

**CITY OF COLORADO SPRINGS
CAFETERIA PLAN
SUMMARY PLAN DESCRIPTION
Effective January 1, 2012**

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This is a summary of the Cafeteria Plan and the related plans and programs adopted by the City as they relate to the Cafeteria Plan. The plan is called a cafeteria plan because it permits you to select the benefits you desire in much the same way as you would select what you want in a cafeteria. This summary is intended to provide general information to assist you in understanding how the plans and programs work and the benefits you can expect from participation.

Although this Summary Plan Description, or SPD, is intended to assist you in understanding the plans, this document is not controlling. For this reason, if there is any discrepancy between this SPD and a particular plan or program, the plan or program document controls. You, not the City, are responsible for assuring that the elections you make are appropriate for your needs and that you will be able to receive the benefits you elect under the plans. You are advised to consult with a tax advisor before you make any elections under these plans.

The Cafeteria Plan and related plans allow the City to reimburse you for certain medical and dependent day care expenses and exclude those reimbursements from income for state and federal income tax purposes. You fund this benefit by agreeing to lower your salary by the amount of the expected reimbursements you will claim. In addition to medical and dependent day care reimbursements, you may also elect certain other benefits that will lower your taxes.

The regulations imposed on cafeteria plans by the IRS implement section 125 of the Internal Revenue Code, the provision that permits these benefits to be paid to you on a tax exempt basis. The regulations must be followed, and if they are not followed, the tax exempt savings you expect could be lost. For this reason, the City has no authority to “waive” the requirements of the plans or programs, and you must carefully review your personal situation to determine whether you can take advantage of the tax savings options. By studying this SPD carefully and estimating your medical and dependent day care needs carefully, you will be able to make an informed decision.

The potential tax savings, however, comes with the risk that you could lose all or a part of the benefits you fund through salary reduction if you do not qualify to claim the reimbursements you anticipate. Because you could be precluded from receiving a reimbursement if your claim does not fall within the precise requirements imposed by the IRS, you must make your elections under this plan timely and carefully, file your claims timely, and supply the required documents to support your claims. Experience shows that the majority of the mistakes made

by employees fall into three categories—(1) failing to make timely elections, (2) assuming that day care expenses can be reimbursed for any children other than your young children or step-children (the general rule is that expenses for grandchildren and older children cannot be reimbursed), and (3) assuming that day care expenses can be reimbursed when your spouse does not work or when the day care is provided outside of your home by a relative. By studying and following this SPD carefully you will lower your chances of making costly mistakes.

Overview

The Cafeteria Plan consists of several parts. Controlling the plans is the “Cafeteria Plan.” This plan generally specifies the benefits that are available, the maximum dollar amount of the benefits that an employee may select, who may receive these benefits, when the elections for the benefits may be made and changed, and when the benefits selected will be forfeited. The Cafeteria Plan specifies the rules that apply to all plans and programs, generally.

Under the Cafeteria Plan are five plans and programs from which to choose:

- The Dependent Day Care Spending Account Plan. This Plan allows you to be reimbursed for certain dependent day care expenses you incur so that your dependents can be taken care of while you are at work.
- The Health Care Spending Account Plan. This plan reimburses you for many of the out-of-pocket medical expenses you incur for you, your spouse, and your dependents.
- The Premium Pay Program. This program allows you to purchase medical insurance (medical, dental, and vision) on a tax exempt basis.
- The Vacation Buy Program. This program permits you to purchase additional vacation in exchange for a reduction in your salary.
- The Cash Back Program. This program applies to you if you opt out of one or more medical insurance programs (medical or dental,) offered by the City. If you decline insurance coverage, you receive cash from the City that is subject to income tax.

The dependent day care and medical care reimbursement plans require you to plan carefully to minimize your risk of forfeiting all or a portion of your salary for benefits you might not be able to receive. You risk forfeiting salary because by participating in those plans you agree to reduce your salary to fund your election,

but you do not know for certain whether your anticipated dependent day care expenses or medical expenses will equal or exceed your salary reduction.

