

UNIVERSITY OF CALIFORNIA

# **Dependent Care Flexible Spending Account (DepCare FSA)**

2009



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The Dependent Care Flexible Spending Account (DepCare FSA) allows you to pay for eligible dependent care expenses on a pretax, salary reduction basis. Dependents can be either children or adults (see “Which Dependents are Eligible” on page 3). The program is established under Internal Revenue Code (IRC) Sections 125 and 129.

**Note: If you are an Academic Student Employee represented by the United Auto Workers, or you are a Graduate Student Researcher, you may be eligible to participate in the DepCare FSA. Please review the Dependent Care Flexible Spending Account for Academic Student Employees at [atyourservice.ucop.edu/employees/health\\_welfare/depcare\\_hcra/ase/index.html](http://atyourservice.ucop.edu/employees/health_welfare/depcare_hcra/ase/index.html) for special provisions that apply.**

## HOW THE DEPCARE FSA WORKS

After you enroll, the DepCare FSA works like this:

- ▶ The amount you specify when you enroll is taken from your paycheck each month and deposited in your DepCare FSA.
- ▶ You pay your dependent care expenses as usual.
- ▶ After the dependent care has been provided, you submit a claim form and receipts to CONEXIS, the company UC has hired to administer this program.
- ▶ CONEXIS sends you a reimbursement payment for the amount of the claim or, if less, the amount remaining in your DepCare FSA, either by direct deposit to your bank account or by check.

The “**use-it-or-lose-it**” rule is a provision in the IRS regulations that requires that all money contributed to your FSA must be used to reimburse qualified expenses incurred during that plan year or during a grace period (January 1 through March 15) immediately following the plan year. Money not used to reimburse eligible expenses is forfeited. The unused portion of your DepCare FSA may not be paid to you in cash or other benefits, nor may funds be transferred to another FSA. For example, you could not transfer funds remaining in your DepCare FSA to your Health FSA account so they could be used for healthcare expenses. To reduce the risk of forfeiture, it is critical that you carefully estimate your expenses when choosing your annual election amount. The online savings calculator can help you estimate your annual expenses.

## HOW THE DEPCARE FSA CAN SAVE YOU MONEY

Your savings are strictly on taxes. DepCare FSA contributions are deducted from your paycheck on a pretax (tax-free) basis—before federal, state, and Social Security (FICA) taxes are taken out. For example, if you earn \$3,000 a month and contribute \$200 to your DepCare FSA, you pay taxes on \$2,800 a month.

The tax savings are reflected in your paycheck each month, all year.

The DepCare FSA can help you save on your taxes, but only if you:

- ▶ **Carefully estimate your DepCare FSA expenses.** (See page 7, “Changing or Cancelling Contributions”)
- ▶ **Recalculate and adjust your DepCare FSA contribution as necessary during Open Enrollment or within a new period of initial eligibility (PIE) because of a change in family or employment status.** To ensure you do not overcontribute to the DepCare FSA (and risk loss of contributions), please take into account whether your child will turn age 13 during the year, summer months when child care may not be needed, or other special circumstances that might affect your contribution calculations.
- ▶ **Submit claims on time.** The final claims submission deadline for the DepCare year is April 15 of the following year (see page 6, “How to File Claims”).

**You may be able, however, to reduce your taxes even more by using the dependent care tax credit instead of DepCare FSA.** The tax credit is a percentage of allowable expenses; the percentage varies according to your income level. Expenses reimbursed under DepCare FSA reduce, dollar for dollar, the expenses eligible for the tax credit on your income tax return.

The savings depend on your particular tax situation. See page 10 for more information. Also, see Internal Revenue Service (IRS) Publication 503, *Child and Dependent Care Expenses* available at [www.irs.gov](http://www.irs.gov), or consult your tax advisor.

## HOW THE DEPCARE FSA AFFECTS SOCIAL SECURITY AND UNEMPLOYMENT INSURANCE BENEFITS

As discussed in the previous section, DepCare contributions lower your earnings. **Because your Social**

**Security and unemployment insurance benefits are based on earnings, your participation in the DepCare FSA may reduce these benefits, depending on the amount you earn.**

If your earnings after DepCare FSA contributions are above the Social Security wage base (\$106,800 in 2009), there will be little or no effect on your Social Security benefits. However, if your earnings are below the wage base, your future Social Security benefits may be reduced if earnings from your years of participation in the DepCare FSA are used to calculate your Social Security benefits.

