FSA

New York City
Flexible Spending Accounts Program

Summary Plan Description (SPD)

HCFSA | DeCAP

This Summary Plan Description (SPD) 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 SPD 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 Documents 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 health 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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Summary Plan Description

Introduction

The City of New York, in recognizing the needs of its employees, many of whom incur medical, dental, vision, hearing and dependent care expenses, is pleased to offer the HCFSA Program and DeCAP. The HCFSA Program and DeCAP are ways to help pay for out-of-pocket health care and dependent care expenses, while reducing your taxable income.

Health care expenses can be costly. In most cases, health insurance does not cover all medical expenses. If your family is among those feeling overburdened by medical expenses in your budget, contributing to the HCFSA Program may be beneficial to you.

Dependent care expenses can also be costly when both parents must work to provide for their family's needs. In the single-parent household, it is virtually a requirement that the parent work full-time in order to make a living. If you are one of the many families overburdened by dependent care expenses, contributing to DeCAP may be beneficial to you.

The Advantages of the HCFSA Program and DeCAP

As an active employee of the City of New York participating in the HCFSA Program and/or DeCAP, you can set aside from $260 to $2,850 for the HCFSA Program and $500 to $5,000 for DeCAP, each on an annual basis, to pay for out-of-pocket health care and/or dependent care expenses. Contributions to your HCFSA and/or DeCAP accounts are made with before-tax dollars in equal installments every pay period, thereby reducing your taxable income.

Annual contribution - A before-tax salary reduction (includes an annual administrative fee of up to $48* per program)		
Program	**Minimum**	**Maximum**
HCFSA	$260	$2,850**
DeCAP	$500	$5,000**

* The annual administrative fee may be adjusted by the FSA 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.

The money you use to pay for eligible health care expenses and/or dependent care expenses is never subject to Federal income taxes or Social Security (FICA) taxes, resulting in an increase in your take-home pay. The degree of tax savings you can enjoy will depend on the amount of your contributions, your income, and your tax bracket.

HCFSA maximum contribution amount $2,850.

Questions and Answers About the HCFSA Program and DeCAP

Who is eligible to enroll in the HCFSA Program and DeCAP?

Active employees covered by New York City health insurance and a) the Citywide contract, or b) the Management Benefits Fund, are eligible to enroll in the HCFSA Program and/or DeCAP. This includes the Mayoralty, Health + Hospitals (H+H), City University of New York (CUNY), Housing Authority, Department of Education (DOE), School Construction Authority, and the Queensborough and Brooklyn Public Libraries. (Employees of other cultural institutions, libraries and DOE charter schools may be offered HCFSA and DeCAP through their individual institutions.)

How do I enroll in these programs?

To participate in the HCFSA Program and/or DeCAP, you must complete a Plan Year 2023 FSA Program Enrollment/Change Form during the annual fall Open Enrollment Period. Please refer to the FSA Enrollment/Change Form for instructions on how to submit your form.

What happens if I don't enroll during the annual fall Open Enrollment Period?

If you do not enroll during the annual fall Open Enrollment Period, you will not be covered under the HCFSA Program and/or DeCAP and you will have to wait until the next Plan Year's annual fall Open Enrollment Period before you are eligible to enroll, unless you experience a Qualifying Event as described on Pages 4, 5 and 12.

Do I need to re-enroll if I am currently in these programs?

Yes, you must re-enroll every year during the annual fall Open Enrollment Period because these programs are salary reduction programs. During the annual fall Open Enrollment Period, we will mail you a re-enrollment letter requesting your goal amount for the new Plan Year. If you need to make any changes during the Plan Year please complete the FSA Enrollment/Change form which can be found on the FSA website at nyc.gov/fsa. Your enrollment will take effect on January 1st of the following year, and remain in effect for the entire calendar year, unless you experience a Qualifying Event.

How do I join these programs as a newly eligible employee?

If you are a new hire during the Plan Year, you will become eligible to participate in the HCFSA Program and DeCAP when you become eligible to receive City of New York health benefits. To enroll, you must complete and submit an FSA Program Enrollment/Change Form within thirty (30) days after becoming eligible for City of New York health benefits.

If my spouse's employer has an HCFSA Program and/or DeCAP, am I still eligible to enroll?

Yes. You and your spouse can each participate in an HCFSA Program and/or DeCAP. However, you may not be reimbursed for the same expenses by more than one program.

Are there any costs associated with my participation in the HCFSA Program and/or DeCAP?

Yes. The HCFSA Program and DeCAP have a monthly administrative fee of up to $4.00 for each program. These administrative fees will be deducted from your HCFSA and/or DeCAP account to cover the costs of program administration.

Questions and Answers About the HCFSA Program

Can I reduce my HCFSA election during the year?

No. Your HCFSA election cannot be reduced, terminated or revoked during the Plan Year, unless you terminate from employment with the City of New York or take an unpaid leave of absence. In this case, please refer to the section on Page 5 entitled, "What happens to my HCFSA if I leave City of New York service?"

Can I increase my HCFSA election during the year?

Yes. You may increase your HCFSA election, but only when you add new dependents during the Plan Year. To add new dependents, you must incur a Qualifying Event. If you experience a Qualifying Event and want to add your new dependent(s) and/or increase the amount of your HCFSA election, you must submit an FSA Program Enrollment/Change Form with proper documentation within thirty (30) days after your Qualifying Event.

