Mailing Address:
P.O. Box 295
Trenton, NJ 08625-0295
Location:
50 West State Street
Trenton, New Jersey

MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lt. Governor

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
(609) 292-7524/TRS 711 (609) 292-6683
www.nj.gov/treasury/pensions

AARON BINDER
State Treasurer

SONIA RIVERA-PEREZ
Acting Director

July 28, 2026

TO: State Biweekly and State Monthly Certifying Officers

FROM: Angie Kosakowski, Assistant Director of Financial Budget, Compliance, and Planning
New Jersey Division of Pensions & Benefits (NJDPB)

SUBJECT: **Required 2026 Dependent Care FSA Contribution Cap for Highly Compensated Employees**

This Certifying Officer letter is to inform all participating institutions of an important update regarding Dependent Care Flexible Spending Account (FSA) contributions for Plan Year (PY) 2026.

Based on the preliminary Nondiscrimination Testing (NDT) conducted by the New Jersey Division of Pensions & Benefits' (NJDPB) consulting actuary, Aon, the State's Dependent Care FSA will not pass IRS-required nondiscrimination testing for PY 2026 unless contribution limits for Highly Compensated Employees (HCEs) are reduced.

The IRS requires that Dependent Care FSA plans do not disproportionately benefit HCEs. For 2026, an HCE is defined as an employee who earned more than $160,000 in the prior year. To maintain compliance and preserve tax advantages for HCEs, the Dependent Care FSA contribution limit for all HCEs will be capped at $3,600 for Plan Year 2026. This adjustment is permitted under IRS regulations to ensure the plan passes testing and protects participant tax benefits.

All employees received prior notice in the 2026 FSA Essential Guide, indicating that HCEs may be subject to reduced Dependent Care FSA limits. The FSA vendor will automatically apply the reduced contribution cap; no action is required from most employees.

IRS regulations require retrospective nondiscrimination testing, and the NJDPB will conduct the final PY 2026 analysis in early 2027. It is not yet known whether W-2 corrections can be fully avoided.

The NJDPB is working with Aon to finalize year end reports for PY2025, PY2024, and PY2023. Separate notice will be provided if the FSA plan fails, with instructions on reviewing W-2s for impacted employees.

Please ensure:

1. Your institution is aware of this mandated change for affected employees.
2. Employees with questions are referred to DPB's Accounting Services Section.

The NJDPB will continue coordinating with the FSA vendor and your teams to ensure smooth implementation and compliance.

Thank you for your attention and cooperation. If you have any questions about this change or need assistance reviewing your benefits, please contact the NJDPB's Accounting Services Section at (609) 913-4631.