The amount of your DepCare FSA contribution also reduces the wages used to calculate your unemployment insurance benefits.

## THE DEPCARE FSA DOES NOT AFFECT UCRP AND UC RETIREMENT SAVINGS PROGRAM BENEFITS

Your contributions to the DepCare FSA do not reduce the wages used to calculate your UCRP (University of California Retirement Plan) benefits nor do they affect your Tax-Deferred 403(b) Plan or 457(b) Deferred Compensation Plan maximum annual contribution amounts.

## WHO CAN PARTICIPATE

You may participate in the DepCare FSA if

- ▶ You are in an appointment type that is eligible for benefits, **and**

You're appointed to work at least 43.75 percent time, **or**

You're not appointed to work at least 43.75 percent time, but you have worked 1,000 hours in a 12-month period

- ▶ If you're married, both you and your spouse have earned income during the year unless your spouse is incapable of self-care or is a full-time student.

### Special Rules for Part-Time Employees

In general, if you work part-time you must allocate expenses between days worked and days not worked. However, if you work part-time but are required to pay for dependent care expenses on a periodic basis (including non-working days), you do not have to allocate expenses between days worked and days not worked. These two scenarios are illustrated in the examples below.

- ▶ **Allocation Required.** You work three days a week and have voluntarily placed your child in day care five days a week so you may remain gainfully employed. Your cost for the childcare is \$50.00 per day and \$250.00 for the week. Because you work part-time and are not required to pay the full \$250.00 expense, you must allocate your expenses according to your days worked. In this case, your allocated expenses equal \$150.00 (\$50.00 per day for the three days worked).

- ▶ **Allocation Not Required.** The facts are the same as above, but in this scenario your dependent care provider requires that you pay the full \$250.00 fee regardless of the number of days that care is actually provided. In this case, the full \$250.00 expense may be considered an employment-related expense and allocation of the expense based on days worked is not required.

## WHICH DEPENDENTS ARE ELIGIBLE

Dependents are eligible as defined by IRC Sections 21 and 129. Qualifying dependents include:

- ▶ A child under age 13 in your custody whom you claim as a dependent on your tax return;
- ▶ A legal spouse, as defined under federal law, who is physically or mentally incapable of self-care;
- ▶ A dependent who lives with you—such as a child age 13 or older, parent, sibling, in-law, or a legal spouse who does not meet the federal law definition of “spouse”—who is physically or mentally incapable of self-care, and whom you claim as a dependent on your tax return.

If care is provided outside of your home for a spouse or a dependent age 13 or older, either of whom is incapable of self-care, the spouse or dependent must live in your home at least eight hours each day.

**A Special Note for Divorced Individuals:** If you are divorced and you are the custodial parent, your child is a qualifying individual even if you do not claim the child as a tax dependent. A divorced, non-custodial parent cannot be reimbursed under a dependent care FSA, even if the divorced non-custodial parent claims the child as a tax dependent.

## WHEN YOU MAY ENROLL AND WHEN COVERAGE IS EFFECTIVE

You may enroll only at the following times:

- ▶ **When you first become eligible for the DepCare FSA.** (See page 3, “Who Can Participate?”) You may enroll during your period of initial eligibility (PIE), which begins the day you become eligible and ends 31 days later. If you enroll by paper form, your PIE ends on the last working day of that 31-day period. **The effective date is the first day of the month following your enrollment, subject to payroll deadlines.**
- ▶ **During Open Enrollment.** If you sign up during Open Enrollment (usually held in November), the effective date is January 1 of the following year.
- ▶ **When you have a change in family or employment status.** You may be eligible to enroll, cancel or change the amount of your DepCare FSA contribution during the plan year if your circumstances change and qualify as an “eligible change in status.” An eligible change creates a new PIE. The effective date of the change is the first day of the month following your enrollment, subject to payroll deadlines. (See chart on page 8.)

## YOU MUST ENROLL EVERY YEAR

You can enroll in the DepCare FSA for only one year at a time. Enrollment for all participants ends on December 31 of each year. To participate in DepCare FSA for the following year, you must enroll during the preceding Open Enrollment.

