

Duke Reimbursement Account Programs





Duke Reimbursement Account Programs

To help you pay for your health care and dependent care expenses, Duke offers you Health Care and Dependent Care Reimbursement Accounts. You can participate in either or both accounts. The accounts allow you to set aside some of your pay on a pre-tax basis to pay for many of your medical, dental, vision, and dependent care bills. You make contributions to your reimbursement accounts through convenient payroll deductions each pay period. And, because you don't pay taxes on the amount you contribute, your federal and state income taxes may be reduced.

Your contributions are taken out of your paycheck automatically. As you have eligible expenses, you fill out a claim, attach the appropriate documentation (receipt, taxpayer identification number, etc.) and send the claim to WageWorks, the benefits claims processor. The money will be deducted from your accounts and paid to you each time you submit a request for reimbursement.

The term "Duke" is used throughout this document. For purposes of this Benefit Program Description, "Duke" refers to the University, Duke University Health System, Inc., and any other entity which is or becomes controlled by Duke University and where, upon appropriate action by the Board of Trustees, the employees of that entity are included in the membership of this program.

Duke Reimbursement Account Programs **Table of Contents**

■ Eligibility and Enrollment	Page 64
Eligibility	64
When Participation Begins	64
Enrolling	64
Changing Your Benefit Election	65
When Participation Ends	66
Effect of Termination on Your Reimbursement Accounts	66
Continuing Coverage — COBRA Option	66
■ How Reimbursement Accounts Work	Page 67
Tax Savings	67
Separate Accounting	67
The “Use It or Lose It” Rule	67
Impact on Other Benefits	67
How Can I Decide How Much to Contribute?	68
■ Health Care Reimbursement Account	Page 69
Eligible Dependents	69
Eligible Expenses	71
Over-the-Counter Drugs and Medicines	72
Ineligible Expenses	73
How Much Can I Contribute to the Health Care Reimbursement Account?	74
Important Tax Considerations	74
Enrollment and Changes During the Year	74
■ Dependent Care Reimbursement Account	Page 75
Eligible Dependents	75
Examples of Dependent Care Expenses Allowed Under Federal Law	76
Examples of Dependent Care Expenses Not Allowed Under Federal Law	76
How Much Can I Contribute to the Dependent Care Reimbursement Account?	77
Duke-Contracted Facilities	78
Enrollment and Changes During the Year	78
Dependent Care Reimbursement Account vs. Income Tax Credit	78
■ How to File for Benefits	Page 79
Overpayment	79
Where to Send Your Request for Benefit Payments	79
■ Your Rights Under ERISA	Page 82

Eligibility and Enrollment

Eligibility

You are eligible to participate in the reimbursement accounts if you:

- Meet the established Duke payroll/benefit classifications to be eligible for benefits coverage (being a regular employee or House Staff scheduled to work 20 or more hours per week), and
- Are employed by Duke University or Duke University Health Systems, Inc., or
- Are in a bargaining unit that has agreed to allow its members to participate.

When Participation Begins

You are eligible effective your first day of employment/eligibility with Duke or date of qualifying life event. Otherwise, your effective date is January 1 if you enroll during open enrollment.

Enrolling

You can elect to participate in one or both reimbursement accounts. You will be offered the opportunity to enroll each year during Open Enrollment. Contribution elections will not carry over from one year to the next.

New Hires

You may enroll in one or both of the reimbursement accounts. No election is required if you choose not to participate. Your participation in the accounts is not retroactive.

If you do not enroll within 60 days of your date of hire, you will not be able to contribute to the reimbursement accounts for the rest of that plan year unless you have a qualified change in status, as described on the next page. However, at the next Open Enrollment, you will be able to elect to contribute to one or both accounts effective the next plan year.

Open Enrollment

You can enroll in one or both of the reimbursement accounts each year during Open Enrollment. Participation becomes effective January 1 of the next plan year. To continue your participation, you must re-enroll every year.

What Happens After You Enroll

After you enroll, recordkeeping account(s) will be established in your name. The account will be credited each pay period with the contribution you elect, beginning with the first paycheck of your participation.

Changing Your Benefit Election

Your benefit elections become effective January 1 and continue through December 31. Federal law strictly limits the circumstances under which you may make election changes outside the Open Enrollment period.

You may make certain election changes for the current year if you have a qualifying event (see below) and the requested change is consistent with the event. **You must notify the Human Resource Information Center (HRIC) at (919) 684-5600 of that event within 30 days.**

Qualifying events include:

- Your marriage, divorce, annulment, or legal separation;
- A change in the number of your dependents, due to birth or adoption (or placement for adoption) of a child, or death of a spouse or child;
- A change in your, your spouse's, or your dependent's employment status that affects eligibility for coverage (including termination or commencement of employment, reduction or increase in hours of employment, or start of or return from an unpaid leave of absence);
- Your dependent's commencement or cessation of eligibility for coverage under the plan, for example, because he or she gets married or turns age 19 and is no longer a full-time student;
- Your (or your spouse's or dependent's) change in health coverage eligibility due to a relocation of residence or work place;
- Death of a spouse or dependent; and
- Change in rates charged by your day care provider (allows you to change your Dependent Care Reimbursement Account election only).

