



FSA

New York City
Flexible Spending Accounts Program

2023

Plan Year

DeCAP

HCFSA

MSC Buy-Out
Waiver

MSC Premium
Conversion

This brochure briefly reviews and broadly describes the highlights of the Flexible Spending Accounts (FSA) Program which falls under Internal Revenue Code (IRC) Section 125. The material contained in this brochure is provided for informational purposes only and does not constitute a representation by the City of New York and Related Agencies and Instrumentalities (City of New York) as to results and benefits which might actually be received by any individual. All actions are wholly governed by applicable law, regulations and plan documents. The IRC, U.S. Department of the Treasury regulations and guidance, and the FSA Program Plan Document are subject to change and may affect determinations made with respect to the FSA Program. The burden of proof is on the participant in the HCFSA Program/DeCAP to show that each medical and dependent care expense is reimbursable under the FSA Program, as well as being reimbursable under all applicable laws (including the IRC).

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What is the Flexible Spending Accounts (FSA) Program?

The FSA Program is permissible under Internal Revenue Code (IRC) Section 125 and consists of several programs.

They are:

- the **Health Care Flexible Spending Account (HCFSA) Program**,
- the **Dependent Care Assistance Program (DeCAP)**,
- the **Medical Spending Conversion (MSC) Health Benefits Buy-Out Waiver Program**, and
- the **Medical Spending Conversion (MSC) Premium Conversion Program**.

You are encouraged to read this brochure carefully. It covers the major features of the FSA Program's applicable rules and regulations. Also, included in this brochure are the HCFSA and DeCAP worksheets (pages 12 and 18), which may assist you with the calculation of your contributions to each FSA Program for Plan Year 2022.

The HCFSA Program is a way to help pay for eligible out-of-pocket medical expenses, while reducing your taxable income.

Note: The HCFSA Program is covered by the administrative simplification provisions and all other applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA). This means that the FSA Program is required by law to safeguard a participant's and eligible health care recipient's Protected Health Information (PHI). The FSA Program may use PHI in the course of administering the HCFSA Program. The FSA Program will only release PHI to third parties upon the completion and submission of the HIPAA PHI Authorization Form by the participant, or as may otherwise be required by law.

DeCAP is a way to help pay for expenses to care for your child(ren) or other eligible dependents, thereby reducing your taxable income, while you and your spouse work or attend school full-time.

By enrolling in the HCFSA Program and/or DeCAP, not only do you plan for anticipated health and dependent care expenses, contributions are deducted from your paycheck before federal and Social Security taxes are calculated, thereby reducing your gross income for federal and Social Security tax purposes.

MSC Health Benefits Buy-Out Waiver Program enables eligible employees who have non-City of New York group health coverage to waive their City of New York health benefits in return for an annual cash incentive payment.

MSC Premium Conversion Program enables eligible employees to pay for their health plan contributions on a before-tax basis, thereby reducing their gross income for federal and Social Security tax purposes.

If you are eligible, you may participate in all of the programs. Participation in any of the programs, except the MSC Premium Conversion Program, is on a voluntary basis.

Who is Eligible to Enroll?

Active employees covered by the Citywide contract or the Management Benefits Fund and New York City Health Insurance. Eligible employees of the following New York City Agencies, including Mayorality, Housing Authority, School Construction Authority, Department of Education (DOE), Health + Hospitals, City University of New York, Queensborough Public Library, and Brooklyn Public Library may enroll. Employees of other cultural institutions, libraries and DOE Charter Schools may be offered an FSA Program through their individual institutions; please contact your agency's Human Resources Department for further information.

**Retiree are
not Eligible
for the
FSA Program**

HCFSA Program and DeCAP

How HCFSA and DeCAP Work

- 1 Carefully estimate what your eligible health care expenses and/or dependent care expenses will be for the Plan Year.
- 2 Your annual election(s) will be taken out of your paycheck on a pre-tax basis through payroll deductions during the Plan Year.
- 3 When you submit a claim for your eligible health care expenses and/or dependent care expenses, you will receive reimbursement from your HCFSA Program and/or DeCAP account.

HCFSA Program and DeCAP Period of Coverage

For Plan Year 2023, the period of coverage is from January 1, 2023 through December 31, 2023. The HCFSA Program Grace Period for Plan Year 2023 is from January 1, 2024 through March 15, 2024.

HCFSA Program and DeCAP Enrollment

When do employees enroll?

During the annual Open Enrollment Period, October 17, 2022 -- November 18, 2022. Re-enrollment is required each year during the annual Open Enrollment Period.

When do new employees enroll?

Within 30 days after becoming eligible for City of New York health benefits. Your annual election will be prorated over the remaining pay periods.

When is the effective date?

Either (a) January 1st, (b) the first day you are eligible to participate in the FSA Program, or (c) the date of your Qualifying Event if you become eligible after the beginning of the Plan Year.

How do employees enroll?

Obtain an FSA Program Enrollment/Change Form by:

- printing a form from the FSA Program website at nyc.gov/fsa,
- contacting your agency's Human Resources Department, or
- e-mailing the FSA Program Administrative Office via e-mail through the FSA Program website at nyc.gov/fsa.

Submit your completed form(s) in the following ways

- Forms/documents can be sent via secure email to: <https://nyc-fsa.leapfile.net>
- Forms should be mailed to:
The Flexible Spending Account Program
P.O. Box 707
Bowling Green Station
New York, NY 10274
- Express mail forms should be sent to:
NYC Flexible Spending Accounts Program - 2023
22 Cortlandt Street, 28th Floor
New York, NY 10007

How do employees get assistance?

Call the helpline number at 212-306-7760 from 9 a.m. to 4 p.m., Monday – Friday.

- You may also send questions via e-mail through the FSA Program website at nyc.gov/fsa.

Health Care Flexible Spending Accounts (HCFSA) Program

Contribution Limits

Annual Contribution	
A before-tax salary reduction (includes an annual administrative fee of up to \$48* per program)	
Minimum	Maximum
\$260	\$3,050**

* The annual administrative fee may be adjusted by the FSA Program Administrator, but will not be greater than \$48 per program.

** The maximum may be less in certain cases, e.g., highly compensated employees. Employees will be notified of the new maximum allowable amount. If you participate in both the HCFSA Program and DeCAP, the amount you contribute to one account may not be transferred to the other.

