

## XX.M. Table of Common Expenses, Showing Whether They Are for "Medical Care"

EBIA Cafeteria Plans

### M. Table of Common Expenses, Showing Whether They Are for "Medical Care"

**Administration Tip.** In order to demonstrate that plan administrators are being reasonable, uniform, and consistent in their interpretation of what's reimbursable and what's not, we recommend keeping a table of how different types of expenses are handled. ERISA plans are required to maintain reasonable procedures governing benefit claims that ensure consistency in the claims approval process. Such a table would serve as a starting point for administering similar expenses in the future. If future expenses are to be administered differently, a plan amendment should be considered. See Section XXII for further discussion.

The following table describes whether certain types of expenses qualify as medical care under Code §213(d) for purposes of reimbursement by a health FSA or HRA, or for a tax-free distribution from an HSA. The table consists of three columns. We list various expenses in Column 1. In Column 2, we comment on whether the item is likely to be a qualifying expense, not a qualifying expense, or a potentially qualifying expense. In Column 3, we provide additional comments and special rules based on specific regulations, revenue rulings, private letter rulings, informal comments by IRS officials, and other guidance. For items for which there is no official guidance, our comments are based on our interpretation of available guidance. For more details, see the Key to using the Table below.

#### **Cautions Regarding Use of the Table.**

*Additional Restrictions Apply.* Confirming that an expense is for medical care under the Table does not mean that the expense is reimbursable under any particular health FSA or HRA or qualifies for a tax-free distribution from an HSA—other legal requirements must also be met. Requirements applicable under a health FSA are summarized in a short checklist in subsection B and are described in detail in subsections C through K; see also subsection L for a discussion of expenses that are difficult to administer. HRAs and HSAs are discussed in detail in *Consumer-Driven Health Care* (Thomson Reuters/Tax & Accounting, 2004-present, updated quarterly). Note also that some items in the Table might not be reimbursable under a health FSA or HRA if the health FSA or HRA contains exclusions, restrictions, or other limitations or requirements.

*Caution Regarding Publication 502.* On occasion, the Table makes reference to IRS Publication 502, usually in circumstances where no other source was readily available. However, administrators should use Publication 502 only with caution, as it relates to deductibility under Code §213 and does not

necessarily reflect all of the rules applicable to health FSAs, HRAs, or HSAs, or any specific plan limitations. See subsection D.

*Consult Other Subsections.* The statements in Column 3 are only intended to briefly highlight general principles. For a full understanding of how to determine whether an expense is for medical care, read subsection D, which discusses generally applicable principles; also, if noted under the Table, consult subsection L.

*Guidelines Only.* Just because an item is listed as a qualifying expense does not mean that an administrator can ignore actual knowledge that the participant is using it for personal purposes. Nor does the fact that an item is generally known to be used primarily for personal, cosmetic, or general health purposes mean that an administrator cannot be persuaded by credible evidence that the item is in fact being used for medical care.

### **Key to Using the Table.**

Each item in the Table has been identified in column 2 as a "Qualifying expense," a "Potentially qualifying expense," or "Not a qualifying expense." These designations are the views of EBIA and are not in all cases based on official guidance—reasonable minds can differ on them. Each administrator will have to develop its own list of appropriate designations and decide how to use them in substantiating claims based on experience.

*Qualifying Expense.* These are expenses that are generally known to be incurred or obtained primarily for medical care. In other words, they are expenses that practically no one would incur or obtain unless they had a medical condition that prompted the expenditure. These "primarily medical" items or services are the types of expenses that normally qualify for reimbursement under a health FSA or HRA or for a tax-free distribution from an HSA if other health FSA, HRA, or HSA requirements are met.

*Potentially Qualifying Expense.* Often referred to as "dual-purpose" expenses, these expenses are generally known to be used for both a medical purpose and a personal, cosmetic, or general health purpose. These expenses qualify for reimbursement under a health FSA or HRA or a tax-free distribution from an HSA only if there is appropriate proof that the item or service was incurred or obtained primarily for medical care. In most cases, participants must show that the item or service is recommended by a medical practitioner to treat a specific medical condition.

*Not a Qualifying Expense.* These are expenses in one of the following categories:

- Items or services that are generally known to be incurred or obtained primarily for personal, cosmetic, or general health purposes and not primarily for medical care. These "primarily personal" expenses almost never qualify for reimbursement from a health FSA or HRA or for a tax-free distribution from an HSA. Expenses in this category theoretically could qualify in the extremely rare case where an individual can overcome a strong presumption of nonqualification and prove that, based on all the facts and circumstances and taking into account the prevailing IRS guidance, the item or service was incurred or obtained primarily to treat an existing medical condition diagnosed by a medical practitioner.

- Items or services for which reimbursement is not allowed under statutory or regulatory provisions governing health FSAs, HRAs, or HSAs, even if they might seem to be for medical care (for example, insurance premiums cannot be reimbursed by a health FSA).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>AA meetings, transportation to</b>	Potentially qualifying expense	See <b>Alcoholism treatment</b> .
<b>Abortion procedures and services</b>	Potentially qualifying expense, when procedure is legal	Expenditures for procedures and services that are illegal do not qualify. * Note that reimbursement of illegal expenses could raise potential criminal exposure under applicable state law (including aiding and abetting provisions under state law of participant/resident). Plan sponsors and TPAs should confer with counsel and implement steps to limit exposure. Steps to consider may include limiting jurisdictions where expenses may be reimbursed (e.g., based on the participant's residency) and requiring participants to certify that services are legal under applicable state law.
<b>Acne treatment</b>	Potentially qualifying expense	Because acne is considered a disease, the cost of acne treatment will generally qualify. † However, the cost of routine skin care (face wash or creams for general hygiene, etc.) does not qualify. And when the expense has both medical and cosmetic purposes (e.g., Retin-A, which can be used to treat both acne

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		and wrinkles), a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Drugs and medicines; Cosmetic procedures; Cosmetics; Retin-A; Toiletries;</b> and subsections L.1 and L.2.
<b>Activity tracker</b> (Examples: Fitbit, step counter)	Potentially qualifying expense	Will qualify only if recommended to treat a medical condition diagnosed by a physician (rather than to promote general health) and the expense would not have been incurred but for the condition. ‡ To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>Applications, electronic; Capital expenses;</b> and <b>Exercise equipment or programs.</b>
<b>Acupuncture</b>	Qualifying expense <b>a</b>	
<b>Adaptive equipment</b>	Potentially qualifying expense	Includes various items that assist individuals in performing activities of daily living (e.g., feeding, bathing, toileting, and mobility). To qualify, the item must be used to relieve or alleviate sickness or disability. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		condition (e.g., multiple sclerosis or arthritis) is normally required. Where applicable, only amounts above the cost of the regular version of the item will qualify. <b>b</b> Depending on the nature of the item, other special rules may apply. See <b>Capital expenses</b> and <b>Home improvements</b> .
<b>Air conditioner</b>	Potentially qualifying expense	The primary purpose must be to treat or alleviate a medical condition, and the expense must not have been incurred "but for" the condition. <b>c</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. If it is attached to a home (such as central air conditioning), only the amount spent that is more than the value added to the property will qualify. <b>d</b> See <b>Capital expenses</b> .

\* Rev. Rul. 73-201, 1973-1 C.B. 140.

† IRS Information Letter 2009-0209 (July 14, 2009).

‡ Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference and Donna Crisalli, IRS, Office of Chief Counsel, Aug. 7, 2015 ECFC Annual Symposium.

**a** Rev. Rul. 72-593, 1972-2 C.B. 180; IRS Publication 502 (Medical and Dental Expenses).

**b** Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 22, 2019 ECFC Annual Conference and Donna Crisalli, IRS, Office of Chief Counsel, Mar. 8, 2013 ECFC

Annual Conference.