Please refer periodically to the FSA website at nyc.gov/fsa for any IRS issued notices relating to the HCFSA program for Plan Year 2022 and Plan Year 2023. There may be guidance released at any time during the Plan Year.

What is a Qualifying Event and what changes can I make if I incur a Qualifying Event?

Generally, a Qualifying Event is a change in family or employment status.

Under the HCFSA Program, eligible Qualifying Events are:

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

For marriage or birth or adoption of a child during the mid-year, you may add the dependents within thirty (30) days after such an event. At this time, you may also increase your HCFSA contribution for the remainder of the Plan Year.

What happens to my HCFSA Account if I leave City of New York employment?

If you terminate your employment with the City of New York or take an unpaid leave of absence, your participation in the HCFSA Program will cease as of your termination date or leave date. 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:

- Remaining goal amount balance taken from your last paycheck; or
- Remaining goal amount balance pro-rated from your remaining paychecks; or
- Submitting the remaining goal amount balance on a post-tax basis either by lump sum or monthly installment payments.

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, and there is a positive balance in your account, you may only submit claims for expenses incurred prior to your date of termination or leave. Claims submitted for expenses incurred after your date of termination or leave will not be eligible for coverage under the HCFSA Program.

You Cannot use HCFSA to pay for health insurance, COBRA, Long-Term Care premiums.

Unless requested prior to your date of termination or leave, upon your termination from employment with the City of New York 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. This form must be completed and returned to the HCFSA administrator to continue your participation in the HCFSA Program.

What happens to my HCFSA if I take an 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.

What types of expenses are eligible for reimbursement under HCFSA?

You can use the HCFSA Program to reimburse yourself for eligible health care expenses that were provided to you or your eligible health care recipient(s) and which meet the following criteria:

- the expense is incurred for an eligible medical service;
- the service is performed for an eligible health care recipient (defined below);
- the expense is eligible under the Internal Revenue Code (any expense defined by the Internal Revenue Service as a non-deductible expense for income tax purposes shall be ineligible for reimbursement under the HCFSA Program);
- the expense is medically necessary;
- the expense is not for purely cosmetic or general health reasons; and
- the expense was not reimbursed, will not be reimbursed, nor is reimbursable by your health insurance and/or your Welfare Fund, or through any other plan.

Who is an eligible health care recipient?

- The participant;
- The participant's spouse;
- The participant's children up to age 26 who are eligible for coverage under City of New York health benefits (even if the participant does not enroll them).

You must list each eligible dependent on your FSA Program Enrollment/Change Form. If you acquire a new dependent during the Plan Year, you must submit a new FSA Program Enrollment/Change Form with proper documentation within thirty (30) days after the date you acquire a new dependent. Dependents not listed on the FSA Program Enrollment/Change Form will not be covered by the HCFSA Program.

What is the definition of medical care under the HCFSA Program?

Medical care means expenses incurred to diagnose, cure, mitigate, treat or prevent disease or to affect any structure or function of the body.

How do I deposit money into my HCFSA?

On the FSA Program Enrollment/Change Form, you will be asked to indicate the amount you wish to contribute for health care expenses for the year. This amount will be deducted automatically from your paycheck in equal installments on a pre-tax basis. As an active employee, you may only make contributions through payroll deductions.

How do I get reimbursed for my health care expenses?

The dates(s) of service onthe claims forms must match the date(s) of service on the bills and EOB sttements

To be reimbursed for health care expenses, you must submit a completed HCFSA Program Claims Form and documentation to the HCFSA Program Administrative Office by the last day of the month so that it may be processed for that month. While expenses for any amount are reimbursable, you must accumulate claims totaling at least $50 before submitting a Claims Form, unless you have less than $50 remaining in your account.

No reimbursement can be made for an HCFSA Program claim prior to the services actually being provided. Your reimbursement will be directly deposited into the bank account you indicate on your FSA Program Enrollment/Change Form, for the reimbursement of approved health care expenses received during a particular month by the close of the following month.

What information must be included on an HCFSA Program Claims Form?

The HCFSA Program Claims Form must:

- indicate the name of the person or persons receiving care on separate lines;
- include the type of service(s) and the amount of expenses incurred;
- state the name of the service provider;
- show the date(s) of service;
- indicate whether the claims are being submitted during the Plan Year or Grace Period;
- be accompanied by a bill and an Explanation of Benefits (EOB) statement from your health insurance carrier and/or Welfare Fund, if applicable;
- for over-the-counter (OTC) drugs, be accompanied by a copy of a doctor's prescription (other than insulin), an itemized receipt, or copy of a product box indicating the name of the drug; and
- be signed and dated by the participant.

How often may I submit HCFSA Program claims?

You may submit claims as necessary. There is no limit on the number of claims you can file during any single month. You may file a claim as long as you incur an eligible expense and do not exceed your benefit amount. (Note that while expenses for any amount are reimbursable, you must accumulate claims totaling at least $50 before submitting a Claims Form, unless you have less than $50 remaining in your account.)

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	

How do I submit claims for OTC drugs under the HCFSA Program?

You must submit an HCFSA Claims Form and an itemized receipt for any and all OTC drugs.

Can I submit claims under the HCFSA Program in excess of the current balance in my account?

Yes. Under the HCFSA Program, the full amount of your election, reduced by any claims that have already been paid and the annual administrative fee (which will be a maximum of $48), is always available for reimbursement of eligible claims, regardless of the current balance in your account.