If you have a qualifying status change, you may be able to increase or decrease your reimbursement account contributions, but only if the change is consistent with the status change. For example, if you adopt a child, you may increase (not decrease) your contributions to the Health Care Reimbursement Account and/or the Dependent Care Reimbursement Account. Additionally, if you adopt a second child and your spouse decides to stay home, you could decrease (not increase) your contributions to the Dependent Care Reimbursement Account, and increase (not decrease) your contributions to the Health Care Reimbursement Account.

As a reminder, beginning a leave of absence (whether paid or unpaid) is considered a family status change. Since the IRS does not allow reimbursement for day care expenses while you are not working, you should consider stopping your Dependent Care Reimbursement Account deductions if you are not working during your leave.

Employees on approved leave of absence are eligible to continue contributions to the Health Care Reimbursement Account while on leave. If this applies to you, contact the HRIC for details. If you do not make contributions to the Health Care Reimbursement Account while on leave, expenses you incur during your leave are not eligible for reimbursement.

You must report a change in status by calling the HRIC at (919) 684-5600 and providing documentation within 30 days of the event. Otherwise, you'll have to wait until the next Open Enrollment to make changes effective for the beginning of the next plan year. You will need to provide documentation such as a birth, marriage, or death certificate, or a divorce decree.

Eligibility and Enrollment

When Participation Ends

Your participation in the reimbursement accounts ends on December 31 of each plan year. To continue your participation in the accounts, you must re-enroll each year during the annual Open Enrollment period.

Your participation also will end on the date any of the following events occurs:

- You are no longer an active employee on the payroll (see “Effect of Termination on Your Reimbursement Accounts”),
- The plan terminates,
- You are no longer regularly scheduled to work at least 20 hours per week,
- You become eligible for Long Term Disability or Workers Compensation Insurance, or
- You are no longer a member of the class of employees eligible to participate.

If you are on Long Term Disability, you may continue to submit claims for eligible expenses incurred during the plan year and up until December 31 of the year that the disability commences.

Effect of Termination on Your Reimbursement Accounts

If you terminate employment, retire, or die during the year, you or your estate may continue to submit claims for eligible expenses incurred during the plan year and up until such date. Eligible health care expenses are reimbursable up to the amount of your annual health care reimbursement account election, provided they were incurred on or prior to your termination date. You are eligible to continue to submit expenses for dependent care until the end of the plan year (December 31) in which you terminate. The deadline for submitting these expenses to WageWorks is April 15, 2008.

If you are laid off for less than 30 days, then you have the option of making up the missed deposit, reducing the election amount by the missed amount or making a new election. If, however, the lay off period is greater than 30 days you must make a new election amount.

Continuing Coverage — COBRA Option

Under federal COBRA law, you have the right to pay your Health Care Reimbursement Account contributions (plus 2%) on an after-tax basis after your employment ends. Continuing payment allows you to access your annual election amount for the rest of the year.

This option may be particularly important to you if you have a high balance in your Health Care Reimbursement Account and have not yet incurred an anticipated eligible expense, as it keeps your access to the account open after your termination.

Generally, you may not change your annual election when you experience an event that qualifies you for COBRA. However, if your COBRA event is also a qualified change in family status, you may be eligible to change your election for the remainder of the plan year.

How Reimbursement Accounts Work

Tax Savings

Because your deposits to the Duke reimbursement accounts are deducted from your paycheck before federal, state, Social Security, and Medicare taxes are withheld, each dollar you deposit reduces the taxable income reported on your W-2 form, so you save on income taxes.

Separate Accounting

According to federal law, contributions to the Health Care Reimbursement Account and the Dependent Care Reimbursement Account cannot be used interchangeably. Any contributions you make to the Health Care Reimbursement Account must be used for eligible health care expenses; any contributions made to the Dependent Care Reimbursement Account must be used for eligible dependent care expenses. Federal law mandates that reimbursement accounts be reviewed by Duke to ensure they meet specific guidelines. The amounts you contribute to the accounts may be reduced to comply with federal guidelines.

Your Pre-Tax Contributions and Social Security

Contributing to the reimbursement accounts on a pre-tax basis gives you the advantage of lowering your federal income and FICA taxes. However, lowering your income could cause a reduction in your monthly Social Security benefits down the road due to your before-tax contributions. While the reduction is small, you should consider it as you make your reimbursement account contribution decisions.

The “Use It or Lose It” Rule

Your Duke reimbursement accounts deserve careful planning because, according to federal law, any money left in your account at the close of the plan year will be forfeited. This is to prevent participants from contributing the maximum amount to avoid taxation, and then withdrawing it. Review your bills from the previous year before deciding how much to contribute to a reimbursement account. Then estimate your expenses for the remainder of the calendar year.