## HOW TO ENROLL

- ▶ **When you first become eligible.** If you’re a newly eligible employee, you may enroll in the DepCare FSA on UC’s At Your Service website ([atyourservice.ucop.edu](http://atyourservice.ucop.edu)). If you don’t have access to the Internet, you should complete the *Health FSA/DepCare FSA Enrollment, Change, or Cancellation Salary Reduction Agreement* form (UPAY 919), available from your local Benefits Office.
- ▶ **During Open Enrollment.** You use UC’s At Your Service website to enroll in the DepCare FSA. The DepCare FSA requires annual enrollment; it does not continue from one year to the next.
- ▶ **When your family or employment status changes.** If you’re a current employee and have an eligible change in status, you should complete the *Health FSA/DepCare FSA Enrollment, Change, or Cancellation Salary Reduction Agreement* form (UPAY 919) to enroll in the DepCare FSA or to change or cancel the amount of your DepCare FSA contribution. The form is available on UC’s At

Your Service website or from your Benefits Office. (See page 7, “Changing or Cancelling Contributions.”) Send the form to your Payroll or Benefits Office.

## WHAT EXPENSES ARE ELIGIBLE

Dependent care expenses must meet the statutory requirements of IRC Sections 21 and 129. **Please note that UC cannot provide tax advice. You are responsible for making sure all expenses submitted for reimbursement are eligible.** For more information, refer to IRS Publication 503 or consult your tax advisor. You can find additional information on eligible and ineligible expenses on the CONEXIS website ([www.conexis.com/solutions/expenses\\_EE.asp](http://www.conexis.com/solutions/expenses_EE.asp)).

- ▶ The dependent care must be for an eligible dependent and be necessary so that you (and your spouse, if married) can work or look for work (you must have work income during the year). Or, if your spouse is not working or looking for work, he or she must be a full-time student or be incapable of self-care.
- ▶ If care is provided in a day-care center, the center must charge a fee. If the center cares for six or more dependents who are not residents, it must comply with all state and local licensing laws and applicable regulations.
- ▶ Expenses must be incurred during the DepCare FSA plan year or the two and one-half month period immediately following the plan year: January 1 of the plan year through March 15 of the following year. If you continue participation in the DepCare FSA from one plan year to the next, and you do not exhaust your DepCare FSA before the end of the first plan year, expenses incurred in the two and one-half month grace period following the end of the plan year will be applied against the remaining balance until it is exhausted or the claim reimbursement deadline for the first plan year occurs, whichever happens first. After that, expenses incurred in the second plan year will be applied against the account established for the second plan year. You incur expenses when the care is provided, rather than when you are billed or when you pay for the care. **You cannot be reimbursed for expenses until after the care is provided.**
- ▶ If you enroll midyear, expenses incurred before your effective date are not eligible. You should not enroll after November. If you enroll in December,

your DepCare FSA contributions won't be credited to your account until January, and you won't be able to claim dependent care expenses incurred in December under the DepCare FSA.

- ▶ Expenses incurred after your DepCare FSA participation ends, including any applicable grace period, aren't eligible. (Also see page 7, "If You Go on Leave or Separate from the University")

**NOTE: If IRS requirements for qualifying dependents or expenses are not met, the IRS may require that your expenses be paid on an after-tax basis. Expenses reimbursed under the DepCare FSA may not be applied toward the dependent care tax credit on your income tax return.**

### Eligible Expenses

The DepCare FSA covers qualified dependent care expenses incurred for the care of one or more qualifying individuals as described above. Typical eligible expenses include:

- ▶ Before school and after school care
- ▶ Expenses for preschool/nursery school
- ▶ Extended day programs
- ▶ Au pair services (amounts paid for the actual care of the dependent)
- ▶ Babysitter (in or out of the home)
- ▶ Nanny services (amounts paid for the actual care of the dependent)
- ▶ Summer day camp for your qualifying child under age 13
- ▶ Elder day care expenses of a qualifying individual.

This list is not complete. You may view a comprehensive list of eligible expenses online at [www.conexis.com/solutions/expenses\\_EE.asp](http://www.conexis.com/solutions/expenses_EE.asp).

