

THE COUNTY OF VENTURA

**DEPENDENT CARE
FLEXIBLE SPENDING ACCOUNT PLAN**



(Effective as of September 23, 1984)

(As Amended September 14, 2010)

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Article I. Establishment of the Plan

1.1 Establishment of the Plan. THE COUNTY OF VENTURA, a political subdivision of the State of California (the "County") hereby establishes a dependent care expense program, to be known as "THE COUNTY OF VENTURA DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT PLAN" (the "Plan"). This Plan is intended to qualify as a plan described in section 129 of the Internal Revenue Code of 1986, as amended. The Plan is established effective as of September 23, 1984, in order to provide release of funds to eligible Employees who pay for care of any eligible dependent or for household services furnished in part to an Eligible Dependent in order to allow the Employee to work, or to allow a spouse to work or attend school on a full-time basis.

1.2 Applicability of Plan. The provisions of this Plan are applicable only to the Employees of the County in current employment who are Members of the County of Ventura Flexible Benefits Program (the "Flexible Benefits Program") and who are eligible to select the dependent care flexible spending account benefit.

1.3 Provision for Payment of Benefits. Payment of the cost of benefits which are provided under this Plan comes from three sources: 1) The Member through flexible credits generated by elective pay reduction, as provided under sections 4.2 and 4.3 of the Flexible Benefits Program, 2) the County through allocation of flexible credits contributed under sections 4.1(a) of the Flexible Benefits Program, and 3) the Member through contributions made after separation from service or during an unpaid leave of absence.

Article II. Definitions and Construction

2.1 Definitions. Terms used in capitalized form in this Plan shall have the meaning set forth in the Flexible Benefits Program Plan Document.

2.2 Gender and Number. Except when otherwise indicated by the context, any masculine terminology shall also include the feminine and the definition of any term in the singular shall also include the plural.

2.3 Illegality of Particular Provision. The illegality of any particular provision of this Plan shall not affect the other provisions, but the Plan shall be construed in all respects as if such invalid provision were omitted.

2.4 Applicable Laws. This Plan is governed by the Code and the Treasury regulations issued thereunder (as they might be amended from time to time). As set forth

in section 5.4, in no event shall the County guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of the State of California.

Article III. Eligibility and Participation

3.1 Date of Participation. An Employee who is a Member of the Flexible Benefits Program, who is eligible under the adoption agreement of his Participating Group for the dependent care flexible spending account benefit described in sections 5.1(e) and 5.6 thereof with respect to a Period of Coverage, and who selects that benefit shall be eligible for release of funds for covered expenses incurred during that Period of Coverage under this Plan.

3.2 Election of Benefits Coverage. The election of benefits under this Plan shall be made in conformance with section 4.4 of the Flexible Benefits Program and shall remain in effect until the end of the Plan Year unless a change is made as authorized by section 4.4 of the Flexible Benefits Program.

3.3 Automatic Change of Election During Unpaid Leave of Absence. Any Member on an unpaid leave of absence will be deemed to have elected to change his or her contribution to the dependent care flexible spending account to zero in accordance with section 4.4 of the Flexible Benefits Program for the duration of the unpaid leave of absence; and will be deemed to have changed his or her contribution to the amount in effect just prior to the unpaid leave of absence upon his or her return to paid status. The Member's Period of Coverage shall not be affected by the aforesaid contribution changes, and covered expenses incurred during the entire Period of Coverage shall be eligible for release of funds. Any member wishing to make a change of election different than that described in this section, shall notify the Plan Administrator of his or her election change no later than seven days after the beginning of the Member's unpaid leave of absence. Failure to notify the Plan Administrator within the period prescribed shall be considered to be acceptance of the automatic election changes describe herein.

3.4 Revocation of Election on Termination of Service. The election of any Member who terminates or is discharged from employment with the County will be automatically terminated on the effective date of such termination or discharge. No such Member shall be entitled to receive payments for claims incurred after the period covered by contributions made prior to the termination or discharge date. Any plan contributions made for the portion of the Plan Year extending beyond such election revocation date will be refunded to the Member.

Article IV. Covered Dependent Care Expenses

4.1 Amount. A Member who has selected the dependent care flexible spending account benefit under sections 5.1(e) and 5.6 of the Flexible Benefits Program and/or who has reduced his pay as provided in sections 4.2 and 4.3 of the Flexible Benefits Program may submit a copy of the bill or other proof that Covered Expenses have been incurred and a Dependent Care Flexible Spending Account Claim form, to the designated office of the County. The County shall release funds equal to the amount of incurred Covered Expenses up to the balance in the Member's dependent care flexible spending account at the time the claim is processed, subject to the limitation that for any Plan Year, the sum of a Member's pay reductions under sections 4.2 and 4.3 of the Flexible Benefits Program, Employer Contributions allocated to the Member's dependent care flexible spending account under section 5.1(e) of the Flexible Benefits Program and other Member Contributions made after separation from service cannot be less than \$240 per year and cannot exceed the lesser of:

- (a) \$5,000 per year for married couples filing a joint return (or a single head of household) and \$2,500 per year for married couples filing separate returns; or
- (b) the lesser of the earned income (as defined in section 32(c)(2) of the Code) of the Member or his spouse, if any, for each calendar year included in any Period of Coverage. For purposes of this subparagraph (b), for each month during which a Member's spouse is a full-time student pursuing a full-time course of study for at least 5 months of the year (and not attending school exclusively at night) at an educational institution or is incapable of caring for himself, as provided under Code section 21(d)(2), such spouse will be deemed to have earned income of \$200 per month if the Member has one Eligible Dependent or \$400 per month if the Member has two or more Eligible Dependents.

