;
- Exclusion for dependent care assistance under §129; and
- Dependence Deduction under §151.

**The guidance includes examples to help address what to do when two taxpayers may claim the same qualifying child in the same tax year.**

Where there are two taxpayers, but only one taxpayer is Suzy's parent: **The child is treated as the qualifying child of the taxpayer who is the child's parent.**

If neither taxpayer is Suzy's parent, then the **taxpayer with the highest adjusted gross income claims the child.**

In the case of the happy family of three where Mom, Dad and Suzy live together but file separate returns, **the parent with the highest adjusted gross income claims the child.**

If Mom and Dad are **not** residing under the same roof, **the parent with whom Suzy resides the longest during the taxable year claims the child.**

What if Suzy resides with mom for six months and dad for six months? **The parent with the highest adjusted gross income claims Suzy.**

If the taxpayers are divorced, separated or just living apart and they meet certain conditions, then **the non-custodial parent may be able to claim the child for the full year under some of the provisions.**

Certainly this comes with the caveat that when applying the qualifying child rules under §129, a non-custodial parent may not claim expenses for dependent care assistance.

For a complete copy of the Notice log onto [www.IRS.GOV](http://www.IRS.GOV) and insert Notice 2006-86 into the Key Word search indicator.

For a copy of the 5/24/06 proposed regulations on **dependent care expenses** (this was discussed in last quarter's newsletter), log onto <http://edocket.access.gpo.gov/2006/pdf/E6-7390.pdf>.

## What's New in Pension Law?

Patrick Peters, VMC President & General Principal

On August 17, 2006, President Bush signed into law the **Pension Protection Act of 2006** – the most extensive set of changes to pension laws in 30 years. A dozen or so changes were made to the pension laws that specifically affect 401(k) plans. Current 401(k) limits as well as the age 50 catch-up provision were made permanent.

One of the new provisions allows non-spousal beneficiaries to roll over assets from qualified retirement plans [401(k), 403(b) etc.] to individual retirement accounts (IRA). This is a big deal.

For example, your parent suddenly passes away. You are the primary beneficiary of his/her 401(k) plan and you are in the 20 percent tax bracket.

*Under the **current** law*, the proceeds of his/her account will be paid to you in one lump sum as a taxable distribution, thus forcing you into a higher tax bracket.

*Under the **new** law*, you could initiate a tax free transfer of those funds into an IRA with the funds treated as an inherited individual retirement account or individual retirement annuity. Thus, distributions may be taken under the rules that apply to distributions to beneficiaries.

Another provision allows 401(k) plan assets to be rolled directly into a Roth IRA. Under the current law, you could only roll your 401(k) dollars into a regular IRA. The new law allows that rollover distributions made after December 31, 2007 can be made directly into a Roth IRA.

The pension act created a new provision called a reservist distribution. This provision applies to 401(k) and 403(b) as well as IRAs. Individuals who are members of a reserve component, who have been called to active duty for more than 179 days or for an indefinite period, can request a qualified reservist distribution.

As soon as the DOL and the IRS develop clarification language and guidance, we will provide our clients and 401(k) participants with further information.

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## Retirement – a Paradigm Shift

Patrick Peters, VMC President & General Principal

The twentieth century saw the growth of corporate sponsored **Defined Benefit** (DB) plans. In many cases, only employers contributed and the plans were viewed by employees and employers alike as a benefit – a recruitment and retention tool that generally provided for the livelihood of employees post employment.

The late 1970's saw the emergence of **Defined Contribution** (DC) Plans in the form of a §401(k). When Congress acted in 1986 to replace the stand alone DB plan for federal civilian workers with a less generous DB plan and a generous 401(k) type plan, it essentially endorsed a shifting from stand alone DB plans to a combination DB/DC model. It encouraged private employers on the long term survivability of 401(k) type plans. We have witnessed the explosive growth of these plans ever since, with over 43 million active participants and over \$2 trillion in assets industry-wide.

Still, not everybody has a 401(k) plan, not even when there is an employer match. Where they do, contribution levels are not on par with appropriate retirement saving strategies. Why? Perhaps younger employees and lower income employees are less likely to save for retirement; maybe it's a general lack of education; it could be that it is not enough of a priority for most employees; or employees could be overwhelmed with the investment decision. Whatever the reason, employees put off participating in the plan for later; later never comes!

Of late, we are witnesses to a shift in the structure of retirement plans. The combination DB/DC plans are being replaced with stand alone DC plans. Employers are freezing / closing / disbanding their DB plans and beefing up their 401(k) plans. The recent passage of the Pension Protection Act (PPA) supports this trend.

One item addressed by the PPA is the area of automatic enrollment, where employees (new or any employee) have a 401(k) contribution automatically withheld from their paycheck without having to fill out enrollment forms. Studies have shown that individuals are less likely to elect to stop contributions once they have begun, than to make an affirmative election to participate in the plan. One additional benefit of the auto-

enrollment is that the contribution percentage may increase automatically over time – say an annual 1 percent increase not to exceed a total deferral amount of 10 percent.

