



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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PERSONNEL BULLETIN No. 03-6

SUBJECT: Child Care Subsidy Plan

40 U.S.C. 490b-1 permits Federal agencies to use appropriated funds from their "salaries and expenses" appropriations to assist their lower income employees with child care costs. Pursuant to this authority, the Department is establishing a Child Care Subsidy Plan. The attached Dependent Care Assistance Plan (DCAP or Plan) details the Child Care Subsidy Plan for the Department of the Interior (Attachment 1). This Plan meets the criteria of the Office of Personnel Management (OPM) regulations, 5 C.F.R. Part 792, and the Internal Revenue Code (Code) section 129 (26 U.S.C. 129).

The Plan will be implemented in participating bureaus at the bureau or office (collectively, bureaus) level. All bureau programs must follow the criteria outlined in this bulletin and Attachment 1. Implementation of the Plan requires the bureau or office head, or designee, to sign a copy of the attached Plan, after inserting the name of the bureau and indicating the percentage of subsidy in section 4.2(a). The funding for the child care subsidies will come from each bureau's appropriation for salaries and expenses.

Eligibility Basics

To be eligible for a child care subsidy, an employee must meet the following criteria, as outlined in more detail in the Plan:

be a permanent employee of the Department of the Interior;

have at least one child who is:

- a. age six or younger, or under age 18 and physically or mentally disabled as determined by a physician or by a licensed or certified psychologist; and
- b. a dependent of the employee as described under Code section 152(a); and
- c. a member of the employee's household;

have a Family Adjusted Gross Income of \$42,000 or less; and

use a child care provider that is licensed or regulated in the state or location in which the provider operates and who is not a child or dependent of the employee.

Child Care Subsidy Schedule

If the eligible employee's <i>Family Adjusted Gross Income</i> is	and the employee's child care expenses exceed this <i>percentage</i> of the <i>Family Adjusted Gross Income</i> .
37,001 - 42,000	20
32,001 - 37,000	17
27,001 - 32,000	14
22,001 - 27,000	12
22,000 and less	10

then, the bureau may pay up to 100% of the difference between the percentage of Family Adjusted Gross Income listed above and the actual cost of child care, but no more than \$5,000 to an employee in a Plan Year. Subsidies will be paid directly to the child care provider, not to the employee.

As described in more detail in the attached Plan, *Family Adjusted Gross Income* refers to the amount reported as Adjusted Gross Income on IRS Tax Form 1040 or 1040A. For individuals who are married, filing separately, it is the sum of both spouses' Adjusted Gross Income on IRS Tax Form 1040 or 1040A. A subsidy under the Plan will be reduced by the amount of other state or local child care subsidies received by the employee.

Example:

Employee has a Family Adjusted Gross Income (FAGI) of \$25,000 and actual child care expenses of \$5,000 per year. According to the subsidy schedule above, Employee is expected to pay a minimum of 12% of his/her FAGI in child care expenses, or \$3,000 ($\$25,000 \times 12\%$). The difference between the actual costs and what the employee is expected to pay is \$2,000. Employee is eligible for a subsidy of up to \$2,000, depending on the percentage the bureau decides it can pay.

Tax Consequences to Employees

The attached Plan meets the criteria of a Dependent Care Assistance Program under Code section 129. This allows all or part of a subsidy received by an employee to be excluded from income for income tax purposes. The amount of subsidy received and the amount excluded from taxable income will be recorded in the appropriate boxes on the employee's W-2 as outlined in Article 6 of Attachment 1. Attachment 1 documents compliance with the Code, and therefore each bureau must use Attachment 1 to implement the Plan.

Reporting Requirements

Bureaus are responsible for tracking the utilization of funds for this program and reporting, using OPM Form 1645, to the Office of Personnel Policy within 30 days after the end of each fiscal year.

Labor-Management Obligations

Bureaus are reminded to fulfill their labor management responsibilities before implementation of the Plan.

Effective Date

This Plan will be effective in each bureau upon signature by the Bureau Director of the bureau's Plan. Child care subsidies may not be paid prior to the date that a determination of eligibility is made after implementation of the bureau Plan.

Bureau headquarters staff should direct questions to John Combs, Office of Personnel Policy, on 202-208-7764. Field office staff should direct questions to their bureau headquarters.