County has the right to further limit contribution amounts where necessary to avoid violation of applicable plan discrimination laws.

4.2 Covered Expenses. County has the right to further limit contribution amounts where necessary to avoid violation of applicable plan discrimination laws. Expenses for household and dependent care services necessary for gainful employment under section 21(b)(2) and 129(e) of the Internal Revenue Code, and their successors, are covered expenses. The following expenses may be eligible for release of funds under this Plan if they are incurred to enable the Member or Member's spouse to remain gainfully employed, or for the Member to remain gainfully employed and Member's spouse to remain a full-time student, during a period in which the Member has at least one Eligible Dependent and are for services provided for the primary purpose of assuring the well-being and protection of an Eligible Dependent:

- (a) services necessary to the maintenance of the Member's household, such as a housekeeper's or cook's services, if part of those services were furnished to an Eligible Dependent;

- (b) expenses for care of the Eligible Dependent(s), including services provided outside the Member's household. If expenses are incurred for services provided by a dependent care center, as defined in Code section 21(b)(2)(D), they are reimbursable only if:
 - (1) the center complies with all applicable laws and regulations of a State or unit of local government; and
 - (2) the expenses are incurred for an Eligible Dependent as defined in section 4.3(d)(1) or (2).

4.3 Eligible Dependent. An Eligible Dependent means:

- (a) a dependent under the age of 13 for whom the Participant is entitled to a deduction under IRS Code section 151(c);
- (b) a dependent who is physically or mentally incapable of caring for himself including a dependent over age 13 for whom the participant is entitled to a deduction under IRS Code section 151 (c);
- (c) a spouse, if the spouse is physically or mentally incapable of caring for himself; or
- (d) in the case of expenditures outside the home to enable the Member or spouse to work (or attend school);
 - (1) a child described in (a), above, or
 - (2) a person described in (b) or (c) that spends at least eight hours each day in the household.

4.4 Unused Credits Allocated to Flexible Spending Account. Claims for dependent care expenses incurred during a Period of Coverage may be submitted at any time during the Period of Coverage, but no later than April 15 (or the next following business day if April 15 falls on a weekend or holiday) of the following Plan Year. The County may waive or extend this period for submitting claims for an Employee if, in the opinion of the Plan Administrator, circumstances warrant such action. Any flexible credits remaining in any flexible spending account after all claims for expenses incurred during a Period of Coverage have been paid shall be forfeited.

Article V. Administration

5.1 Administration. The County shall administer the Plan and shall have the authority to exercise the powers and discretion conferred by the Plan and shall have such other powers and authority necessary or proper for the administration of the Plan as shall be determined from time to time by the County.

The Board may adopt such rules and regulations for the administration of the Plan as it shall consider advisable and shall have full power and authority to enforce, construe, interpret, and administer the Plan. All interpretations under the Plan and all determinations of fact made in good faith by the County shall be binding on the Members, their dependents, and all other interested persons.

The Board may delegate to any agent, attorney, accountant, or other person selected by it, any power or duty vested in, imposed upon, or granted to it by the Plan.

5.2 Statement of Expenses. The Plan shall furnish by each January 31 a written statement showing the amounts of dependent care flexible spending account claims paid by the County to the Member during the prior calendar year.

5.3 Nondiscrimination. The contributions or benefits provided under this Plan shall not discriminate in favor of employees who are officers or highly compensated, or their dependents.

5.4 No Guarantee of Tax Consequences. Neither the County nor the Plan administrator make any commitment or guarantee that any amounts paid to or for the benefit of a Member under the Plan will be excludable from the Member's gross income for Federal, state or local tax purposes, or that any other Federal, state or local tax treatment will apply to or be available to any Member. It shall be the obligation of each Member to determine whether each payment under the Plan is excludable from the Member's gross income for Federal, state and local income tax purposes, and to notify the County if the Member has reason to believe that any such payment is not so excludable.

IN WITNESS WHEREOF, THE COUNTY OF VENTURA has caused this instrument to be executed, effective as of September 23, 1984, and as amended September 14, 2010.

ADOPTED:

The Board of Supervisors of the
COUNTY OF VENTURA

By _____

ATTEST:

MARTY ROBINSON,
Clerk of the Board of Supervisors,
County of Ventura
State of California

By _____
Deputy Clerk of the Board

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