If I receive payment from another HCFSA Program, can I also be reimbursed from the City of New York's HCFSA Program for the same claim?

A claim may not be reimbursed for more than 100%. You can only submit a claim under the City of New York's HCFSA Program for the amount not covered by the other HCFSA Program.

Are my health care expenses that are reimbursed by the HCFSA Program also deductible under the Federal itemized deduction?

Health care expenses that are reimbursed from the HCFSA Program cannot be deductible under the Federal itemized deduction.

Once you have exhausted your goal amount, additional expenses that you incur can be deducted for Federal tax purposes, if certain requirements are satisfied.

To take advantage of the Federal tax deduction, you must itemize your deductions. In addition, your health care expenses must be greater than 7.5% of your Adjusted Gross Income. Please consult your tax advisor for detailed information.

Must I have paid my medical bill in order to be reimbursed under HCFSA?

You are not required to pay a medical bill to be reimbursed. As soon as you incur the expense and receive the Explanation of Benefits (EOB) statement from your eligible health care recipient's primary health insurance carrier and/or Welfare Fund, you may submit a claim.

What is the deadline for submitting HCFSA Program claims?

You may submit claims at any point during the Plan Year, as long as services were incurred. You have until May 31st of the following calendar year to submit all claims for expenses incurred during the Plan Year including the Grace Period. Any claims received after May 31st, will not be processed, regardless of the service date.

What is the HCFSA Program Grace Period?

During the HCFSA Program Grace Period, you may submit claims for eligible services incurred from January 1 through March 15 of the following calendar year, using the remaining balance in your Plan Year account, if any.

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

For services incurred during the Grace Period, you have until May 31st to submit your claims.

HCFSA Program Time Line	
Plan Year:	January – December 31 the of current plan year
Grace Period:	January 1 – March 15 of the following calendar year
Claims Run-Out Period:	January 1 – May 31 of the following calendar year
If you do not submit claims for eligible expenses incurred during the Plan Year or the Grace Period by May 31st you will forfeit any money remaining in your HCFSA for the current Plan Year.	

What if I do not use all the money I allocated to my HCFSA by the end of the Grace Period?

Because of the tax advantages afforded by the HCFSA, Federal regulations require that any unused amounts be forfeited by the end of the Grace Period. This is often referred to as the "Use It or Lose It"* rule. If you do not incur eligible expenses equal to the amount of money you deposit into your HCFSA, you will forfeit any remaining balance in the account. IRS guidelines will not permit any remaining balance to be returned to you or carried forward into the next Plan Year, except during the Grace Period. Furthermore, if you also participate in DeCAP, the amount you allocate to the HCFSA Program cannot be transferred to DeCAP.

A Grace Period is NOT available for DeCAP. All DeCAP claims must be submitted for services incurred during the Plan Year

*The "Use It or Lose It" rule is the reason that we stress the importance of careful planning when you estimate your health care expenses for the year. The FSA Program Brochure includes an HCFSA Program worksheet to help you calculate your annual health care expenses. You may also visit the FSA Program website at nyc.gov/fsa to access the on-line savings calculator to estimate your potential savings.

What happens if I transfer to another City of New York agency?

In order to continue your HCFSA through payroll deductions, you must notify the FSA Program Administrative Office in writing by emailing the program throught the FSA website at nyc.gov/fsa within thirty (30) days prior to your transfer, provided your new agency is eligible to participate in the HCFSA Program.

Will participation in the HCFSA Program affect my pension?

No. Your contributions to the HCFSA Program will have no affect on your pension contributions or benefits.

Will participation in the HCFSA Program affect any of my other benefits?

Program participation will reduce your Social Security taxes and thereby reduce future Social Security benefits. The tax benefits of using these types of programs, however, usually outweigh the slight reduction, if any, in Social Security benefits.

Are amounts received from my HCFSA free from all taxes?

The HCFSA Program falls under Section 125 of the Internal Revenue Code (IRC) and reimbursements received are free from Federal and Social Security taxes. However, you must add back the amount that appears under IRC 125 on your Form W-2 for computing state and city taxes.

Who should I contact for additional information on the HCFSA Program?

You may visit the FSA Program website at nyc.gov/fsa for program information and to send your questions via e-mail.

CITY OF NEW YORK HCFSA NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

This notice applies to the Health Care Flexible Spending Account Program (the "Plan") of the City of New York, which acts as the plan sponsor of the Plan.

INTRODUCTION

During the course of providing you with health coverage, the Plan will have access to information about you that has been deemed to be "protected health information" by the Health Insurance Portability and Accountability Act of 1996, commonly known as "HIPAA." This Notice describes the medical information privacy practices of the Plan, and explains the Plan's obligations and your rights regarding the use and disclosure of your protected health information. Your personal physician or health care provider, and also HMOs and health insurers, may have different policies or notices regarding their use and disclosure of your protected health information.

If you have any questions about this Notice, please contact the Plan's Privacy Officer, at the address and phone number listed at the end of this Notice.

OUR PLEDGE REGARDING HEALTH INFORMATION

The Plan understands that medical information about you and your health is personal information. The Plan is committed to protecting your medical information. Under HIPAA, your protected health information ("Health Information") includes any individually identifiable information (including your name, address, date of birth, employee ID number, and Social Security number) that is linked to your past, present or future physical or mental health, the health care that you have received or payment for your health care. This Notice covers any such Health Information that is maintained by or on behalf of the Plan.

