

ELIGIBLE DEPENDENT DEFINED

Flexible benefit or flex spending account plans are governed by federal tax laws. Under federal tax law, the only people eligible to receive tax-free benefits through a flexible benefit plan are Employees, their Spouses and any other individuals who meet the definition of Dependent under Internal Revenue Code (IRC) Section 152.

An individual is the “Spouse” of a Participant only if the individual is of the opposite sex and is considered to be married to the Participant under the laws of the state where the Participant and the other individual live.

Even though a partner of the same sex cannot qualify as a Spouse, he or she may still qualify as a “Dependent”. To qualify as a Dependent, a same sex partner (or any other person who is not related to a Participant) must:

1. receive over 50% of his or her financial support from the Participant for the calendar year;
2. have the same principal residence as the Participant for the entire calendar year; and
3. be a member of the Participant’s household (which is not possible if their living together violates the law of the state where they live).

A Participant’s relative will be considered to be his or her Dependent if the Participant provided over half of the relative’s financial support for the calendar year. If the relative is a child, grandchild, brother, sister, niece or nephew of the Participant who is under age 19 (age 24 in the case of a full-time student), it is not necessary for the Participant to have provided over half of the relative’s support if the relative lived with the Participant for more than half of the calendar year and the relative did not provide more than one-half of his or her own support.

A special rule applies to the reimbursement of the health expenses of children of divorced parents. The child of divorced parents or legally separated parents is considered to be a Dependent of both parents if both parents together provide more than 50% of the child’s support and have custody of the child for more than half the year.

In general, if you can claim an individual as a Dependent on your federal income tax return, their expenses are eligible for tax-free reimbursement under the flexible spending account plan. This memo is intended for general information purposes. You should check with your personal tax advisor to determine whether an individual qualifies as a Dependent of yours.