

FlexSystem®
Flexible Spending Accounts (FSA)

Dependent Care Qualifications

FSA eligibility criteria for Dependent Care expenses.

A Section 125 Cafeteria Plan (FlexSystem FSA) allows for the inclusion of Dependent Care (Section 129 of the Internal Revenue Code) benefits. Eligibility for the dependent care benefit requires that certain criteria be met with respect to the expense, the provider, etc.

FlexSystem FSA Dependent Care

A) **The dependent care expenses must be work related. T**he care must be necessary for the employee and the employee's spouse to work, to look for work, to attend school full-time or are physically unable to care for their children.

B) **The dependent care expenses provided during a calendar year cannot exceed $5,000.** In the case of a separate return by a married individual, the limit is $2,500. This amount may be less if the employee's earned income or spouse's earned income is less than $5,000.

The dependent care expenses must be for the care of one or more qualifying persons. A qualifying person is one of the following:

A) A dependent who was under age 13 when the care was provided and for whom an exemption can be claimed.

B) A spouse who was physically or mentally not able to care for himself or herself, and lived with you for more than half the year.

C) A dependent who was physically or mentally not able to care for himself or herself and for whom an exemption can be claimed, and lived with you for more than half the year.

To receive the dependent care benefit, one must follow these procedures:

A) All persons and organizations that provide dependent care for a qualified person must be identified. This information is requested on Form 2441. The name, address and taxpayer identification number of the provider must be included. Under certain circumstances the taxpayer identification number will be a social security number.

B) If the care is being provided by a center that cares for more than six persons, the center must comply with all state and local regulations.

C) Payments made to relatives who are not dependents can be included. However, do not include amounts paid to a dependent for whom you can claim an exemption or for your child who is under age 19 at the end of the year, regardless of whether he or she is your dependent.

D) Use Form W-10 to request the required information from the care provider.

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Special rules apply to children of divorced or separated parents:

Even if you cannot claim your child as a dependent, he or she is treated as your qualifying person if all of the following are true:

- The child was under age 13 or was not physically or mentally able to care for himself or herself
- One or both parents provided more than half of the child's support for the year and are divorced, legally separated, or lived apart at all times during the last 6 months of the calendar year.
- One or both parents had custody of the child for more than half of the year
- You were the child's custodial parent. The custodial parent is the parent having custody for the greater portion of the calendar year. If the child was with both parents for an equal number of nights the parent with the higher adjusted gross income is the custodial parent.

Exceptions to the above:

- The custodial parent releases claim to the exemption for the year by signing Form 8832, or similar statement, agreeing not to claim the child's exemption for the year.
- The non-custodial parent provided at least $600 of the child's support and can claim the child's exemption under a pre-1985 decree of divorce or separate maintenance, or written agreement.

Eligible and Ineligible Expenses for FSA Dependent Care (partial list):

Eligible Expenses (must be employment related)

- FICA/FUTA taxes of dependent care provider
- Nanny expenses attributed to dependent care
- Nursery school (Pre-school)
- Late pick up fees
- Day Camp – primary purpose must be custodial care and not educational in nature
- Day care when one parent is working and the other is sleeping during daytime hours

Ineligible Expenses

- Kindergarten
- Activity fees/supplies
- Late payment charges
- Overnight camp
- Transportation
- Fees paid to a provider not reporting the income to the IRS

For more information regarding dependent care expenses, please review IRS Publication 503.

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