You may submit your claims for expense reimbursement for services received during the plan year in which the money was contributed until April 15 of the following year. You will forfeit any money left unclaimed in your account after April 15.

Impact on Other Benefits

Reimbursement account contributions will not affect other Duke benefit plans that are based upon pay. Those benefit plans will continue to be based on your pay before the reduction for your reimbursement account contributions. However, because your contributions are not subject to Social Security taxes, your eventual Social Security benefits may be slightly less when you retire or if you should become disabled.

Unverified Expenses

When using your WageWorks Health Care Card, eligible health care expenses may require verification. If unverified expenses are not resolved, the unverified amounts become taxable income to you and it, at that point, is an issue between you and the Internal Revenue Service.

How Reimbursement Accounts Work

How Can I Decide How Much to Contribute?

This is a very common question. The “use-it-or-lose-it” aspect of reimbursement accounts may seem risky, but most participants think the benefit of tax savings outweighs the possibility of forfeiting unused contributions, especially since you decide how much you want to set aside each year.

Generally, it’s better to be conservative in your cost estimates, especially when you’re just starting out with an account.

If you have questions, want account updates, need to check on the status of claims, or need forms, simply call WageWorks, the claims administrator for the reimbursement accounts, at (877) 924-3967. WageWorks’ customer service representatives are available Monday through Friday, 8:00 a.m. to 8:00 p.m., Eastern time. You may also call WageWorks’ 24-hour automated voice response system at (877) 924-3967. Access to your personal online account is available at any time by logging on at www.hr.duke.edu/reimbursement.

Health Care Reimbursement Account

With the Health Care Reimbursement Account, you can make contributions to an account and be reimbursed for eligible health care expenses. Expenses for same-sex spousal equivalents generally are not eligible for reimbursement, under federal law. Eligible health care expenses include medically necessary medical, dental, vision, prescription drug expenses, and some over-the-counter drugs which are used to treat specific medical conditions.

Eligible Dependents

Per the IRS rules effective 1/1/2005.

You can use your Health Care Reimbursement Account to pay for health-related expenses incurred by any of the following people—even if they are not covered by your employer's health plan:

- Yourself
- Your spouse
- Your qualifying child*
- Your qualifying relative*

* Special rules allow a dependent to be eligible for this plan even when that dependent does not qualify to be claimed as your tax dependent on your tax return form. See the definitions below.

A qualifying child

- Is any of the following: your child, grandchild, stepchild, foster child or adopted child; brother, half-brother or stepbrother; sister, half-sister or stepsister; nephew or niece; or the child or grandchild of any of the relatives listed above
- Will reside with you for more than half the calendar year

- Disregard temporary absences due to illness, education, business, vacation, or military service. You must maintain a home for the child during the temporary absence and the child must be expected to return after the absence.
- As of the last day of the year, will be under the age of 19; or under the age of 24 and a full-time student. Or, is permanently and totally disabled
 - Full-time student means the child is enrolled at a level the school considers to be full-time for at least five months during the calendar year.
- Will provide no more than 50% of his/her own support for the calendar year
- Is a citizen, national or resident of the US; or a resident of Canada or Mexico (unless the child is adopted)

A qualifying relative

- Is any of the following: your child, grandchild, stepchild, foster child or adopted child; brother, half-brother or stepbrother; sister, half-sister or stepsister; nephew or niece; the child or grandchild of any of the relatives listed above; your father, grandfather or stepfather; mother, grandmother or stepmother; uncle or aunt; or son-, daughter-, father-, mother-, brother- or sister-in-law. Or, any other person who will reside with you for the entire year (while not in violation of local law).
- Will not be claimed by any other person as a qualifying child for the calendar year
- Is a citizen, national or resident of the US; or a resident of Canada or Mexico (unless the person is an adopted child)
- And, you will provide more than 50% of this person's support for the calendar year

Health Care Reimbursement Account

Special Circumstances

Divorced or separated parents: Check with your legal or tax advisor to see if special rules apply to you that would enable your child to be claimed by the non-custodial parent or by both parents.

Tie-breaker: If two or more people want to claim the same child as their qualifying child, the person who has the right to is: (1) the child's parent — if one person is the child's parent and the other is not, (2) the parent with whom the child lives with longest in the year – if both people are the child's parents, (3) the parent with the higher adjusted gross income – if both people are the child's parents and the child lives equally with both during

the year, or (4) the person with the higher adjusted gross income – if both people are not the child's parents.

Eligible Expenses

A person is a qualifying child or a qualifying relative for an entire calendar year. You can use your Health Care Reimbursement Account to pay for eligible health care products and services used by your qualifying child or relative during your coverage period — provided the expenses are used during the calendar year in which the dependent is considered your qualifying child or relative.

Health Care Reimbursement Account: Eligible Expenses

Medical expenses are defined by the Internal Revenue Service (IRS) as costs of diagnosis, cure, mitigation, treatment or prevention of disease, and costs for treatments affecting any part or function of the body. The expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or vacation.