To reduce the possibility of losing all or a portion of the money that you put into these two reimbursement plans use the worksheets provided by the Benefits Office to help you determine how much to contribute to each plan by salary reduction. Consult a benefits counselor for further information.

The other programs—The Premium Pay Program, Vacation Buy Program, and Cash Back Program present no significant risk of losing benefits you fund by salary reduction.

The Cafeteria Plan

Who May Participate

The Cafeteria Plan is open to any City employee who is regularly scheduled to work at least 20 hours each week and who is not classified as a temporary employee. If you qualify as an “employee,” you may participate, but are not required to participate, in the Cafeteria Plan.

When Can You Elect to Participate

The Tax Code strictly regulates when you may elect to participate. For the most part, current employees may make and change their elections only during Open Enrollment held each year in the fall, and your elections are binding for the full year beginning January 1 and ending December 31 of the year following Open Enrollment. However, if you experience a change in family status, as discussed below, you might be permitted to change your election during the year.

An employee who begins service with the City may elect to participate not later than 30 days after beginning employment with the City.

The plan administrator has no authority to permit changes during the year that do not comply with the tax code.

When Elections Become Effective

Elections become effective at different times, depending upon when the election is made and the reason for the election. An election made during Open Enrollment is effective January 1 after Open Enrollment. Generally, other elections (which can be made only if there is a change in family status or if you are a new employee or are treated as if you are a new employee) are effective on the first day of the month following the month in which the election is accepted. For this reason, the effective date will be delayed almost a month if an

election is submitted at the beginning of a month, but will be effective in a few days if the election is submitted near the end of a month.

Knowing when your election will be effective is critical for the medical reimbursement plan and the dependent day care plan because any claim for reimbursement for services that were rendered prior to the effective date an election is effective or after participation in the plan terminates will be rejected.

Exceptions to the General Rule When Elections Become Effective

There are two exceptions to the general rule that an election is effective on the first day of the month after the election is accepted. These exceptions relate to certain elections made because of the birth, adoption, or placement for adoption of a child, and to elections made by an employee who enters into leave under the Family Medical Leave Act or FMLA.

An election to cover a child under your medical insurance (medical, dental, and vision) resulting from the birth of your child or the adoption or placement for adoption (when a child has been placed into your family pending adoption) of a child is effective retroactively to the date of birth, adoption, or placement for adoption, but only if you submit an election form not later than 30 days after the birth, adoption, or placement for adoption of the child. Any other elections relating to the child—such as for Dependent Day Care reimbursement coverage—are effective commencing on the first day of the month after the election was made and accepted by the plan administrator.

An employee who takes leave under the FMLA is granted certain rights under the tax code. These rights assure the employee that he or she will not be harmed because of his or her FMLA leave. The Cafeteria Plan guarantees employees that they will have those rights. An employee who takes leave under FMLA may elect to continue coverage under the Cafeteria Plan during the leave, to modify coverage, and to choose among various ways to pay for that coverage. An employee who is contemplating taking leave under FMLA must discuss his or her options under the Cafeteria Plan with a benefits counselor prior to taking the leave to make sure he or she makes the elections that are best suited to his or her situation.

Salary Reduction

Elections you make under the Cafeteria Plan, except for participation in the Cash Back Program, will be funded by contributions you make to the Plan from your salary. Your salary will be reduced on the first and second paydays of the month. Under most circumstances, in those months where there are three paydays there will be no reduction on the third payday. The amount of your

reduction for each payday is computed by dividing the dollar amount of all the benefits you purchase by 24, the number of paydays during the year during which salary reductions will be taken.

If you change your elections during the year, or if you commence participation after the year has begun, your salary reduction will be determined by dividing the dollar amount of all the benefits needed to fund your elections by the remaining paydays (less the third payday in those months in which there are three paydays) in the year.

Salary reductions will be taken in an amount greater than stated above and possibly three times per month if, for example, you take leave without pay and agree to have additional salary reductions taken or if you have insufficient compensation to permit the full salary reduction for a specific payday.

Change in Family Status May Permit You to Change Your Elections

The IRS regulations provide that if an employee experiences a “change in family status” and if the change in election the employee wants to make is “consistent with” the change in family status, a cafeteria plan may permit the employee to change his or her elections under the plan. The Cafeteria Plan permits you to change your elections under those circumstances.