Another huge item addressed by the Act is the area of default investment election. ERISA imposes standards of conduct of plan fiduciaries – personally liable for any losses to the plan due to a violation of fiduciary standards. Employers have typically provided a default investment election of a low risk, but often a low return instrument such as a money market. Over time, the purchasing power of such an investment strategy diminishes because of inflation. The PPA provides relief to employers in that participants are treated as exercising control with respect to assets in an account if such amounts are invested in a default portfolio in accordance with DOL regulations until the participant makes an affirmative election regarding investments. Obviously appropriate notices are required, but the law now allows the employer to establish a more prudent investment election as the default.

The automatic enrollment and the default investment election provide benefits to employers and employees alike. These changes are a long overdue and a giant step in the right direction.

## EZ Reimburse® MasterCard® Card Expenses Requiring no Paper at 80%

Kendall Hall, Card Services Manager

We are pleased to report that electronic payment card transactions that require no receipt have increased over 100% in one year's time. The percent of health expenses adjudicated electronically was 45% in 2005 compared to an average of 80% year to date in 2006. Recent guidance from the IRS now permitting multiple co-payment electronic adjudication is expected to bump that number considerably higher over the next six months.

## A Perspective from the Hill

Robert McKnight, Senator; Senior VP

WHAT IF THE DEMOCRATS WON A CHAMBER  
IN THE CONGRESS?

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By all accounts, the upcoming elections will be close. The Republicans, of course, control the Presidency, Senate and House. In mid-year elections many incumbents are surprised by their constituents' discontent in both parties. Putting aside the possible reasons for constituents' concerns, what might be the effect of a shift in power?

The Democrats would take over the Chairs of all of the committees and subcommittees of that chamber, and the corresponding power. Each of those full committees has numerous subcommittees, task forces, and caucuses dealing with health, pension and other benefit issues.

Our industry's major trade association, Employers Council on Flexible Compensation ("ECFC"), of which FBMC is a very active member, underscored many of these points in their October 19, 2006 ECFC Bulletin. They point out the main committees potentially affecting our industry "up in the air" are House Committee on Ways and Means, House Committee on Education and Labor, Senate Committee on Finance, and Senate Committee on Health, Education, Labor & Pensions. The ECFC Bulletin also points out there are a number of benefit issues pending in the states and the same partisan divide affects them as well.

A power shift could usher in a significant change in the direction of health benefits; on the other hand, conference committees could be subject to a log jam, paralyzing federal law making.

The influence of the lobbyists would quickly shift from pro-Republican to pro-Democrat in that chamber.

Campaign fund-raising would become much easier for the Democrats. The Democratic nominee for President would be in a much more favorable position to win election.

Democrats considering retiring would probably run for re-election increasing Democrat seniority in that chamber.

If the Democrats won the Senate, the makeup of the US Court system could be affected; if they

controlled the House of Representatives, they could initiate impeachment proceedings.

The Democrats would have subpoena power for any information they sought, although the Republicans might influence that process.

The Democrats could attack the Republicans through Congressional hearings, which carry criminal penalties for perjury.

Executive branch appointments and confirmations could be delayed or stalled indefinitely.

. . .

As a former Senator, I know first hand the massive power the framers of our constitution envisioned for the two legislative chambers. It underscores how serious our responsibility is to vote for whomever we wish, but do vote.

## GUEST ARTICLES

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### IRS AND TREASURY OFFICIALS PROVIDE INFORMAL VIEWS ON CAFETERIA PLAN ELECTION CHANGE ISSUES AND HSA CONTRIBUTION LIMITS

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[ABA Joint Committee on Employee Benefits, Meeting With IRS and Treasury Officials (May 2006)] For a copy:

<http://www.abanet.org/jceb/2006/JCEBQAwithIRSfor2006.pdf>

The Joint Committee on Employee Benefits (JCEB) of the American Bar Association (ABA) has posted on its website a report on the May 2006 Q&A session between JCEB representatives

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and officials from the IRS and Treasury Department. Highlights include the following informal, nonbinding comments about cafeteria plan election change issues and HSA contribution limits.

==> Mid-Year Increase in Major Medical Plan Deductible. Officials were presented with a scenario involving two calendar-year plans: a major medical plan and a health FSA under which salary reduction contributions are capped at \$1,000. In March, the employer increases the deductible under the major medical plan from \$200 to \$2,000. When asked whether the employer could create a second health FSA under which employees could make additional salary reduction contributions of up to \$1,500 for the March-December period, officials said no. The response indicated that this would be an "end run" around the permitted election change regulations, which provide that a change in cost or coverage does not give participants a right to change health FSA elections.

==> Dependent's Loss of Coverage. Another scenario involved a reduction in benefits for a specific type of medical treatment being received by an employee's dependent, which the cafeteria plan treats as a loss of coverage. There is no similar coverage that can be paid for through the cafeteria plan to provide benefits for the treatment in question. Officials indicated that it was permissible for the employee to drop from family coverage to employee-only coverage under these circumstances, noting that this was because the question involved "real insurance, not an FSA."

