

TAX PARITY FOR DIETARY SUPPLEMENTS

Issue: Science is increasingly validating the role dietary supplements play in maintaining health and preventing illness. In recognition of this fact, the U.S. Food and Drug Administration (FDA) now allows pre-approved claims for specified dietary supplements and foods that communicate a health benefit. Previously, these types of health claims were only allowed on drugs. Because certain dietary supplements and foods may now make health claims in the same way over-the-counter (OTC) drugs can, they deserve the same tax treatment. To ensure that happens, Rep. Edolphus Towns (D-New York), has introduced H.R. 1107, the Dietary Supplement and Healthy Meal Replacement Tax Parity Act.

Background: Health Savings Accounts (HSAs) and health Flex Spending Accounts (FSAs), using similar but distinct methods, allow participants certain tax breaks for medical expenditures as defined in section 213(d) of the Internal Revenue Code (IRC). Tax regulations interpret such expenses as incurred primarily for the “prevention or alleviation of a physical or mental defect or illness” and include OTC as well as prescription drugs. In allowing OTC drugs to be covered under this tax code, the Internal Revenue Service recognized the important health benefits these products, such as antacids, provide to Americans. And just as expenses for OTC drugs are covered under both HSAs and FSAs, so too should expenses for specific dietary supplements and foods with demonstrated health benefits.

A key provision of H.R. 1107 that only those dietary supplements and foods that have been granted the right by the FDA to use a specific health claim, based on scientific research, would be covered under this proposal. All of these claims have specific requirements in order to qualify and can only be used in the manner specified by the FDA. The list below represents the health issue and dietary supplement or food about which a claim can be made:

Birth defects: Folic acid

Cancer: Antioxidant vitamins, selenium

Cognitive impairment:
Phosphatidylserine

Coronary heart disease: Soy protein, sterol/stanol esters and omega-3 fatty acids

Osteoporosis: Calcium

Vascular disease: B vitamins

Such dietary supplements and foods help prevent diseases in ways comparable to OTC drugs and the tax code should permit expenditures for them under FSA and HSA rules.

Given that a relatively high percentage of all deaths in the United States are related to poor diet and physical inactivity, establishing tax deductibility for certain products that promote a healthy lifestyle, weight loss, and help prevent disease, should be an important public policy initiative. Such initiatives are increasingly important as society seeks ways to reduce the health care costs associated with diabetes, cardiovascular disease, and other significant diseases.

Action

Requested: Support the Dietary Supplement and Healthy Meal Replacement Tax Parity Act, so that foods and dietary supplements with approved health claims can receive the same tax treatment as other products that maintain health and prevent illness.



Coalition to Preserve DSHEA
1220 19th Street, NW, Suite 400
Washington, DC 20036
p: 202.223.7030 f: 202.223.0250
www.DSHEA.org