Carolyn Cohen

Director, Office of Personnel Policy

U.S. Department of the Interior
[Name of Bureau]
Child Care Subsidy Plan

ARTICLE 1 - PURPOSE OF THE PLAN

The Department of the Interior establishes this Plan under 40 USC 490b-1 to subsidize a portion of the cost of childcare incurred by certain Department Employees.

- 2 The Department also intends that this Plan qualify as a plan providing dependent care assistance under Internal Revenue Code section 129.

ARTICLE 2 - DEFINITIONS

- 2.1 "Bureau" means a Department of the Interior Bureau or Office.
- 2.2 "Child" means a person who is:
- a. a dependent of the Employee as described under Code section 152(a); and
 - b. a member of the Employee's household; and
 - c. age six or younger, or under age 18 and physically or mentally incapable of caring for himself or herself as determined by a physician or by a licensed or certified psychologist.
- 2.3 "Code" means the Internal Revenue Code of 1986, as amended, codified in 26 U.S.C.
- 2.4 "Department" means the United States Department of the Interior.
- 2.5 "Dependent" means any individual who is a dependent of a Participant within the meaning of Code Section 152(a).
- 2.6 "Earned Income" means all income, as defined under Code Section 32(c)(2), including income from wages, salaries, tips and other employee compensation, and net earnings from self-employment, but does not include any amounts received: (i) as pre-tax subsidies under Code Section 129 on behalf of a Child under the Plan or any other dependent care assistance program; (ii) as a pension or annuity; or (iii) as unemployment or workers' compensation.
- "Educational Institution" means any college or university, the primary function of which is the presentation of formal instruction and that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.
- 2.8 "Effective Date" is the date this plan is signed by the Bureau Director.
- 2.9 "Eligible Child Care Expenses" means expenses incurred by a Participant for Qualifying Services to enable the Participant or the Participant's Spouse to be gainfully employed and which are paid to a Qualified Child Care Provider.
- 2.10 "Eligible Employee" means an individual employed on a permanent basis by the Department who has a family income of less than the amount set out in Appendix A.
- 2.11 "Employee" means an employee of the Department.
- 2.12 "Family Adjusted Gross Income" means the amount reported as Adjusted Gross Income on IRS Tax Form 1040 or 1040A. For individuals who are married, filing separately, it is the sum of both spouses Adjusted Gross Income on IRS Tax Form 1040 or 1040A.
- 2.13 "Letter of Notification" means the letter sent by the Plan Administrator after reviewing an Employee's application for Subsidy. This letter will include whether or not the Employee is eligible for the program, the amount of Subsidy, and the date the Subsidy will begin.
- "Maintaining a Household" means that a Participant or, if married, a Participant and Spouse together furnish over one half the cost of maintaining a household.
- "Participant" means any Employee who has satisfied the eligibility requirements of Section 3.1, who has made application and has received a Letter of Notification stating they have been accepted by the Plan Administrator for a Subsidy under this Plan.
- 2.16 "Plan" means this Child Care Subsidy Plan.
- 2.17 "Plan Administrator" means either the Bureau or an organization that administers the childcare plan for the Bureau, if the Bureau enters into a contract with that organization to administer the Plan.

- 2.18 "Plan Year" means the 12-month period commencing on January 1 and ending on December 31.
- 2.19 "Qualified Child Care Provider" means an individual or day care center, either of which must be licensed or regulated by the state or location in which they provide child care services. If an individual is the Qualified Child Care Provider, that individual cannot be a dependent of the Employee or the Employee's spouse or be the Employee's child under the age of 19. A day care center is included as a Qualified Child Care Provider if it is an institution, as described in Code Section 21 and regulations thereunder, that (i) complies with all applicable laws and regulations of the State and town, city or village in which it is located, (ii) is licensed to provide day care services in the state or location in which the day care center operates, (iii) provides care for more than six individuals (other than individuals who reside at the day care center) and (iv) receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether the facility is operated for a profit).
- 2.20 "Qualifying Services" means services performed:
- a. by a Qualified Child Care Provider;
 - b. for the care of a Child or Children of the Participant
 - c. to enable the Participant or the Participant's Spouse to be gainfully employed; and
 - d. for the primary purpose of assuring the Child's or Children's well being and protection
- Qualifying Services do not include services provided at a camp where the Child or Children stay overnight.
- 2.21 "Spouse" means the husband or wife of a Participant but does not include an individual legally separated from a Participant under a decree of legal separation.
- 2.22. "Student" means an individual who during each of five calendar months during a Plan Year is a full time student at an Educational Institution.
- 2.23 "Subsidy" means the amounts paid to Employees under the Plan to subsidize Eligible Child Care Expenses paid or incurred by the Participant.