### Ineligible Expenses

Ineligible expenses include the following:

- ▶ Amounts paid to your spouse, your child under age 19, a parent of your child who is not your spouse, or an individual for whom you or your spouse is entitled to a personal tax exemption as a dependent.
- ▶ Expenses attributable to a disabled spouse or tax dependent living outside your household
- ▶ Educational expenses
- ▶ Tuition for kindergarten and above

- ▶ Food expenses (unless inseparable from care)
- ▶ Incidental expenses (e.g. extra charges for special events or activities unless inseparable from care)
- ▶ Overnight camp

This list is not complete. You may view a comprehensive list of eligible and ineligible expenses online at [www.conexis.com/solutions/expenses\\_EE.asp](http://www.conexis.com/solutions/expenses_EE.asp).

Be aware that expenses submitted for reimbursement must meet IRC regulations. If your dependent care expenses are not clearly eligible, CONEXIS, the program administrator, may ask you to submit additional information to determine whether the reimbursement is allowed.

### HOW MUCH YOU CAN CONTRIBUTE TO YOUR DEPCARE FSA ACCOUNT

The IRC limits the amount you can contribute to the program. You may contribute up to the least of:

- ▶ \$5,000 per plan year (\$2,500 if you're married and filing a separate income tax return); or
- ▶ Your total earned income; or
- ▶ Your spouse's total earned income (you may not contribute to the DepCare FSA if your spouse's earned income is \$0 and your spouse is capable of self-care or is not a full-time student).

The maximum contribution to the DepCare FSA is the same whether you have one, two, or more eligible dependents. These limits apply whether you're single or married. If your spouse is also eligible to participate in the DepCare FSA or another employer's dependent care assistance program, your combined contributions should not exceed the above maximums. (This also applies if both you and your spouse are UC employees.)

The IRS does not consider you married for purposes of the DepCare FSA program if you:

- ▶ Are legally separated or divorced, or
- ▶ Are married but your spouse has not lived in your household during the last six months of the taxable year and you:
  - File a separate tax return,
  - Maintain a household that is the principal residence of the qualifying dependent for more than half of the taxable year, and
  - Pay over half of the cost of maintaining your home for this year.

If your spouse is incapable of self-care or is a full-time student, his or her earned income is considered to be at least \$250 per month (\$3,000 per year) if you claim one dependent, or at least \$500 per month (\$6,000 per year) if you claim two or more dependents. To be considered a full-time student, your spouse must attend school for at least five calendar (not necessarily consecutive) months of the year for the number of hours to be considered full-time course of study.

It's important that you estimate your dependent care expenses carefully. **You forfeit any contributions you can't claim for the plan year, including any applicable grace period (see below).**

## IS THERE A MINIMUM CONTRIBUTION AMOUNT

Yes. To participate in the DepCare FSA, you must contribute a minimum of \$180 per year.

## WHAT HAPPENS TO THE DEPCARE FSA MONEY YOU DON'T USE

The IRS requires you to forfeit any unclaimed money in your DepCare FSA account after the closing date for the plan year including any applicable grace period. This money may be used to cover administrative expenses of the plan.

**IMPORTANT: All claims for 2009 must be received by CONEXIS, UC's DepCare FSA administrator, by April 15, 2010, or you will forfeit any unclaimed balance in your DepCare FSA. Allow ample time for mailing. Claims must be postmarked by the deadline. CONEXIS will accept faxes. The fax number is 1-800-482-4174.**

## HOW TO KEEP TRACK OF YOUR ACCOUNT BALANCE

CONEXIS maintains a website where you can check your balances ([mybenefits.conexis.com](http://mybenefits.conexis.com)).

You can also get balance information by calling CONEXIS' toll-free automated phone system: 1-800-482-4120.

Each time a reimbursement is issued, you will receive an Explanation of Benefits reflecting your current account balance. At the end of the year, you will receive a statement with a complete summary of your account balance.

## HOW TO FILE CLAIMS

You can get a copy of the claim form at the CONEXIS website ([mybenefits.conexis.com](http://mybenefits.conexis.com)). You must first log in to your account to access these forms. You can complete the form online, print and sign it, and then mail, fax, or scan and submit online, along with the appropriate documentation.

