

Dependent Care FAQ

CHILD DAYCARE expenses that qualify must allow you and your spouse, if you are married, to work or look for work:

- Nanny, babysitter, housekeeper, and nurse's fees thru age 12, for services provided inside your home, are eligible to the extent they are attributable to child care expenses and expenses of incidental household services.
- Dependent care expenses incurred for services outside your home, providing they are incurred for the care of a qualifying dependent that regularly spends at least eight hours per day in your home.
- Registration fees to a daycare facility are eligible as long as the fees are allocable to actual care and not described as materials or other fees.
- Pre-K or nursery school expenses are eligible, even if the school also furnishes lunch and educational services.
- Before and after school care thru age 12.
- Day camp expenses thru age 12 are eligible if the day camp's main purpose is the dependent child's well-being and protection.
- Food and incidental expenses (diapers, activities, etc.) may be eligible if part of dependent care charge.
- Expenses paid to a relative (e.g. child, parent, or grandparent of participant) are eligible. However, the relative cannot be under age 19 or a tax dependent of the participant.
- FICA and FUTA payroll taxes of the daycare provider.

Child dependent care expenses that DO NOT qualify:

- Kindergarten fees are almost always an education expense and should never be reimbursed under a dependent care plan.
- Elementary school expenses for a child in first grade or higher.
- Overnight camp.
- Food, transportation, and incidental expenses (diapers, activities, etc.) are not eligible if charged separately from dependent care expenses.
- Expenses paid to a housekeeper, maid, cook, etc. are not eligible, except where incidental to child care.
- Mass transit and parking.

ELDER and ADULT DEPENDENT DAYCARE expenses that qualify must allow you and your spouse, if you are married, to work or look for work:

- Housekeeper and nurse's fees, for services provided inside your home, are eligible to the extent they are attributable to elder care expenses and expenses of incidental household services.
- Elder care expenses incurred for services outside your home, providing they are incurred for the care of a dependent that regularly spends at least eight hours per day in your home.
- Food and incidental expenses may be eligible if part of dependent care charge.
- Expenses paid to a relative (e.g. child) are eligible. However, the relative cannot be under age 19 or a tax dependent of the participant.

- FICA and FUTA payroll taxes of the daycare provider.

Elder and adult dependent care expenses that DO NOT qualify for reimbursement:

- Overnight stays at medical or recreational facilities.
- Food, transportation, and incidental expenses (diapers, activities, etc.) are not eligible if charged separately from dependent care expenses.
- Expenses paid to a housekeeper, maid, cook, etc. are not eligible, except where incidental to adult dependent care.
- Mass transit and parking.

Limitations: Child and Elder/Adult Dependent Care expenses may not exceed the smaller of the following limits:

- The maximum allowed under the plan.
- \$5,000 (if you are married and filing a joint tax return or are filing as single, head of household) and \$2,500 if you are married and separate returns are filed.
- If you file as single or as head of household, you can make annual contributions up to the lesser of \$5,000 or the amount of your earned income. Note: Only the custodial parent may participate in a dependent care FSA.
- Your taxable compensation (after all compensation reduction elections). If you are married, your spouse's actual or deemed earned income.
- Eligible expenses include daycare costs for dependent children under the age of 13, or a child who is physically or mentally incapable of self-care.
- The child or adult dependent must spend at least eight hours a day in your household.
- Eligible expenses include daycare costs for dependent elders or a dependent who is physically or mentally incapable of self-care.

If I have someone come into my home to take care of my children instead of using a day care facility, do these expenses qualify for a dependent care FSA?

Yes. If the services are necessary in order for you (or, if you are married, you and your spouse) to work, you can include payments made to a babysitter or companion in or outside your home. Expenses will also qualify for a dependent care FSA if you work and your spouse is a full-time student or is mentally or physically incapable of self-care. However, you cannot be reimbursed for payments made to your spouse, the parent of your qualifying child, your child under age 19 (even if not your dependent) or a person whom you claim as a dependent on your tax return.

How much can I contribute to a dependent care FSA?

If you are married and file your tax return jointly with your spouse, then you and your spouse are allowed to contribute up to the lesser of \$5000 or the earned income of the lower-paid spouse. (For example, if one spouse had earned income of \$4,500 for the year and the other spouse's earned income was \$25,000, they may only contribute up to \$4,500 to the dependent care FSA.)

If you are married and file separately, you and your spouse are each allowed to contribute up to the lesser of \$2,500 of your respective earned incomes.

If you file as single or as head of household, you can make annual contributions up to the lesser of \$5,000 or the amount of your earned income. Only the custodial parent may participate in a dependent care FSA.

I am a divorced parent. May I establish a dependent care FSA for child care expenses even if my ex-spouse has already done so?

Yes, if you are the custodial parent. This is true even if the non-custodial parent claims the dependency exemption for that child. In general, the custodial parent is the parent with whom the child lives for more than 50% of the year. The non-custodial parent may not participate in a dependent care FSA because the IRS takes the position that dependent care expenses are not necessary for the non-custodial parent to be gainfully employed.

Can I use the Dependent Care FSA for elder care? What if my elderly parent remains in his/her own home or a nursing home but is still my dependent?

You can use the dependent care FSA for elder care expenses so that you (or if you are married, you and your spouse) can work. To claim the expenses:

- Generally, your parent must qualify as your dependent under the tax rules.
- Your parent must be physically or mentally incapable of self-care.
- Your parent must reside in your home for at least half of the year.
- Your parent must usually spend at least eight hours a day in your home.

For additional information [CLICK HERE](#) to view IRS Publication 503.

Is it better to use the deduction on my annual tax return or participate in the Dependent Care Account?

For the most part, if your tax bracket is higher than 15%, the Dependent Care FSA is best and if your tax bracket is lower than 15%, the Dependent Care Tax Credit is best.

If you are earning a moderate to high income (\$60,000 or above), and particularly if you are filing taxes as "Married, Filing Jointly" (combining incomes with a spouse), the Dependent Care FSA is probably more advantageous. For example, if you have 1 child, the \$5000 available through the Dependent Care FSA is better than the credit arising from the limit imposed by the Dependent Care Tax Credit.

Don't forget! The FSA saves not only income taxes (federal and state), but social security taxes as well. There are no social security tax savings offered by the Dependent Care Tax Credit. (Note: Your social security benefits could be slightly reduced by paying less social security taxes.)

Some assistance is provided by the IRS Publication 503 "**Child and Dependent Care Expenses**", which provides full information about the tax credit and offers worksheets and aids for performing the calculation.

When are funds for my Dependent Care FSA available?

Dependent Care FSA reimbursements are available after incurring qualified expenses up to the amount you have contributed from your paycheck(s).

What is appropriate documentation for submitting a Dependent Care Claim?

Please submit a signed claim form with the care provider tax identification or social security number and reimbursement to be made. Remember that the Dependent Care FSAs can only reimburse up to the amount deposited.

Recurring payments can be set up if the Dependent Care bill is always the same and for the same care provider. This will automatically issue reimbursements as funds become available. The Dependent Care claim form has a box that is checked if you elect this option.