ARTICLE 3 - ELIGIBILITY AND PARTICIPATION

3. An Employee is eligible for subsidies under this Plan immediately upon becoming employed by the Department on a permanent basis if the Employee has a Family Adjusted Gross Income of less than the amount set out in Appendix A.
- 3.2 An Eligible Employee will become a Participant in the Plan upon annual application for a Subsidy and approval by the Plan Administrator.
- 3.3 If a Participant ceases to be an Eligible Employee, he or she will no longer be eligible to receive a Subsidy under the Plan. If the Employee again becomes an Eligible Employee, he or she may again become a Participant in the Plan.

ARTICLE 4 - CHILD CARE SUBSIDY

- 4.1 Qualification for Subsidies:
An Employee will be qualified to receive a child care subsidy if:
- a. The Family Adjusted Gross Income does not exceed the amount in the first column of the chart in Appendix A.
 - b. The Employee pays more than the percentage of Family Adjusted Gross Income for child care expenses, indicated in the second column of the chart in Appendix A, for the corresponding income level.
 - c. The Child or Children meet the definition of Child in section 2.2.
 - d. The Child or Children are cared for by a Qualified Child Care Provider and the Employee pays a fee for the child care services the child receives by the Qualified Child Care Provider.
 - e. The childcare services enable the Participant or the Participant's Spouse to be gainfully employed.
 - f. The childcare services are for the primary purpose of assuring the Child's or Children's well-being and protection.
 - g. The Participant is otherwise qualified to receive a Subsidy (see Article 3).

- 4.2 Subsidy Schedule.
- a. The amount of subsidies the Bureau will pay are indicated in Appendix A. The amount of Family Adjusted Gross Income the Employee is expected to pay for child care expenses before the Employee is eligible for a subsidy is indicated in the second column of the chart in Appendix A. If the child care expenses exceed that percentage of Family Adjusted Gross Income, the Bureau will pay *[insert percentage]* of the difference.
 - b. The Department may adjust the amounts in the schedule in Appendix A from time to time based on the availability of funding and to maintain an equitable distribution of benefits for Plan Participants.
 - c. When the subsidy schedule is adjusted, the Department will issue a new Personnel Bulletin noting the effective date and provisions of the adjusted subsidy and the new Appendix A will become part of this Plan.
- 4.3. The date indicated in the letter of notification is the date the subsidy will begin.
- 4.4. Each Participant who desires to receive a Subsidy under the Plan for Eligible Child Care Expenses incurred by the Employee for Qualifying Services must submit to the Plan Administrator, on a form to be provided by the Department, a statement containing the following information:
- a. Name, home address and employment information for each of the child's parents;
 - b. Name, date of birth, child care enrollment information and weekly cost for each Child to be covered;
 - c. A copy of the Employee's (and Employee's Spouse, if married and filing separately) most recent Federal income tax return, IRS Tax Return Form 1040 or IRS Tax Return Form 1040A.
 - d. Amount and source of any other state, county or local childcare subsidies;
 - e. Completed and signed child care provider information form, along with proof of the Qualified Child Care Provider's licensure, the Federal tax identification number, and electronic fund transfer information; and
 - f. Such other information or documents as the Department may require to administer the Plan.
- 4.5. Upon review of the application by the Plan Administrator, a Letter of Notification will be sent to the Employee notifying the Employee of what Subsidy, if any, the Employee qualifies for and the date the Subsidy will begin.
- 4.6. A Participant will receive a Subsidy under this Plan only for Eligible Child Care Expenses incurred after the effective date listed on the Letter of Notification issued by the Plan Administrator.
- 4.7. Approval for and payment of a Subsidy will be subject to the availability of appropriated funds.
- 4.8. The Subsidy will be reduced by the amount of any state, county, or local childcare subsidies or tuition assistance.
- 4.9. If a Participant ceases to be an Eligible Employee:
- a. no Subsidy will be paid for Eligible Child Care Expenses incurred after the date the Participant ceases to be an Eligible Employee; and
 - b. unless the Participant was removed from employment for cause, requests for a Subsidy may be made after the date of termination for Eligible Child Care Expenses incurred prior to the date of termination.
- 4.10. If the Employee information that determines the amount of the Subsidy changes, the amount of the Subsidy will be adjusted accordingly.
- 4.11 The Participant is responsible for notifying the Plan Administrator immediately of any change to information submitted for the purpose of qualifying for a Subsidy under this Plan.

