

## **1 MERP Section 105 Legal Plan**

**Medical Expense Reimbursement Plan for (name of business or, if no separate name, your name)**

*NOTE: For plan years beginning after December 31, 2013, see the 2014 version of this sample. Updated for Health Care Reform, Public Law 111-148, Signed into Law on March 30, 2010. Updated for IRS Notice 2010-59, issued September 3, 2010. If you have a plan that is fully insured by a qualified insurance carrier (i.e., Transamerica); you may offer a MERP for your eligible employees.*

**1. PURPOSE:** The purpose of the plan is complete and full medical care for the employees of (name of business). The plan is designed and intended to qualify as an accident and health plan within the meaning of Section 105 of the Internal Revenue Code of 1986, as amended. This section of the Code allows employees to exclude the benefits of this plan from their gross income.

**2. EFFECTIVE DATE:** The effective date of this plan is \_\_\_\_\_ and it operates on a calendar-year basis hereafter. The plan year is the same as the tax year of this business and, like those of the business, the records of the plan shall be kept on a calendar-year basis.

**3. ELIGIBLE EMPLOYEES:** All full- and part-time employees of (name of business) may participate in this plan.

*(If you expect to hire other employees after you hire your spouse or after you form your C corporation, consider these discrimination rules that allow you to deny coverage to those employees who (1) do not have three years of service or (2) are not yet age 25 on the first day of the plan year. To use these requirements, insert them into your plan. For details on these rules, refer to Tax Reduction Letter, January 2009, Vol. 16, No. 1, Discriminate with Your 105 Plan.)*

**4. BENEFITS:** Within 15 days of reimbursement requests, (name of business) shall reimburse the employee for expenses incurred for the medical care of the employee, the employee's spouse, the employee's dependents, and any child of the employee who, as of the end of the taxable year, has not attained age 27. The plan covers only qualified medical expenses incurred by the employee on or after the date of hire.

"Medical care" for the Section 105 plan is defined in Section 213(d), which is the section that authorizes itemized deductions. Thus, the employee may submit for reimbursement any expenses incurred that would otherwise qualify as itemized deductions. In addition, for expenses incurred before 2011, the employee may submit for reimbursement the costs incurred for over-the-counter drugs and medicines used to treat illness or injury.

"Dependents" for Section 105 are defined in Section 152, determined without regard to Subsections (b)(1), (b)(2), and (d)(1)(B). In general, this means the dependents you claim on your tax return. In addition, this means that an individual could be your dependent for the Section 105 plan even though the individual is not your dependent for your Form 1040 because:

- the individual is a dependent of another taxpayer-Section 152(b)(1);
- the individual is married and files a joint tax return-Section 152(b)(2); or

# Fheb 2014 105 Plan

**Julia Schneider**



**Fheb 2014 105 Plan:**

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