The Plan is required by law to:

- Make sure that your Health Information is kept private;
- Provide you with this Notice of the Plan's legal duties and privacy practices with respect to your Health Information;
- Notify affected individuals following a breach of unsecured Health Information; and
- Follow the terms of this Notice (as currently in effect or subsequently amended).

HOW THE PLAN MAY USE AND DISCLOSE YOUR HEALTH INFORMATION:

1. Uses and Disclosures for Treatment, Payment and Health Care Operations

The Plan may use or disclose your Health Information, in connection with your receiving treatment from a health care provider, the Plan's payment for such treatment and for Plan health care operations.

For Treatment: Although the Plan does not provide treatment, the Plan may use or disclose your Health Information to support the provision, coordination or management of your health care treatment. For example, a doctor may send the Plan information about your diagnosis and treatment plan so that the Plan may review services for coverage.

For Payment: The Plan may use or disclose your Health Information for the Plan's payment activities. "Payment" may include one or more of the following activities in connection with processing claims for your health care (including eligibility and adjudication of claims, claims management, coordination of benefits, and reviews of medical necessity).

For Health Care Operations: The Plan may use or disclose your Health Information as part of the general administrative or business functions of the Plan that the Plan must perform in order to function as a health plan, and for certain health care operations of other health plans or providers. Additionally, the Plan may use your Health Information in connection with conducting quality assessment and improvement activities and other activities relating to Plan coverage or audit services.

2. Disclosures to the Plan Sponsor and to Your Representatives

Disclosure to the Plan Sponsor: The Plan may disclose your Health Information to the plan sponsor of the Plan, including the designated City of New York personnel that perform plan sponsor functions, for purposes related to payment of benefits, Plan operations, and other matters pertaining to Plan administration that involve the plan sponsor. When disclosing Health Information to the plan sponsor, the Plan will make reasonable efforts not to disclose more than the minimum necessary amount of Health Information to achieve the particular purpose of the disclosure. In accordance with the plan documents, the plan sponsor has agreed not to use or disclose your Health Information: (1) other than as permitted in this Notice or as required by law, (2) with respect to any employment-related actions or decisions, or (3) with respect to any other benefit plan sponsored by or maintained by the plan sponsor.

In addition, the Plan may disclose "summary health information" to the plan sponsor for obtaining premium bids or modifying, amending or terminating the benefits provided under the Plan. Summary health information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the plan sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with federal privacy rules.

Disclosure to Your Personal Representatives: The Plan may disclose your Health Information to your personal representative in accordance with applicable state law and HIPAA (e.g., to parents if you are an unemancipated child under 18, to those with unlimited powers of attorney, etc.). In addition, you may authorize a personal representative to receive your Health Information and act on your behalf. Contact the Privacy Officer to obtain a copy of the appropriate form to authorize the people who may receive this information. "You can also obtain a copy of the appropriate form on the OLR website in the FLEXIBLE SPENDING ACCOUNTS section under PROCEDURES GUIDE Plan year 2020, by clicking on "HCFSA 2020" (Welcome Kit). At the end of that section, on page 11, you will see forms. Click on the last form on the page entitled "HCFSA Program HIPAA Protected Health Information (PHI) Authorization Form".

Complete this form and return it to the "HCFSA HIPAA OFFICE" at the address indicated on the top of the form.

Individuals Involved in Your Care or Payment For Your Care: Unless you object in writing, the Plan may disclose Health Information to a close friend or family member involved in or who helps pay for your health care, but only to the extent relevant to that friend or family member's involvement in your care or payment for your care. For example, if a family member or a caregiver calls the Plan with prior knowledge of a claim, the Plan may confirm whether or not the claim has been received and paid. The Plan may also disclose your Health Information to any authorized public or private entities assisting in disaster relief efforts.

3. Other Permitted Uses and Disclosures of Your Health Information

The Plan may also use or disclose your Health Information for any of the following purposes:

Required By Law: The Plan may use or disclose your Health Information to the extent that the Plan is required to do so by applicable law. You will be notified, if required by law, of any such uses or disclosures.

Public Health: The Plan may disclose your Health Information for public health and safety purposes to a public health authority that is permitted by law to collect or receive the information. Your Health Information may be used or disclosed for the purpose of preventing or controlling disease (including communicable diseases), injury or disability. If directed by the public health authority, the Plan may also disclose your Health Information to a foreign government agency that is collaborating with the public health authority.

Health Oversight: The Plan may disclose your Health Information to a health oversight agency for activities authorized by law, such as audits, investigations, inspections and legal actions. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs and civil rights laws.

Abuse or Neglect: The Plan may disclose your Health Information to any public health authority authorized by law to receive information about abuse, neglect or domestic violence if the Plan reasonably believes that you have been a victim of abuse, neglect or domestic violence. In this case, the Plan will inform you that such a disclosure has been or will be made unless that notice will cause a risk of serious harm.

To Avert a Serious Threat to Health or Safety: The Plan may use or disclose your Health Information when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone reasonably able to help prevent or lessen the threat.

Legal Proceedings: The Plan may disclose your Health Information in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal. In addition, the Plan may disclose your Health Information under certain conditions in response to a subpoena, court-ordered discovery request or other lawful process, in which case reasonable efforts must be undertaken by the party seeking the Health Information to notify you and give you an opportunity to object to the disclosure.

Law Enforcement: The Plan may disclose your Health Information if requested by a law enforcement official as part of certain law enforcement activities.

