

## Tax Advantage Accounts

### LGBTQIA+ Frequently Asked Questions



#### **Q: How does Optum support the LGBTQIA+ community?**

A: Optum created a PRIDE365+, a website that provides resources to educate and support LGBTQIA+ community members and allies in creating open, safe and respectful working and living environments. PRIDE365+ includes a resource guide, an LGBTQIA+ terminology and pronoun guide, a transgender support guide, and a "How to be an Ally" guide, along with informational content from Optum partner Trans Lifeline, a grassroots nonprofit 501(c)(3) offering emotional and financial support to trans people in crisis. Visit <https://pride365plus.com/> to learn more.

In addition, OptumHealth Education, in partnership with OutCare Health, has launched an accredited, no-cost, and publicly available education program to teach health care professionals about the unique health care needs and disparities experienced by the LGBTQIA+ community. The series is designed to promote a more equitable, affirming and supportive health care environment for LGBTQIA+ people through increased provider education and understanding. The program is an on-demand, publicly available webcast on [OptumHealthEducation.com](http://OptumHealthEducation.com) at no cost.

#### **Health Savings Account (HSA), flexible spending account (FSA) and health reimbursement account (HRA) frequently asked questions**

#### **Q: Can I use an HSA or FSA for my same-sex spouse?**

A: Yes. Same sex marriages are recognized by the Federal government, and therefore the HSA and FSA rules that apply to married spouses filing taxes together apply to same-sex marriages.

Individuals in a same sex marriage share the family HSA contribution limit and can use HSA funds on each other if they are in the same tax family.

For FSA accounts, if you can claim your same-sex domestic partner/spouse as a tax dependent, then you may be reimbursed under your FSA account for his or her eligible expenses.

#### **Q: How did the Supreme Court's 2015 ruling that all states must allow same-sex marriages impact HSAs?**

A: The Supreme Court's 2015 ruling in Obergefell v. Hodges allowing for same-sex marriages in all 50 states impacted HSAs for same-sex couples that legally marry in a state that previously forbid marriage for same-sex couples. Prior to the ruling, only same-sex couples that were legally married and recognized by the state law as "spouse" could take advantage of the special rules available to "spouses" under HSA law. Domestic partners or same-sex civil unions were not granted the same status as "spouses" under HSA law. Now all states must allow for same-sex marriages and treatment as spouses under HSA law for married same-sex couples.

**Q: Is a domestic partnership or civil union the same as marriage?**

**A:** No. The IRS states that for federal tax purposes the term “spouse” does not include “registered domestic partnerships, civil unions, or other similar formal relationships recognized under state law that are not denominated as a marriage under that state’s law.” This is true for same-sex and opposite-sex relationships. “Spouse” is the key word for HSA laws but “marriage” is generally the state classification that results in couples becoming “spouses.”

**Q: Can I use an HSA or FSA for a domestic partner?**

**A:** For HSAs, unfortunately the answer is no. According to the IRS, you can only cover qualified medical expenses for certain people. These include you, your spouse, and dependents you claim on your tax return.

Although it's less common, there's one exception for domestic partners. If you've become your domestic partner's caretaker and they're a dependent on your tax return, you can offset the medical expenses with HSA money.

For FSAs, it depends. If you can claim your domestic partner as a tax dependent, then you may be reimbursed under your FSA account for his or her eligible expenses.

**Q: What if I spend HSA dollars on my domestic partner?**

**A:** Unfortunately, according to the IRS, this is a non-qualified distribution or expense. This means your HSA withdrawal may be taxed like normal income, plus you may be required to pay an extra 20% penalty.

**Q: What are the HSA and FSA limits for same-sex families?**

**A:** The IRS treats married couples as a single tax unit, which means if one or both of you are using a qualified high deductible health plan, you must share one family HSA contribution limit, which is currently \$7,300. If both of you have self-only coverage, each spouse may contribute up to the annual individual max, currently \$3,650, in their own account each year.

If a spouse is 55 or older and not enrolled in Medicare, that spouse's contribution limit is increased by the additional \$1,000 catch-up contribution.

For FSAs, if your tax filing status is Married: Filing separately, your annual limit is \$2,850 per each spouse, in 2022. Filing jointly, your 2022 annual limit is: \$5,700 per year per family if your 2021 earnings were less than \$130,000.

Note that you cannot both submit the same expenses for reimbursement.

**Q: What types of expenses are covered by my HSA, FSA or HRA?**

**A:** The IRS determines what a qualified medical expense is, and therefore what you can spend your dollars on. Any eligible expense is also eligible for a covered partner or spouse. From bandages to pain relievers to surgeries, the same items are covered.

We suggest you use the [Qualified Medical Expense tool](#) to determine eligibility of expenses.

## **Dependent care – flexible spending accounts (DCFSA) frequently asked questions**

The DCFSA benefit provides tax savings for the care of your children, a disabled spouse or legally dependent parent during your working hours. A DCFSA is treated the same as an FSA in the eyes of the IRS.

If you can claim your domestic partner or spouse, your child or children, or a legally dependent parent as a tax dependent, then you may be reimbursed under your DCFSA account for his or her eligible expenses.

### **Q: Can I use my DCFSA for my same-sex spouse's parent?**

**A:** If you claim your spouse AND your spouse's legally dependent parent as tax dependents, then yes. If your spouse files separately and claims their legally dependent parent as a tax dependent, then no. Your spouse may consider using their own DCFSA for their legally dependent parent.

### **Q: Can I use my DCFSA for my stepchild?**

**A:** If you can claim your stepchild as a tax dependent, then you may use your DCFSA for eligible expenses.

### **Q: What are the DCFSA limits for same-sex families?**

**A:** Same sex marriages are recognized by the Federal government, and therefore the DCFSA rules that apply to married spouses filing taxes together apply to same-sex marriages/families. The maximum amount you can put into your DCFSA for 2022 is \$5,000 for individuals or married couples filing jointly, or \$2,500 for a married person filing separately. That means, for a married couple, each parent can contribute \$2,500 to their own Dependent Care FSA for a total of \$5,000.