Grace Period

There is a Grace Period offered following the end of a Plan Year. During this Grace Period, you may submit claims for eligible medical expenses incurred from January 1, 2024 through March 15, 2024 using the remaining balance in your Plan Year 2023 account, if any.

Example: At the end of Plan Year 2023, you have \$300 remaining in your HCFSA. You may submit claims for eligible medical expenses incurred from January 1, 2024 through March 15, 2024 to be reimbursed with the remaining \$300 in your account from Plan Year 2023.

**HCFSA
maximum annual
contribution
amount is
\$3,050**

Claims Run-Out Period

In the event that you are unable to submit HCFSA Program claims by the end of the Plan Year or accompanying Grace Period, a Claims Run-Out Period is provided, during which you may submit claims for services performed during the previous Plan Year or accompanying Grace Period.

Program Timeline

Plan Year:	January 1, 2023 - December 31, 2023
Grace Period:	January 1, 2024 - March 15, 2024
Claims Run-Out Period:	January 1, 2024 - May 31, 2024

Note: If you do not submit claims for eligible expenses incurred during the Plan Year or the Grace Period by May 31, 2024, you will forfeit any money remaining in your HCFSA for Plan Year 2023.

“Use It or Lose It” Rule (Forfeiture Rule)

Federal regulations require that you use the entire amount you allocate to your HCFSA account during the Plan Year, or by the end of the Grace Period, or you will forfeit the unused balance remaining in your HCFSA account at the end of the Grace Period. Therefore, before making your annual allocation, carefully consider what your eligible expenses might be for the upcoming Plan Year. Use the HCFSA worksheet in this brochure to calculate your annual allocation.

If you overestimate your expenses and contribute more to your account than your actual expenses, or if you do not submit eligible claims equaling in total your annual allocation prior to the end of the Claims Run-Out Period, you will permanently forfeit any unused amount.

Eligible Health Care Requirements

Eligible Health Care Expense

This is an expense which has been incurred by an eligible health care recipient for qualifying health care provided during the Plan Year and/or Grace Period and which is eligible for reimbursement under the terms of the HCFSA Program. Over the counter (OTC) drugs are also eligible. The expense must be incurred for an eligible medical service, which is:

- for an eligible health care recipient.
- permissible by the Internal Revenue Service (IRS)*;
- medically necessary.
- not reimbursable by your health insurance and/or Welfare Fund; and
- not for the payment of health insurance premiums.

* The HCFSA Program utilizes IRS Publication 502 as a reference for examples of eligible expenses. Please note that certain items indicated in IRS Publication 502 may not be eligible under IRC 213.

Amounts paid for OTC drugs will be qualified medical expenses eligible for tax-free reimbursement from your HCFSA, except sunscreens nutritional supplements and vitamins unless prescribed by a doctor for treating a medical condition. The table below shows examples of eligible and ineligible OTC expenses.

Over-the-Counter Items That are Eligible		Over-the-Counter Items That are Eligible with a Prescription or a letter of medical Necessity
Acid controllers	Respiratory treatments	Sunscreens
Anti-itch medicines	Sleep aids	Nutritional supplements
Antihistamines	Bandages	Vitamins
Baby rash ointments/creams	Braces and supports	
Cold sore remedies	Contact lens supplies/solutions	
Cough medicines	First aid supplies	
Digestive aids	Insulin	
Laxatives	Reading glasses	
Menstrual care products	Thermometers	
Motion sickness products	Walkers	
Pain relievers	Wheelchairs	

Eligible Health Care Recipient

- the participant;
- the participant's spouse; or
- the participant's children who are eligible for coverage under City of New York health benefits (even if the participant does not enroll in the City's Health Benefits) including adult child(ren) through the end of the Plan Year in which the child(ren) turns age 26.

Dependents must be listed on your FSA Program Enrollment/Change Form in order to receive HCFSA benefits for the Plan Year.

Domestic partners and civil unions are not eligible health care recipients under HCFSA. However, a same sex spouse is an eligible health care recipient.

If, for any reason, you do not notify the FSA Program Administrative Office that you have a new dependent, then any claim submitted on behalf of such unreported health care recipient will be denied. To add a new dependent, you must submit an FSA Program Enrollment/Change Form with proper documentation within 30 days after acquiring a new dependent.

Mid-Year Changes

In order to process a mid-year change, you must notify the FSA Program Administrative Office by submitting an FSA Program Enrollment/Change Form with proper documentation within 30 days after the date of the Qualifying Event. The definition of Qualifying Event is determined by the IRC.

You will be permitted to increase your annual contribution if you are adding new dependents.

You will be terminated from participation in the HCFSA Program if you cease employment with the City of New York or go on an unpaid leave of absence.

You cannot decrease or discontinue your HCFSA Program contribution for any good reason.

Qualifying Events

Qualifying Events include:

- becoming a newly eligible City of New York employee*;
- marriage*;
- birth or adoption of a child*;
- returning from an approved unpaid leave of absence (employee) taken during the Open Enrollment Period*;
- termination of your employment with the City of New York or commencement of an unpaid leave of absence; or
- death of participant.

* When you incur one or more of these Qualifying Events, you may enroll in and add dependents to the HCFSA Program or increase your annual contribution.

Termination of Employment/Unpaid Leave of Absence

If your employment is terminated, or you take an unpaid leave of absence, you can select Continuation Coverage to remain in the HCFSA Program for the remainder of the Plan Year.

Continuation Coverage

If the Qualifying Event is due to your termination of employment with the City of New York or commencement of an unpaid leave of absence, your participation in the HCFSA Program will cease as of your termination date. However, you may elect to continue participation in the HCFSA Program through the end of the Plan Year. If you elect HCFSA Continuation Coverage, you must fund the remainder of your HCFSA goal amount by selecting one of the following options:

- have your remaining goal amount balance taken from your last paycheck; or
- have your remaining goal amount balance pro-rated from your remaining paychecks; or
- submitting the remaining goal amount balance on an after-tax basis either by lump sum or monthly payments.

In order for the payroll deductions to be made, you must notify the FSA Program Administrative Office in writing 30 days prior to your termination or unpaid leave of absence or prior to the cut-off date of your last paycheck. If you fail to provide the required written notification, you may fund the remainder of your account with after-tax payments up to your annual contribution amount.

