



Claim Eligibility for FSA, HRA or HSA

(Most plan documents point to the IRC 213 (d) Tax Code. Please check your employer Summary Plan Description SPD for details)

1. How to Decide Whether an Item Is for Medical Care: One General Rule and Many Special Rules

The tax laws (the Code, regulations, and court decisions) prescribe rules about whether an expense is considered to be for medical care. The most important general principle appears in [Code §213\(d\)\(1\)](#): It defines “**medical care**” to include amounts paid “for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.” In addition to this general principle, an administrator must determine whether any other special rules apply. That depends upon the nature of the item—e.g., whether the expense is for drugs, transportation for medical care, cosmetic procedures, etc.

2. Eligibility and Medical Definition Review

Eligibility requires a connectivity to a specific disease or medical dysfunction of the body and supported by a US licensed physician. There is no definitive list as such because the eligibility definition points to another Tax Code 213 (d) and that basically says the term “medical care” means amounts paid—for the **diagnosis, cure, mitigation**, treatment, or **prevention** of disease, or for the purpose of affecting any structure or function of the body.

- “**Diagnose**” means using any procedure to find out whether someone has a disease or dysfunction. Hearing, vision, and blood tests; CT scans; and urine analysis are all examples of diagnostic tests.
 - “**Cure**” means a medical treatment or drug used to restore health, such as using chemotherapy to treat cancer.
 - For care to “**mitigate**,” it must make a medical condition less harsh or severe. Examples include a wheelchair if a participant has multiple sclerosis and a seeing-eye dog for a blind child.
 - “**Prevent**” requires that the care involve the immediate and proximate prevention of a disease, defect, or illness, and that the disease, etc. be imminent. An example would be if the doctor prescribes an antibiotic to prevent infection from an animal bite.
3. “**You Must Be Sick Before You Can Get Well**” The requirement of an existing or imminently probable defect or ailment is sometimes expressed informally as the rule that “you must be sick before you can get well.” Under this rule, expenses that merely benefit an individual's general health or well-being are not reimbursable; there must be a specifically diagnosable condition.
- This rule does give way when it comes to annual physicals, immunizations, flu shots, and certain diagnostic procedures and devices (e.g., pregnancy test kits).^{*} These expenses may be for medical care even if incurred by a healthy person.
 - Court cases have established that expenses are not for the prevention of disease unless there is an existing or imminently probable disease, physical or mental defect, or illness

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