Coroners, Funeral Directors, and Organ Donation: The Plan may disclose your Health Information to a coroner or medical examiner for identification purposes, or other duties authorized by law. The Plan may also disclose your Health Information to a funeral director, as authorized by law, in order to permit the funeral director to carry out his/her duties. The Plan may disclose such information in reasonable anticipation of death. The Plan may also disclose Health Information for cadaveric organ, eye or tissue donation purposes.

Research: The Plan is permitted to disclose your Health Information to researchers when their research has been approved by an institutional review board or privacy board that has established protocols to ensure the privacy of your Health Information.

Military Activity and National Security: When the appropriate conditions apply, the Plan may use or disclose Health Information of individuals who are Armed Forces personnel: (1) for activities deemed necessary by military command authorities; or (2) to a foreign military authority if you are a member of that foreign military service. The Plan may also disclose your Health Information to authorized federal officials conducting national security and intelligence activities.

Workers' Compensation: The Plan may disclose your Health Information to comply with workers' compensation laws and other similar legally established programs.

Inmates: If you are an inmate of a correctional institution or under the custody of a law enforcement official, the Plan may disclose your Health Information to the institution or official if the Health Information is necessary for the institution to provide you with health care; to protect the health and safety of you or others; or for the security of the correctional institution.

Required Uses and Disclosures: The Plan must make disclosures of Health Information to the Secretary of the U.S. Department of Health and Human Services ("HHS") to investigate or determine the Plan's compliance with the federal regulations regarding privacy.

USES AND DISCLOSURES OF YOUR HEALTH INFORMATION THAT REQUIRE YOUR WRITTEN AUTHORIZATION

The Plan will not use or disclose your Health Information for the following purposes without your prior written authorization:

Psychotherapy Notes: Except for certain narrow exceptions permitted by law (such as legal defense in a proceeding you bring against the Plan), the Plan will not use or disclose any mental health professional's psychotherapy notes (discrete notes that document the contents of conversations during counseling sessions) without your prior written authorization.

Marketing or Sales: The HCFSA program never markets or sells Health Information.

Other Uses and Disclosures of Health Information: Other uses and disclosures of your Health Information not described in this Notice will only be made with your prior written authorization. For example, a written authorization from you would be necessary to disclose your Health Information to a disability insurance company for purposes of obtaining disability benefits, or to a law firm in connection with litigation, unless otherwise permitted or required as outlined above. If you provide the Plan with written authorization to use or disclose your Health Information for purposes other than those set forth in this Notice, you may revoke that authorization in writing at any time. If you revoke your authorization, the Plan will no longer use or disclose your Health Information for the reasons covered by your written authorization. However, you understand that the Plan is unable to take back any disclosures the Plan has already made with your authorization, and that the Plan is required to retain records of the services the Plan provided to you.

No Use or Disclosure of Genetic Information for Underwriting: The Plan is prohibited by law from using or disclosing Health Information that is genetic information of an individual for underwriting purposes. Generally, genetic information involves information about differences in a person's DNA that could increase or decrease his or her chance of getting a disease (for example, diabetes, heart disease, cancer or Alzheimer's disease). The HCFSA Plan is not underwritten.

ADDITIONAL SPECIAL PROTECTIONS

Additional special privacy protections, under federal or state law, may apply to certain sensitive information, such as genetic information, HIV-related information, alcohol and substance abuse treatment information, and mental health information. If you have questions, please contact the Privacy Officer at the address on page 11.

YOUR RIGHTS WITH RESPECT TO YOUR HEALTH INFORMATION

You have the following rights regarding the Health Information that the Plan maintains:

Right to Request a Restriction on the Use and Disclosure of Your Health Information: You may ask the Plan to restrict the uses and disclosures of your Health Information to carry out treatment, payment or health care operations. You may also request that the Plan restrict uses and disclosures of your Health Information to family members, relatives, friends or other persons identified by you who are involved in your care. However, the Plan is not required to agree to a restriction that you request. If the Plan does agree to the request, the Plan will not use or disclose your Health Information in violation of that restriction unless it is needed to provide emergency treatment or the Plan terminates the restriction with or without your agreement. If you do not agree to the termination, the restriction will continue to apply to Health Information created or received prior to the Plan's notice to you of the Plan's termination of the restriction. To request a restriction, you must write to the Privacy Officer at the address on page 11 indicating (1) what information you want to restrict, (2) whether you want to restrict use, disclosure or both, and (3) to whom you want the restriction to apply.

Right to Request to Receive Confidential Communications by Alternative Means or at an Alternative Location: The Plan will accommodate your reasonable request to receive communications of PHI from the Plan by alternative means or at alternative locations if the request includes a statement that disclosure using the Plan's regular communications procedures could endanger you. Please direct your written request to the Privacy Officer at the address on page 11.

Right to Inspect and Copy: As long as the Plan maintains it, you may inspect and obtain a copy of your Health Information that is contained in a "designated record set" – which are records used in making enrollment, payment, claims adjudication, medical management and other decisions. To request access to inspect and/or obtain a copy of any of your Health Information, you must submit your request in writing to the Privacy Officer at the address on page 11 indicating the specific information requested, and you may also direct the Plan to transmit the copy of Health Information directly to another person that you designate in writing. If you request a copy of Health Information, please indicate in which form you want to receive it (i.e., paper or electronic). The Plan may impose a fee to cover the costs of producing, copying and mailing the requested Health Information. The Plan may deny your request to inspect and copy your Health Information in certain limited circumstances. For example, under federal law, you may not inspect or copy psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise your review rights and a description of how you may complain to the Plan and to HHS.

