

## DCAP REIMBURSEMENTS

### Qualifying Expenses

Dependent care expenses are those that are necessary for the employee and the employee's spouse (if married) to be gainfully employed (i.e., employment-related expenses).

- Nanny expenses, for services provided inside the employee's home, are eligible to the extent they are attributable to dependent care expenses and expenses of incidental household services.
- Dependent care expenses incurred for services outside the employee's home, providing they are incurred for the care of a qualifying individual.
- 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.
- Nursery school expenses are eligible, even if the school also furnishes lunch and educational services.
- 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 Code §152 dependent of the employee.
- FICA/Medicare and FUTA payroll taxes of the daycare provider are eligible.
- Dependent care expenses incurred to enable the employee or spouse to find work are eligible.

### Reimbursement Limitations

The reimbursement may not exceed the smaller of the following limits:

- The maximum allowed under the plan.
- \$5,000 (if you are filing a joint tax return) and \$2,500 if separate returns are filed.
- Your taxable compensation (after all compensation reduction elections).
- If you are married, your spouse's actual or deemed earned income.

### Ineligible Expenses

- 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 are not eligible.
- Mass transit and parking.
- 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 or dependent adult care.

### Qualifying Individuals

To qualify as employment-related expenses under a DCAP, care must be for a "qualifying individual". Under Code §21(b)(1), "qualifying individual" means:

- Code §152 Qualifying Child under the age of 13 – or if over age 13, incapable of self-care.
- Code §152 Qualifying Child or Qualifying Relative that is incapable of self-care and shares the same principal place of abode for more than ½ year without regard to the following prohibitions: (1) Dependent of a Code §152 dependent; (2) Married dependents filing a joint return; and (3) Qualifying Relatives with gross income that equals or exceeds the exemption amount.
- Employee's spouse if the spouse is incapable of self-care has the same principal place of abode as the employee for more than half of the year.
- For parents who are divorced or separated, a child is a "qualifying individual" only with respect to the custodial parent — the parent that has custody for the greater portion of the year.