

Sample Dependent Care Expense Eligibility

Introduction

Most work-related expenses incurred during the plan year for the care of a qualified person will qualify for non-taxable reimbursement through the Dependent Care Flexible Spending Account.

General Requirements

- 1) Your child/dependent care expense must be incurred to allow you and your spouse, if married, to work or look for work. See exception for student-spouse or spouse not able to care for self.
- 2) You must have made payments for child or dependent care to someone you or your spouse could not claim as a dependent and if the person you made payments to was your child he/she must have been 19 or older by the end of the year.
- 3) Provider information: To identify the care provider, you must provide the provider's:
 - Name, Address and Taxpayer Identification Number or Social Security Number

Work Related Expenses

Only work-related expenses qualify for dep. care reimbursement. Your expenses must have been for the well-being and protection of a qualifying person. Expenses are considered work-related only if they allowed you and your spouse, if married, to work or look for work and they are for a qualifying person's care. For example, the cost of a baby-sitter while you and your spouse go out to eat is not a work-related expense.

Generally, if you are married, both you and your spouse must work. In certain cases, however, your spouse does not have to work. (See Work Requirements.)

Work related expenses include:

- 1) Expenses for household services, and
- 2) Expenses for the care of a qualifying person.

Work Requirements

Your work can be for others, full-time or part-time, or in your own business or partnership. Work may include actively looking for work. Unpaid volunteer or volunteer work for a nominal salary does not qualify. Both you and your spouse, if married, must work unless your spouse is a full time student or disabled.

Your spouse is considered to have worked if for any month he or she was:

- 1) A full-time student, or
- 2) Physically or mentally unable to care for self.

Note: A full time student is one who is enrolled at a school during at least some part of each of five calendar months of the calendar year, not necessarily consecutive, for the number of hours considered to be a full time course of study. A student who attends school only at night is not a full time student. However, a full time student can attend some night classes.

Keeping Up a Home

Payments to relatives. Considered work-related payments you made to relatives who are not your dependents, even if they live in your home. But, do not consider any payments you made to:

- 1) A dependent for whom you or your spouse, if married, can claim as an exemption, or
- 2) Your child who was under the age of 19 at the end of the year.

Expenses for Household Services

Expenses you pay for household services done in and around your home that were necessary to run your home are work-related expenses if they were at least partly for the well-being and protection of a qualifying person. The services of a housekeeper, maid or cook are usually considered necessary to run your home if performed at least partly for the benefit of the qualifying person. However, do not include payment for services of a chauffeur or gardener. Household services do not include expenses for a qualifying person's:

- Food, clothing, education, or entertainment.

If part of an expense is work-related and part for other purposes, you must allocate the expense. Consider only the part that is work-related. However, you do not have to allocate the expense if the part for the other purpose is small.

All of your expenses for housework are work-related even if only part is for a qualifying person.

Expenses for the Care of a Qualifying Person

The main reason to have expenses for the care of a qualifying person must be for the person's well-being and protection. These expenses do not include amounts paid for clothing, entertainment, food or schooling. However, if these amounts are incident to and cannot be separated from the cost of caring for a qualified person, you can consider the total cost.

You can include the cost of care provided outside your home if the care was for your dependent under age 13 or for any other qualifying person who regularly spends at least eight hours each day in your household. Care that was provided outside your home by a dependent/day care center can be included provided the center (if it serves seven or more children or adults) complies with all the applicable state and local regulations. The cost of getting a qualifying person to and from your home and the care location is not considered a work-related expense. This includes the cost of buses, subways, taxis, or private car(s).

Meals and lodging provided for housekeeper. If your housekeeper ate in your home, add to your work-related expenses the part of your total food cost that was for the housekeeper. If you have extra expenses for your housekeeper's lodging, add these expenses to the work-related expenses.

Taxes paid on wages. If you pay wages for household help, you may have to pay the employer's portion and withhold the employee's portion of the Social Security tax (FICA). You may also have to pay federal unemployment tax (FUTA) and similar state taxes.

FICA/Social Security Taxes. FICA/Social Security taxes are eligible dependent care expenses, as long as the day care provider is the employee the taxes are being paid on.

Qualifying Persons

Your work-related expenses must be for the care of one or more members of your home who are qualifying persons. A qualifying person is:

- 1) Your dependent under age 13 for whom you can claim an exemption.
- 2) Your dependent who was unable to care for him/herself and for whom you can claim an exemption
- 3) Your spouse who is physically or mentally unable to care for him/herself.

Limitation and Reimbursements

The law imposes limits on the amount of non-taxable dependent care reimbursement an individual can receive. An individual cannot be reimbursed for any amount over the lowest limit that applies to his/her situation. The limits are as follows:

- 1) If the individual is married, both the individual and his/her spouse must earn income, unless the spouse is disabled or a full time student. The amount of expenses that qualify for reimbursement is limited to the income earned by the spouse with the lower earnings. If the spouse is a full time student or disabled, the law assumes that he/she has a monthly income of at least \$200 if the individual has one qualified person, or at least \$400 if the individual has two or more qualified persons.
- 2) There is a \$5000 limit on the total amount of tax-free dependent care assistance that an individual can receive in any year (\$2500 if the individual and his/her spouse file separate tax returns). If the employer of the individual's spouse also has a dep. care assistance plan, the \$5000 limit applies to the total amount of tax-free dependent care assistance that the individual and his/her spouse, as a couple, can receive in any year from all employer-sponsored plans. The \$5000 limit is not affected by the number of qualified persons an individual has.

Eligible Expense Listing for Dependent Care FSA

Eligible Expense Listing

- Day camps, nursery schools, and after-school programs and day care centers
- Expenses for a dependent child in nursery school, pre-school or similar programs for children below the level of kindergarten
- Care provided at your home, provider's home, or at dependent care center is eligible. Care provided outside your home, either in a day care center or at the provider's home is eligible only if the care is provided to a dependent under the age of 13 whom you are allowed to claim as an exemption for federal income tax purposes or if the care is provided to any other qualifying individual who regularly spends at least eight hours each day in your home.
- Lodging provided for a housekeeper can be paid when submitted with dependent care charges.
- Utilities for provider's lodging when submitted with dependent care charges.
- Meals for provider when submitted along with dependent care charges.
- Taxes paid on wages for household help.
- FICA/Social Security taxes as long as the day care provider is the employee whose taxes are being paid.
- Household services needed for the well-being and protection of a qualifying individual.

Ineligible Expenses

- Dancing or swimming lessons, field trips, diapers, transportation, meals, clothing, and educational services. Note: If these expenses are part of total bill and cannot be separated, they are eligible.
- Overnight camp
- Baby-sitting school fees paid for a healthy child while parent is recuperating from an illness (regardless of doctor's advice)
- Payment for chauffeur or gardener
- Tuition for schooling
- Placement fees for finding a dependent care provider (e.g., Au Pair)
- Payment to a housekeeper while you are out sick