

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adoption by the	)	
Board of Commissioners of	)	
Amendments to the Dependent Care	)	RESOLUTION
Assistance Plan for Multnomah	)	#88-80
County, Oregon	)	

WHEREAS, the County has become aware that a hardship exists for new employees who are unable to participate in the Dependent Care Assistance Plan (the Plan) until the annual 30-day open-enrollment period occurs; and

WHEREAS, the County seeks to offer all employees a progressive and cost effective benefit package; and

WHEREAS, Internal Revenue Code Section 125 allows new employees to enroll in a Plan within 30 days from date of hire; and

WHEREAS, a continuous open enrollment period for new employees will not adversely affect the administration of the Plan;

NOW THEREFORE, BE IT RESOLVED that the Dependent Care Assistance Plan (see Exhibit "A" attached) Sections (2) (j), (3) (a) and (5) (a) (1) (A) are amended as follows:

2. Definitions

. . . (j) "Enrollment period" means the 30-day period during which employees may file a Dependent Care Assistance Form with the Administrators. The Administrators shall designate a 30-day enrollment period in advance of each plan year. For new employees, the enrollment period is 30 days from date of hire.

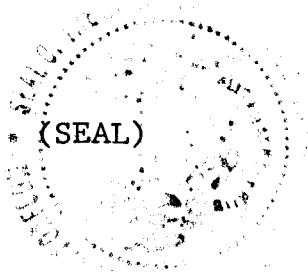
3. Eligibility and Enrollment.

(a) All classified and unclassified employees working at least twenty (20) hours per week are eligible to participate in the Plan.

5. Funding

(a) (1) (A) The sum must be designated by the participant during the enrollment period.

DATED the 19th day of May, 1988.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

By

Gladys McCoy  
Gladys McCoy  
Multnomah County Chair

APPROVED AS TO FORM:

LAURENCE KRESSEL, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY OREGON

By

Sandra Duffy  
Sandra Duffy  
Assistant County Counsel

MULTNOMAH COUNTY  
EMPLOYEES' DEPENDENT CARE ASSISTANCE PLAN  
JANUARY 1, 1988

1. Purpose.

The purpose of this Plan is to reimburse County employees for the cost of dependent care expenses incurred by such employees. This Plan is intended to qualify as a plan providing dependent care assistance within the meaning of Section 129(d)(1) of the Internal Revenue Code of 1954, as amended, and it is intended that the amounts reimbursed pursuant to this Plan be eligible for exclusion from the taxable income of a participant under Section 129(a) of the Internal Revenue Code of 1954, as amended. This Plan is to be implemented in accordance with Section 125 of the Internal Revenue Code of 1954, as amended, which allows the County to enter into salary reduction agreements with its employees in order to fund dependent care assistance plans.

2. Definitions.

As used in this Plan, the following terms will have the meaning ascribed to them in this Section.

(a) "Administrators" shall mean the Finance Manager and the Employee Health and Benefits Coordinator or anyone designated by them to manage and direct the operation and administration of this Plan.

(b) "Change in family status" means an event which allows a participant to make a change during the plan year in the amount of his/her salary reduction for deposit into his/her dependent care account. Changes in family status are defined in accordance with the Internal Revenue Code, and include birth, adoption, death, marriage, divorce, or termination of a spouse's employment.

(c) "County" shall mean Multnomah County, Oregon.

(d) "Code" shall mean the Internal Revenue Code of 1954, as amended and the regulations issued thereunder. References to a Code Section or regulation shall be deemed to be to that Section as it now exists and to any successor provision.

(e) "Dependent care services" means household services or care for a qualifying individual, provided that such services and care are required in order to enable a participant to be gainfully employed for any period during which there are one or more qualifying individuals with respect to the participant.

(f) "Dependent" includes any individual who is a dependent within the meaning of Code Section 152 and in the case of a participant who is divorced, legally separated, or separated under a written separation agreement, the term dependent includes a child who meets the dependency test appearing in 26 CFR § 1.44A-1(b)(2) or any successor provision.