A change in family status can result from any of a variety of events. They include:

- Marriage
- Divorce
- The birth of a child
- Adoption or placement for adoption of a child
- A change in the employment of the employee or the employee’s spouse, including a change in hours worked by the employee or the employee’s spouse
- Death
- A change in residence
- Entering into or returning from FMLA leave
- Remaining on leave without pay status, or LWOP, for 30 days or more
- Other permissible events

Experiencing a change in family status is not sufficient to permit you to change your Cafeteria Plan elections during the year. Any change in elections must be “consistent with” the change in family status. To be “consistent with” the change in family status, the change in election must be reasonable and must be a change that generally makes sense under the circumstances.

The examples below demonstrate how the change in family status rules work. Because a change depends upon all the circumstances related to the employee, a change that may be permissible for one employee may not be permissible for another employee.

Example 1. An employee is a participant in the Cafeteria Plan and has elected to contribute \$500 to the Health Care Spending Account Plan. In May the employee marries. Marriage is a change in family status and the employee is permitted to make plan election changes, but only if the changes are “consistent with” the change in family status. The employee wants to increase contributions to the medical care reimbursement plan. The employee and the spouse together are likely to incur more out-of-pocket medical expenses than the employee alone would incur. Thus, increasing contributions is “consistent with” the change in family status and the change in election would be permitted.

Example 2. The facts are the same as in Example 1, except that the employee wants to reduce contributions to the health care spending account plan. Under these facts, the change arguably would not be “consistent with” the change in family status, marriage, because there is no reason to believe that two people will have fewer medical expenses than would one person. The change would not be permitted.

Example 3. The employee from Example 1 wants to make other changes because of the marriage. Changing an election relating to the Premium Pay Program may be “consistent with” marriage, because providing medical insurance for a spouse who was not covered before marriage or who did not have adequate coverage is reasonable. The change would be permitted.

Example 4. The employee in Example 3 wants to terminate insurance coverage with the City. If the employee will be covered by medical insurance from the employer of the spouse, terminating coverage is reasonable and the change in election would be “consistent with” the change in family status. The change would be permitted.

Example 5. The employee in Example 3 wants to terminate insurance coverage with the City, but will not be covered by medical insurance from the employer of the spouse. Terminating coverage and not replacing that coverage is not “consistent with” marriage and would not be permitted.

How Leave Without Pay or LWOP May Affect Your Elections

If you are on LWOP for 30 days or more, your coverage during LWOP will be terminated unless you agree, within 10 business days of commencing LWOP, to

have your coverage continue and to pay for that coverage in advance or out of your pay once you return from LWOP.

Generally, if you are on LWOP as of January 1, you will not participate in the Plan until you terminate your LWOP status. However, you may pay for your benefits prior to taking LWOP or agree to have those benefits taken from your compensation after you return to work. If you do so, you will be covered under the Cafeteria Plan starting on January 1. If you (i) do not make arrangements to pay for your benefits, (ii) are on LWOP status on January 1, and (iii) as of the date you return from LWOP have been on LWOP for 30 days or more, then your elections for the year will be void, and you must make new your elections under the Cafeteria Plan if you desire to participate in the Cafeteria Plan. Before you enter into LWOP, you should see your benefits counselor so that you can make an informed decision relating to participation in the Cafeteria Plan.

COBRA

If you terminate employment with the City you may continue to be covered by medical insurance (medical, dental, and vision) beyond the end of the calendar year by making COBRA continuation payments. Under certain circumstances, you may qualify to continue coverage under the Health Care Spending Account Plan through the end of the calendar year by making COBRA continuation payments. You may also continue to participate in the Dependent Day Care Spending Account Plan through the end of the plan year without making COBRA continuation payments. Consult your benefits counselor for further information.

