

Publications

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New Year, New Dependent Care FSA Limits: Don't Forget to Amend Your Plan!

Key Takeaways

- **The One Big Beautiful Bill Act allows employers to raise the dependent care FSA exclusion limit starting Jan. 1, 2026.** This is the first time since 1986 and offers meaningful additional tax savings for employees.
- **Employers must amend plan documents to implement the higher limit.** Without a formal update, plans will not be able to offer the increased contribution cap in 2026.
- **Plan amendments must be executed by Dec. 31, 2025 to adopt the new limit.** Plan sponsors should complete written amendments and follow the appropriate governance process before year end.

The One Big Beautiful Bill Act (OBBA) allows employers to increase the maximum annual exclusion limit for dependent care flexible spending accounts (DCFSA) beginning Jan. 1, 2026 – the first such increase since 1986. While adopting this increased DCFSA exclusion limit is optional for plan sponsors, many employers are planning to take advantage of the higher cap. Those looking to make this change will need to take action before year end to ensure their plans are properly updated. Read on for key deadlines and documentation steps.

New Dependent Care Contribution Limits Available for 2026

The new law increases the maximum amount employees can contribute to dependent care benefits each year as follows:

- **From \$5,000 to \$7,500** for individuals filing singly or jointly.
- **From \$2,500 to \$3,750** for individuals married filing separately.

Employers that intend to adopt the increased exclusion limits for DCFSA starting in 2026 will need to document this change through an amendment. The steps for recording the action depend on the type of plan document:

- **Employers with a Section 125 plan** that contains Section 129 provisions should amend the plan to permit the increased DCFSA contribution limit.

Related People

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Related Capabilities

- Employee Benefits & Executive Compensation
- Employee Stock Ownership Plans
- Executive Orders
- Public Policy

- **If the DCFSA benefits are provided under a wrap plan** that describes the DCFSA contributions limits in an underlying document, the employer should update the underlying document.

In both cases:

- **The amendment must be documented in writing** and, for increases to the contribution limit effective on Jan. 1, 2026, the amendment should be executed no later than Dec. 31, 2025.
- **An individual with authority to modify the terms** of the employer's DCFSA should take official action via the applicable corporate governance process to amend the DCFSA maximum contribution limit.

Act Now to Document 2026 Plan Changes

As you prepare for a new plan year with new benefits offerings, it is important to make sure your anticipated plan changes are properly documented and adopted. If you have any questions about implementing the new maximum DCFSA exclusion limit or how to record this change to your plan, please feel free to reach out to Rachel Shim, David Isaacson, Alexandra Green or your regular Polsinelli attorney.