==> HSA Contribution Limits. Officials were also asked about the HSA contribution limit that would apply when a high-deductible health plan (HDHP) has one deductible for prescription drug coverage and another for all other medical coverage, which together do not exceed the statutory maximum contribution limit for the year. Under the HDHP, amounts paid toward the prescription drug deductible count toward the deductible for all other medical coverage, but amounts paid toward the deductible for all other medical coverage do not count toward the prescription drug deductible. Officials stated the general rule that the HSA contribution limit is the lesser of the statutory maximum or the lowest deductible imposed by the HDHP.

EBIA Comment: The answers in the JCEB report reflect the individual views of the officials present at the Q&A session and do not necessarily represent IRS or Treasury policy. Nevertheless, the Q&As provide helpful insight regarding the issues addressed. For more information, see EBIA's Cafeteria Plans manual at Sections XIV.F ("Significant Coverage Curtailment (With or Without Loss of Coverage)") and XIV.T.3 ("Election Changes Applicable to Health FSA Benefits--Some Changes a Plan May Permit"); see also EBIA's Consumer-Driven Health Care & Fringe Benefits manual at Section XV.E ("Some Types of Coverage Affect Calculation of HSA Contribution Limit").

## TREASURY REJECTS REQUEST TO MAKE CERTAIN DIETARY SUPPLEMENTS AND SPECIAL FOODS REIMBURSABLE MEDICAL CARE

(This copyrighted article originally appeared in the 08/03/06 EBIA Weekly and is reproduced with the permission of EBIA.)

[Treasury Tax Correspondence, 2006 TNT 144-20 (July 19, 2006)]

A nutrition company asked Treasury and the IRS to expand their interpretation of what constitutes medical care under Code Section 213(d) to include dietary supplements and meal replacement products carrying a Food and Drug Administration (FDA) health claim. (The FDA, which enforces the Federal Food, Drug, and Cosmetic Act, regulates health claims that describe how certain foods or dietary supplements may prevent disease.) The company argued that such an interpretation would be in the public's best interest, given the potential for products bearing such claims to prevent disease. In particular, the expanded interpretation would allow taxpayers using HSAs and FSAs or claiming the medical expenses deduction to be eligible for preferential tax treatment. The company also suggested that a 2003 IRS revenue ruling interpreting medical care to include over-the-counter drugs (the OTC Drug Ruling) created precedent for an expansive approach.

Rejecting the company's proposal, a Treasury official stated that the cost of food is a nondeductible personal, living, or family expense. He explained that although food products bearing

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claims that comply with the Federal Food, Drug, and Cosmetic Act "may be beneficial to an individual's health, these food products would not necessarily constitute medical care" under the Code. In a similar vein, the Treasury official noted that courts have rejected claims characterizing special foods as medical care when they were "mere substitutes for foods normally consumed." He distinguished the expenses in the OTC Drug Ruling from the items at issue, noting that "food is not like over-the-counter medicines."

EBIA Comment: Treasury's refusal to treat expenses incurred merely to benefit general health as medical care under Code Section 213 is consistent with prior guidance--e.g., the OTC Drug Ruling didn't allow reimbursement of dietary supplements that are merely beneficial to an individual's general health. (See our article at <http://www.ebia.com/WeeklyArchives/CafeteriaPlans/Statutes/16679>

(Premium Access subscription required).) However, expenses for dietary supplements and special foods may constitute medical care when a medical practitioner recommends them to cure, mitigate, or prevent a particular disease. Additional rules may apply with respect to special foods. For example, expenses for foods prescribed specifically to treat an objectively determinable illness or disease may constitute medical care, but only to the extent that such expenses exceed the cost of a normal diet. Given the heightened scrutiny that the IRS will likely apply to dietary supplements and special foods, third-party substantiation may be needed to evidence that such items treat a specific condition, in addition to meeting other requirements (e.g., substantiation of the excess cost of special foods). For more information, see EBIA's Cafeteria Plans manual at Sections XX.P.3 ("Vitamins, Natural Medicines, and Nutritional and Herbal Supplements") and XX.P.4 ("Special Foods"); see also EBIA's Consumer-Driven Health Care & Fringe Benefits manual at Sections VII.B ("HRAs May Reimburse Only Code Section 213(d) Expenses") and XVII.C ("What Is an HSA Qualified Medical Expense?").

## Question of the Quarter

### HIPAA Privacy Association – Are You Interested in Joining Us?

I have not found a Privacy or Security Association that focuses on HIPAA compliance for non-health care employers. Thus, in collaboration with a local law firm we are looking at establishing an informal "Association".

For area employers, we intend regular meetings to provide a forum to discuss current events related to privacy and security and to network with other privacy and security officers.

For area employers and for employers unable to attend meetings, we also are looking at hosting a website to share and exchange information. Members may pose questions of our resident experts and we will post the responses.

Would this service be of value to you? Please let us know.

[tneely@fbmc-benefits.com](mailto:tneely@fbmc-benefits.com)

To respond by mail, please send your responses to:

Trish Neely, Chief Compliance Officer  
PO Box 1878  
Tallahassee, Florida 32302-1878

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