**c** Treas. Reg. §1.213-1(e)(1)(iii).

**d** Treas. Reg. §1.213-1(e)(1)(iii).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Air purifier</b>	Potentially qualifying expense	To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition (such as a severe allergy) is normally required. * Several special rules apply. See <b>Air conditioner</b> and <b>Capital expenses</b> .
<b>Alcoholism treatment</b>	Qualifying expense	Amounts paid for inpatient treatment at a therapeutic center for alcohol addiction (including meals and lodging provided by the center during treatment) will qualify. Transportation expenses associated with attending meetings of an alcohol recovery support organization (e.g., Alcoholics Anonymous) in the community would also qualify if attending due to a physician's advice that membership is necessary to treat a disease involving the excessive use of alcohol. † Amounts paid for outpatient treatment at a therapeutic center for alcohol addiction will also qualify. See also <b>Drug addiction treatment; Health institute fees; Lodging at a hospital or similar institution; Meals at a hospital</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		or similar institution; and Schools and education, residential.
<b>Allergy medicine</b> (Examples: Alavert, Claritin)	Qualifying expense	
<b>Allergy treatment products other than medicine (e.g., household improvements to treat allergies)</b>	Potentially qualifying expense	Expenses generally won't qualify if the product would be owned even without allergies, such as a pillow or a vacuum cleaner. † However, an air purifier or water filter necessary to treat a specific medical condition might qualify. a The excess cost of a special version of an otherwise personal item (e.g., a vacuum cleaner with a HEPA filter) over the normal cost of the item might also qualify if the special version of the item is necessary to treat a specific medical condition. b To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Air purifier; Air conditioner; and Capital expenses.</b>
<b>Alternative healers</b>	Potentially qualifying expense	Nontraditional healing treatments provided by professionals may be eligible if provided to treat a specific medical condition. However, the IRS may look at these

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>expenses very closely. <b>c</b> The treatments must be legal. And the expenses may not qualify if the remedy is a food or a substitute for food that the person would normally consume in order to meet nutritional requirements. <b>d</b> It appears that drugs and medicines recommended by alternative healers to treat a specific medical condition also can qualify as medical care. See <b>Drugs and medicines; Christian Science practitioners; Special foods; and Vitamins.</b></p>
<b>Ambulance</b>	Qualifying expense <b>e</b>	
<b>Analgesics</b> (Examples: Advil, Aspirin, Tylenol)	Qualifying expense	
<b>Anesthesia</b>	Qualifying expense	May not be for cosmetic purposes (see <b>Cosmetic procedures</b> ).

\* Priv. Ltr. Rul. 8009080 (Dec. 6, 1979).

† Rev. Rul. 63-273, 1963-2 C.B. 112.

‡ Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1998 ECFC Annual Symposium; *see also* Rev. Rul. 76-80, 1976-1 C.B. 71.

**a** Priv. Ltr. Rul. 8009080 (Dec. 6, 1979).

**b** Rev. Rul. 76-80, 1976-1 C.B. 71.

**c** Treas. Reg. §1.213-1(e)(1)(ii); IRS Information Letters 2011-0045 (June 6, 2011) and 2000-0410 (Nov. 27, 2000). *See also* IRS Information Letter (July 30, 1999).



d Rev. Rul. 55-261, 1956-1 C.B. 307.

e Treas. Reg. §1.213-1(e)(1)(ii).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Antacids</b> (Examples: Maalox, Prilosec OTC, Zantac)	Qualifying expense *	
<b>Antibiotic ointments</b> (Examples: Neosporin, Polysporin)	Qualifying expense	
<b>Antihistamines</b> (Examples: Claritin, Zyrtec)	Qualifying expense	
<b>Anti-itch creams</b> (Examples: Benadryl, Cortaid)	Qualifying expense	
<b>Appearance improvements</b>	Not a qualifying expense	Procedures necessary to ameliorate a deformity arising from a congenital abnormality, personal injury from an accident or trauma, or disfiguring disease may qualify. See <b>Cosmetic procedures; Cosmetics; Toiletries;</b> and subsection L.1.
<b>Applications, electronic</b>	Potentially qualifying expense	Will qualify only if recommended to treat an illness diagnosed by a physician. The purpose of the expense must be to treat the disease rather than to promote general health or for nonmedical purposes such as scheduling appointments. † To show that the expense is primarily for medical care, a note from a medical practitioner recommending the

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		application to treat a specific medical condition is normally required. See also <b>Capital expenses; Exercise equipment or programs; Medical conference admission, transportation, meals, etc.;</b> and <b>Medical information plan charges.</b>
Arthritis gloves	Qualifying expense	
Artificial limbs	Qualifying expense ‡	
Artificial teeth	Qualifying expense a	
Aspirin	Qualifying expense	
Asthma medicines, treatments, and medicine delivery devices	Qualifying expense	
Automobile modifications, adaptive	Potentially qualifying expense	To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition (e.g., a physical disability) is normally required. b For example, the cost of window tint recommended by an optometrist for an individual with eye sensitivity to light would qualify. c But see <b>Capital expenses.</b> Expenses of operating a specially equipped car (other than for medical reasons-see <b>Transportation</b> ) do not qualify. d
Babysitting and child care	Not a qualifying expense e	Babysitting, child care, and nursing services for a healthy baby do not qualify as medical care. f But see <b>Dependent care expenses</b> and <b>Disabled</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		dependent care expenses.

\* IRS Information Letter 2009-0209 (July 14, 2009).

† Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference and Donna Crisalli, IRS, Office of Chief Counsel, Aug. 8, 2014 ECFC Annual Symposium and Mar. 7, 2014 ECFC Annual Conference.

‡ Treas. Reg. §1.213-1(e)(1)(ii).

a Treas. Reg. §1.213-1(e)(1)(ii).

b Rev. Rul. 66-80, 1966-1 C.B. 57; *see also Henderson v. Comm'r*, T.C.M. 2000-321 (2000).

c Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 2, 2013 ECFC Annual Symposium.

d IRS Publication 502 (Medical and Dental Expenses).

e Rev. Rul. 78-266, 1978-2 C.B. 123. See Section XXIV regarding expenses reimbursable under a dependent care assistance program (DCAP).

f IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Bactine</b>	Qualifying expense	
<b>Bandages, elastic</b> (Example: Ace)	Qualifying expense	
<b>Bandages, for torn or injured skin</b> (Examples: Band-Aid, Curad)	Qualifying expense *	
<b>Batteries</b>	Potentially qualifying expense	Will only qualify if used to operate a device that is itself a qualified expense (e.g., a <b>Hearing aid</b> ). See also <b>Breast pumps</b> ;

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>Durable medical equipment; Scooter, electric; and Wheelchair.</b>
<b>Behavioral modification programs</b>	Potentially qualifying expense	See <b>Schools and education, residential</b> and <b>Schools and education, special</b> .
<b>Birth-control pills</b>	Qualifying expense, when legally dispensed and administered †	See <b>Contraceptives; Drugs and medicines; "Morning-after" contraceptive pills</b> ; and subsection L.2. Note that reimbursement of illegal expenses could raise potential criminal exposure under applicable state law (including aiding and abetting provisions under state law of participant/resident). Plan sponsors and TPAs should confer with counsel and implement steps to limit exposure. Steps to consider may include limiting jurisdictions where expenses may be reimbursed (e.g., based on the participant's residency) and requiring participants to certify that services are legal under applicable state law.
<b>Birth classes</b>	Potentially qualifying expense	See <b>Lamaze classes</b> .
<b>Blood-pressure monitoring devices</b>	Qualifying expense	They are diagnostic items. ‡ See <b>Diagnostic items/services</b> and <b>Screening tests</b> .
<b>Blood storage</b>	Potentially qualifying expense	Fees for temporary storage may qualify under some circumstances, such as where the blood is collected as part of the diagnosis, treatment, or prevention of an existing or

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		imminent medical condition (e.g., in advance of a scheduled surgery for use in a possible transfusion). Fees for potential medical contingencies, such as indefinite storage just in case the blood might be needed, would not be considered medical care. <b>a</b> "Temporary" is not defined; however, one consideration might be whether the blood is stored and used within the same year. <b>b</b> See also <b>Stem cell, harvesting and/or storage of</b> and <b>Umbilical cord, freezing and storage of</b> .
<b>Blood-sugar test kits and test strips</b>	Qualifying expense	They are diagnostic items. <b>c</b> See <b>Diagnostic items/services</b> and <b>Screening tests</b> .
<b>Body scans</b>	Qualifying expense	Body scans employing MRIs and similar technologies are diagnostic services. <b>d</b> See <b>Diagnostic items/services; Preventive care screenings; and Screening tests</b> .

\* Rev. Rul. 2003-58, 2003-22 I.R.B. 959.

† Rev. Rul. 73-200, 1973-1 C.B. 140. FAQs About Affordable Care Act Implementation Part 54, Q/A-6 (July 28, 2022) (as visited Aug. 30, 2022) (confirming that HSAs, HRAs, and health FSAs may reimburse the cost of OTC contraception to the extent the cost is not paid or reimbursed by another plan or coverage).