If you elect to continue your coverage under the HCFSA Program and you fund your remaining goal amount, you may submit claims for expenses incurred after your termination date through the end of the Plan Year, including the Grace Period.

If you elect to discontinue your participation in the HCFSA Program due to your termination of employment or commencement of an unpaid leave of absence, you may only submit claims for expenses incurred prior to your date of termination. Claims submitted for expenses incurred after your date of termination will not be eligible for coverage under the HCFSA Program.

Unless requested by you prior to your date of termination or commencement of an unpaid leave of absence, you will receive a Continuation Coverage notice providing you with the option to continue your coverage under the HCFSA Program, upon your termination from employment or commencement of your unpaid leave of absence with the City of New York. This form must be completed and returned to the HCFSA Program Administrator to continue your participation in the HCFSA Program.

Unpaid Leave of Absence

If you take an unpaid leave of absence, you will have the option of submitting your HCFSA payments on a post-tax basis while on leave. Alternatively, once you return from leave, your remaining HCFSA payments are recalculated to include any missed contributions as long as it is within the payroll cut-off dates for the current Plan Year. You must notify the FSA Program Administrative Office in writing before you commence your leave of absence, and when you return to employment. In this case, you may submit claims for expenses incurred during your leave.

Agency Transfer

If you transfer agencies within the City of New York or to a related City of New York agency, you must notify the FSA Program Administrative Office in writing prior to your transfer in order to continue payroll deductions or recalculate your remaining payroll deductions. (Provided that your new agency is eligible to participate in the HCFSA Program.) DOE employees who have a change in payroll code due to a title change must notify the FSA Program Administrative Office of the payroll code change to continue payroll deductions.

Missed Payroll Deductions

If you miss any payroll deductions, you must contact the FSA Program Administrative Office when you return to payroll in order to recalculate the amount of your payroll deductions.

Effect on Your Taxes

Contributions are made through pre-tax payroll deductions; therefore, you do not pay Federal Income or Social Security (FICA) taxes on these contributions. This results in an increased take-home pay. The amount you contribute will be reflected on your Form W-2. The HCFSA Program will not affect your state or city taxes; therefore, you must add back the amount listed under IRC 125 on your Form W-2 to your state/city gross wages when you are filing your state/city income taxes.

HCFSA Program and Federal Itemized Deductions

Any expenses paid or reimbursed under the HCFSA Program cannot be taken into account when calculating your Federal itemized deductions and vice-versa. You may obtain pre-tax benefits on medical expenses even if they exceed the Federal itemized deduction minimum of 7.5% of Adjusted Gross Income. While you may use the HCFSA Program and Federal itemized deductions in the same year, you must be sure that you do not claim the same expense more than once. Please consult a tax advisor to review your specific expenses.

The following is an example of the HCFSA Program tax advantage based on the 2020 Federal tax withholding table.

Important:
You must add back the amount listed under IRC 125 on your Form W-2 to your state/city gross wages.

Married employee earning \$60,000, declaring spouse with 2 dependents and filing jointly; HCFSA Program annual contribution of \$3,050 and employee incurs \$2,652 in reimbursable health care expenses:

	Before-Taxes	After-Taxes
Gross Income	\$ 60,000	\$ 60,000
Less Before-Tax Reduction for Health Care Expenses	(2,702)	-
Less Administrative Fee	(48)	-
Adjusted Gross Income	\$ 57,250	\$ 60,000
Federal Income Tax	(3,499)	(3,829)
FICA (Social Security + Medicare)	(4,380)	(4,590)
After-Tax Cost of Health Care Expenses	-	(2,702)
Take-Home Pay	\$ 49,371	\$ 49,879

HCFSFA Program Tax Savings \$492

The Adjusted Gross Income amounts in the prior example assume there are no other income adjustments. The projections made here are only estimates of Federal tax information and should not be considered tax advice. Consult a tax advisor to review your own financial situation.

Visit the FSA website at nyc.gov/fsa to access the online savings calculator to estimate your potential savings.

Filing Claims

To request reimbursement for all eligible health care expenses, complete an HCFSA Program Claim Form and provide proper documentation by:

- listing each expense and claimant separately on the Claim Form;
- indicating the appropriate Claim Period (Plan Year or Grace Period);
- attaching an Explanation of Benefits (EOB) statement from your health insurance carrier, for medical expenses, or from your Welfare Fund/Union for dental, vision and/or hearing expenses, showing the unreimbursed balance;
- attaching copies of receipts or billing statements from the medical, dental, vision and/or hearing provider or pharmacy;
- attaching a copy of the doctor's prescription for over-the-counter drugs, and a copy of the product box if the receipt does not indicate the name of the item.

You must submit all claims to your health insurance carrier and/or Welfare Fund first, regardless of whether it is a covered or non-covered expense. Please note the HCFSA program does not utilize debit cards.

Note: Medical care must be for expenses to diagnose, cure, mitigate, treat or prevent disease or to affect any structure or function of the body.

Note: Medical care must be for expenses to diagnose, cure, mitigate, treat or prevent disease or to affect any structure or function of the body.

Receipts and billing statements must include:

- the name of the recipient for whom the service was provided;
- the amount charged for each service; and
- the type of service and date of service (the date(s) of service on the Claims Form must match the date(s) of service on the EOB statement and receipt or billing statement).

Note: Health-related transportation expenses must be supported by documentation corresponding to the receipts or billing statements.

Submission of Claims

- Submit claims in a timely manner, monthly or every few months, to the FSA Program Administrative Office via FSA secure e-mail at <https://nyc-fsa.leapfile.net> or, send claims via regular mail to the FSA Administrative Office at the address on pg. 5.
- Payment is issued on a monthly basis. Claim Forms must be received by the 25th day of the month to be processed for that month.
- There is no reimbursement of claims before service is actually rendered.
- The total amount of expenses on HCFSA Claims Forms must be \$50 or greater, unless your account balance is less than \$50.
- In the event of your death, any claims for services provided before your death can be submitted by your spouse or your estate.

