

Congress reconsiders restrictions on flexible spending accounts for health care

by [Elizabeth Stawicki](#), Minnesota Public Radio
August 22, 2011

St. Paul, Minn. — Bills floating through Congress would lift some restrictions on flexible spending accounts and allow employees to set aside pre-tax earnings to pay for out-of-pocket health care expenses. Flexible spending accounts have been fixtures of many employer-sponsored health plans for about the past 20 years, used by small and large companies to keep health care costs down for their employees. But the federal health care law stopped consumers from using these dollars to cover over-the-counter medicine without a doctor's prescription.

Not everyone realized last January that they could no longer use their flex account dollars for over-the-counter medicines such as vitamin supplements or allergy drugs. Tim Gallagher who runs the Austin, Minn. based regional drug store chain, Astrup Drug said his staff of about 30 pharmacists were the ones who had to give consumers the bad news. "When they have a benefit that's been given to them and then it changes, they don't understand why and the patients have not been happy," Gallagher said.

The law does allow consumers to use flex dollars for over-the-counter medicine, but only with a doctor's prescription. And many people weren't shy about doing just that. The change in law caught Roseville family practice physician Jamie Lyn Reinschmidt off guard when suddenly, she began to receive calls from three or four patients each week, sometimes wanting 5 to 10 prescriptions at a time for over-the-counter medicines.

It was a not-so-subtle reminder that the federal health care law was changing health care, Reinschmidt said. The reason for taxing previously untaxed items was to raise revenue to help expand coverage to 32 million more Americans in 2014. Jean Abraham, who served on the President's Council of Economic Advisors specializing in health care during the Bush Administration and Obama Administrations and is a health economist at the University of Minnesota, said there are a couple of reasons why flexible spending accounts were targeted. One is that those people who have these accounts tend to have higher incomes. "There's also an equity issue underlying this rationale, specifically, why should individuals with employer-sponsored insurance get a tax break on over the counter medicines that's not available to individuals who don't have employer-based coverage," Abraham said.

Tapping into consumer frustration and discontent with this rule change, some members of Congress have introduced bills to repeal it. Minnesota Congressman and Republican Erik Paulsen introduced a bill in February that would not only allow consumers to use flex accounts for over-the-counter medicine, it would also remove a \$2,500 contribution limit on consumers. Any legislation repealing the change to flex account spending has a major hurdle to overcome, and that is finding money — about \$18 billion — to make up in the federal budget. Congress

would have to find the money somewhere else in the budget and the bills' authors have yet to identify where that money will come from, Paulsen said.