‡ Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services").

**a** See, e.g., IRS Information Letter 2010-0017 (Nov. 2, 2009) and Priv. Ltr. Rul. 200140017 (June 25, 2001).

**b** Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

**c** Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services") and Rev. Rul. 2003-58, 2003-22 I.R.B. 959.

**d** See Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services"); see *also* Rev. Rul. 2007-72, 2007-50 I.R.B. 1154 (full-body electronic scan that served no nonmedical purpose was diagnostic and therefore was for medical care even though it was obtained without a doctor's recommendation).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Books, health-related</b>	Potentially qualifying expense	Will qualify only if recommended to treat an illness (such as asthma or diabetes) diagnosed by a physician. * The purpose of the expense must be to treat the disease rather than to promote general health. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Botox</b>	Potentially eligible expense	May qualify if recommended to treat a specific medical condition (e.g., migraines); will not qualify if used for cosmetic purposes. See <b>Cosmetic procedures</b> and subsection L.1.
<b>Braille books and magazines</b>	Qualifying expense	Only amounts above the cost of regular printed material will qualify. †
<b>Breast milk shipping and delivery</b>	Not a qualifying expense	Because food (including ordinary infant formula) that satisfies normal nutritional requirements generally will not qualify, the cost

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		of shipping breast milk (or ordinary infant formula) likewise will not qualify. See also <b>Infant formula</b> and <b>Special foods</b> .
<b>Breast pumps</b>	Qualifying expense	Breast pumps and other supplies that assist lactation will qualify. ‡ However, expenses for extra bottles for food storage will not qualify, <b>a</b> nor will items and devices that do not help with lactation but merely make it more convenient (e.g., special bras). <b>b</b>
<b>Breast reconstruction surgery following mastectomy</b>	Qualifying expense	Will qualify to the extent that surgery was done following a mastectomy for cancer; includes breast prosthesis. <b>c</b> This is an exception to the general rules regarding cosmetic procedures. See <b>Cosmetic procedures</b> .
<b>Breastfeeding classes</b>	Qualifying expense	See also <b>Breast pumps; Classes, health-related;</b> and <b>Lactation consultant</b> .
<b>Breathalyzer</b>	Qualifying expense	Should qualify because it is a diagnostic device (i.e., a device that measures a condition of the body). <b>d</b> See <b>Diagnostic items/services</b> .
<b>Calamine lotion</b>	Qualifying expense	
<b>Calcium supplements</b>	Potentially qualifying expense	See <b>Dietary supplements; Mineral supplements;</b> and subsection L.3.
<b>Cancer screenings</b>	Qualifying expense	See <b>Diagnostic items/services; Preventive care screenings;</b> and <b>Screening tests</b> .
<b>Canes</b>	Qualifying expense	Will qualify if used to relieve sickness or disability.

\* See, e.g., *Halby v. Comm'r*, T.C.M. 2009-204 (2009) (sex-therapy books and magazines did not qualify as medical care expenses where they were not for treatment of a medical condition).

† Rev. Rul. 75-318, 1975-2 C.B. 88.

‡ IRS Announcement 2011-14, 2011-9 I.R.B. 532.

a IRS Publication 502 (Medical and Dental Expenses).

b Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Mar. 8, 2013 ECFC Annual Conference.

c Rev. Rul. 2003-57, 2003-22 I.R.B. 959; IRS Publication 502 (Medical and Dental Expenses).

d Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Capital expenses</b>	Potentially qualifying expense	Improvements or special equipment added to a home (for example, an <b>Elevator</b> or <b>Inclinor</b> ) or other capital expenditures (such as <b>Automobile modifications</b> for a person with a physical disability) may qualify if the primary purpose of the expenditure is medical care and the expense would not be incurred "but for" this purpose. * To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. How much of the expense would qualify depends on the extent to which the expense permanently improves the property. See also



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>Durable medical equipment; Home improvements;</b> and subsection L.9.
<b>Car modifications</b>	Potentially qualifying expense	See <b>Automobile modifications.</b>
<b>Car seats</b>	Not a qualifying expense	Car seats for infants and children generally won't qualify. However, if a special car seat is needed because of an infant's or child's medical condition, amounts above the cost of a regular car seat might qualify. See <b>Adaptive equipment</b> and <b>Automobile modifications.</b>
<b>Carpal tunnel wrist supports</b>	Qualifying expense	
<b>Cayenne pepper</b>	Potentially qualifying expense	May qualify if used to treat or alleviate a specific medical condition and would not have been purchased but for the condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. † See <b>Alternative healers; Special foods; Vitamins;</b> and subsections L.2, L.3, L.4, and L.7.
<b>Chelation therapy</b>	Qualifying expense	Will qualify if used to treat a medical condition such as lead poisoning.
<b>Child or newborn care classes</b>	Not a qualifying expense	See <b>Lamaze classes.</b>
<b>Childbirth classes</b>	Potentially qualifying expense	See <b>Lamaze classes.</b>
<b>Chinese herbal practitioners</b>	Potentially qualifying expense	See <b>Alternative healers.</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Chiropractors</b>	Qualifying expense †	
<b>Cholesterol test kits</b>	Qualifying expense	They are diagnostic items. <b>a</b> See <b>Diagnostic items/services</b> and <b>Screening tests</b> .
<b>Chondroitin</b>	Potentially qualifying expense	Will qualify if used primarily for medical care (for example, to treat arthritis). Won't qualify if used just to maintain general health. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Christian Science practitioners</b>	Potentially qualifying expense	Fees paid to Christian Science practitioners for medical care will qualify. <b>b</b> Fees for other purposes generally do not qualify. See <b>Alternative healers</b> and subsection L.7.
<b>Circumcision</b>	Qualifying expense	

\* Treas. Reg. §1.213-1(e)(1)(iii). See also *Zipkin v. U.S.*, 86 AFTR 2d 2000-7052 (D. Minn. 2000) (\$646,000 deduction approved for custom-building a house to accommodate medical condition).

† IRS Information Letters 2001-0297 (Dec. 31, 2001) and 2010-0080 (Mar. 31, 2010).

‡ Rev. Rul. 63-91, 1963-1 C.B. 54.

**a** Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services").

**b** IRS Information Letter 2000-0410 (Nov. 27, 2000); Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Classes, health-related</b>	Potentially qualifying expense	Will qualify only if recommended to treat an illness (such as asthma or diabetes) diagnosed by a physician. The purpose of the expense must be to treat the disease rather than to promote general health. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the class to treat a specific medical condition is normally required. See also <b>Exercise equipment or programs; Lamaze classes; and Medical conference admission, transportation, meals, etc.</b>
<b>Club dues and fees</b>	Potentially qualifying expense	See <b>Health club fees.</b>
<b>COBRA premiums</b>	Depends on whether plan is a health FSA, HRA, or HSA; see next column for details	<i>Health FSA:</i> COBRA premiums are not qualifying expenses. * <i>HRA:</i> COBRA premiums are qualifying expenses. † <i>HSA:</i> COBRA premiums are qualifying expenses. ‡ See also <b>Insurance premiums.</b>
<b>Coinsurance amounts</b>	Qualifying expense	Will qualify if the underlying service/item qualifies.
<b>Cold medicine</b> (Examples: Sudafed, Vicks)	Qualifying expense <b>a</b>	
<b>Cold/hot packs</b>	Potentially qualifying expense	Only cold/hot packs sold as medical supplies will qualify;

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		those sold for other purposes (e.g., to keep beverages cold or hot) won't qualify. Hot water bottles and heating pads generally won't qualify.
<b>Cold sore medicine</b> (Examples: Abreva, Releev)	Qualifying expense	
<b>Cologne</b>	Not a qualifying expense	See <b>Toiletries</b> and <b>Cosmetics</b> .
<b>Colonoscopies</b>	Qualifying expense	
<b>Compression hose</b>	Potentially qualifying expense	Won't qualify if used for personal or preventive reasons. If regular hose with a compression feature are used to treat or alleviate a specific medical condition, only the excess cost of the specialized hose over the cost of regular hose will qualify. <b>b</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. However, compression hose with no personal purpose (i.e., hose that would never be used except to provide medical care) should qualify. <b>c</b>
<b>Concierge fees</b>	Potentially qualifying expense	Monthly retainer or similar access fees (e.g., a fee that is payable whether or not the patient visits the office, perhaps accompanied by a reduction or elimination of the fees for actual office visits)

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>generally will not qualify. Other variations that generally will not qualify include fees for preferential "extras" (e.g., priority when scheduling appointments, 24-hour access to the doctor, less time in the waiting area before appointments, a special waiting room, etc.) and monthly fees that are payable in addition to any copays, deductibles, or other charges for office visits. Depending on how the program is structured, some services might be reimbursable—for example, a fee might include payments that relate solely to a specific rendered service (such as a copay). In such cases, part or all of the fee might qualify as an eligible medical care expense. See subsection H; see also <b>Prepayments</b>.</p>

\* Prop. Treas. Reg. §1.125-5(k)(4).