With that in mind, below are some of the medical expenses eligible for payment under the Health Care

Reimbursement Account, to the extent such expenses are not covered by your medical or dental insurance. This list is not meant to be all-inclusive. Other expenses not specifically mentioned may also qualify. For additional information, please refer to IRS Publication 502 Medical and Dental Expenses. However, the two exceptions to be aware of are: 1) Insurance premiums are not reimbursable under a Health Care Reimbursement Account (HCRA), and 2) The reimbursement under a HCRA is based only upon when the expense was incurred; i.e., date of service, not the date paid. To be eligible, the service has to be provided in your plan year.

Health Care Reimbursement Account: Eligible Expenses

Health Care Reimbursement Account		
In general, expenses must be medically necessary and prescribed by your physician. The following are examples of eligible expenses:		
Acupuncture	Drug addiction treatment	Smoking cessation program fees and prescription drugs
Alcoholism treatment	Eyeglasses (prescribed)	Surgery (for non-cosmetic purposes)
Ambulance fees	Eye surgery (e.g., LASIK and radial keratotomy)	Telephone for the hearing impaired
Animal trained to aid deaf person	Guide dogs	Therapy (medical)
Artificial limbs	Hearing aids / exams	Transplants
Braille books and magazines (difference in cost only)	Hospital services	Tuition at special schools for the disabled (select circumstances only)
Car controls for the disabled	Infertility treatments	Varicose vein removal surgery
Certain over-the-counter medications (e.g. pain relievers, allergy medications, etc.)	Lab fees	Vision exams
Chiropractors' fees	Lamaze classes for expectant mothers	Vitamins (prescribed)
Christian Science practitioner fees	Mileage (requires receipt from physician and distance traveled)	Weight-loss programs at physician's discretion to treat existing disease
Contact lenses and cleaning solutions	Nursing services (wages and taxes)	Wheelchairs
Co-pays, deductibles, and co-insurance not covered by insurance	Optometrist fees	X-rays
Dental fees	Orthodontia expenses	
Doctors' fees	Oxygen	
	Psychotherapy for approved medical care (by approved provider)	

Please note: Insurance premiums are not eligible expenses under a reimbursement account plan.

Health Care Reimbursement Account

Over-the-Counter Drugs and Medicines

In addition to the Health Care Expenses noted on the previous page, some over-the-counter drugs and medicines are reimbursable under your Health Care Reimbursement Account. The expenses that may be reimbursed depend on whether the drug or medicine treats a specific medical condition or is used mostly for a person's general good health. Drugs and medicines that are primarily used for a person's general good health or hygiene (e.g., mouthwash) may only be reimbursed if it is used to treat a specific medical condition and proper documentation from the doctor or dentist is submitted. Most over-the-

counter drugs or medicines are eligible; cosmetic, toiletry, or sundry items are "not" eligible.

Required Documentation For All

Over-The-Counter Medications: A store receipt showing the place of purchase is required and must include the date of purchase, name of the item and the amount charged, unless the items are being purchased via a WageWorks Health Care Card and can be verified at the point of sale, as being an eligible health care expense.

***Additional Documentation:** For expenses requiring additional documentation, a letter of medical necessity from your physician or dentist will be required.

Eligible Expenses (Examples)	Ineligible Expenses (Examples)	Expenses Requiring Additional Documentation* (Examples)
Pain Relievers (aspirin, Tylenol)	Vitamins for general health	Medicated Shampoo
Cold/Sinus medicines	Facial creams	Mouthwash
Antacids	Deodorants	Dietary Supplements
Allergy medicine	Toothpaste	Vitamin Supplements
Cough syrup	Bug repellent	Nutritional Supplements
Laxatives		Sunscreens 30 SPF or greater
Hemorrhoid medicine		
Sore muscle medicines (Ben Gay)		
Nicotine patches and gum		
Athletes foot medicine		
Medical ointments (Neosporin)		

Health Care Reimbursement Account: Ineligible Expenses

In the box below are some examples of expenses that are not eligible for reimbursement under a Health Care Reimbursement Account. If you want to check whether or not a particular expense is eligible for reimbursement, refer to WageWorks' web site www.wageworks.com/employee/health-care/expenses/fsa.htm. This is not meant to be an all-inclusive list.

Health Care Reimbursement Account: Ineligible Expenses		
Expenses to promote general health are not reimbursable under the Health Care Reimbursement Account. The following are examples of ineligible expenses:		
Babysitting & child care	Hair loss medication	Retin-A*
Breast pumps*	Hair transplant	Rogaine
Calcium supplements	Health club dues	Special foods* (cost difference of common product)
Cancelled appointment fees	Treatment program (at a health club)*	Student health premiums (for dental and medical services)
COBRA premiums	Herbs & herbal medicines	Swimming lessons*
Contact lens insurance	Illegal operations or substances	Tattoo removal
Cosmetic surgery/procedures	Insurance premium interest charge	Teeth whitening/bleaching
Custom fitovers (clip ons)	Insurance premiums	Toiletries, toothpaste, etc.
Dancing lessons*	Lamaze class***	Veneers*
Diaper service	Marriage counseling	Vision discount program premiums
Discounted fees/write-offs	Massage therapy**	Vitamins*
Electrolysis	Maternity clothes	Weight loss programs and/or drugs*
Exercise equipment*	Personal trainer	
Eyeglass insurance	Prescription drug discount program premiums	
Fitness programs		

* Eligible only with doctor's certification identifying the medical condition and length of treatment program.