The Dependent Day Care Spending Account Plan

The Dependent Day Care Spending Account Plan permits certain dependent day care expenses you incur to be reimbursed on a tax exempt basis. The rules to qualify, however, are very strict. Although there are exceptions, as noted below, generally, the day care expenses must be incurred:

- by you for your children (including your step children) who are age 13 or younger
- to allow you to be employed with the City—that is, if you do not have day care, you would be required to stay home with your children
- at your home or if outside of your home, at a day care center that is paid for its services, complies with state and local law, and cares for 7 or more individuals

Requirements to Qualify for Dependent Day Care Reimbursement

Dependent day care expenses must be incurred during the plan year. Expenses for a prior year or expenses incurred after the year will not be reimbursed. In

most cases, if you are married and your spouse is not working, dependent day care expenses will not qualify for reimbursement. Likewise, the day care provider in most cases must be in the business of providing day care. Generally, this means that the provider must care for more than six children, be paid for its services, and comply with state and local laws. Expenses for dependent day care provided by a family member generally cannot be reimbursed. Expenses for meals and overnight camps do not qualify for reimbursement.

Limits on Reimbursable and Tax Exempt Day Care Benefits

There are limits on the amount of dependent day care expenses that can be reimbursed and excluded from taxes. These limits are affected by:

- whether you are married
- whether your spouse lives with you
- the wages you and your spouse earn
- the tax filing status you elect—that is, whether you are married and will be filing jointly or are married and will be filing separately

If you are married and living in the same household as your spouse, you must file a joint tax return or you will not receive reimbursement for your dependent day care expenses.

A change in your circumstances during the year can affect whether you can be reimbursed for dependent day care expenses or whether the reimbursements are exempt from tax. For example, should your marital status change during the year, or if you elect to file your tax return as married filing separately, you may experience adverse tax consequences, or you may not qualify for reimbursement. If you do not qualify for reimbursement, all or a portion of your salary that you contributed to the plan could be forfeited.

You and Your Spouse Generally Must Have Wage Income

Under the plan and the Tax Code, you must have wages in order to qualify for dependent day care reimbursements. If you are married, your spouse must also have wages in order to qualify for dependent day care reimbursements. If you and your spouse each are working and you each earn over \$5,000 during the year, you live in the same household as your spouse, you will incur dependent day care expenses exceeding \$5000 for a child or children age 13 or under during the year at a commercial day care provider, and you will be filing a joint tax return, it is likely that you will be able to obtain the maximum dependent day care reimbursement of \$5000 from the plan. If you are a single parent and all other facts stated above apply to you, you are also likely to qualify for the maximum day care reimbursement of \$5000 from the plan. If you do not fall within these conditions, you may still benefit from an election to participate in the

Dependant Day Care Reimbursement Plan, but you may need to elect less than the maximum amount. Contact your benefits counselor for further information.

Tax Credit or Tax Reimbursement

The Tax Code permits employees to obtain tax benefits for dependent day care expenses by choosing between a tax credit (which is outside of, and not a part of, the Cafeteria Plan) and reimbursement of dependent day care expenses under a cafeteria plan. A tax credit reduces your taxes directly and is claimed for dependent day care expenses when you prepare your tax returns. However, you cannot receive the benefit of both the tax credit and a reimbursement under the Cafeteria Plan for the same day care expense. Depending upon your income, it is likely that reimbursements under the dependent day care plan will be more advantageous than tax credits. To determine which tax benefit is more beneficial for you, contact your tax advisor.

Contribution and Reimbursement Limits

The maximum Dependent Day Care contribution that you may elect under this plan and the maximum that can be reimbursed is \$5000 for the calendar year. As noted above, however, the amount of your reimbursements may be less depending upon the dependent day care expenses you incur, your wages, the wages of your spouse, and your tax filing status.

Reimbursement for Dependent Day Care Expenses for Disabled Dependents

Reimbursements for dependent day care expenses provided to physically or mentally disabled dependents over age 13 are permitted, but are subject to strict tests. For this reason, you should consult with a benefits counselor and your tax advisor before you elect to participate, and thus reduce your salary, based upon anticipated dependent day care expenses you will incur for your physically or mentally disabled dependents.