† IRS Notice 2002-45, 2002-28 I.R.B. 93, Part II.

‡ Code §223(d)(2)(C) and IRS Notice 2004-2, 2004-2 I.R.B. 269, Q/A-27.

a IRS Information Letter 2009-0209 (July 14, 2009).

b IRS Information Letter 2009-0209 (July 14, 2009).

c Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 7, 2015 ECFC Annual Symposium.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Condoms</b>	Qualifying expense	Generally a qualifying expense. * See also <b>Contraceptives</b> .
<b>Constipation medicine</b>	Qualifying expense	See <b>Laxatives</b> .
<b>Contact lenses, cases, materials, and equipment</b>	Qualifying expense	Materials and equipment needed for using lenses (such as saline solution and enzyme cleaner) will qualify if the lenses are needed for medical purposes, as will distilled water used to store and clean the lenses. † However, contact lenses for solely cosmetic purposes (for example, to change one's eye color) do not qualify. See <b>Cosmetics</b> and subsection L.1.
<b>Contraceptives</b>	Qualifying expense, when legally dispensed and administered ‡	See <b>Birth-control pills; Condoms; "Morning-after" contraceptive pills; and Spermicides</b> . See also <b>Sterilization procedures</b> . Note that reimbursement of illegal expenses could raise potential criminal exposure under applicable state law (including aiding and abetting provisions under state law of participant/resident). Plan sponsors and TPAs should confer with counsel and implement steps to limit exposure. Steps to consider may include limiting jurisdictions where expenses may be reimbursed (e.g., based on the participant's residency) and requiring participants to certify

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		that services are legal under applicable state law.
<b>Controlled substances in violation of federal law</b>	Not a qualifying expense	If the substance violates federal law (e.g., the Controlled Substances Act), the expense would not qualify even if a state law allows its use with a physician's prescription (for example, marijuana or laetrile prescribed to treat a specific medical condition). <b>a</b> See <b>Drugs and medicines; Illegal operations and treatments;</b> and subsection D.
<b>Copayments</b>	Qualifying expense	Will qualify if the underlying service/item qualifies.
<b>Cord blood storage</b>	Potentially qualifying expense	See <b>Umbilical cord blood storage.</b>
<b>Corn and callus remover</b>	Qualifying expense	
<b>Cosmetic procedures</b>	Not a qualifying expense	Most cosmetic procedures do not qualify. This includes cosmetic surgery or other procedures that are directed at improving the patient's appearance and don't meaningfully promote the proper function of the body or prevent or treat illness or disease. Examples include face lifts, hair transplants, hair removal (electrolysis), teeth whitening, and liposuction. There is an exception, however, for procedures necessary to ameliorate a deformity arising from a congenital abnormality, personal injury from an accident or trauma, or disfiguring disease-these may qualify. <b>b</b> See

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>Breast reconstruction surgery following mastectomy.</b> See also <b>Drugs and medicines, Gender affirmation surgery,</b> and subsections L.1 and L.2.

\* FAQs About Affordable Care Act Implementation Part 54, Q/A-6 (July 28, 2022) (confirming that HSAs, HRAs, and health FSAs may reimburse the cost of OTC contraception to the extent the cost is not paid or reimbursed by another plan or coverage) (as visited Aug. 30, 2022). See also Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference. In subsequent informal comments, another IRS representative expressed some skepticism. Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference and Aug. 5, 2022 ECFC Annual Symposium.

† IRS Publication 502 (Medical and Dental Expenses); Priv. Ltr. Rul. 7308270520A (Aug. 27, 1973).

‡ FAQs About Affordable Care Act Implementation Part 54, Q/A-6 (July 28, 2022) (confirming that HSAs, HRAs, and health FSAs may reimburse the cost of OTC contraception to the extent the cost is not paid or reimbursed by another plan or coverage) (as visited Aug. 30, 2022).

a Treas. Reg. §1.213-1(e)(1)(ii) and Rev. Rul. 97-9, 1997-9 I.R.B. 4; see also IRS Publication 502 (Medical and Dental Expenses).

b Code §213(d)(9); see also Rev. Rul. 2003-57, 2003-22 I.R.B. 959.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Cosmetics</b>	Not a qualifying expense	Cosmetics are articles used primarily for personal purposes, and are intended to be rubbed on, poured on, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance. * Examples include skin moisturizers, perfumes,



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		lipsticks, fingernail polish, eye and facial makeup, shampoos, permanent waves, hair colors, toothpastes, and deodorants. See also <b>Cosmetic procedures; Toiletries;</b> and subsection L.2.
<b>Cough suppressants</b> (Examples: Pediacare, Robitussin, cough drops)	Qualifying expense	See also <b>Throat lozenges.</b>
<b>Counseling</b>	Potentially qualifying expense	Will qualify if the purpose is to treat a diagnosed medical condition and not just for the general improvement of mental health or relief of stress. Marriage or career counseling, life coaching, and parenting skill counseling generally won't qualify. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the counseling to treat a specific medical condition is normally required. See also <b>Psychiatric care</b> and <b>Psychologist.</b>
<b>COVID-19 tests</b>	Qualifying expense †	Includes self-administered and over-the-counter (OTC) tests. See <b>Diagnostic items/services.</b>
<b>COVID-19 vaccines</b>	Qualifying expense	See <b>Immunizations.</b>
<b>COVID-19-related personal protective equipment (PPE)</b>	Qualifying expense	Will qualify if for the primary purpose of preventing the spread of COVID-19. ‡ See also <b>Hand sanitizer or hand-sanitizing wipes</b> and <b>Masks or face shields, reusable or disposable.</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>CPAP (continuous positive airway pressure) devices</b>	Qualifying expense	
<b>CPR classes</b>	Not a qualifying expense	
<b>Crowns, dental</b>	Potentially qualifying expense	Will not qualify if they are obtained for a cosmetic reason. See <b>Cosmetic procedures</b> .
<b>Crutches</b>	Qualifying expense	Will qualify whether purchased or rented. <b>a</b>
<b>Dancing lessons</b>	Potentially qualifying expense	Generally the cost of dancing lessons, swimming lessons, etc., does not qualify, even if recommended by a medical practitioner, if the lessons are to improve general health. <b>b</b> But the expenditure might qualify if recommended by a medical professional to treat a specific medical condition (such as part of a rehabilitation program after surgery) and the expense would not have been incurred "but for" the condition. To show that the lessons are primarily for medical care, a note from a medical practitioner recommending them to treat a specific medical condition is normally required.
<b>Decongestants</b> (Examples: Dimetapp, Sudafed)	Qualifying expense	

\* Treas. Reg. §1.213-1(e)(2).

† Rev. Rul. 2007-72, 2007-50 I.R.B. 1154; IRS News Release IR-2021-181 (Sept. 10, 2021) (as visited May 16, 2022).