** Eligible only with doctor's certification identifying the physical nature of the medical condition and length of treatment program. Massage therapy for the sole purpose of tension/stress relief or depression (even with a doctor's statement) does not qualify as an eligible expense.

*** Eligible expenses are limited to the mother's instruction related to birth.

How Much Can I Contribute to the Health Care Reimbursement Account?

The maximum you can deposit to your Health Care Reimbursement Account during the plan year January 1 – December 31 is \$4,000. If your spouse is enrolled in a Health Care Reimbursement Account, each of you is eligible to deposit \$4,000 in a Health Care Reimbursement Account in the same plan year. The minimum contribution is \$5.00 per pay period for employees paid biweekly, and \$10.83 for employees paid monthly.

(Note: If you enroll in the Duke Basic health plan, the contribution(s) made by Duke is not included in this limit.)

Important Tax Considerations

When you pay expenses through the Health Care Reimbursement Account, you lose the opportunity to take a federal income tax deduction for those expenses. Normally, you would be able to deduct any health care expense above 7.5% of your adjusted gross income. So, when you enroll each year, you'll need to decide whether you want to take the deduction or pay for those expenses through the account. To determine which method works best for you, contact a tax adviser.

Enrollment and Changes During the Year

If you have a status change, as defined earlier, that affects your Health Care Reimbursement Account, you can make changes that are consistent with your status change during the year. **You must notify the HRIC by calling (919) 684-5600 within 30 days of the status change if you want to change your reimbursement account contribution.**

Note about Health Care Reimbursement Account for Duke Basic Members

All Duke Basic members will receive an annual contribution to a health care reimbursement account based on the level of coverage selected:

- \$200 for Individual
- \$300 for Employee/Child
- \$400 for Employee/Spouse or Employee/Same-Sex Spousal Equivalent
- \$600 for Family

It can take up to 60 days for the Duke Basic contribution to be posted to your Health Care Reimbursement Account.

Dependent Care Reimbursement Account

Eligible Dependents

Per the IRS rules effective 1/1/2005.

You can use your Dependent Care Account to pay for work-related* care for your eligible dependents:

- Your qualifying child* – under the age of 13
- Your spouse, or a qualifying child or relative* — who is physically or mentally incapable of self care

* See the tests below to determine if you have a qualifying child or relative, or visit www.wageworks.com/forms/hcdependents.pdf to take the tests.

A qualifying child

- Is any of the following: your child, grandchild, stepchild, foster child or adopted child; brother, half-brother or stepbrother; sister, half-sister or stepsister; nephew or niece; or the child or grandchild of any of the relatives listed above
- Will reside with you for more than half the calendar year
 - Disregard temporary absences due to illness, education, business, vacation, or military service. You must maintain a home for the child during the temporary absence and the child must be expected to return after the absence.
- Will be under the age of 13, or physically or mentally incapable of self care, when the dependent care is provided
 - If the child is 13 or older and physically or mentally incapable of self care, he/she must regularly spend at least 8 hours a day in your home and not file a joint tax return with his/her spouse for the calendar year.
- Will provide no more than 50% of his/her own support for the calendar year

- Is a citizen, national or resident of the US; or a resident of Canada or Mexico (unless the child is adopted)
- And, you are not the qualifying child or relative of any other person

A qualifying relative

- Is any of the following: your child, grandchild, stepchild, foster child or adopted child; brother, half-brother or stepbrother; sister, half-sister or stepsister; nephew or niece; the child or grandchild of any of the relatives listed above; your father, grandfather or stepfather; mother, grandmother or stepmother; uncle or aunt; or son-, daughter-, father-, mother-, brother- or sister-in-law. Or, any other person who will reside with you for the entire year (while not in violation of local law).
- Will reside with you for more than half the year
 - Disregard temporary absences due to illness, education, business, vacation, or military service. You must maintain a home for the person during the temporary absence and the person must be expected to return after the absence.
- Will regularly spend at least eight hours a day in your home
- Will not file a joint tax return with his/her spouse for the calendar year (unless the qualifying relative is your spouse)
- Will not be claimed by any other person as a qualifying child for the calendar year
- Is a citizen, national or resident of the US; or a resident of Canada or Mexico (unless the person is an adopted child)
- And, you...
 - Will provide more than 50% of this person's support for the calendar year
 - Are not the qualifying child or relative of any other person

Dependent Care Reimbursement Account

And, all of the following must be true about the care:

- The care is provided while you work or to enable you to work. If you are married, the care is provided while your spouse also works or to enable your spouse to work or go to school full-time (at least 5 months a year) or while your spouse is incapable of self care.
- The care is provided when the dependent meets the definition of a qualifying child or relative (per the IRS, based on a tax year).
- The care may be provided by a relative or non-relative but is not provided by your child under the age of 19 (tax dependent or not) or another tax dependent.
- Your care provider conforms to state and local laws (including being licensed, if required) and is able to provide you with his/her Social Security or Tax ID number. You will need this to request a payment or file a claim.