(g) "Dependent care center" is any facility which:

(1) Provides care for more than six individuals (other than individuals who reside at the facility), and;

(2) Receives a fee, payment, or grant for providing services for any of such individuals (regardless of whether such facility is operated for profit).

(h) "Earned income" shall have the meaning given such term in Code Section 32(c)(2), but such term shall not include any amounts paid to a participant for dependent care services.

(i) "Educational institution" means any college or university maintaining a regular faculty and curriculum and having a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(j) "Enrollment period" means the 30 day period during which eligible employees may file a Dependent Care Assistance Form with the Administrators. The Administrators shall designate an enrollment period in advance of each plan year.

(k) "Employee" shall mean anyone who is an employee of the County according to the Internal Revenue Code. Volunteers and Independent contractors are not employees.

(l) "Participant" means anyone who is or has been an employee of the County during the plan year, and who has satisfied the eligibility and enrollment requirements of Section 3 of this Plan.

(m) "Plan" means the County Dependent Care Assistance Plan as set forth herein.

(n) "Plan year" shall mean the 12-month period commencing January 1, and ending December 31.

(o) "Qualifying individual" means:

(1) A dependent of the participant who is under the age of 15 and for whom the participant is entitled to a deduction for a personal exemption under Code Section 151(c); or

(2) A dependent of the participant who is physically or mentally incapable of self care;

(3) A participant's spouse who is physically or mentally incapable of self care.

(p) "Student" means an individual who during each of 5 calendar months during a plan year is a full-time student at an educational institution.

### 3. Eligibility and Enrollment.

(a) Only employees in the following categories are eligible to participate:

(1) Unclassified employees who are regularly scheduled to work at least 20 hours a week.

(2) Permanent classified employees.

(b) Otherwise eligible members of collective bargaining units may participate only if participation is authorized by their respective collective bargaining agreements with the County. When enabling language is not included in an agreement, a unit may authorize participation by executing a memorandum of exception.

(c) Eligible employees may enroll in the plan by completing and filing a Dependent Care Assistance form with the Administrator during the enrollment period.

(d) A participant's contributions to the plan shall terminate when he or she ceases to be an employee or when it is determined by the Administrators that the employee no longer meets the eligibility criteria of this Section. Contributions may thereafter be resumed upon satisfaction of the requirements of this Section.

#### 4. Benefits.

(a) Participants will be reimbursed for dependent care expenses incurred during the plan year with funds supplied through salary reduction agreements entered into by such participants and the County.

(1) The total amount of reimbursement to a participant for any plan year shall not exceed:

A. In the case of a participant who is not married at the close of such plan year, the earned income of such participant for such year; or

B. In the case of a participant who is married at the close of such plan year, the lesser of

1. The earned income of such participant for such plan year, or

2. The earned income of the spouse of such participant for such plan year. In determining the earned income of a spouse who is a student or incapable of self care, it shall be deemed for each month during which such spouse is a student at an educational institution or is incapable of self care that such spouse has an earned income not less than:

(i) \$200 if there is one qualifying individual with respect to the participant, or

(ii) \$400 if there are two or more qualifying individuals with respect to the participant.

C. If a participant's spouse also participates in the County's Plan or in a similar plan with another employer, the sum of the participant's and the spouse's reimbursements will not exceed \$5,000.

D. In any case, the total reimbursement will not exceed \$5,000 per participant per plan year.

(2) Disbursements from participants' accounts are subject to the following restrictions:

A. Funds cannot be disbursed for any other purpose than to reimburse participants for dependent care expenses.

B. Funds realized from salary reductions made during one plan year cannot be disbursed to cover expenses incurred during any other plan year.

C. Claims for reimbursement of expenses incurred during any plan year (January 1 to December 31) will be accepted from January 15 of the plan year to January 14 of the subsequent plan year. A statement of account will be sent to each participant by January 31 of the subsequent plan year.