Right to Amend Your Health Information: If you believe that Health Information that the Plan has about you is incorrect or incomplete, you may request that it be amended. Your request must be made in writing and submitted to the Privacy Officer. In addition, you must provide a reason that supports your request. The Plan may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, the Plan may deny your request if you ask the Plan to amend information that did not originate with the Plan (unless the person or entity that originated the Health Information is no longer available to make the amendment), is not contained in the records maintained by the Plan, is not part of the information that you would legally be permitted to inspect and copy, or is not accurate and complete.

Right to an Accounting of Disclosures: You have the right to request an accounting (i.e., a list) of certain non-routine disclosures of your Health Information. In general, the list will not include disclosures that were made: in connection with your receiving treatment, payment for such treatment and for certain health care operations; to you regarding your own Health Information; pursuant to your written authorization; to a person involved in your care or for other permitted notification purposes; for national security or intelligence purposes; or to correctional institutions or law enforcement officials. To request a list of disclosures, contact the Privacy Officer at the address below. You have the right to receive an accounting of disclosures of Health Information made within six years (or less) of the date on which the accounting is requested. Your request should indicate the form in which you want the list (e.g., paper or electronic). The first accounting you request within a 12-month period will be free of charge. For additional requests within the 12-month period, the Plan will charge you for the costs of providing the accounting. The Plan will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any cost is incurred.

Right to Obtain a Paper Copy of this Notice: You may request a paper copy of this Privacy Notice at any time, even if you have previously agreed to accept the Notice electronically. Requests should be made to the Privacy Officer at the address below.

COMPLAINTS

If you believe that your privacy rights have been violated, you may file a written complaint with the Plan at the address below or with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201. The Plan will not retaliate against you for filing a complaint.

CHANGES TO THIS NOTICE

The Plan reserves the right to change the terms of this or any subsequent Notice at any time. If the Plan elects to make a change, the revised Notice will be effective for all Health Information that the Plan maintains at that time. If the Plan makes a material change to this Notice, and if the Plan posts this Notice on its web site, the Plan will post the revised Notice by the effective date of the material change and also provide the revised Notice by mail. If the Plan does not post this Notice on its website, within 60 days of any material change of this Notice the Plan will provide the revised Notice to participants.

FOR QUESTIONS OR REQUESTS: If you have any questions regarding this Notice or the subjects addressed in it, or would like to submit a request as described above, please contact:

HCFSA Privacy Officer
City of New York Office of Labor Relations
22 Cortlandt Street, 28th Floor
New York, NY 10007
(212) 306-7760

This Notice is effective as revised September 23, 2013

Dependent Care Assistance Program (DeCAP)

Questions and Answers About DeCAP

Can my spouse and I each use the $5,000 limit for DeCAP?

No. There is a $5,000 combined limit on dependent care expenses that may be reimbursed each Plan Year. If you are married and file separate tax returns, the DeCAP limit is $2,500 each.

Can I reduce my DeCAP election during the year?

Yes. You may reduce the amount of your annual election to your DeCAP account if you incur a Qualifying Event. You must submit an FSA Program Enrollment/Change Form and supporting documentation within thirty (30) days after the Qualifying Event's occurrence.

Can I increase my DeCAP election during the year?

Yes. You may increase your DeCAP election consistent with your Qualifying Event. You must submit an FSA Program Enrollment/Change Form with proper documentation within thirty (30) days after the event in order to increase your goal amount.

Please refer periodically to the FSA website at nyc.gov/fsa for any IRS issued notices relating to the DeCAP program for Plan Year 2022 and Plan Year 2023. There may be guidance released at any time during the Plan Year.

What is a Qualifying Event and what changes can I make if I incur a Qualifying Event?

Generally, a Qualifying Event is a change in family or employment status.

Qualifying Events under DeCAP include:

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

For birth or adoption of a child during the mid-year, you may add the dependent(s) within thirty (30) days after such an event. At this time, you may also increase your contribution for the remainder of the Plan Year.

What happens to my DeCAP account if I leave City of New York employment?

Your participation in DeCAP will cease as of the last day of your employment. Any remaining balance in your account will be eligible for reimbursement upon receipt of a valid claim incurred prior to your date of termination.

Can I submit claims for DeCAP while I am on a leave of absence?

No, in order to submit claims for reimbursement from your DeCAP account, you must be actively at work or a full-time student. However, you may terminate from the program or decrease your annual contribution within thirty (30) days after the commencement of your leave.

What types of expenses are eligible under DeCAP?

You may use your DeCAP account to pay for expenses that meet the following qualifications:

- The services are performed to enable you and, if you are married, your spouse to remain gainfully employed or full-time students. Dependent care expenses incurred while you are not working (sick leave, vacation, maternity leave, off hours, etc.) or not a full-time student are not eligible for reimbursement under DeCAP. A spouse who is self employed must provide a description of occupation on letterhead; or if the description is not on letterhead, notarization is required.
- The services are for a dependent child claimed on your tax return who is under the age of thirteen (13). For example, if your child will be thirteen (13) on July 1, plan to set aside only the amount needed for January 1 through June 30.
- The services are for your spouse who is mentally or physically incapable of self care and lives with you for more than one-half of the year.
- The services are provided for any individual who is physically or mentally incapable of self care, lives with you for more than one-half 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.