Special Circumstances

Divorced or separated parents: Check with your legal or tax advisor to see if special rules apply to you that would enable your child to be claimed by the non-custodial parent or by both parents.

Tie-breaker: If two or more people want to claim the same child as their qualifying child, the person who has the right to is: (1) the child's parent — if one person is the child's parent and the other is not, (2) the parent with whom the child lives with longest in the year — if both people are the child's parents, (3) the parent with the higher adjusted gross income — if both people are the child's parents and the child lives equally with both during the year, or (4) the person with the higher adjusted gross income — if both people are not the child's parents.

Eligible Expenses

A person is determined to be a qualifying child or a qualifying relative on a daily basis. You can use your Dependent Care Account to pay for eligible dependent care services provided for a qualifying child or relative during your coverage period – as long as the services are provided on days the dependent is a qualifying child or relative. Deposits made for dependent care are not eligible for reimbursement since care must occur prior to reimbursement of expenses.

Examples of Dependent Care Expenses Allowed Under Federal Law

Examples of eligible expenses for dependent care services during the hours you (and your spouse, if you are married) work include:

- A qualified day care center or summer day camp,
- Before-school and after-school day care programs,
- A babysitter in or out of your home (during your working hours),
- Certain expenses for a housekeeper whose duties include day care,
- A relative who cares for your eligible dependent(s), as long as that relative is not one of your eligible dependents or one of your children under age 19,
- Someone who cares for an elderly or incapacitated dependent who lives with you, and
- An adult day care facility for an elderly or incapacitated dependent who lives with you (excluding overnight or nursing home facility expenses).

NOTE: A complete description of eligible expenses is found in IRS Publication #503, "Child and Dependent Care Expenses." It is available on the Internet at <http://www.irs.gov>, from your local public library, or by calling (800) TAX-FORM.

Examples of Dependent Care Expenses Not Allowed Under Federal Law

- Child support payments,
- Food, clothing, and entertainment,
- Cleaning and cooking services not provided by the caregiver,
- Educational supplies,
- Overnight camp,
- Activity fees,
- Late payment fees,

- Medical expenses,
- Expenses incurred when you (or your spouse) are not working or your spouse is not a full-time student or mentally or physically incapable of self-care,
- Expenses for 24-hour custodial care, such as nursing home care,
- Expenses applied toward a federal income tax credit
- Day care expenses for children age 13 and over, and
- Nursery school and kindergarten tuition.

What is incapable of self-care?

Individuals who are considered incapable of self-care are those who are not able to dress, clean, or feed themselves because of physical or mental problems, and who require constant attention to prevent them from injuring themselves or others.

How Much Can I Contribute to the Dependent Care Reimbursement Account?

The maximum you can deposit to your Dependent Care Reimbursement Account during the plan year January 1 — December 31 is \$5,000 and depends on the following:

- If you are a single parent or if you and your spouse file a joint income tax return, you can deposit up to \$416.66 per month (or \$192.30 every two weeks) for a 12-month plan year. The maximum monthly contribution may be higher than \$416.66 (or \$192.30 every 2 weeks) for participants enrolled in the Plan less than 12 months as long as no more than \$5,000 is deposited on an annual basis.
- If you are married and file separate income tax returns, each spouse has a plan year limit of \$208.33 per month (or \$96.15 every two weeks). The maximum monthly contribution may be higher than \$208.33 (or \$96.15 every two

weeks) for participants enrolled in the Plan less than 12 months as long as no more than \$2,500 is deposited on an annual basis.

The minimum contribution is \$5.00 per pay period for employees paid biweekly, and \$10.83 for employees paid monthly.

These limits apply to the total amount deposited in your Dependent Care Reimbursement Account and in all similar plans (including a plan at your spouse's employer, for example).

Other federal regulations rules also affect the amount you may deposit:

- If you are married, your annual deposit may not exceed the lesser of your annual income or that of your spouse. In addition, your deposit to the Duke reimbursement accounts may not exceed half of your gross pay each pay period;
- If your spouse has no earned income and is not a full-time student or disabled, you are not eligible for a Dependent Care Reimbursement Account;
- If your spouse is a full-time student or is disabled (meaning your spouse is unable to take care of him or herself), your spouse is treated as having an income of \$200 per month (\$400 per month if two or more dependents receive day care). If you are in this situation you may not deposit more than \$200 (or \$400) into your account per month regardless of your own income; and
- **If you are considered under federal law to be highly compensated (for example, earning over \$105,000 in 2008), your dependent care election may need to be adjusted based on the results of federal required non-discrimination tests. If you're affected, you will be notified.**

If you divorce, become legally separated, or live apart from your spouse at least six months of the tax year, you may want to seek immediate income tax advice. You will have 30 days from the event to stop or change your reimbursement account contribution.