Reimbursement for Dependent Day Care Expenses for Your Physically or Mentally Disabled Spouse

Reimbursements for day care expenses that result from day care provided to your physically or mentally disabled spouse are permitted, but are subject to strict tests. For this reason, you should consult with a benefits counselor and your tax advisor before you elect to participate, and thus reduce your salary, based upon anticipated dependent day care expenses you will incur for your physically or mentally disabled spouse.

Reimbursements for Dependent Day Care Expenses When Your Spouse is a Student

You may qualify to have dependent day care expenses reimbursed if your spouse is a student and is not employed. The Tax Code will assume that your spouse has wage income so that you can qualify for reimbursement. Consult with your benefits counselor before making this election.

Dependent Day Care Expenses Must Be Incurred During the Year

Dependent day care expenses must be incurred during the calendar year and while you are a participant or they cannot be reimbursed. Although reimbursement for claims can be submitted through March 31 of the year following the end of the calendar year, the dependent day care expense must have been incurred during the calendar year and during the time you were a participant under the plan.

Claims for Reimbursement Must be Filed by March 31 Following the Calendar Year

All claims for reimbursement must be submitted not later than March 31 of the year following the close of the calendar year. You must submit a signed claim form, with all the required information and documentation as specified by the plan administrator by March 31 of the year following the calendar year.

Amounts not Reimbursed are Forfeited to the Plan

Any amounts remaining in your dependent day care account after March 31 of the year following the calendar year will be forfeited by you to the plan. For this reason you should carefully assess your day care needs so that you do not fund your dependent day care account, and thereby reduce your salary, by an amount greater than you believe that you will need during the year.

Reimbursement for Dependent Day Care Expenses After Separation from Employment

You may be reimbursed for dependent day care expenses incurred after you separate from employment with the City and while working for a different employer. No further contributions may be made, so the most you can be reimbursed is the balance in your account. Claims for reimbursement are subject to the same requirements that would have been imposed had you not separated from service with the City.

Health Care Spending Account Plan

This plan allows you to be reimbursed for most, but not necessarily all, out-of-pocket medical expenses you incur for you, your spouse, and your eligible dependents during the calendar year.

Contribution and Reimbursement Limits

The maximum that you may elect under this plan and the maximum that can be reimbursed is \$6000 for the calendar year. If you choose to participate in this plan, you must elect to contribute not less than \$5 per pay period.

Medical Expenses that Can be Reimbursed

For the most part, all co-pay expenditures and deductibles you pay, and other expenditures not covered by insurance incurred for you, your spouse, and your dependents may be reimbursed under this plan. This includes expenses not covered by your medical insurance (medical, dental, and vision) as long as they are considered medical care expenses under section 213 of the Tax Code. Generally, you may also be reimbursed for medically related mileage expenses and lodging. Over the counter medications are not reimbursable unless you have a prescription.

Medical Expenses that Cannot be Reimbursed

Certain expenditures, even when provided by a licensed medical practitioner, cannot be reimbursed under the plan. Expenses for the following cannot be reimbursed:

- medications that merely benefit general health (such as vitamins, dietary supplements, toothbrushes, etc.)
- expenditures for cosmetic purposes (face lifts, teeth whitening, hair transplants, etc.)
- health club fees
- expenses for exercise programs
- medical expenditures not incurred during the year
- other medical expenditures that do not comply with the tax code

Maximum Reimbursement Available

An important feature of the Health Care Spending Account Plan is that the amount you elect to put into your account (which is also the amount by which your salary will be reduced during the year for this plan) is available throughout the year until you receive reimbursements equal to the amount of the contribution you elected. This means that medical expenses you incur early in the year can

be reimbursed even though you have contributed less than the amount for which you seek reimbursement. This can be very helpful if you have an unexpected medical expense early in the year. Although this expense will be reimbursed, you will continue to contribute to the plan from salary reduction throughout the year even if you might not be able to claim any further reimbursements.

Medical Expenses Must Be Incurred During the Year

To be reimbursable, medical expenses must be incurred during the calendar year and while you are a participant in the plan. Claims for reimbursement submitted through March 31 of the year following the calendar year can be honored if the medical expenses were incurred during the calendar year and while you were a participant in the plan.

