

Effective January 1, 2005, The Working Families Tax Relief Act (WFTRA) changed the definition of dependent in Section 152 of the Internal Revenue Code.

Previously, an individual was a dependent of the taxpayer if the taxpayer provided over one-half of the individual's support and the individual satisfied either a relationship or residence test.

The new law divides dependents into two categories, i.e. a qualifying child or a qualifying relative. There are four requirements for a qualifying child: relationship, residency, age and limited self-support. There are also requirements for a qualifying relative: relationship or residence, income and support.

The change impacts employee benefit plans including flexible spending account plans. Since there is now an income requirement, employees who submitted expenses for the care of an elderly parent under a dependent care assistance plan in 2004 may not be able to do so in 2005. Since there is now an age requirement, employees who participated in health plans that covered full-time students to age 25 in 2004, may have income imputed to them in 2005.

Employers should review dependent eligibility provisions of health and dependent care plans to make sure that the provisions cover dependents that are intended to be covered. If amendments are made, they should be communicated to employees so that they can change their elections.