Denial of Claims

- If the FSA Program Administrative Office denies a claim, you will receive a denial letter stating the reason for denial.
- You may file a written appeal with the Appeals Panel within 60 days after your receipt of the denial notice.
- The Appeals Panel will review and make a decision on your claim within 60 days after receipt of your written notice for appeal unless an extension of time is required. You will receive written notice of the extension period within 60 days after the receipt of your written notice of appeal. The extension period may last for up to 60 days.

Reimbursement of Claims

Claims are processed on a monthly basis. Claims are able to be reimbursed through Direct Deposit. Reimbursement for claims processed during one month will be automatically deposited into the bank account you indicated on your FSA Enrollment/Change Form by the close of the following month. You may also choose to have reimbursement checks sent to your address on file.

The full amount of your contribution allocation (less the up to \$48 maximum annual administrative fee and any claims previously reimbursed) is available for reimbursement of eligible claims at any time during the Plan Year, regardless of the current balance in your account.

Account Statements

You will receive a quarterly statement listing all monthly contributions to your account, processed claims, the administrative fee, and your available account balance.

If you are receiving reimbursement through direct deposit, you will still receive a monthly claims payment statement indicating claims processed for that month and the amount of reimbursement issued.

After the Claims Run-out Period, you will receive an annual statement which reflects the total amount contributed to, reimbursed, and forfeited from your account for Plan Year 2023.

Effect on Other Benefits

Social Security

Social Security benefits at your retirement age may be slightly less, but the effect, if any, would be offset by the amount saved in taxes today. Please contact your financial advisor for more detailed information.

Pension

There will be no effect on your pension contributions or benefits.

Deferred Compensation

Participation in the Flexible Spending Accounts Program will have no effect on your participation in a 457, 401(k), Roth 401(k) or 403(b) plan.



HCFSFA

HCFSFA Program Worksheet

For Plan Year 2023 (January 1, 2023 – December 31, 2023)

This worksheet is designed to assist you in the estimation of your health care expenses for the Plan Year 2023. When estimating your expenses, be conservative. Keep in mind the “Use It or Lose It” rule explained in this brochure. Visit the FSA Program website at nyc.gov/fsa to access the on-line savings calculator to estimate your potential savings.

Health Care Expenses (unreimbursed/unreimbursable by insurance)	Year 2022 Expenses	Projected Year 2023 Expenses
Prescription medicines (those requiring a prescription by a doctor for their use by an individual) and insulin (prescription or over-the-counter)		
Medical service fees (from doctors, dentists, surgeons, specialists, and other medical practitioners)		
Special items (artificial limbs, false teeth, eye glasses, contact lenses, hearing aids, crutches, wheelchairs, etc.)		
Certain over-the-counter (OTC) drugs with prescription (for treatment or prevention of medical conditions)		
Hospital service fees (inpatient care, lab work, therapy, nursing services, surgery, etc.)		
Nursing home expenses (if the main reason for being there is to receive medical care)		
Other medical expenses (refer to IRS Publication 502 for more information)		
Administrative fee (up to \$4 per month/\$48 per Plan Year)	\$48.00*	\$48.00*
Total Health Care Expenses		**

* The annual administrative fee may be adjusted by the FSA Program Administrator, but will not be greater than \$48 per program.

** Enter this amount in Section B of the HCFSFA Program Annual Contribution on the FSA Program Enrollment/Change Form.

ELIGIBLE EXPENSES: Expenses generally eligible for reimbursement through the HCFSFA Program include:

MEDICAL/OTHER

- Co-payments
- Deductibles
- Excess expenses (beyond plan limits)
- Health-related transportation costs
- Nursing home expenses (if the main reason for being there is to receive medical care)
- OTC drugs
- OTC vitamins and supplements accompanied by letter of medical necessity
- Physical exams
- Prescription drugs
- Prescribed drugs for smoking cessation
- Weight-loss programs for medical treatment of disease
- Feminine Care Products

HEARING

- Examinations
- Hearing aids and equipment

DENTAL

- All expenses except cosmetic dentistry

VISION

- Examinations
- Frames
- Prescription lenses
- Prescription contacts
- Lasik surgery

INELIGIBLE EXPENSES: Expenses not eligible for reimbursement through the HCFSFA Program include:

- Alternative medicine
- Nursing care for a healthy baby
- Expenses for care that is not medically necessary or for purely cosmetic reasons (male pattern baldness, teeth whitening, etc.)
- Expenses for your general health (even if following your doctor’s advice, including: travel, weight gain or loss programs, household help, social activity fees, etc.)
- Expenses for health club dues, gym dues, spa dues, even if it is recommended by a physician
- Premiums paid for coverage under any medical or long-term care insurance plan
- Toothpaste, toiletries, cosmetics, etc.
- Stockpiling of OTC items

Dependent Care Assistance Program (DeCAP)

Contribution Limits

Annual contribution	
A before-tax salary reduction (includes an annual administrative fee of up to \$48* per program)	
Minimum	Maximum
\$500	\$5,000**
* The annual administrative fee may be adjusted by the FSA Program Administrator, but will not be greater than \$48 per program.	
** The maximum may be less in certain cases, e.g., highly compensated employees. Employees will be notified of the new maximum allowable amount. If you participate in both the HCFSA Program and DeCAP, the amount you contribute to one account may not be transferred to the other.	
Please note: If your child will become age 13 (the age at which the child will no longer be eligible as a dependent care recipient) during the Plan Year, your DeCAP goal amount can only be calculated for the period when your child is under age 13.	

Additional Contribution Information

- The \$5,000 maximum is reduced to \$2,500 if you are married and file a separate Federal income tax return (unless you are legally separated), or by the amount your spouse is contributing to a separate DeCAP through his/her employer.
- If you or your spouse earns less than \$5,000 a year, your maximum benefit is limited to the lesser of the two incomes.
- If your spouse is a full-time student at an educational institution during at least five months of the Plan Year or is incapable of self-care during any month, your spouse's earned income for each month during which either condition exists will be deemed to be \$250 if you have one dependent care recipient and \$500 per month if you have two or more dependent care recipients.

Claims Run-Out Period

In the event that you are unable to submit DeCAP claims by the end of the Plan Year, a Claims Run-Out Period is provided following the close of the Plan Year, during which you may submit claims for services performed during the previous Plan Year.

