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Can Employees Pay for Cord Blood Storage with an HRA, FSA or HSA?

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The blood remaining in the umbilical cord after childbirth contains stems cells which may be used in a variety of medical treatments. Many parents of newborns are seeking to save this “cord blood”, either with the hopes of curing known ailments, as insurance against future illnesses, or for use in yet-to-be-discovered therapies.

My internet surfing (assign whatever level of reliability you see fit) reveals that cord blood storage costs about $1000-2000 for the initial collection and $150-$250 per year for the storage. Perhaps not insurmountable in a vacuum, but more prohibitive when added to all the other costs of having children (Diapers! Clothes! Lessons! Child care! Downloads! Theme parks in Florida!). So it’s no surprise that many employees are wondering – can I pay for cord blood storage with the money in my health reimbursement account (HRA), health care flexible spending account (FSA) or health savings account (HSA)?

Maybe.

Expenses may be reimbursed through HRA, FSA and HSA accounts if they are “qualified medical expenses.” These expenses are described in IRS Publication 502 (which discusses what medical expenses are tax deductible):

> Medical expenses are the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body. These expenses include payments for legal medical services rendered by physicians, surgeons, dentists, and other medical practitioners. They include the costs of equipment, supplies, and diagnostic devices needed for these purposes. Medical care expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They don't include expenses that are merely beneficial to general health, such as vitamins or a vacation.

So far so good for the parents. But in Information Letter 2010-0017, the IRS makes clear that cord blood storage isn’t always a qualified medical expense:

> Cord blood contains stem cells that doctors may use to treat disease. Thus, expenses for banking cord blood to treat an existing or imminently probable disease may qualify as deductible medical expenses. However, banking cord blood as a precaution to treat a disease that might possibly develop in the future does not satisfy the existing legal standard that at a minimum a disease must be imminently probable.

So: if the storage is merely precautionary, then the storage wouldn’t be a qualified medical expense. If there’s a current need (for example, the baby or a sibling or parent is actually sick and could benefit from the cord blood in the short term) then there’s an argument to count the cord blood storage as a qualified medical expense and allow reimbursement of the costs through an HRA, FSA or HSA.

Even if the cord blood storage is a qualified medical expense, the terms of an HRA or FSA arrangement may not allow reimbursement. For example, many HRAs are designed solely to reimburse out-of-pocket expenses imposed under an employer’s major medical plan, such as copayments and cost-sharing. In this case, cord blood storage would not qualify. FSA arrangements are likely to be more liberal, but employers do have the flexibility to exclude certain benefits from FSA coverage. In addition, in the case of either FSA or HRA arrangements, expense reimbursements could be limited to the employee’s (and not a child’s or spouse’s) expenses, leaving the employee to argue that the cord blood banking is not only a qualifying medical expense but is for the employee’s benefit (although every FSA and HRA arrangement that I have seen covers expenses for the employee’s spouse and children). As for an HSA, if the cord blood storage is a qualified medical expense, it may be reimbursed, whether for the employee, child or spouse.

In conclusion, individuals who seek reimbursement from an HRA, FSA or HSA for cord blood storage should be prepared to argue that the storage is intended to meet an immediate medical need, and individuals seeking reimbursement from HRA and FSA arrangements for cord blood storage should be sure to read their plan documents carefully.

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