



Since the introduction of the debit card for medical expenses, we have been asked why participants must adjudicate expenses (verify the expense with third party receipts). This article which appeared in a recent EBIA newsletter addresses the issue with (2) IRS information letters that were sent to participants that questioned the regulations.

## IRS Information Letters Address Substantiation Rules for Health FSA Debit Card Programs

*IRS Information Letters 2021-0003 (Dec. 14, 2020) and 2021-0013 (Apr. 27, 2021)*

[Letter 2021-0003](#)

[Letter 2021-0013](#)

The IRS has released two information letters that address the substantiation rules for health FSA debit card programs. One letter responds to an inquiry on behalf of an individual whose card was deactivated for failure to provide requested documentation to substantiate expenses paid with a health FSA debit card. The other letter responds to a request for information about the substantiation rules for health FSA debit card transactions.

The letters explain that medical expenses must be substantiated with information describing the service or product, the date of service or sale, and the amount of the expense, but some debit card transactions do not provide all of the required information. If the information from the card transaction does not satisfy the substantiation requirements-e.g., the item or service was not specified-then the plan administrator must request additional information and must deactivate the card if the expense is not timely substantiated. The review of additional information can be avoided if an independent third party provides information at the time and point of sale to verify that the charge is for a medical expense (real-time substantiation). Also, a health FSA may coordinate with an individual's health insurer to use information from an explanation of benefits to fully substantiate a debit card charge. Payment of recurring expenses incurred at certain providers that match the amount, provider, and time period of previously approved expenses can be approved without additional substantiation. The letters note that health FSAs may be designed to impose stricter standards, and suggest contacting the employer or plan administrator about options for submitting claims directly to the plan with the required documentation.

EBIA Comment: These IRS information letters do not break new ground or include any surprises. But like other recent IRS information letters (see, for example, our article), they may be helpful to those on the "front lines" of cafeteria plan administration, who are sometimes asked to explain the reasons for plan operating rules and decisions. While not mentioned in the letters, the debit card program rules also allow automatic substantiation of card transactions at medical providers and 90% pharmacies (locations at which 90% of prior year gross receipts consisted of eligible medical expenses) where the dollar amount of the transaction equals an exact multiple of not more than five times the dollar amount of the copayment imposed for the service or product under the participant's health plan. Automatic substantiation is also allowed at merchants that have an inventory information approval system (IIAS) in place to ensure that cards are used only for eligible medical care expenses. For more information, see EBIA's Cafeteria Plans manual at Sections XXI.G.2 ("Requirements for All Health FSA Electronic Payment Card Programs"), XXI.G.3 ("Substantiation Rules for Card Transactions at Medical Care Providers and 90% Pharmacies"), and XXI.G.4 ("Substantiation Rules for Merchants Using Inventory Information Approval Systems"). See also EBIA's Consumer-Driven Health Care manual at Section XXIV.D ("HRA Reimbursements: Substantiation").