If you don't have access to the Internet, you can get a claim form by calling CONEXIS' toll-free number: 1-800-482-4120. The mailing address and fax number are on the claim form. **Claims must be submitted by April 15, 2010 or you will forfeit any unclaimed balance in your DepCare FSA.**

If the employee and provider certifications on the claim form are completed and signed, no additional documentation is required. If the provider certification is not completed and signed, you must submit an itemized statement from your provider including the date(s) of service, the name(s) and date(s) of birth of your dependent(s), an itemization of charges and the provider's name, address and Tax ID/SSN number.

You must sign DepCare FSA claims yourself; claims signed by a spouse or other family member will be returned. With your claim, include a **copy** of your dependent care provider's bill or receipt showing the provider's name, the amount of the expense, and the date(s) the expense was incurred. For detailed information on claims submission, please go to the CONEXIS website ([mybenefits.conexis.com](http://mybenefits.conexis.com)).

You must certify on the claim form that your expenses are eligible under the program.

If your claim exceeds your existing DepCare FSA account balance, CONEXIS will reimburse you up to the balance amount and then hold your claim until your next contribution is deposited in your account. You do not need to file the claim again.

For example, assume that your March expenses total \$600, but your account balance is only \$400. You file a claim for \$600 and attach a copy of the receipt showing the full \$600 expense. You will be reimbursed \$400. The remaining \$200 will be held until your next contribution is credited to your account and will then be reimbursed.

## WHEN YOU CAN EXPECT YOUR DEPCARE FSA REIMBURSEMENT EACH MONTH

The University of California has established a daily payment schedule for the DepCare FSA. With this

schedule, there is no additional waiting period for reimbursements. Once your request has been reviewed and approved, it is scheduled for payment and your reimbursement is issued the next business day.

## CLAIMS APPEAL PROCEDURES

Claims for reimbursement should be submitted to CONEXIS, which serves as third party administrator of the FSA program. CONEXIS will generally respond to your request for reimbursement within three business days of receipt. CONEXIS has the authority to deny a claim that is not consistent with the terms of the plan (for example, the claim is for an ineligible expense or the claim is submitted after the deadline). If your claim is denied in whole or in part, CONEXIS will issue a written explanation of the reason within three business days. You can appeal a denial of a claim for reimbursement by submitting your request to CONEXIS, Attn: Appeals Process, P. O. Box 226407, Dallas, TX 75222-6407 within 180 days of receiving the denial. An appeal should state all the reasons and supporting facts upon which the appeal is based and include any issues or comments that you deem relevant to the appeal. CONEXIS will respond to your request for an appeal within 30 days of submission or receipt of any additional materials reasonably requested from you, CONEXIS, the campus/laboratory location or other relevant party, whichever occurs later.

CONEXIS may determine that circumstances require a longer period for review. CONEXIS's decision on appeal is final.

If your claim for reimbursement is denied because CONEXIS finds that you or a family member does not meet the eligibility requirements, the Plan Administrator rather than CONEXIS will handle the appeal. The request should be directed to Plan Administrator, Attn.: Eligibility Appeal, P.O. Box 24570, Oakland, CA 94623-1570 within 60 days of receiving the denial. The appeal should state all the reasons and supporting facts upon which the appeal is based and include any issues or comments that you deem relevant to the appeal. The Plan Administrator will respond to your request for an appeal within 120 days of submission or receipt of any additional materials reasonably requested from you, the Plan Administrator, the campus/laboratory location or other relevant party, whichever occurs later. The Plan Administrator may determine that circumstances require a longer period for review. The Plan Administrator's decision on appeal is final.

## CONEXIS' ACCEPTANCE OF CLAIMS DOES NOT ASSURE IRS ACCEPTANCE

It is your responsibility to make sure that expenses you submit for DepCare FSA reimbursement are eligible under the program. You are responsible for taxes and penalties associated with any ineligible expenses if the IRS audits you.

Note that eligible expenses reimbursed from your DepCare FSA cannot be claimed as a tax credit on your income tax return. The amount of your salary reduction contribution appears on your annual W-2 statement.

NOTE: When you file your federal income tax return, the IRS requires you to list each care provider's name, address, and taxpayer identification number (usually the Social Security number). If your care provider is a nonprofit organization under IRC Section 501(c)(3) (such as a day-care center operated by a nonprofit religious or educational organization), indicate "tax exempt."