D. Any funds realized from salary reductions made the previous plan year which remain in participants' accounts on January 15 will be transferred to the County's General Fund.

(3) Reimbursement will not be paid to a participant for dependent care services provided by an individual for whom the participant or the participant's spouse was allowed a deduction for dependents under Code Section 151(c) for the plan year during which the service is provided.

(4) Reimbursement will not be paid to a participant for dependent care services provided by a child of the participant (within the meaning of Code Section 151(c)(3)) under the age of 19 at the close of the plan year during which the service is provided.

(5) Services provided outside the participant's household.

A. A participant shall be reimbursed for the cost of dependent care services provided outside the participant's household (including services provided at a dependent care center) only if such services are provided for either a qualifying individual described in section 2 (o)(1); or any other qualifying individuals who regularly spend at least 8 hours each day in the participant's household.

B. Notwithstanding the previous sentence, a participant will not receive reimbursement for the cost of dependent care services provided by a dependent care center unless the dependent care center complies with all applicable laws and regulations of the state or unit of local government where such center is located, (e.g., requirements for licensing, if applicable, and building and fire code regulations).

(b) The County may elect to pay certain providers of dependent care services directly. Such payments shall be deemed to be reimbursement to the participant.

(c) Dependent care service expenses shall be paid for or reimbursed only if the care was provided to or on behalf of a participant during the period a participant is covered by this Plan.

(d) Dependent care service expenses will be treated as having been incurred when the dependent care service is provided and not when the participant is formally billed, charged for, or pays for the dependent care.

## 5. Funding.

(a) The dependent care assistance plan set forth herein will be funded through salary reduction agreements between the participant and the County. All administrative costs will be absorbed by the County and no fees to cover such costs will be deducted from participants' wages.

(b) An eligible employee may enter into a salary reduction agreement with the County to fund a dependent care reimbursement account. Monies in the account will be used to reimburse the participant for allowable dependent care expenses incurred during the plan year. (Allowable expenses are defined by the Internal Revenue Code.)

(1) The sum by which the participant's salary is reduced is subject to the following restrictions:

A. The sum must be designated by the participant during the enrollment period in advance of the plan year.

B. The sum cannot be changed during the plan year unless the participant has a change of family status. Any change must be consistent with the change in family status.

(c) It is understood that the amount a participant's salary is reduced under this Plan shall continue to be included as regular salary for the purpose of computing the retirement and pension benefits or life and disability insurance benefits accruing to the participant, but that amount shall not be considered current taxable income for the purpose of computing social security benefits or federal and state income taxes withheld on behalf of the participant.

(d) All amounts by which compensation is reduced under this Plan remain the property of the County until the amounts are disbursed to or on the behalf of participants in accordance with the terms of their salary reduction agreements with the County and with the terms of the County's Dependent Care Assistance Plan. All such property shall remain the unrestricted assets of the County and are subject to recovery by the County's general creditors only.

## 6. Administrators.

(a) This Plan shall be administered by the Administrators described in Section 2 (a). The Administrators shall have responsibility for the general operation of this Plan and shall have the power and duty to decide all questions arising in connection with its administration, interpretation and application. The Administrators shall take all actions and make all decisions that shall be necessary to carry out the provisions of the Plan, including but not limited to:

(1) Determining an employee's eligibility to participate;

(2) Promulgating rules of procedure and keeping records necessary for the proper and efficient administration of this Plan;

(3) Furnishing the Board of County Commissioners and the participants with information they may require;

(4) Engaging the service of such agents as the Administrators may deem advisable to assist in the performance of the Administrators' duties;

(5) Consulting with the County Counsel with respect to the meaning or construction of this Plan and the Administrators' duties thereunder; and

(6) Assuming responsibility for all applicable reporting and disclosure requirements, and engaging the service of agents to assist with reporting and disclosure requirements.