Claims must be Submitted by March 31

All claims for reimbursement must be submitted not later than March 31 of the year following the close of the calendar year. You must submit a signed claim form, with all the required information and documentation as specified by the plan administrator.

Amounts not Reimbursed are Forfeited to the Plan

Any amounts remaining in your health care account after March 31 of the year following the calendar year will be forfeited by you. For this reason you should carefully assess your out-of-pocket medical needs so that you do not fund your health care account, and thereby reduce your salary, by an amount greater than you believe that you will need during the year.

Premium Pay Program

If you elect to participate in the Premium Pay Program, your portion of the insurance premiums for medical insurance (medical, dental, and vision) will be paid by salary reduction, and the amount of the payments will not be taxable. Except as is explained elsewhere in this SPD relating to PERA benefits, there is no risk to you of electing to participate in this program. The benefit is you do not have to include these amounts as income for tax purposes.

Vacation Buy Program

If you desire more vacation than you receive as part of your compensation package you may purchase additional vacation time tax free by participating in this program. The terms of this program are specified in the Vacation Buy

Program adopted by the City. If you elect to buy vacation, your wages will be reduced during the year and you will be permitted to take additional vacation time during the year.

Potential Loss of Tax Advantage

You will receive the tax advantage of the Vacation Buy Program only if you use all your non-elective vacation leave (that is, the vacation leave you receive without participating in this program) as well as your vacation buy (that is, the leave you purchased) before December 31 of the year. If you do not use this time, you will receive a refund of your salary reduction to the extent of the unused vacation time you purchased.

The Cash Back Program

Employees who elect not to be covered by a medical insurance (medical or dental, -) policy offered by the City will receive cash from the City for waiving this coverage. This cash is taxable. This program is included in the Cafeteria Plan because of the way the section 125 rules work. However, you have no issues with this program other than your decision whether to elect insurance coverage.

Additional Provisions of the Plan

Other provisions of the Plan that may be important to you are discussed below.

Participation May Reduce Your PERA Benefits

The effect of salary reduction on your retirement benefits and death and disability benefits depends upon whether you are covered by PERA or by FPPA. If you are covered by PERA, the salary reduction you opt for by participating in this plan will reduce your retirement benefits if you participate, and thus lower your salary, during the three years of your employment that are used to determine your PERA retirement benefits. Because death and disability benefits are based upon your salary, participation will lower your death and disability benefits if you participate during the time that is used to determine your death or disability benefits.

FPPA does not consider salary reduction caused by participating in the Cafeteria Plan in determining benefits. As a result, your participation will not lower your pension benefits or your death and disability benefits if you are an employee covered by FPPA. However, your contributions to FPPA will not be reduced by participating in the Cafeteria Plan.

Right to Appeal a Claim

If a claim is denied, you may appeal this denial. Appeals must be filed within 180 days of the date that your claim was denied. The appeal must be sent to the plan administrator and must include the denial form or letter you received and all information relating to the claim. Address appeals as follows:

Cafeteria Plan Administrator
Director of Human Resources
30 South Nevada Ave. Ste 105
Colorado Springs, CO 80903

The determination of the plan administrator on an appeal is final and is binding.

Automatic Change of Elections

The tax code provides that certain elections may have to be changed for the Plan to qualify, and possibly for an individual employee to make qualifying elections. These changes depend upon your wages from the City, the elections you make unrelated to the Cafeteria Plan, and to a certain extent upon the elections other employees make. Generally, those employees whose elections might have to be changed are certain highly compensated employees. If election changes are required, the Administrator will inform you of the changes.

How to File a Claim for Reimbursement of Dependent Day Care or Health Care Expenses

To receive reimbursements from your dependent day care and health care expense accounts, you must file a claim for reimbursement. The form is available from the Benefits Office and on-line at:

Springsgov.com
Human Resources
Benefits and Wellness Information
Forms
Flexible Spending Account Forms
Select the appropriate reimbursement form

A Benefit Change form may be obtained from:

Springsgov.com
Human Resources
Benefits and Wellness Information
Forms
Benefit Change Form

If you need assistance, consult your benefits counselor.