‡ IRS Announcement 2021-7, 2021-15 I.R.B. 1061; see subsection D.

a Treas. Reg. §1.213-1(e)(1)(iii).

b IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Deductibles</b>	Potentially qualifying expense	Will qualify if the underlying item or service qualifies.
<b>Dental aligners</b>	Qualifying expense	See <b>Orthodontia</b> .
<b>Dental bridge</b>	Qualifying expense	
<b>Dental floss</b>	Not a qualifying expense	
<b>Dental implants</b>	Qualifying expense	See <b>Dental services and procedures</b> .
<b>Dental sealants</b>	Qualifying expense	See <b>Dental services and procedures</b> .
<b>Dental services and procedures</b>	Qualifying expense	Includes expenses incurred for the prevention and alleviation of dental disease. Preventive treatment includes the services of a dental hygienist or dentist for such procedures as teeth cleaning, application of sealants, and fluoride treatments to prevent tooth decay, but not <b>Teeth whitening</b> . Treatment to alleviate dental disease includes X-rays, fillings, braces, extractions, dentures, and treatment of other dental ailments. * When an orthodontic treatment plan is paid up-front at the time of the first visit, some health FSAs will apportion the reimbursements as services are provided during the treatment plan. See subsection G.3 discussing how to reconcile

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		reimbursement requests involving a prepayment component with the claims incurred requirement, particularly for orthodontia. See also <b>Prepayments</b> .
<b>Dentures, denture adhesives, and denture cleaners</b>	Qualifying expense †	
<b>Deodorant</b>	Not a qualifying expense ‡	See <b>Cosmetics and Toiletries</b> .
<b>Dependent care expenses</b>	Not a qualifying expense	Such expenses won't qualify, even if you are paying for dependent care (for example, hiring a babysitter) so that you can receive medical care. <b>a</b> But see <b>Disabled dependent care expenses</b> . See also <b>Babysitting and child care</b> .
<b>Dermatologist</b>	Potentially qualifying expense	Will not qualify if for cosmetic purposes. See <b>Cosmetic procedures</b> and subsection L.1.
<b>Diabetic socks</b>	Potentially qualifying expense	Won't qualify if used for personal or preventive reasons. If used to treat or alleviate a specific medical condition, only the excess cost of the specialized socks over the cost of regular socks will qualify. <b>b</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.

\* Treas. Reg. §1.213-1(e)(1)(ii); IRS Publication 502 (Medical and Dental Expenses).

† Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, Nov. 5, 2003 ECFC Teleconference; IRS Publication 502 (Medical and Dental Expenses).

‡ Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of Chief Counsel, Oct. 22, 2003 ECFC Teleconference.

a Rev. Rul. 78-266, 1978-2 C.B. 123.

b IRS Information Letter 2009-0209 (July 14, 2009).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Diabetic supplies</b>	Qualifying expense	See <b>Blood-sugar test kits and test strips; Glucose-monitoring equipment; and Insulin.</b>
<b>Diagnostic items/services</b>	Qualifying expense	Includes a wide variety of procedures to determine the presence of a disease or dysfunction of the body, such as tests to detect heart attack, stroke, diabetes, osteoporosis, thyroid conditions, cancer, and COVID-19. * Devices that measure a condition of the body (e.g., blood sugar or blood alcohol) should also qualify as diagnostic items. † See also <b>Body scans; Blood-pressure monitoring devices; Blood-sugar test kits and test strips; Medical monitoring and testing devices;</b> and other entries throughout.
<b>Diaper rash ointments and creams</b> (Examples: Balmex, Desitin)	Qualifying expense	
<b>Diapers or diaper service</b>	Potentially qualifying expense	Regular disposable or cloth diapers or diaper services for newborns do not qualify. But

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>diapers or diaper services that are used to relieve the effects of a diagnosed medical condition do qualify. ‡ To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>Incontinence supplies</b> and subsection D.6.</p>
<p><b>Diarrhea medicine</b> (Examples: Imodium, Kaopectate)</p>	<p>Qualifying expense</p>	
<p><b>Diet foods</b></p>	<p>Not a qualifying expense</p>	<p>Foods to treat a specific disease (such as obesity) do not qualify to the extent that they satisfy ordinary nutritional requirements. <b>a</b> Thus, food associated with a weight-loss program (such as special pre-packaged meals) would not qualify, since it just meets normal nutritional needs. See <b>Weight-loss programs and/or drugs prescribed to induce weight loss</b>. But see <b>Special foods</b>.</p>
<p><b>Dietary supplements</b></p>	<p>Potentially qualifying expense</p>	<p>The cost of dietary supplements, nutritional supplements, vitamins, herbal supplements, and natural medicines does not qualify if they are merely beneficial for general health (e.g., one-a-day vitamins or immune support supplements). <b>b</b> But some items may qualify if recommended by a medical practitioner for a specific medical</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		condition (for example, a prescribed dosage to treat a vitamin deficiency). To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition (e.g., 1,000 mg of Vitamin B-12 daily to treat a specific vitamin deficiency) is normally required. See <b>Special foods; Mineral supplements; Vitamins;</b> and subsection L.3.
Direct primary care arrangements, payments for	Not a qualifying expense	Under proposed IRS regulations, payments for direct primary care arrangements typically would be treated as payments for insurance. <b>c</b> As such, they would not qualify for reimbursement under a health FSA. However, payments that provide solely for an annual physical exam or an anticipated course of specified treatments of an identified condition might qualify. See subsection H.

\* Treas. Reg. §1.213-1(e)(1)(ii). See also Rev. Ruls. 2003-58, 2003-22 I.R.B. 959 and 2007-72, 2007-50 I.R.B. 1154 (explaining that amounts paid for certain diagnostic procedures and devices are medical care expenses under Code §213(d), even when incurred by an individual without symptoms of illness; ruling addresses annual physical exams, full-body electronic scans, and pregnancy test kits), and IRS News Release IR-2021-181 (Sept. 10, 2021) (as visited May 17, 2022).

† Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference.

‡ Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54; Priv. Ltr. Rul.

8137085 (June 17, 1981); IRS Publication 502 (Medical and Dental Expenses).

**a** IRS Information Letter 2007-0037 (Aug. 9, 2007); Treasury Tax Correspondence, 2006 TNT 144-20 (July 19, 2006).

**b** Rev. Rul. 2002-19, 2002-16 I.R.B. 778; IRS Information Letter 2007-0037 (Aug. 9, 2007).

**c** Certain Medical Care Arrangements, 26 CFR Part 1, 85 Fed. Reg. 35398 (June 10, 2020).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Disabled dependent care expenses</b>	Potentially qualifying expense	Such expenses will qualify if the expenses are for medical care of a dependent who is disabled. Note that some disabled dependent care expenses that qualify as medical expenses may also qualify as work-related expenses for purposes of the dependent care tax credit under Code §21 or for reimbursement under a DCAP under Code §129. If used to claim a dependent care tax credit or reimbursed under a DCAP, the same expenses may not be reimbursed under a health FSA, HRA, or HSA (there is no "double-dipping" allowed). Likewise, medical expenses reimbursed under a health FSA cannot be used to claim a dependent care tax credit or reimbursed under a DCAP. *
<b>DNA collection and storage</b>	Potentially qualifying expense	Such expenses generally won't qualify because they are for protection against only a potential future disease. But temporary storage may qualify under some circumstances, such as where the DNA is collected as part of the



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>diagnosis, treatment, or prevention of an existing or imminent medical condition. † "Temporary" is not defined; however, one consideration might be whether it is stored and used within the same plan year. ‡ See also <b>Umbilical cord blood storage</b>.</p>
<b>Doula</b>	Potentially qualifying expense	<p>Will only qualify to the extent that the doula provides medical care for the mother or child; services such as emotional support, parenting information, child care, and housekeeping will not qualify. <b>a</b> See also <b>Household help; Lamaze classes; Midwife; and Nursing services</b>.</p>
<b>Drug addiction treatment</b>	Qualifying expense	<p>Amounts paid for an inpatient's treatment at a therapeutic center for drug addiction (including meals and lodging provided by the center during treatment) will qualify. <b>b</b> Amounts paid for outpatient treatment at a therapeutic center for drug addiction will also qualify, as will transportation expenses associated with attending meetings of appropriate drug addiction treatment groups within the community if attending due to a physician's advice that membership is necessary to treat a disease involving the excessive use of drugs. See also <b>Alcoholism treatment</b>.</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Drug overdose, treatment of (Example: Naxolone)	Qualifying expense	
Drug-testing kits for home use	Potentially qualifying expense	Should qualify as a diagnostic device (i.e., a device that measures a condition of the body). See <b>Diagnostic items/services</b> . At one time, however, an IRS official informally indicated that kits that test for the presence of controlled substances may not qualify as they do not treat a medical condition, although if a kit is used in the course of treating a medical condition (such as addiction) it could qualify. <b>c</b>
Drugs and medicines	Potentially qualifying expense	Must be primarily for medical care (and not for personal, general health, or cosmetic purposes), legally procured, and generally accepted as medicines and drugs. <b>d</b> See subsections L.1 and L.2. See also entries throughout the Table for both prescription and over-the-counter (OTC) drugs.
Durable medical equipment	Qualifying expense	Will qualify if used to relieve sickness or disability. Examples include <b>Crutches</b> and <b>Hearing aids</b> . See <b>Capital expenses</b> .