Who can provide the dependent care services?

Dependent care services must be provided by a Qualifying Caregiver.

A Qualifying Caregiver is any person who is:

- not your spouse;
- not your dependent; or
- not your child or your spouse's child, unless he/she has attained the age of nineteen (19) as of the close of the Plan Year in which the services were provided.

Services may also be provided by a Qualifying Day Care Center. These are 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 (6) 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.

How do I deposit money into my DeCAP account?

On the FSA Program Enrollment/Change Form, you will be asked to indicate the amount you wish to contribute for dependent care expenses for the year. This amount will be deducted automatically from your paycheck in equal installments on a pre-tax basis. As an active employee, you may only make contributions through payroll deductions.

What happens to my DeCAP account if I take a paid or unpaid leave of absence?

You are not eligible to continue participation in DeCAP since you are not actively at work. You must contact the FSA Program Administrative Office via email at nyc.gov/fsa to terminate your participation in DeCAP, as well as your payroll deductions.

Note: (If you miss any payroll deductions while you are on unpaid leave of absence, you must notify the FSA Program Administrative Office via email upon your return to payroll in order to recalculate the amount of your payroll deductions.)

How do I get reimbursed for my dependent care expenses?

To be reimbursed for dependent care expenses, you must submit a DeCAP Claims Form to the FSA Program Administrative Office by the last day of the month so that it may be processed for that month. In order to be reimbursed, the Claims Form must be signed by your Qualifying Caregiver or Qualifying Day Care Center. The form must include the applicable Social Security Number or Federal Tax Identification Number, the name of the person who or institution that provided the service(s), the amount of payment(s) and the date(s) services were performed. You are not required to submit cancelled checks, payment receipts or invoices.

No reimbursement can be made for DeCAP prior to the services actually being provided. Your reimbursement will be directly deposited into the bank account you indicate on your FSA Program Enrollment/Change Form, for the reimbursement of approved dependent care expenses received during a particular month by the close of the following month.

What information must be included on a DeCAP Claims Form?

The DeCAP Claims Form must:

- indicate the name of the person or persons receiving care;
- include the type of service(s) and the amount of expenses incurred;
- state the name of the service provider;
- show the date(s) of service;
- show the Federal Tax Identification or Social Security Number of the provider;
- be signed and dated by the provider; and
- be signed and dated by the participant.

How often may I submit claims for DeCAP?

You may submit claims as necessary. There is no limit on the number of claims you can file during any single month. You may file a claim as long as it is at least $50, unless you have less than $50 remaining in your account, and it is for an eligible expense that does not exceed your benefit amount.

What is the deadline for submitting DeCAP claims for a Plan Year?

For DeCAP only, in the event that you are unable to submit claims by the end of the Plan Year, a DeCAP Claims Run-Out Period is provided until February 29 to submit claims for services performed during the current Plan Year.

DeCAP Claims Run-Out Period	
Current Plan Year:	January 1 – December 31
Claims Run-Out Period:	January 1 – February 28 of the following calendar year
If you do not submit claims for eligible expenses incurred during the Plan Year by February 28 you will forfeit any money remaining in your DeCAP account for the current Plan Year.	

What if I do not use all the money I allocated to my DeCAP account by the end of the Plan Year?

Because of the tax advantages afforded by DeCAP, Federal regulations require that any unused amounts be forfeited. This is often referred to as the "Use It or Lose It"* rule. If you deposit pre-tax dollars into your DeCAP account and do not incur eligible expenses equal to the amount of money you deposit into your DeCAP account, you will forfeit any remaining balance in the account. IRS guidelines will not permit any remaining balance to be returned to you or carried forward into the next Plan Year. Furthermore, if you also participate in the HCFSA Program, the amount you allocate to DeCAP cannot be transferred to the HCFSA Program.

*The "Use It or Lose It" rule is the reason we stress the importance of careful planning when you estimate your dependent care expenses for the year. The FSA Program Brochure includes a DeCAP worksheet to help you calculate your annual dependent care expenses. You may also visit the FSA Program website at nyc.gov/fsa to access the on-line savings calculator to estimate your potential savings.

What happens if I transfer to another City of New York agency?

In order to continue your DeCAP through payroll deductions, you must notify the FSA Program Administrative Office in writing via email within thirty (30) days prior to your transfer.

Will participation in DeCAP affect my pension?

No. Your contributions to DeCAP will have no affect on your pension contributions or benefits.

Will participation in DeCAP affect any of my other benefits?

Program participation will reduce your Social Security taxes and thereby reduce future Social Security benefits. The tax benefits of using these types of programs, however, usually outweigh the slight reduction in Social Security benefits.

Are amounts received from my DeCAP account free from all taxes?

DeCAP falls under IRC Section 125 and reimbursements received are free from Federal and Social Security taxes. However, you must add back the amount that appears under IRC 125 on your Form W-2, Box 10 and Box 14 for computing state and city taxes.

If I am a participant in DeCAP, is there any other form that I must file with the 1040?

Yes. You must complete Form 2441 "Child Dependent Care Expenses."

Can I enroll in DeCAP and also take advantage of the Federal Dependent Care Tax Credit?