Claims Timeline

Plan Year:	January 1, 2023 – December 31, 2023
Claims Run-Out Period:	January 1, 2024 – February 28, 2024

If you do not submit claims for eligible expenses incurred during Plan Year 2023 by February 28, 2024, you will forfeit any money remaining in your DeCAP account for Plan Year 2023.

“Use It or Lose It” Rule (Forfeiture Rule)

Federal regulations require that you use the entire amount you allocate to your DeCAP account during the Plan Year, or forfeit the unused balance. Therefore, before making your annual allocation, carefully consider what your eligible expenses might be. Use the DeCAP worksheet in this brochure to calculate your DeCAP annual allocations.

If you overestimate your expenses and contribute more to your account than your actual expenses, or if you do not submit eligible claims equaling in total your annual allocation prior to the end of the Claims Run-Out Period, you will permanently forfeit any unused amount.

Eligible Employment-Related Dependent Care Expenses

This is a dependent care service which is related to the care of your dependent(s) (including household services related to such care), and which is performed within or outside your home while you and your spouse are at work or attend school full-time. (See IRS Publication 503 for examples of covered expenses.)

Qualifying Day Care Center:

Licensed nursery schools, preschools, day camps (not overnight camps), and child care centers, which provide day care. The day care center must:

- comply with all applicable laws and regulations of the state, city, town, or village in which it is located;
- provide care for more than six individuals (other than individuals who reside at the day care center);
- receive a fee, payment, or grant for any of the individuals to whom it provides services (whether facility is profit or non-profit); and
- not be primarily for the purpose of education.

Qualifying Caregiver:

A person performing eligible employment-related services who is:

- not your dependent or anyone you can claim as a dependent;
- not your spouse; or
- not your child or your spouse's child unless he/she is at least 19 years old at the close of the Plan Year in which the services were provided.

Dependent Care Recipient*

You may receive benefits for any dependent who can be claimed as an exemption on your Federal tax return who is:

- your child (son, daughter, stepson, or stepdaughter) who is under age 13;
- your spouse who is mentally or physically incapable of self-care and lives with you for more than one-half of the year; or any individual who is physically or mentally incapable of self-care, lives with you for more than one-half of the year, and is your dependent or could be claimed as your dependent except, 1) his or her gross income exceeds the amount of the personal exemption for the current year, 2) he or she filed a joint return, or 3) you or your spouse could be claimed as a dependent on someone else's Federal tax return.

* Expenses for disabled dependents over age 13 are only eligible if the primary purpose is to provide care for the disabled dependent while you and your spouse work or attend school full-time. In addition, the type of care provided for a disabled dependent must be specific to the dependent's disability.

Your dependents must be listed on your FSA Program Enrollment/Change Form in order to receive DeCAP benefits for the Plan Year. Under DeCAP, you may only claim expenses if you are the custodial parent of a dependent child.

If, for any reason, you do not notify the FSA Program Administrative Office that you have a new dependent, then any claim submitted on behalf of such unreported dependent care recipient will be denied. To add a new dependent, you must submit an FSA Program Enrollment/Change Form with proper documentation within 30 days after acquiring a new dependent.

Mid-Year Changes

In order to process a mid-year change, you must notify the FSA Program Administrative Office by submitting an FSA Program Enrollment/Change Form with proper documentation within 30 days after the Qualifying Event. The definition of Qualifying Event is determined by the Internal Revenue Code (IRC).

You may increase, decrease, or terminate your annual allocation if you experience a mid-year Qualifying Event.

Qualifying Events

Qualifying Events include:

- start or termination of employment of participant or participant's spouse;
- marriage, divorce or annulment;
- birth or adoption of a child;
- death of a spouse or dependent;
- ineligibility of a dependent;
- changing from part-time employment status to full-time, or vice-versa, by participant or participant's spouse; or
- taking an unpaid leave of absence by participant or participant's spouse.

When you incur one or more Qualifying Events, you may enroll, terminate, add dependents or increase/decrease your annual contribution in DeCAP.

Termination of Employment/Unpaid Leave of Absence

If the Qualifying Event is due to your termination or leave status, your participation in DeCAP will cease as of your termination date or the last day of your employment. You must notify the FSA Program Administrative Office in writing to terminate your payroll contributions. Any remaining balance in your account will still be available for reimbursement upon receipt of a valid claim incurred prior to your date of termination.

Agency Transfer

If you transfer agencies within the City of New York or to a related City of New York agency, you must notify the FSA Program Administrative Office in writing prior to your transfer in order to continue payroll deductions or recalculate your remaining payroll deductions. (Provided your new Agency is eligible to participate in DeCAP.) DOE employees who have a change in payroll code due to a title change must notify the FSA Program Administrative Office of the payroll code change to continue payroll deductions.

Missed Payroll Deductions

If you miss any payroll deductions, you must notify the FSA Program Administrative Office when you return to payroll, in order to recalculate the amount of your payroll deductions. If, for any reason, deductions cannot be made from any paycheck, your annual contribution will be decreased by the amount of any missed payroll deductions.

Effect on Your Taxes

Important:
You must add back the amount listed under IRC 125 on your Form W-2 to your state/city gross wages.

Contributions are made through pre-tax payroll deductions; therefore, you do not pay Federal income or Social Security (FICA) taxes on these contributions. This results in an increased take-home pay. The amount you contribute will be reflected on your Form W-2, Box 10 and Box 14. DeCAP will not affect your state or city taxes; therefore, you must add back the amount listed under IRC 125 on your Form W-2 to your state/city gross wages when you are filing your state/city income taxes.

DeCAP versus Federal Dependent Care Tax Credit

Any expenses paid or reimbursed under DeCAP cannot be taken into account when calculating the Federal Dependent Care Tax Credit and vice-versa.

If you participate in DeCAP, and DeCAP covers all your dependent care expenses (or you contribute the maximum amount under DeCAP), then you are not eligible for the New York State tax credit for dependent care expenses.