\* IRS Publication 502 (Medical and Dental Expenses). See Section XXIII regarding the dependent care credit compared with the DCAP tax exclusion.

† See, e.g., IRS Information Letter 2010-0017 (Nov. 2, 2009).

‡ Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

a Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Mar. 8, 2013 ECFC Annual Conference and Aug. 12, 2011 ECFC Annual Symposium.

b IRS Publication 502 (Medical and Dental Expenses).

c Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Mar. 8, 2013 ECFC Annual Conference.

d Code §213(d). See also Treas. Reg. §1.213-1(e)(2).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Dyslexia treatment	Potentially qualifying expense	See <b>Language training</b> .
Ear drops and wax removal products (Examples: Debrox, Murine)	Qualifying expense	
Ear piercing	Not a qualifying expense	See <b>Cosmetic procedures</b> and subsection L.1.
Ear plugs	Potentially qualifying expense	Will qualify if recommended by a medical practitioner for a specific medical condition (for example, to protect surgically implanted ear tubes). To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
Eczema treatments	Qualifying expense *	
Egg donor fees	Potentially qualifying expense	Amounts paid for the egg donor fee, an agency fee, an egg donor's medical and psychological testing, and the legal fees for preparation of the egg donor contract will qualify, if

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>preparatory to a procedure performed on the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement (but not if performed on other persons). † See also <b>Fertility treatments; Sperm, storage fees; Surrogate or gestational carrier expenses;</b> and subsection L.13.</p>
<p><b>Eggs and embryos, storage fees</b></p>	<p>Potentially qualifying expense</p>	<p>Fees for temporary storage qualify, but only to the extent necessary for immediate conception. Storage fees for undefined future conception probably aren't considered medical care. "Temporary" is not defined; however, one consideration might be whether it is stored and used within the same year. ‡ See also <b>Fertility treatments; Sperm, storage fees; Surrogate or gestational carrier expenses;</b> and subsection L.13.</p>
<p><b>Electrolysis or hair removal</b></p>	<p>Not a qualifying expense</p>	<p>See <b>Cosmetic procedures.</b></p>
<p><b>Elevator</b></p>	<p>Potentially qualifying expense</p>	<p>Installing an elevator upon the advice of a physician so that a person with heart disease won't have to climb stairs may be medical care to the extent of the amount in excess of value enhancement to the property. a To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		specific medical condition is normally required. See <b>Capital expenses</b> and subsection L.9.

\* IRS Information Letter 2009-0209 (July 14, 2009).

† Priv. Ltr. Rul. 200318017 (Jan. 9, 2003); IRS Information Letter 2005-0102 (Mar. 29, 2005); *Magdalin v. Comm'r*, T.C. Memo. 2008-293 (2008), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009). See also *Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017) and *Longino v. Comm'r*, T.C. Memo 2013-80 (2013), *aff'd* 114 AFTR 2d 2014-6910 (11th Cir. 2014).

‡ Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

a Treas. Reg. §1.213-1(e)(1)(iii).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Exercise equipment or programs</b>	Potentially qualifying expense	Qualifies only if required to treat an illness (such as obesity) diagnosed by a physician. * See subsection L.6. The purpose of the expense must be to treat the disease rather than to promote general health, and the expense must not have been incurred "but for" this purpose. † To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item or program to treat a specific medical condition is normally required. See <b>Capital expenses; Classes, health-related; Health club fees; Prepayments;</b> and

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>Weight-loss programs and/or drugs prescribed to induce weight loss.</b>
<b>Expectorants</b> (Examples: Mucinex, Triaminic)	Qualifying expense	
<b>Eye drops</b> (Example: Opcon-A, Visine)	Qualifying expense	
<b>Eye examinations, eyeglasses, equipment, and materials</b>	Qualifying expense ‡	Materials and equipment needed for using the eyeglasses (such as eyeglass cleaners) also should be medical care. <b>a</b> See also <b>Contact lenses</b> and <b>Sunglasses</b> .
<b>Eyeglass repair kits</b>	Qualifying expense	
<b>Face creams</b>	Not a qualifying expense	See <b>Cosmetics; Toiletries;</b> and <b>Cosmetic procedures</b> .
<b>Face lifts</b>	Not a qualifying expense	See <b>Cosmetic procedures</b> and subsection L.1.
<b>Fertility monitors</b>	Qualifying expense	Includes fertility tracking apps. <b>b</b> See <b>Diagnostic items/services</b> .
<b>Fertility treatments</b>	Potentially qualifying expense	Will qualify to the extent that procedures are performed on the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement. <b>c</b> Examples are IVF (in vitro fertilization-including temporary storage of eggs or sperm), surgery (including an operation to reverse prior surgery preventing someone from having children), shots, treatments, and GIFT (gamete intrafallopian transfer). Expenses paid to or for an in vitro surrogate usually do not qualify, nor do egg donor

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		expenses unless preparatory to a procedure performed on the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement. <b>d</b> See <b>Egg donor fees; Eggs and embryos, storage fees; Legal fees in connection with fertility treatments; Pre-payments; Sperm, storage fees; Surrogate or gestational carrier expenses;</b> and subsection L.13.

\* *Disney v. Comm'r*, 19 AFTR 2d 1390 (C.D. Cal. 1967), *aff'd on other issues*, 413 F.2d 783 (9th Cir. 1969).

† IRS Information Letters 2010-0175 (June 25, 2010) and 2003-0202 (Sept. 30, 2003).

‡ IRS Publication 502 (Medical and Dental Expenses).

**a** Treas. Reg. §1.213-1(e)(1)(iii) provides that normally, if a capital expenditure (such as eyeglasses) qualifies as a medical expense, expenditures for the operation or maintenance of a capital asset will also qualify, so long as the medical reason for the capital expenditure still exists.

**b** Informal, nonbinding remarks of Amy Wei, IRS, Office of Chief Counsel, Mar. 19, 2021 ECFC Annual Conference.

**c** IRS Publication 502 (Medical and Dental Expenses); *Magdalin v. Comm'r*, T.C.M. 2008-293 (2008), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009). *See also Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017) and *Longino v. Comm'r*, T.C. Memo 2013-80 (2013), *aff'd* 114 AFTR 2d 2014-6910 (11th Cir. 2014).

**d** See IRS Information Letter 2002-0291 (Aug. 12, 2002); *Magdalin v. Comm'r*, T.C.M. 2008-293 (2008), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009). *See also Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017) and *Longino v. Comm'r*, T.C. Memo 2013-80 (2013), *aff'd* 114 AFTR 2d 2014-6910 (11th Cir. 2014).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Fever-reducing medications</b> (Examples: Aspirin, Motrin, Tylenol)	Qualifying expense	
<b>Fiber supplements</b> (Examples: Citrucel, Metamucil)	Potentially qualifying expense	Won't qualify if used for general health purposes or other personal reasons. May qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred "but for" the condition. * To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Dietary supplements; Prenatal vitamins; and Special foods.</b>
<b>Finance charges</b>	Not a qualifying expense	See <b>Late Fees.</b>
<b>First aid cream</b>	Qualifying expense	See <b>Antibiotic ointments.</b>
<b>First aid kits</b>	Qualifying expense	Must be for use by the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement. Note that large first aid kits or "doomsday prepper" kits raise concerns about stockpiling.
<b>Fitness programs</b>	Potentially qualifying expense	See <b>Exercise equipment or programs.</b>
<b>Flu shots</b>	Qualifying expense	Immunizations to prevent disease will qualify, even though no medical condition has been diagnosed. † See <b>Immunizations.</b>
<b>Fluoridation services</b>	Qualifying expense	Will qualify if recommended by a



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		dentist to prevent tooth decay. The amount that qualifies is limited to the cost allocable to the current year.
<b>Fluoride rinses</b>	Potentially qualifying expense	Won't qualify if used to maintain general health or for other personal reasons (e.g., as a toiletry). May qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred "but for" the condition. † To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Food thickeners</b>	Potentially qualifying expense	Whether food thickeners are a medical care expense is a question of fact that must be determined on a case-by-case basis. a To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.

\* IRS Information Letter 2009-0209 (July 14, 2009).

† See Priv. Ltr. Rul. 6201295410A (Jan. 29, 1962).

