



IRS Issues Letter on Qualifying Medical Expenses

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On March 25, 2022, the IRS released an Information Letter on whether an expense qualifies as medical care under Code §213. As stated, health savings accounts (HSAs), health flexible spending accounts (FSAs) and health reimbursement accounts (HRAs) may only reimburse employees for amounts spent on “medical care” as defined in Code §213(d). That definition includes “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.” The regulations also require that allowed expenses be *primarily* for medical or mental health purposes.

Where a claimed medical care expense involves a tangential or potential personal (e.g., cosmetic or general health) benefit, it can be difficult to determine whether Code §213 requirements are met. The Information Letter was in response to a request for guidance on when health and wellness coaching may qualify as Code §213 expenses reimbursable under HSAs, FSAs or other tax-preferred accounts. The Treasury dodged the direct question on health and wellness coaching, and instead took the opportunity to provide general information on the application of Code §213.

The Treasury cited two comparative examples to illustrate the primarily medical purpose distinction. That is, the cost of a weight loss program is a Code §213 expense if used to treat a specific disease or ailment. However, the cost of that same program is not a Code §213 expense if used for improving general health unrelated to a specific disease or ailment. The Treasury further identified a series of factors to determine whether an expense that is typically personal in nature was incurred primarily for medical care under Code §213:

- The employee’s motive or purpose for incurring the expense.
- A physician’s diagnosis of a medical condition and recommendation as treatment or mitigation.
- The relationship between the treatment and the illness.
- The treatment’s effectiveness.
- The proximity in time to the condition’s onset or recurrence; and
- Whether the employee would have incurred the expense in the absence of a medical condition (the “but for” test).

This Information Letter contains no new information or even twists on existing guidance. Still, it serves as a useful reminder for employers, plan administrators and employees tasked with substantiating Code §213 expenses. When faced with a seemingly “dual-purpose” medical or personal expense, additional documentation that the expense was primarily for a medical purpose should be obtained. Unfortunately, there are no clear rules on how expenses should be substantiated. However, one approach is to require a medical practitioner’s statement that the treatment was recommended for a specific medical condition.

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