(b) On or before January 31 of each year, the Administrators shall furnish the participants who received reimbursement under this Plan during the preceding calendar year with a written statement showing the amount of reimbursement they received during the preceding calendar year.

(c) Reasonable notification of the availability and terms of this Plan shall be provided to all employees of the County by the Administrators.

#### 7. Claims Procedure.

(a) Any participant, beneficiary, or duly authorized representative of a participant may file a request for reimbursement with the Administrators. The request for reimbursement shall be in writing, in the form prescribed by the Administrators, and shall contain such information as the Administrators shall require, including:

(1) The dependent or dependents for whom the dependent care services were provided;

(2) The nature of the dependent care services performed for the participant, and the amount of reimbursement requested;

(3) The relationship, if any, of the person performing the services to the participant;

(4) If the dependent care services were performed by a child of the participant, the age of the child;

(5) A statement as to where the dependent care services were performed;

(6) If any of the dependent care services were performed outside the participant's household, a statement as to whether the dependent for whom such services were performed has spent at least 8 hours a day in the participant's household;

(7) If the services were performed in a dependent care center, a statement that;

A. The dependent care center complies with all applicable laws, regulations and ordinances of the state, county and city where it is located;

B. The dependent care center provides for more than six individuals (other than individuals residing at the center) and



C. The amount of the fee paid to the dependent care center;

(8) If the participant is married a statement that (a) the participant's spouse's salary or wages is at least equal to the amount of the salary reduction if the spouse is employed, or (b) if the participant's spouse is not employed, a statement that the spouse is not employed, a statement that the spouse is incapable of self care or that the spouse is a full-time student attending an educational institution and the months during which the spouse will attend such institution.

(b) All reimbursement requests, except those where the County has elected to make payment directly to the provider of the services, must be accompanied by the provider's bill and proof of payment by the participant.

(c) Requests for reimbursement shall normally be processed within the same month the claim is received provided that such claim is received by the 15th of the month. Where additional information is required to process the claim or where no reimbursement is payable, a written notice/explanation shall be sent to the claimant within 30 days of claim filing. The eligibility of all claims shall be determined by the Administrators within 60 days of the receipt by the Administrators of proper documentation. The decision of the Administrators regarding claim eligibility shall be final.

#### 8. Miscellaneous Provisions.

(a) The Board of County Commissioners may amend this Plan in any manner at any time provided, however, that no amendment shall reduce or eliminate benefits retroactively. The Board of County Commissioners may terminate this plan, in whole or in part, at any time.

(b) The Administrators may amend this Plan in any manner at any time provided they determine that the amendment would not do any of the following:

(1) Reduce or eliminate benefits retroactively.

(2) Bring the Plan out of compliance with the Internal Revenue Code.

(3) Expose the County to potential liability.

(c) The County and the Administrators shall have no liability for action taken in good faith under this Plan. The County shall indemnify and defend any County employee from any claim or liability that:

(1) Arises from any action or inaction in administration of this Plan absent willful misconduct or bad faith; and

(2) Is not covered by insurance.

(d) The County reserves the right to unilaterally adjust salary reductions and benefits accruing to highly compensated employees to bring the Plan into compliance with non-discrimination requirements set forth in the Code.

(e) Nothing contained in this Plan shall be deemed to give any participant the right to be retained in the service of the County or to interfere with the right of the County to discharge any participant at any time regardless of the effect which such discharge shall have upon such employee as a participant under this plan.

(f) Except as otherwise provided by law, the benefits provided hereunder shall not be subject to assignment, anticipation, alienation, attachment, levy or transfer and any attempt to do so shall not be recognized.

(g) This Plan shall be interpreted in accordance with the laws of the State of Oregon except to the extent that the laws of Oregon are preempted by any federal law.

(h) The Dependent Care Assistance Plan and Agreement is to comply with and be administered consistent with Sections 125 and 129, as amended, of the Internal Revenue Code.

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