‡ IRS Information Letter 2009-0209 (July 14, 2009).

a IRS Information Letter 2009-0209 (July 14, 2009).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Foods</b>	Potentially qualifying expense	See <b>Special foods; Meals;</b> and <b>Alternative healers.</b>
<b>Foreign countries, medical care received in</b>	Potentially qualifying expense	In general, expenses incurred in other countries must meet the same requirements that would apply if the expenses were incurred in the U.S. (e.g., the expenses must be primarily for medical care, may not be for a cosmetic procedure, must be legal under applicable state and federal law, etc.). Note that the treatments must be legal in the U.S. and the other country, and that special rules apply to medicines and drugs obtained outside the U.S. See <b>Cosmetic procedures; Illegal operations and treatments; Prescription drugs and medicines obtained from other countries;</b> and subsection L.8.
<b>Founder's fee</b>	Not a qualifying expense	Founder's fees are amounts you pay under an agreement with a retirement home or assisted living facility. Even if a portion is allocable to medical care, these expenses usually do not qualify. * See subsection L.10.
<b>Funeral expenses</b>	Not a qualifying expense †	
<b>Future services, payments for</b>	Not a qualifying expense	Payments for items or services that have not yet been incurred or obtained generally will not qualify. See <b>Prepayments.</b>
<b>Gambling problem, treatment for</b>	Potentially qualifying expense	Pathological gambling has been classified as an impulse control

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		disorder by the American Psychiatric Association and thus should qualify as a mental illness. If so, its treatment would be a qualifying expense. See <b>Alcoholism treatment; Psychiatric care; and Psychologist.</b>
<b>Gauze pads</b>	Qualifying expense	See <b>Bandages</b> and <b>Drugs and medicines.</b>
<b>Gender affirmation surgery and treatment</b>	Qualifying expense	Will qualify if legal in jurisdiction where provided. See subsection L.1.
<b>Genetic testing and counseling</b>	Potentially qualifying expense	Will qualify to the extent that testing is done to diagnose a disease or medical condition, even if performed without a physician's recommendation on someone not experiencing symptoms of illness. However, the portion of any ancestry-related testing or services unrelated to a medical condition will not qualify, nor will reports providing general information. Where the expense includes some services or items that are considered medical care and others that are not (e.g., both medical and non-medical ancestry services), only the portion allocable to medical care will qualify for reimbursement. ‡ See also <b>Diagnostic items/services.</b>
<b>Glucosamine</b>	Potentially qualifying expense	See <b>Chondroitin.</b>
<b>Glucose-monitoring equipment</b>	Qualifying expense	Items such as blood-glucose

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		meters and glucose test strips are diagnostic items and are primarily for medical care. <b>a</b> See also <b>Blood-sugar test kits and test strips.</b>

\* See, e.g., *Baker v. Comm'r*, 122 T.C. 143 (2004).

† IRS Publication 502 (Medical and Dental Expenses).

‡ Priv. Ltr. Rul. 201933005 (May 16, 2019). See also Rev. Rul. 2007-72, 2007-50 I.R.B. 1154.

**a** Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services"); see also Rev. Rul. 2003-58, 2003-22 I.R.B. 959.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Guide dog</b>	Qualifying expense	Expenses of buying, training, and maintaining a guide dog to assist a person with visual, hearing, or other physical disabilities would qualify. This includes any costs incurred in maintaining the animal's health and vitality so that it may perform its duties, such as for food, grooming, and veterinary care. * See also <b>Service animal, to assist individual with mental health disabilities</b> and <b>Veterinary fees.</b>
<b>Hair colorants</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries.</b>
<b>Hair removal and transplants</b>	Not a qualifying expense	Such expenses generally won't qualify when for cosmetic purposes. † See <b>Cosmetic procedures; Drugs and</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>medicines</b> ; and subsections L.1 and L.2.
<b>Hand lotion</b>	Not a qualifying expense	Such expenses generally won't qualify. See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Hand sanitizer or hand-sanitizing wipes</b> (Examples: Germ-X, Purell)	Potentially qualifying expense	Hand sanitizers and hand-sanitizing wipes will qualify if for the primary purpose of preventing the spread of COVID-19. ‡ May also qualify if used to treat or alleviate a specific medical condition and if the expense would not have been incurred "but for" the condition, a or where there is an imminent probability of contracting a specific illness (e.g., from a household member who has a contagious disease), in which case a note from a medical practitioner recommending the item to treat a specific medical condition (or if applicable, to prevent a specific and imminent illness) is normally required. Won't qualify if for external surfaces or used for general health purposes or other personal reasons (e.g., as a toiletry). See <b>Wipes, for cleaning and disinfecting external (i.e., non-bodily) surfaces</b> .
<b>Headache medications</b> (Examples: Advil, Aspirin, Tylenol)	Qualifying expense	
<b>Health care sharing ministries, payments for</b>	Not a qualifying expense	Under proposed IRS regulations, payments for health care sharing

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		ministries would be treated as payments for insurance. <b>b</b> As such, they would not qualify for reimbursement under a health FSA. See subsection H.
<b>Health club fees</b>	Potentially qualifying expense	Only in very limited circumstances would fees paid to a health club qualify. One instance might be where fees are incurred upon the advice of a medical practitioner to treat a specific medical condition (e.g., rehabilitation after back surgery or treatment for obesity). The expense must not have been incurred "but for" the disease (for example, if you belonged to the health club before being diagnosed, then the fees would not qualify). When treatment is no longer needed, the fees would no longer qualify. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Prepayments and Weight-loss programs and/or drugs prescribed to induce weight loss.</b>

\* Treas. Reg. §1.213-1(e)(1)(iii); Rev. Rul. 55-261, 1955-1 C.B. 307; Rev. Rul. Rev. Rul. 57-461, 1957-2 C.B. 116 ("food, inoculations, and other expenses" of maintaining guide dog were deductible as medical expenses); Rev. Rul. 68-295, 1968-1 C.B. 92; and IRS Publication 502 (Medical and Dental Expenses). See also Priv. Ltr. Rul. 6806110470A (June 11, 1968) and Priv. Ltr. Rul. 8033038 (May 20, 1980).

† IRS Publication 502 (Medical and Dental Expenses).

‡ IRS Announcement 2021-7, 2021-15 I.R.B. 1061; see subsection D.

a IRS Information Letter 2009-0209 (July 14, 2009).

b Certain Medical Care Arrangements, 26 CFR Part 1, 85 Fed. Reg. 35398 (June 10, 2020).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Health institute fees</b>	Potentially qualifying expense	Qualifies only if the treatment at the health institute is prescribed by a physician who issues a written statement that the treatment is necessary to alleviate a physical or mental disability or illness of the individual receiving the treatment. *
<b>Hearing aids</b>	Qualifying expense	Includes the costs of the hearing aid and its batteries, as well as repair and maintenance expenses. †
<b>Hemorrhoid creams or ointments, medicated</b> (Example: Preparation H)	Qualifying expense	
<b>Hemp or cannabidiol (CBD) products</b>	Potentially qualifying expense	Won't qualify if the item is illegal under federal or state law. ‡ Federal and state law in this area is in flux; a until the law is settled some sponsors and administrators may choose to design their plans to exclude hemp or CBD products. Dual-purpose items will only qualify if used to treat or alleviate a specific medical condition, and if the expense would not have

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		been incurred but for the condition. <b>b</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Herbs</b>	Potentially qualifying expense	May qualify if used to treat or alleviate a specific medical condition and would not have been purchased but for the condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. <b>c</b> See <b>Alternative healers; Special foods; Vitamins;</b> and subsections L.2, L.3, L.4, and L.7.
<b>HMO premiums</b>	Depends on whether plan is a health FSA, HRA, or HSA	See <b>Insurance premiums.</b>
<b>Holistic or natural healers, dietary substitutes, and drugs and medicines</b>	Potentially qualifying expense <b>d</b>	See <b>Alternative healers</b> and subsection L.7.
<b>Home health care</b>	Potentially qualifying expense	See <b>Nursing services.</b>

\* Rev. Rul. 55-261, 1955-1 C.B. 307.

† IRS Publication 502 (Medical and Dental Expenses). See *also* IRS Information Letter 2011-0055 (May 16, 2011).

‡ Regarding the status of such item under federal law, see FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD) (as visited May 17, 2022). See *also* CBD Is Wildly Popular. Disputes Over Its Legality Are a Growing Source of Tension (as visited May 17, 2022).