For DeCAP Only you must also attach Form 2441 Child Dependent Care Expenses to your Form 1040

DeCAP vs. Federal Dependent Care Tax Credit: Differences in Tax Savings

	Maximum Benefit	Taxes	Reimbursement
DeCAP	\$5,000, regardless of number of dependents	Reduces your taxable income	Immediate
Federal Dependent Care Tax Credit	\$3,000 for 1 dependent, \$6,000 for 2 or more dependents	Reduces your actual taxes	After filing tax return

While you may use DeCAP and the Federal Dependent Care Tax Credit in the same year, you must be sure that your eligible expenses for the Federal Dependent Care Tax Credit are reduced by what you receive from DeCAP in 2022, and you do not claim the same expense more than once. Please consult a tax advisor for questions regarding your specific expenses.

The following is an example that depicts the difference between DeCAP and the Federal Dependent Care Tax Credit based on the 2020 federal tax withholding table.

Married employee with a family income of \$70,000 with 1 dependent filing jointly; DeCAP annual contribution of \$5,000 and employee incurs \$4,952 in reimbursable dependent care expenses:

	Before-Taxes	After-Taxes
Gross Income	\$ 70,000	\$ 70,000
Less Before-Tax Reduction for Dependent Care Expenses	(4,952)	-
Less Administrative Fee	(48)	-
Adjusted Gross Income	\$ 65,000	\$ 70,000
Federal Income Tax	(4,429)	(5,029)
FICA (Social Security + Medicare)	(4,973)	(5,355)
After-Tax Cost of Dependent Care Expenses	-	(4,952)
Federal Tax Credit		600
State Tax Credit		120
Take-Home Pay	\$ 55,598	\$ 55,384
DeCAP Tax Savings	\$214	

The Adjusted Gross Income amounts in the prior example assume there are no other income adjustments. The projections made here are only estimates of Federal tax information and should not be considered tax advice. Please consult a tax advisor to review your own financial situation.

Visit the FSA website at nyc.gov/fsa to access the online savings calculator to estimate your potential savings.

Filing Claims

To request reimbursement for dependent care expenses, complete a DeCAP Claims Form by:

- listing each expense and dependent separately on the DeCAP Claims Form; and
- having the dependent care provider sign his/her name, and provide the address, and Federal Tax I.D. or Social Security Number.

Submission of Claims

- Submit claims in a timely manner, monthly or every few months, to the FSA Program Administrative Office via FSA secure e-mail at <https://nyc-fsa.leapfile.net> or, send claims via regular mail to the FSA Administrative Office at the address on pg. 5.
- Payment is issued on a monthly basis. Claim Forms must be received by the 25th day of the month to be processed for that month.

- There is no reimbursement of claims before service is actually rendered. Please note that claims cannot be submitted for any future dates, even if the payment is pre-paid or on-going throughout the year. A claim for each claim period must be submitted after the dependent care services have been incurred, completed and paid.
- There is no reimbursement for expenses incurred while you and/or your spouse are not at work (e.g., sick leave, annual leave, maternity leave, summer vacation, etc.).
- The total amount of expenses on DeCAP Claims Forms must be \$50 or greater, unless your account balance is less than \$50.
- Receipts and billing statements are not needed for DeCAP; however, you should keep them for your records.
- Spouse who is self-employed must provide description of occupation on letterhead stationery; or without letterhead stationery, notarization is required.

Denial of Claims

- If the FSA Program Administrative Office denies a claim, you will receive a denial letter stating the reason for denial.
- You may file a written appeal with the Appeals Panel within 60 days after your receipt of the denial notice.
- The Appeals Panel will review and make a decision on your claim within 60 days after receipt of your written notice for appeal.

Reimbursement of Claims

Claims are processed on a monthly basis. Claims able to be reimbursed through Direct Deposit. Reimbursement for claims processed during one month will be automatically deposited into the account you indicated on your FSA Enrollment/Change Form by the close of the following month. Alternatively, you may choose to have reimbursement checks sent to your address on file.

Claims will be reimbursed up to the current balance in your account, less the up to \$4 monthly (up to \$48 annual maximum) administrative fee. If there are insufficient funds in your account to cover the expenses claimed, only that portion of your claim for which there are sufficient funds will be reimbursed. The balance will be carried over to the next month for payment. If a claim exceeds your balance at the end of the Plan Year, you will receive reimbursement exhausting your account. Reimbursement will be made directly to you and not to the service provider.

Account Statements

You will receive a monthly statement listing your opening account balance, all contributions to your account, processed claims, the administrative fee, and your closing account balance.

After the Claims Run-Out Period, you will receive an annual statement which reflects the total amount contributed to, reimbursed, and forfeited from your account for Plan Year 2022.

Effect on Other Benefits

Social Security

Social Security benefits at your retirement age may be slightly less, but the effect, if any, would be offset by the amount saved in taxes today. Please contact your financial advisor for more detailed information.

Pension

There will be no effect on your pension contributions or benefits.

Deferred Compensation

Participation in the Flexible Spending Accounts Program will have no effect on your participation in a 457, 401(k), Roth 401(k) or 403(b) plan.



DeCAP Worksheet

For Plan Year 2023 (January 1, 2023– December 31, 2023)

This worksheet is designed to assist you in the estimation of your dependent care expenses for the Plan Year 2023. When estimating your expenses, be conservative. Keep in mind the “Use It or Lose It” rule explained in this brochure. Visit the FSA Program website at nyc.gov/fsa to access the on-line savings calculator to estimate your potential savings.

Dependent Care Expenses

(unreimbursed/unreimbursable by insurance)

	Year 2022 Expenses	Projected Year 2023 Expenses
Infant/toddler baby-sitter (inside or outside of your home)		
Nursery school/preschool		
Before-school and after-school care		
Reporting days (child in school half a day)		
School in-service days (child not in school)		
School holidays		
School vacation days		
Day camp/summer camp (not overnight)		
Housekeeper/cook/companion (if services provided are for a dependent who qualifies for dependent care)		
Other dependent care expenses (refer to IRS Publication 503 for more information)		
Administrative fee (up to \$4 per month/\$48 per Plan Year)	\$48.00*	\$48.00*
Total Dependent Care Expenses		**

* The annual administrative fee may be adjusted by the FSA Program Administrator, but will not be greater than \$48 per program.