ARTICLE 5 - AUTHORIZATION AND PAYMENT OF SUBSIDIES

5. At the end of each calendar month, the Plan Administrator will send an invoice approval form to the Qualified Child Care Provider named by the Participant on his or her Subsidy application.
- 5.2. The Qualified Child Care Provider will certify on the invoice approval form that the Qualifying Services for that billing period were actually performed on behalf of the Participant's Child.
- 5.3. The Participant will certify on the invoice approval form that the Qualifying Services for that billing period were in fact received by the Participant's Child.
- 5.4. The Qualified Child Care Provider will then submit the completed invoice approval form to the Plan Administrator for review and payment.
- 5.5. The Plan Administrator will review the submitted invoice approval form and pay the Subsidy amount directly to the Qualified Child Care Provider.

ARTICLE 6 - INCOME TAX EFFECT OF PARTICIPATION IN THE PLAN

- 6.1. Subsidies are generally taxable as income to the Employee who receives the Subsidy.
- 6.2. Subsidies payable for Eligible Child Care Expenses that exceed the following maximum amounts for the calendar year will not be subject to exclusion from the Participant's gross income.
 - a. For a Participant who is not married at the close of the calendar year, the lesser of the Participant's Earned Income for the Plan Year (after all reductions in compensation), or \$5,000;
 - b. For a Participant who is married at the close of the calendar year, the least amount of the following:
 - i. the Participant's Earned Income for the calendar year;
 - ii. the Earned Income of the Participant's Spouse for the calendar year;
 - iii. \$5,000, if the Participant and his or her Spouse file a joint Federal income tax return; or
 - iv. \$2,500, if the Participant and his or her Spouse file separate Federal income tax returns.If the foregoing amounts are changed by an amendment to Code Section 129, the amounts set forth automatically shall be adjusted to reflect the new amounts.
- 6.3. For purposes of computing the amounts of Subsidy excludable from income, a Spouse of a Participant who is not employed but is looking for work during any month in which the Participant incurs Eligible Child Care Expenses, or which Spouse is either physically or mentally incapable of caring for himself or herself or is a Student, will be deemed to have Earned Income for such month of:
 - a. \$200, if there is one Child for whom the Participant incurs Eligible Child Care Expenses; or
 - b. \$400, if there is more than one Child for whom the Participant incurs Eligible Child Care Expenses.
- 6.4. If any part of 26 U.S.C. Section 129 is in conflict with this Article, the provisions of 26 U.S.C. Section 129 will govern in calculating the tax implications of the Subsidy.

ARTICLE 7 - FUNDING

7. The Bureau will provide the amounts required to pay Subsidies under this Plan out of appropriated funds for salaries and expenses. There will be no special fund out of which Subsidies are paid, nor will Participants be required to make a contribution as a condition of receiving Subsidies.
- 7.2. This program is not mandated by statute.

ARTICLE 8 - PLAN ADMINISTRATION

8. The Bureau will administer the Plan according to its terms and subject to applicable law, for the exclusive benefit of persons entitled to participate in the Plan, without discrimination among them. In addition to all other powers provided by this Plan, the Bureau has authority to:
 - a. Make and enforce rules and regulations as it deems necessary or proper to efficiently administer the Plan;
 - b. Interpret the Plan in good faith, and its interpretations will be final and conclusive on all persons claiming benefits under the Plan;
 - c. Decide all questions concerning the Plan and the eligibility of any person to participate in the Plan; and
 - d. Appoint agents, counsel, accountants, consultants and other persons as needed to help administer the Plan.
- 8.2. The Bureau may enter into a contract with an organization to administer the Plan, following Federal Acquisition Regulation procedures.
- 8.3. The Bureau will make available to each Eligible Employee such records under the Plan as pertain to the Eligible Employee, by request under the Privacy Act.
- 8.4. In administering the Plan, the Bureau will be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions and reports that are furnished by accountants, counsel or other experts employed or engaged by the Bureau.
- 8.5. Whenever, in the administration of the Plan, any discretionary action by the Bureau is required, the Bureau will exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.