Before deciding whether to allocate money to DeCAP for dependent care reimbursement, it is important to consider the Federal tax credit available to people who use dependent care services. You must choose between having dependent care bills reimbursed through your DeCAP account on a monthly basis or using those expenses to apply for a Federal Dependent Care Tax Credit when you file your Federal income tax return.

Although you are permitted by law to use the Federal Dependent Care Tax Credit and/or the DeCAP account, you cannot apply the same expenses to receive both the Federal Dependent Care Tax Credit and a dependent care reimbursement through your DeCAP account. Under the Federal Dependent Care Tax Credit, eligible expenses are limited to an annual maximum of $3,000 for one dependent or $6,000 for two or more dependents. DeCAP eligible expenses are limited to an annual maximum of $5,000 for one or more dependents.

Keep in mind that you can use the Federal Dependent Care Tax Credit instead of DeCAP if you believe it would save you more in taxes. However, payments received through DeCAP will reduce, dollar for dollar, amounts that can be considered for a tax credit and vice versa.

When deciding between using the Federal Dependent Care Tax Credit or DeCAP, you should note that if you participate in DeCAP and it covers all of your dependent care expenses, you are not eligible for the New York State tax credit for dependent care expenses.

You must determine whether reimbursing dependent care expenses from a DeCAP account or using the Federal Dependent Care Tax Credit is more advantageous to you, depending on your individual tax status. The basic purpose of the Federal Dependent Care Tax Credit and DeCAP is to help pay for dependent care expenses when you and your spouse must work or attend school full-time. Please contact your tax advisor for additional information.

The Flexible Spending Accounts (FSA) Program Brochure provides a guide with examples and a DeCAP worksheet for employees to use when deciding whether to join DeCAP or use the Federal Dependent Care Tax Credit.

Who should I contact for additional information on DeCAP?

You may visit the FSA Program website at nyc.gov/fsa for program information and to send your questions via e-mail.

CLAIMS AND ERISA RIGHTS

Claims Forms are available through the FSA Administrative Office and must be filed along with documentation (for the HCFSA Program only) supporting your claim(s).

A written notice will be provided to any participant or beneficiary whose claim for any benefit is denied. This notice shall include the reason for denial, with reference to the specific plan provision that pertains to the situation.

You are entitled to request a review of any claim that has been denied. The review will be made within a reasonable period of time not to exceed 60 days or, if a hearing is required, 120 days from the date of the request.

Request for review of claims that have been denied should be directed to the FSA Program via email at nyc.gov/fsa
Any legal process should be served on the Plan Administrator of the FSA Program via email at nyc.gov/fsa.

As a participant in the City of New York and Related Agencies and Instrumentalities FSA Program, you may be entitled to certain rights and protection under the Employee Retirement Income Security Act of 1974 (ERISA).

ERISA provides that all Plan participants shall be entitled to:
Examine, without charge, at the Plan Administrator's Office and the Benefits Department, all Plan Documents, and copies of all other documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and Plan descriptions.
Obtain copies of all Plan Documents and other Plan information upon written request to the Plan Administrator who may make a reasonable charge for the copies.
Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of the summary annual report.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of employee benefit plans. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries.

No one may terminate your employment or otherwise discriminate against you in any way to prevent you from obtaining Plan benefits or exercising your rights under ERISA.

If your claim for a benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the Plan Administrator review and reconsider your claim.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may require the Plan Administrator to provide the materials and pay you up to $100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits, which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court.

The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

If you have any questions about your Plan that are not handled satisfactorily by your Benefits Department, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest area office of the U.S. Labor-Management Services Administration, Department of Labor.

ADMINISTRATIVE INFORMATION

Plan Name:	The City of New York and Related Agencies and Instrumentalities Health Care Flexible Spending Account and Dependent Care Assistance Program
Plan Type:	A Health Care Flexible Spending Account, intended to qualify under Sections 125 and 105 of the Internal Revenue Code. A Dependent Care Assistance Program, intended to qualify under Sections 125 and 129 of the Internal Revenue Code. Both Plans are self-administered.
Effective Date:	January 1, 1994 for the Health Care Flexible Spending Account and July 1, 1992 for the Dependent Care Assistance Program
Plan Year:	January 1, 2023 through December 31, 2023
Enrollment Period:	October 17, 2022 through November 18, 2022
Plan Administrator:	The City of New York Office of Labor Relations Flexible Spending Accounts Program 22 Cortlandt Street, 28th Floor New York, NY 10007 (212) 306-7760
Plan Number:	504 for the Health Care Flexible Spending Account and 503 for the Dependent Care Assistance Program
Employer ID Number:	13-6400434
Future of the Plan:	The City of New York intends to continue this Plan indefinitely, but reserves the right to modify, suspend, or terminate this Plan at any time.
Employment Rights:	This Plan is not an employment contract. The City of New York reserves the right to hire, promote and/or terminate the employment of any person based on business needs, which are determined at the sole discretion of the City.
Participating Employers:	The City of New York, the City University of New York, the New York City Health + Hospitals, the New York City Housing Authority, the New York City School Construction Authority, the Queensborough Public Library, the Brooklyn Public Library, the New York City Department of Education and certain Cultural Institutions.
Summary Plan Description:	This SPD is intended to outline the terms of coverage available to you. The complete terms of this Plan are set forth in the Plan Document. Every effort has been made to make this Summary as accurate as possible. In the event that anything described in this SPD is in conflict with the Plan Document, the Plan Document will prevail.
Agent for Service of Legal Process:	The FSA Program Plan Administrator

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