

## BENEFITS ALERT 2008-05

To	All FBMC Clients	Date	December 5, 2008
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Re	<b>Revenue Notice 2008-104: Transition Relief for RX Expenses Purchased using Electronic Payment Cards at Drug Stores &amp; Pharmacies</b>		

### ***Revenue Notice 2008-104***

The IRS just issued Notice 2008-104 which provides transition relief for health FSA and HRA debit card transactions at Drug Stores and Pharmacies. This revenue notice extends the effective date six months of Notice 2007-02 which specified that these merchants implement an inventory control system or be prepared to demonstrate a specific percentage of gross receipts that are health related if they want to continue to accept health-care electronic payment cards (like the MyFBMC Card) from customers.

In practice this transition relief means that HRA and MFSA electronic payment cards may still be used through June 30, 2009 at drug stores and pharmacies as long as other Revenue Ruling 2003-43 substantiation requirements are met **without regard** to whether the drug store or pharmacy has complied with Notice 2007-02. However, come July 1, 2009, FBMC's card will no longer work at these locations if they have not complied. FBMC Operational teams are determining how best to communicate this news to current card customers.

### ***Background***

Revenue Ruling (RR) 2003-43 was the original revenue ruling that laid out the foundation and parameters for proper use of electronic payment cards for the purchase of qualified expenses under Flexible Spending Arrangements.

The IRS issued RR 2006-69 which clarified further and added guidance related to the establishment of a specific inventory control and reporting system (Inventory Information Approval System or simply IIAS) to be used by all non-health merchant category code businesses such as drug stores, retail stores and grocery stores if they wanted customers to be able to shop using an HRA or medical FSA electronic payment card. The reason for this reporting system was to assure that cards were used to purchase **ONLY** IRS approved 213(d) health care items rather than groceries, soda, lawn chairs, clothing, etc. also available from these retailers.

The IIAS reporting system requirement was effective 12/31/2007 for grocery store and other retail chains; however drug stores and pharmacies were given until 12/31/2008 to comply.

**IRS Notice 2007-02**, permitted drugstores and pharmacies two ways to comply, either:

- 1) Use an inventory information approval system (IIAS) that meets IRS requirements, or
- 2) Be prepared to demonstrate that 90% of the store's gross receipts during the prior taxable year (determined on a store-location-by-location basis) consisted of items that would qualify as Section 213(d) medical expenses.

For additional information please contact the undersigned.