## CHANGING OR CANCELLING CONTRIBUTIONS

Once you have specified a salary reduction, that amount is taken from your pay and deposited in your DepCare FSA each month. Federal rules limit adjustments.

However, certain changes in your family or employment status may provide a new 31-day PIE during which you may start or stop participating or change the amount of your contribution during the plan year. See the chart on page 8 for eligible changes and the type(s) of changes that may be allowed. IRS rules indicate that changes to participation and/or to contribution amounts during the plan year must be made on account of and consistent with an eligible change in status. **Your new annual contribution amount applies to all expenses incurred on and after the effective date of the change, less any reimbursements that were already made before the change. No retroactive changes are allowed.**

## IF YOU GO ON LEAVE OR SEPARATE FROM THE UNIVERSITY

Your monthly contribution continues only as long as you remain on active pay status. If you leave UC, your participation ends as of the last day of the pay period that follows the pay period in which you leave or separate. For example, if you are paid monthly and you leave UC employment in February, your last DepCare

FSA contribution is taken from your February earnings and your participation in the DepCare FSA ends March 31.

If you leave or separate from the University, you may submit claims for eligible expenses incurred through the last day of participation in the plan. Expenses incurred after this date are not eligible for reimbursement.

If you stop working at UC for 120 days or longer and are then rehired or are rehired in a new plan year, you have the same re-enrollment options as a new employee, (see page 4, "How to Enroll"). If you are rehired in less than 120 days (and choose to re-enroll in the DepCare FSA for the remainder of the same plan year), you must contribute the same monthly amount you were contributing before you left UC unless you have experienced a change in status.

If you go on leave without pay or are temporarily laid off, your contributions to the DepCare FSA stop. While on leave, you may continue to submit claims for eligible expenses incurred before the leave. Expenses incurred during the leave are generally not eligible. In order to participate in the DepCare FSA, you (and your spouse) must be working or looking for work.

### IF YOU HAVE PROBLEMS OR QUESTIONS

If you have questions about the DepCare FSA, you can call the CONEXIS toll-free number (1-800-482-4120) to speak with a customer service representative. You can access your DepCare FSA account information through the CONEXIS website—mybenefits.conexis.com—or by calling the CONEXIS automated telephone service at 1-800-482-4120.

## MIDYEAR ELECTION ACTIONS ALLOWED UNDER DEPCARE FSA

In this chart:

- ▶ "spouse" means your legal spouse, as defined under federal law
- ▶ "dependent" means the following individuals, providing they live with you, and except for a child under age 13, are physically or mentally incapable of self-care:
  - your legal spouse
  - anyone you claim as a federal tax dependent, such as
    - your child under age 13 in your custody
    - your child age 13 or older, domestic partner, parent, sibling, in-law, or spouse who does not meet the definition of legal spouse under federal law.
- ▶ "dependent care FSA" means a dependent care flexible spending account.

Event	Action Allowed			
	Enroll?	Increase Contribution?	De-enroll?	Decrease Contribution?
<b>Change in your marital status</b>				
You marry and gain an eligible dependent	yes	yes	no	no
You marry and your spouse is either not employed, or is enrolled in his or her own employer's dependent care FSA	no	no	yes	yes
You lose your spouse through death, divorce, legal separation or annulment and your spouse was enrolled in his or her own employer's dependent care FSA	yes	yes	no	no
<b>Gain or loss of a dependent</b>				
You gain an eligible dependent (for example, through birth, adoption, or your spouse becomes incapable of self-care)	yes	yes	no	no
You lose an eligible dependent (for example, through death, a child reaches age 13, or a child is no longer a tax dependent)	no	no	yes	yes