Dependent Care Reimbursement Account

You are responsible to see that you don't exceed any specific lower limitations that may apply to your family situation. In addition, you're also responsible to see that your participation in all similar programs (such as a program through your spouse's employer) meets all the requirements.

Example

Jim sends his two children to a day care program during the workweek while he and his wife work. This expense is allowed under the Dependent Care Reimbursement Account, so Jim can file for reimbursement. However, the cost of a babysitter when Jim and his wife go out on a Saturday night cannot be reimbursed, since the expense was incurred when the couple wasn't working. Expenses incurred outside of the workweek cannot be claimed as eligible dependent care expenses.

Duke-Contracted Facilities

If you use a Duke-contracted facility for dependent care, such as the Duke Children's Campus, and receive a subsidy, the amount you can contribute to a Dependent Care Reimbursement Account is reduced dollar-for-dollar. Contact the HRIC at (919) 684-5600 for more information.

Enrollment and Changes During the Year

If you have a status change as defined earlier that affects your Dependent Care Reimbursement Account, you can make changes that are consistent with your status change during the year. **You must notify the HRIC within 30 days of the status change if you need to change your Dependent Care Reimbursement Account contribution as a result.**

Dependent Care Reimbursement Account vs. Income Tax Credit

Federal and North Carolina law both provide a dependent care tax credit. Based on recent changes in federal tax laws, most employees will save more money by participating in the Dependent Care Reimbursement Account than by filing for the tax credit.

The amount of your day care expense that is eligible for the "tax credit" is reduced dollar-for-dollar by the amount that is reimbursed under the Dependent Care Reimbursement Account. This means you can't take the "tax credit" on any expense that has been paid through the Dependent Care Reimbursement Account. Accordingly, you need to determine whether the reimbursement account or "tax credits" is more beneficial to you. Before making a decision, you may want to consult your tax advisor.

These guidelines are based on current information available about the 2006 tax laws and rates. You'll need to review both options carefully to determine which will be more beneficial to you.

Keep in mind that you have immediate tax savings through the reimbursement account through pre-tax payroll deductions, while the tax credit is a once-a-year feature when you file your tax returns.

To obtain a tax credit you must complete IRS Form 2241, "Child and Dependent Care Expenses," along with your IRS Form 1040, "U.S. Income Tax Return."

It's important to understand that you can't take the tax credit on any expense that has been paid through a dependent care reimbursement account. In fact, the tax credit is reduced dollar-for-dollar by any expense that's been reimbursed through a dependent care reimbursement account. Before making a decision, you may want to talk to your tax advisor.

For more information about the Dependent Care Tax Credit, please refer to IRS Publication #503 or consult a tax adviser.

How to File for Benefits

All participants will receive a claims kit. Additional forms are available at www.hr.duke.edu/forms/reimbursement-claim.html or the HRIC.

For the Health Care Reimbursement Account, you must submit an itemized bill or receipt with your claim, and in some cases, an Explanation of Benefits (EOB) if the service was covered under an insurance plan and you are claiming the unreimbursed portion of the health/dental/vision expenses through your Health Care Reimbursement Account. **A cancelled check is not allowable under federal law as proof of the expense.**

When you submit a Dependent Care Reimbursement Account claim, you must report the name, address, and taxpayer identification number of each dependent care provider. If your daycare is a religious or non-profit provider, you must state such in a letter and attach with each claim your file. If you pay for medical, dental, or dependent care expenses in advance, you will be reimbursed once the service is actually performed or received.

In order to receive reimbursement for expenses with this plan, you must provide appropriate documentation to substantiate your expenses. The IRS requires that reimbursement account participants maintain complete documentation including but not limited to keeping copies of receipts for reimbursed expenses. Contact your tax advisor for further details regarding IRS requirements for documentation.

Overpayment

In the event of overpayment, you agree to return the amount of the overpayment to the plan administrator or have the amount of the overpayment deducted from your paycheck.

Where to Send Your Request for Benefit Payments

Send claims to:

Claims Administrator
P.O. Box 14053
Lexington, KY 40512

Or fax to: (877) 353-9236

Eligible expenses are processed every day and reimbursement will be mailed directly to your home or payment can be deposited into your checking account. Complete a direct deposit authorization form by logging into your personal online account at <http://www.hr.duke.edu/reimbursement> to receive reimbursements directly into your checking account.