** Enter this amount in Section B of the DeCAP Annual Contribution on the FSA Program Enrollment/Change Form.

INELIGIBLE EXPENSES: Expenses not eligible for reimbursement through DeCAP include:

- Services provided by your spouse, by a child of yours under age 19 at the close of the Plan Year, or by a dependent whom you claim (or could claim) as an exemption for Federal income tax purposes
- Kindergarten
- Nursing home or custodial care facility
- Overnight camp expenses
- Fees (activity, registration, insurance, transportation, etc.)
- Supplies (meals, books, diapers, clothing, etc.)
- Tuition expenses for schooling
- Expenses that you plan to claim under the Federal Dependent Care Tax Credit
- Expenses incurred while you and/or your spouse are not at work including sick leave, maternity leave and summer vacation (e.g., employees of Department of Education and CUNY who do not work during summer session)
- Child support

Visit the FSA Program website at nyc.gov/fsa to access the on-line savings calculator to estimate your potential savings.

MSC Health Benefits Buy-Out Waiver Program

How the Health Benefits Buy-Out Waiver Program Works

- 1 Before deciding to waive your City of New York health benefits, make sure that your non-City of New York group health coverage will meet your medical needs.
- 2 Complete the Health Benefits Application to waive your City of New York health benefits and complete the MSC Form to receive the annual incentive payment. Submit the forms to your agency's Human Resources Department, NYCAPS or HR Shared personnel for approval and signatures, and retain copies for your records.
- 3 You will receive the incentive payment semi-annually in your regular paycheck in June and December of the Plan Year.

Highlights of the Health Benefits Buy-Out Waiver Program

Employees can waive health coverage if covered under:

- a spouse's/domestic partner's or parent(s)' employer-provided, non-City of New York group health plan; or
- a group health plan available through other employment.

Exclusions

You are ineligible for participation in the Health Benefits Buy-Out Waiver Program if you are:

- waiving health coverage in order to be covered by a spouse who works for the City of New York (or a City of New York-related agency), who is covered through the City of New York's Health Benefits Program;
- retired from the City of New York;
- covered by an individual direct payment health plan, including enrollment in COBRA as a result of losing coverage through a non-City of New York group health plan;
- covered by Medicaid;
- covered by Medicare;
- on Workers' Compensation leave; or
- participating in the Health Care Exchange Insurance Program.

Annual Incentive Payment

Incentive Benefit Periods

There are two incentive benefit periods per calendar year:

- January 1 through June 30; and
- July 1 through December 31.

Incentive Benefit Amount

- \$1,000 to employees with family health coverage who waive City of New York health benefits
- \$500 to employees with individual health coverage who waive City of New York health benefits

Annual incentive payments will be taxable to the recipient. The incentive payment will be prorated for enrollment of less than six months by the number of days you are in the Health Benefits Buy-Out Waiver Program.

In a domestic partnership or civil union, the participant can only receive the \$500 annual individual incentive payment. Please note that same sex marriage will be treated as family coverage.

Enrollment in the Health Benefits Buy-Out Waiver Program

When do employees enroll?

During the annual Open Enrollment Period, October 17, 2022 – November 18, 2022. Once enrolled, you remain in the Program until you reinstate your City of New York health benefits. Therefore, annual re-enrollment is not required. If you are already enrolled in the Program from a previous Plan Year, you will automatically receive an enrollment confirmation letter after the start of the new Plan Year. If you are terminated from the Program, you will receive a termination letter.

When do new employees enroll?

Within 30 days after becoming eligible for City of New York health benefits, by completing and submitting a Health Benefits Application and an MSC Form to your agency's Human Resources Department, NYCAPS or HR Shared (if applicable) for review and completion. The forms and legal/supporting documentation must be received by the MSC Administrative Office within 30 days after this eligibility date.

Mid-Year Changes

Qualifying Event

Your participation in the Health Benefits Buy-Out Waiver Program will remain in effect unless you file an MSC Form indicating a Qualifying Event and a Health Benefits Application to withdraw from the Program. Similarly, employees who have not enrolled in the Health Benefits Buy-Out Waiver Program may waive City of New York health benefits mid-year only if they incur a Qualifying Event.

Any MSC Form received in June will be effective July 1st of that Plan Year if you are eligible to apply for City of New York health benefits, NYCAPS, or HR Shared (if applicable) and you have a Qualifying Event in May or June of that Plan Year.

Any MSC Form received in December will be effective January 1st of the following Plan Year if you are eligible to apply for City of New York health benefits, NYCAPS, or HR Shared (if applicable) and you have a Qualifying Event in November or December of the previous Plan Year.

Please note that if your effective date is later than July 1st or January 1st, your effective date will be the date you are eligible to participate in the program.

If you experience a Qualifying Event, contact your agency's Human Resources Department, NYCAPS, or HR Shared (if applicable) as soon as possible to obtain the appropriate forms, which must be submitted with documentation and received by the MSC Administrative Office within 30 days after the Qualifying Event. Participants will not be allowed to make changes inconsistent with the Qualifying Event.

Qualifying Events include:

- A change in family status such as marriage, divorce, annulment, or legal separation between the participant and spouse;
- The death of a participant, spouse, domestic partner, or dependent;
- The birth or adoption of a child who will be the participant's dependent;
- The participant becomes divorced and is required under court order to provide health insurance coverage for eligible dependent children;
- The start or termination of employment (benefits) of participant or participant's spouse for any reason including retirement (Forms must be submitted to terminate the Health Benefits Buy-Out Waiver Program.);
- A change in spouse's/domestic partner's coverage, which is significant and outside the control of the spouse, e.g., benefit reduction (See Reinstatement of City of New York Health Benefits section on page 21.);

- The participant's spouse/domestic partner has a change in employment status, which results in a change of health insurance coverage, either acquiring or losing eligibility for coverage (See Reinstatement of City of New York Health Benefits section.);
- A change in employment status from part-time to full-time, or vice-versa, by the participant or the participant's spouse/domestic partner (increase above 20 hours or reduction below 20 hours in regular hours worked per week);
- The taking of, or returning from, an approved unpaid leave of absence by the participant or the participant's spouse/domestic partner; or
- Increase in the non-City of New York group health insurance premium by more than 20%.