Event	Action Allowed			
	Enroll?	Increase Contribution?	De-enroll?	Decrease Contribution?
<b>Change in employment status of legal spouse that affects benefits eligibility</b>				
Your spouse gains eligibility for and enrolls in own employer's dependent care FSA because he/she starts employment, or has an employment status change	no	no	yes	yes
Your spouse loses eligibility in own employer's dependent care FSA because he/she ends employment, or has an employment status change	yes	yes	no	no
Note that in order for a married employee to be or remain eligible for the DepCare FSA, the spouse must either be employed or be looking for employment (or, if not, must be a full-time student or incapable of self-care).				
<b>Cost change (does not apply if provider is a relative of the employee by blood or marriage)</b>				
Dependent care provider increases the cost of services	yes	yes	yes	yes
Dependent care provider decreases the cost of services.	yes	no	no	yes
<b>Change in dependent care provider or coverage</b>				
You change dependent care providers	yes	yes	yes	yes
There is a reduction in hours or cessation of dependent care (for example, a child starts attending school)	no	no	yes	yes
You change (in whole or in part) from paid care to no care or free care (for example, free care by a neighbor or relative or for state-paid care) or from free or no care to paid care	no	no	yes	yes
Your spouse <b>starts</b> employment	yes	yes	no	no
Your spouse <b>ends</b> employment	no	no	yes	yes
You or your spouse changes work schedule (for example, going from full-time to part-time or vice versa) which creates, changes or eliminates need for dependent care.	yes	yes	yes	yes
Your spouse who is not employed or looking for employment becomes a full-time student, or becomes incapable of self-care	yes	no	no	no
Your spouse who is not employed or looking for employment is no longer a full-time student or is no longer incapable of self-care	no	no	yes	no

## NONDISCRIMINATION REQUIREMENTS

In order to prevent the DepCare FSA from being characterized as discriminatory by the Internal Revenue Service and therefore ineligible for favorable tax treatment, the plan administrator may reject any elections or reduce contributions or benefits during the

plan year. This means payroll deductions may be reduced or stopped as needed to satisfy the nondiscrimination requirements.

## DepCare FSA vs. Federal Tax Credit

UC is not permitted to provide legal, tax, or accounting advice. The purpose of this general explanation is to provide the information and the perspective for you to make sound decisions based on your personal situation.

Federal tax laws allow you to reduce your income taxes if you pay someone to care for your child or other dependent so that you may work. You may reduce your taxes by:

- ▶ Participating in the DepCare FSA,
- ▶ Using the federal tax credit, or
- ▶ Using a combination of both methods.

The amount you save on taxes will vary depending on the method you use, your salary, your expenses, and your tax status. Different tax-savings methods affect your cash flow, financial flexibility, and federal income tax return preparation in different ways. You should see your tax advisor for help determining what's best for you.

### DEPCARE FSA AND THE TAX CREDIT—HOW THEY'RE ALIKE

- ▶ You must be at work or looking for work while your child or other eligible dependent is receiving care. If you're married, your spouse must be employed in a paying job, looking for work, attending school full time, or incapable of self-care.
- ▶ The child or other dependent must live in your home and must be claimed as a dependent on your federal income tax return. You must pay a "qualified person" to care for your eligible dependent at your home, at a licensed day-care center, at a day camp, or at another location, except any overnight camp, or any school for kindergarten or above. (School expenses for children below kindergarten may or may not be eligible, depending on your day-care arrangement. Refer to IRS Publication 503 or consult your tax advisor.) A "qualified person" providing dependent care does not include your spouse, any of your children or your spouse's children under age 19, or any other person whom you claim as a tax dependent.
- ▶ Children under age 13 are eligible. Expenses for other dependents (such as children age 13 or over, parents, or a spouse) may be reimbursed

only if the dependents are physically or mentally incapable of caring for themselves. You must show on your federal income tax return for the year in which the care is provided the name, address, and (except for churches or other tax-exempt dependent care centers) the taxpayer identification number of any person or dependent care center that you pay to provide dependent care.

- ▶ You may want to give each care provider IRS Form W-10, *Dependent Care Provider's Identification and Certification*. The provider should complete the form and return it to you. You should then retain the form in your files. If the care provider fails to complete the form, compile as much information about the provider as possible.
- ▶ You should keep documentation to support all claims.
- ▶ You must have a Social Security number for each dependent who is at least one year old, in order to claim the child as a qualifying individual and you must report this number on your federal income tax return.