Grace Period

You have a grace period — ending on April 15 — to submit paperwork for expenses incurred during the previous calendar year. For example, if you incurred eligible expenses one year, you would have until April 15 of the following year to submit your claim. **After April 15, you forfeit any money that was contributed the previous year and was left in your reimbursement accounts.** Although you have until April 15 to submit your claims, only expenses from the previous calendar year — Jan. 1 through Dec. 31 — are eligible for reimbursement. As an additional reminder, you must be a participant in the plan during the time period when the expenses are incurred in order to claim them for reimbursement.

Duke has not implemented the provision that extends the plan year beyond a calendar year.

How to File for Benefits

Appealing a Denied Health Care Reimbursement Account Claim

If your claim for a benefit is denied, in whole or in part, you will be provided with the following information in writing within 30 days after receiving your initial claim, or 45 days in special situations:

- The reason for denial,
- The plan provisions that are the basis for denial,
- An explanation of what other material or information is needed and why it is needed, and
- An explanation of the claims review process and time limits for appealing the determination, your right to obtain information about those procedures, and the right to sue in federal court.

You have the right to request certain documentation, as required by the Employee Retirement Income Security Act of 1974 (ERISA), which was used in making the adverse determination. This will be provided to you free of charge upon request.

If an extension is necessary due to the need for additional information, you will be notified of the specific information needed. The claim determination will be made within 15 days from the receipt of your response.

If you disagree with the decision, you may request a review of the decision by notifying WageWorks in writing within 180 days of the date you receive notice of the denial. First level appeals should be mailed to WageWorks at the following address:

**WageWorks Claims Appeal Board
P.O. Box 991
Mequon, WI 53092-0991**

You will be able to examine all the materials related to your claim, such as the plan's official documents. WageWorks will decide on your appeal within 30 days of when it is received.

If you do not agree with this decision, you have the right to a second level appeal to the Plan Administrator. Request for second level appeals should be sent to:

**Reimbursement Account Plan Administrator
Duke Benefits
705 Broad St.
Box 90502
Durham, NC 27708**

The Plan Administrator will decide on your appeal within 30 days of your second level appeal request.

If any of these claim deadlines falls on a Saturday, Sunday, or holiday, the deadline is postponed until the next business day. The Plan Administrator's decision on your appeal is final and conclusive.

If you are dissatisfied with the Plan Administrator's decision after you have pursued these steps, you have the right to file a lawsuit in a state or federal court. You may not file a lawsuit before 90 days have passed after you file your claim or later than three years after the event for which the claim was made occurred.

Appealing a Denied Dependent Care Reimbursement Account Claim

If you have questions about your Dependent Care Reimbursement Account claim, please contact:

**Reimbursement Account Plan Administrator
Duke Benefits
705 Broad St.
Box 90502
Durham, NC 27708**

Appeals of Eligibility, Right to Participate, and Other Claims Not Directly Related to Benefit Payments

With respect to all other eligibility claims or issues, including the right to participate under the plan, claims and proof of claims must be filed in writing with the Plan Administrator in accordance with the procedures and guidelines established from time to time by the Staff Fringe Benefits Committee.

Send your claim to:

**Reimbursement Account Plan Administrator
Duke Benefits
705 Broad St.
Box 90502
Durham, NC 27708**

The Plan Administrator will review your claim and you will be notified of the decision within 90 days after the claim is received. In the event of special circumstances requiring an extension of time, you or your beneficiary will receive written notice of the extension prior to the expiration of the initial 90-day period.

If you disagree with the decision, you may appeal the decision by notifying the Staff Fringe Benefits Committee in writing within 60 days of the date you receive notice of the denial. Send appeals to:

**Staff Fringe Benefits Committee
Duke Benefits
705 Broad St.
Box 90502
Durham, NC 27708**

You will be able to examine all pertinent materials and submit comments in writing. Your appeal will be decided within 60 days of when it is received or 120 days in special situations. The Staff Fringe Benefits Committee's decision is final and conclusive.

If you are dissatisfied with the Staff Fringe Benefits Committee's decision after you have pursued these steps, you have the right to file a lawsuit in a state or federal court. You may not file a lawsuit before 90 days have passed after you file your claim or later than three years after the event for which the claim was made occurred.

Your Rights Under ERISA

For a summary of your rights under the Employee Retirement Income Security Act of 1974 (ERISA), please refer to the “General Information” section in this booklet.

It is intended that the Health Care Reimbursement Account Program qualify as an “accident and health plan” and as a “self-insured medical expense reimbursement plan” and that the Dependent Care Reimbursement Account Program qualify as a “dependent care assistance program” under federal tax laws. The provisions contained in this Benefit Program Description, which is a part of the Duke University Welfare and Fringe Benefit Plan, shall constitute the separate written plans for such Programs to the extent required under federal tax laws or other applicable laws. It is further intended that benefits payable under the Reimbursement Account Programs be eligible for exclusion from gross income under federal tax laws. Duke reserves the right to change or terminate these benefits or your eligibility for benefits under the Programs. The written plan documents for the Duke Reimbursement Account Programs are not an employment contract or any type of employment guarantee.