Agency Transfer/Leave of Absence

- Employees who transfer from one City of New York agency to another within the City of New York or who have an agency payroll code change must notify the FSA Program Administrative Office in writing within 30 days after the transfer.
- Employees who take an approved unpaid leave of absence must complete the MSC Form and Health Benefits Application to withdraw from the Health Benefits Buy-Out Waiver Program. Upon returning, employees who wish to be reinstated into the Program must re-enroll by completing an MSC Form and Health Benefits Application within 30 days after returning to work.
- DOE employees who have a change in payroll code due to a title change must notify the FSA Administrative Office of the payroll code change.

Reinstatement of City of New York Health Benefits

- To reinstate City of New York health benefits for the following Plan Year, you must complete an MSC Form and Health Benefits Application, and submit them to your agency's Human Resources Department, NYCAPS, or HR Shared (if applicable) during the annual Open Enrollment Period.
- To reinstate City of New York health benefits mid-year, you must provide proof of a Qualifying Event. If documentation is received within 30 days after the event, reinstatement into the City of New York's Health Benefits Program will be retroactive to the date of the Qualifying Event.
- To reinstate City of New York health benefits at retirement, you must complete a Health Benefits Application and an MSC Form to withdraw from the Health Benefits Buy-Out Waiver Program.
- Access to City of New York health benefits at retirement will be unaffected.

MSC Denial of Enrollment

- If the MSC Administrative Office denies an enrollment, you will receive a denial letter stating the reason for denial.
- You may file a written appeal with the Appeals Panel within 60 days after your receipt of the denial notice.
- The Appeals Panel will review and make a decision on your claim within 60 days after receipt of your written notice for appeal.

Other Information

Welfare Fund Benefits

Your Welfare Fund benefits may be affected by waiving your City of New York health benefits. Contact your Welfare Fund Administrator if you have questions.

Employees Who are Currently Waiving City of New York Health Benefits

Employees waiving their City of New York health coverage and who are not participating in the Health Benefits Buy-Out Waiver Program will need to re-waive their City of New York health benefits by submitting a Health Benefits Application and an MSC Form during the annual Open Enrollment Period in order to participate in the Health Benefits Buy-Out Waiver Program.

Deferred Compensation Plan

An employee participating in the City of New York Deferred Compensation Plan (DCP) in lieu of FICA and participating in the Health Benefits Buy-Out Waiver Program (taxable income), may need to increase his/her salary deferral percentage to an amount higher than 7.5% of annual salary in order to account for the increase in income due to the "Buy-Out Waiver Incentive Payment." If the 7.5% of total salary income requirement is not met, the participant who is enrolled in DCP may have to continue to pay FICA taxes until that requirement is met.

MSC Premium Conversion Program

How the Premium Conversion Program Works

- 1 Enrollment in the Premium Conversion Program remains in effect during the Plan Year and your status cannot change unless an approved Qualifying Event occurs mid-year.
- 2 If you wish to change from pre-tax to post-tax, complete an MSC Form and submit the completed form to your agency's Human Resources Department, NYCAPS or HR Shared (if applicable) for approval.
- 3 You will save on Federal and Social Security taxes, however, Social Security benefits at retirement will be slightly less as a result of the Program.

How do I enroll?

Enrollment in the Premium Conversion Program is automatic. If you have a health plan premium deduction, it will automatically be taken on a pre-tax basis. However, you are able to choose post-tax payments if you wish. Employees may change from pre-tax to post-tax or vice-versa during the FSA annual Open Enrollment Period, which is from October 17 2022–November 18, 2022.

How the Premium Conversion Program Affects Your Taxes

Effect on Gross Salary

There is a reduction in the taxes withheld from your gross salary. The reduction in gross salary will be shown on your Form W-2 under IRC 125. This amount should be added back to state/city gross income. Some payrolls may show gross salaries differently depending on the software and payroll systems in use.

Premium Conversion Program Tax Savings

Savings will vary and be based on, among other things, your health plan option, whether you have individual or family health coverage, the number of withholding allowances that you claim for tax purposes, and your salary.

Change Premiums from Pre-Tax to Post-Tax

While automatically enrolled on a pre-tax basis, you may choose post-tax premiums if you wish. Changing from one to the other can be done during the FSA annual Open Enrollment Period. Employees, however, must decide to pay premiums on either a pre-tax or post-tax basis for an entire Plan Year.

Mid-Year Changes

Qualifying Event

Enrollment in the Premium Conversion Program remains in effect during the Plan Year and your status cannot change unless an approved Qualifying Event occurs mid-year. Similarly, employees who waived enrollment in the Premium Conversion Program may enroll mid-year only if they incur a Qualifying Event.

Qualifying Events include:

- The death of a participant, spouse/domestic partner or dependent;
- The birth or adoption of a child who will be the participant's dependent;
- The attainment of the maximum age for coverage of a dependent child;
- The participant becomes divorced and is required under court order to provide health insurance

- coverage for eligible dependent children;
- Moving out of an HMO service area;
- A participant has a change in title, which necessitates a change in health plan (e.g., Med-Team participants must be DC-37 members);
- The start or termination of employment (benefits) of participant or participant's spouse for any reason including retirement;
- A change in spouse's/domestic partner's coverage, which is significant and outside the spouse's/domestic partner's control (e.g., due to termination of employment or benefit reduction);
- A spouse/domestic partner has a change in employment status, which results in a change in health insurance coverage (either acquiring or losing eligibility for coverage);
- A change in employment status from part-time to full-time, or vice-versa, by the participant or the participant's spouse/domestic partner;
- The taking of, or returning from, an approved unpaid leave of absence by the participant or the participant's spouse/domestic partner; or
- An increase in the employee's health insurance premium by more than 20%.

Effect on Other Benefits

If you currently do not have a payroll deduction for health insurance, this program does not affect your tax status.

Social Security Tax (FICA)

You will save on Social Security taxes due to the Premium Conversion Program. Based on current Social Security law, Social Security benefits at full benefit age will be slightly less as a result of the Premium Conversion Program. The effect, however, would be minimal and would be offset by the amount saved in taxes today.

Pension

The Premium Conversion Program will have no effect on your pension contributions or benefits.

Deferred Compensation

The Premium Conversion Program will have no effect on your participation in a 457, 401(k), Roth 401(k) or 403(b) plan.

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Office of Labor Relations
Employee Benefits Program
Flexible Spending Accounts Program
22 Cortlandt St. 28th Floor , New York, NY 10007
212-306-7760
nyc.gov/fsa