- 8.6. The Plan Administrator will provide to each Participant receiving a Subsidy under the Plan during the Plan Year a statement of the amount of Subsidy received by the Participant during that Plan Year. This statement will be furnished to the Participant by the January 31st following the end of the Plan Year. The Plan Administrator will determine, based on the information provided on the Participant's application, the amount of the subsidy that is excludable from the Participant's gross income and include that amount on the statement. In addition, the Plan Administrator will provide information on the Participant's IRS Form W-2. The Plan Administrator will deduct the excludable amount from the Participant's gross income (as reported in the box for wages on the employee's IRS Form W-2, boxes 1, 3, and 5) and will report the total amount of dependent care Subsidies (IRS Form W-2 box 10). It is the Participant's responsibility to determine what to exclude on the Participant's tax returns based on the information provided on the W-2, the statement provided by the Plan Administrator, and by following the instructions on IRS Form 2441.

ARTICLE 9 - CLAIMS PROCEDURE

9. A Participant may make a claim for a Subsidy by completing the invoice approval form in conjunction with the Qualified Child Care Provider, as described in Article 5.
- 9.2. If a claim is wholly or partially denied, notice of the decision will be furnished to the Participant and to the Qualified Child Care Provider within a reasonable period of time, not to exceed 90 days after receipt of the claim by the Plan Administrator, unless special circumstances require an extension of time for processing the claim. If an extension of time is required to make a decision, the Plan Administrator will notify the Participant prior to the end of the initial 90-day period. The extension may not exceed 90 days from the end of the initial period. The notification will include:
- a. the specific reason(s) for the denial;
 - b. a description of any additional information necessary to make a decision; and
 - c. an explanation of the Plan's claims review procedure, as described in Section 9.3.
- 9.3. If a claim is denied, the Participant may request in writing that the Plan Administrator review the claim. Upon receipt of a request for review, the Plan Administrator will review the decision and respond to the Participant within 60 days of receipt of the written request. If the Plan Administrator affirms the original denial of the claim, the Participant may invoke the applicable grievance procedure, either:
- a. the negotiated grievance procedure outlined in the collective bargaining agreement between the Department and the union; or
 - b. the administrative grievance procedure contained in 370 DM 771.
- 9.4. If a dispute arises on any matter under this Plan, the Plan Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.

ARTICLE 10 - AMENDMENT AND TERMINATION OF PLAN

10. The Department may amend or terminate this Plan at any time. The benefits hereunder are not guaranteed and may be reduced by Plan amendment.
- 10.2. This Plan will remain in effect until the Department chooses to terminate the Plan.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

This Plan and the subsidies it offers do not provide any additional rights to Participants or Employees other than those expressly set forth herein.

- 11.2. This Plan will be construed, administered and enforced according to the laws of the United States of America.

Adopted as of the Effective Date by:

[Name of Bureau]

By: _____
Name:
Title:
Date:

THE DEPARTMENT OF THE INTERIOR CHILD CARE SUBSIDY PLAN

**APPENDIX A
CHILD CARE SUBSIDY SCHEDULE**

Effective as of the date stated below, the following Child Care Subsidy schedule will be in effect under Section 4.2 of the Plan:

If the Eligible Employee's Family Adjusted Gross Income is	and the Employee's Child Care Expenses Exceed This Percentage of the Family Adjusted Gross Income.
37,001 - 42,000	20
32,001 - 37,000	17
27,001 - 32,000	14
22,001 - 27,000	12
22,000 and under	10

then, the Bureau will pay from up to 100% of the difference between the percentage of Family Adjusted Gross Income listed above and the actual cost of child care. (See section 4.2(a) for specified percentage.) A Participant's Subsidy may not exceed \$5,000 in a Plan Year.

NOTE: A Participant's Subsidy under this Plan will be reduced by the amount of other state or local child care subsidies received by the Participant.