### DEPCARE FSA AND THE TAX CREDIT—HOW THEY DIFFER

- ▶ Depending on your earned income, the DepCare FSA applies to up to \$5,000 of care (\$2,500 if you're married and filing separately) to be provided to one or more of your dependents in any calendar year. If you use the DepCare FSA, your tax savings will equal your tax rate multiplied by your total DepCare FSA expenses (up to \$5,000) paid under the plan.
- ▶ You also realize savings on FICA taxes. The FICA tax rate is 7.65 percent—6.2 percent on earnings up to the Social Security wage base (see page 2) for OASDI taxes, and 1.45 percent on all earnings for Medicare Part A (Hospital Insurance). If your salary after DepCare contributions is above the Social Security wage base, you will not realize tax savings on the OASDI component of FICA, but will still realize some savings on the Medicare Part A component.
- ▶ The federal tax credit allows you to claim a nonrefundable income tax credit for 20 percent to 35 percent of certain employment-related dependent care expenses. The rate of the credit is reduced by 1 percent for each \$2,000 of your adjusted gross income over \$15,000. (The rate never drops below 20 percent, however.) Eligible

expenses are limited to \$3,000 if your expenses are for one qualifying dependent; \$6,000 if they are for two or more.

- ▶ Any amount reimbursed to you from the DepCare FSA reduces, dollar for dollar, the expenses eligible for calculating the federal tax credit. Thus, if your expenses are for two qualifying dependents and you are reimbursed for the maximum amount allowable under DepCare (\$5,000), you will still have \$1,000 of expenses eligible for the federal tax credit.

**Example 1:** You're a married employee, filing jointly (DepCare maximum allowable expenses: \$5,000). You have one dependent (maximum allowable expenses for calculating federal tax credit: \$3,000). You have \$3,000 in dependent care expenses, and you claim \$3,000 under the DepCare FSA. The \$3,000 maximum allowable for calculating the tax credit is reduced, dollar for dollar, by the \$3,000 claimed under DepCare. Therefore, you may not claim a tax credit.

**Example 2:** You're a married employee, filing jointly (DepCare maximum allowable expenses: \$5,000). You have two dependents (maximum allowable expenses for calculating tax credit: \$6,000). You have \$6,000 of dependent care expenses and you claim \$5,000 under the DepCare FSA. The \$6,000 maximum allowable for calculating the tax credit is reduced, dollar for dollar, by the \$5,000, leaving \$1,000. You may claim a tax credit based on this remaining \$1,000.

### DepCare FSA Advantages

- ▶ Budgeting for regular weekly or monthly dependent care expenses is easy. The amount you specify is taken from your paycheck each month and reimbursed to you after the dependent care has been provided and you submit a claim.
- ▶ Your tax savings are immediate. The amount you contribute to the DepCare FSA each month isn't taxable, so your taxes are calculated using a lower income. (Your end-of-year tax refund may be lower.)
- ▶ Keeping tax records is easy because you record the information on your DepCare FSA claim form each month and keep a copy for yourself. All the dependent care information you need to complete your federal tax return will be readily available at tax time.
- ▶ If you use the DepCare FSA exclusively, at the end of the year you don't have to calculate a federal tax credit when you pay your taxes. Your dependent care tax benefit has been taken into account all year.

### DepCare FSA Disadvantages

- ▶ **Once you sign up, your monthly contribution will remain the same all year unless you have an eligible change in your family or employment status.**
- ▶ During your first month in the program, your costs may be doubled because you may be contributing to your DepCare FSA and paying your care provider without being reimbursed immediately. (After the first month, if you file claims monthly, you pay expenses for the current month and are reimbursed for the preceding month's DepCare FSA claim.)
- ▶ **You lose any money that remains in your account after the deadline for submitting claims for the plan year.** If you overestimate your DepCare FSA expenses—that is, you contribute more to the program than you can claim—the IRS requires that you forfeit your excess contributions.
- ▶ Because your DepCare FSA contributions are not subject to FICA tax, your future Social Security benefits could be slightly reduced as a result of your participation.

### FEDERAL TAX SAVINGS: DEPCARE FSA VS. THE TAX CREDIT

The amount you save will vary according to your income, your tax filing status, and the tax-savings method you use. Recent changes to the federal tax credit make comparing DepCare and the tax credit difficult. For instance, if you have two children and \$6,000 of eligible dependent care expenses, you could decide to make an annual DepCare contribution of any amount up to \$5,000 and calculate your tax credit on the remaining \$1,000. Or you could calculate your tax credit on all \$6,000 and not use DepCare.

Because so many factors are involved, you should consider meeting with your tax advisor to help you determine whether DepCare or the tax credit—or a combination of the two—is right for you.

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