- a FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD) (as visited May 17, 2022).
- b IRS Information Letter 2009-0209 (July 14, 2009).
- c IRS Information Letters 2010-0080 (Mar. 31, 2010) and 2001-0297 (Dec. 31, 2001).
- d See IRS Information Letter (July 30, 1999).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<p><b>Home improvements (such as exit ramps, widening doorways, etc.)</b></p>	<p>Potentially qualifying expense</p>	<p>May qualify if undertaken to accommodate a disability. If the improvement is permanent and increases the value of the property, the expense will qualify only to the extent that the improvement cost exceeds the increase in property value. If the improvement doesn't increase the property value at all, then the entire cost may qualify. Items that usually don't increase property value include constructing entrance or exit ramps, widening or modifying doorways or hallways, installing railings or support bars to bathrooms, lowering or modifying kitchen cabinets or equipment, moving or modifying electrical outlets and fixtures, installing porch lifts, modifying fire alarms or smoke detectors, modifying other warning systems, and modifying stairways. * To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		condition is normally required. See <b>Capital expenses; Elevator; and Air conditioner.</b>
<b>Hormone replacement therapy (HRT)</b>	Potentially qualifying expense	Will qualify if used primarily for medical care (for example, to treat menopausal symptoms such as hot flashes, night sweats, etc.). Won't qualify if primarily for maintaining general health. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the therapy to treat a specific medical condition is normally required. See <b>Drugs and medicines</b> and subsections L.2, L.3, L.4, and L.7.
<b>Hospital services</b>	Qualifying expense	Expenses of inpatient care (including meals for the patient and lodging) at a hospital or similar institution qualify if a principal reason for being there is to get medical care. † See also <b>Nursing services; Meals at a hospital or similar institution; and Lodging at a hospital or similar institution.</b>
<b>Household help</b>	Not a qualifying expense	Won't qualify, even if a medical practitioner recommends such help, unless the expenses qualify as nursing services. ‡ See <b>Nursing services.</b> In some cases, household services may qualify for reimbursement under a DCAP if attributable in part to care of a qualifying individual (i.e., certain children under age 13 and

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		certain individuals who are physically or mentally incapable of self-care). <b>a</b>
<b>Humidifier</b>	Potentially qualifying expense	To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition (such as a severe allergy) is normally required. Several special rules apply. See <b>Air conditioner; Air purifier; and Capital expenses.</b>
<b>Hydrotherapy</b>	Potentially qualifying expense	May qualify if the primary purpose is medical care and the expense would not be incurred "but for" this purpose. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required.
<b>Hypnosis</b>	Potentially qualifying expense	Will qualify if performed by a professional to treat a medical condition, or for other medical purposes (e.g., smoking cessation); won't qualify if for general stress relief, personal enjoyment, or other personal purposes. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See also <b>Psychoanalysis and Therapy.</b>

\* IRS Publication 502 (Medical and Dental Expenses).

† Treas. Reg. §§1.213-1(e)(1)(ii) and 1.213-1(e)(1)(v).

‡ IRS Publication 502 (Medical and Dental Expenses).

a See Section XXIV regarding expenses reimbursable under a DCAP.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Illegal operations, substances, and treatments</b>	Not a qualifying expense	Won't qualify, even if they are rendered or prescribed by licensed medical practitioners. * See <b>Controlled substances in violation of federal law</b> and subsection D.
<b>Immunizations</b>	Qualifying expense	Adult and child immunizations to prevent disease (such as tetanus or well-baby shots) will qualify, even if no medical condition has been diagnosed. †
<b>Inclinitor</b>	Potentially qualifying expense	May qualify to the extent of the amount in excess of value enhancement to the property, if the primary purpose is medical care and the expense would not be incurred "but for" this purpose. ‡ To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Capital expenses</b> and <b>Elevator</b> . See also subsection L.9.
<b>Incontinence supplies</b>	Qualifying expense	Adult diapers used to relieve incontinence generally will qualify as medical care expenses. a But see <b>Diapers</b> . Skin-cleansing

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		products may also qualify if the primary purpose is medical care and the expense would not be incurred "but for" this purpose. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Infant formula</b>	Potentially qualifying expense	Ordinary infant formula (or supplemental vitamins to be used in conjunction with breastfeeding) won't qualify. <b>b</b> However, the excess cost of a special formula to treat an infant's medical condition may qualify. <b>c</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>Special foods; Vitamins;</b> and subsection L.4.
<b>Infertility treatments</b>	Potentially qualifying expense	See <b>Egg donor fees; Eggs and embryos, storage fees; Fertility treatments; Prepayments; Sperm, storage fees; Surrogate or gestational carrier expenses;</b> and subsection L.13.
<b>Insect-bite creams and ointments</b> (Examples: Benadryl, Cortaid)	Qualifying expense	
<b>Insect repellent</b> (Examples: Cutter,	Potentially qualifying expense	There is no official guidance, but insect bites affect the body and

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
OFF!)		are listed in the International Classification of Disease (ICD-10) code set. As a result, some plans may take the approach that insect repellent should qualify because its purpose is to prevent insect bites, which are themselves an injury or disease, and because insects can carry viruses (e.g., Lyme disease, West Nile, or Zika). Some plans may take a more cautious approach by reimbursing insect repellent only when there is an imminent probability of contracting a specific illness from an insect bite (e.g., in a locality with a high incidence of insect-borne viruses).

\* Treas. Reg. §1.213-1(e)(1)(ii). See also *Halby v. Comm'r*, T.C.M. 2009-204 (2009) (illegal prostitution expenses were not for medical care).

† See Priv. Ltr. Rul. 6201295410A (Jan. 29, 1962).

‡ Treas. Reg. §1.213-1(e)(1)(iii).

a IRS Information Letter 2009-0209 (July 14, 2009).

b Priv. Ltr. Rul. 200941003 (July 1, 2009) and IRS Information Letter 2008-0039 (Sept. 2, 2008) (explaining that infant formula for the healthy baby of a woman who could not breastfeed due to a double mastectomy satisfied the baby's normal nutritional needs and thus was properly viewed as food that the baby would normally consume, not as a medical expense).

c Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 12, 2011 ECFC Annual Symposium.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Insulin	Qualifying expense	Equipment needed to inject the insulin, such as syringes or insulin pumps, also qualifies as a medical expense. See also <b>Glucose-monitoring equipment and Drugs and medicines.</b>
Insurance premiums	Depends on whether plan is a health FSA, HRA, or HSA; see next column for details	<p><i>Health FSA:</i> Insurance premiums are not qualifying expenses. *</p> <p><i>HRA:</i> The following premiums are qualifying expenses: premiums for traditional health insurance (including dental or vision coverage and COBRA) and qualified long-term care insurance. Note that reimbursing premiums for individual policies raises concerns under COBRA, ERISA, and other laws, and that reimbursing premiums for individual health insurance policies that provide major medical coverage (i.e., coverage that is subject to health care reform's mandates) will generally violate health care reform's annual limit and preventive care mandates (a limited exception applies for individual coverage HRAs (ICHRAs) beginning in 2020). Also, qualified long-term care premium reimbursements are subject to an indexed annual limit. The following insurance premiums are not qualifying expenses: premiums for employer-sponsored group health</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>coverage that could be paid on a pre-tax basis under the employer's cafeteria plan, LTD insurance, fixed indemnity cancer insurance, and hospital indemnity insurance.</p> <p><i>HSA:</i> Payments for health insurance premiums or contributions for self-funded health coverage generally aren't qualifying expenses. However, the following premiums will qualify for reimbursement from an HSA: COBRA coverage, a qualified long-term care insurance contract, any health plan maintained while the individual is receiving unemployment compensation under federal or state law, or, for those age 65 or older (whether or not they are entitled to Medicare), any deductible health insurance (e.g., retiree medical coverage) other than a Medicare supplemental policy. Note that long-term care insurance premium reimbursements in excess of the indexed annual limit will be treated as taxable and may be subject to the additional tax on distributions not used for qualified medical expenses.</p> <p>See also <b>COBRA premiums.</b></p>
<b>Invisalign</b>	Qualifying expense	See <b>Orthodontia.</b>
<b>IVF (in vitro fertilization)</b>	Potentially qualifying expense	See <b>Eggs and embryos,</b>



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>storage fees; Fertility treatments; Pre-payments; Sperm, storage fees; Surrogate or gestational carrier expenses;</b> and subsection L.13.
<b>Laboratory fees</b>	Qualifying expense	Such expenses will qualify if they are part of medical care. †
<b>Lactation consultant</b>	Qualifying expense	Breast pumps and supplies that assist lactation will qualify. ‡ See <b>Breast pumps</b> . Moreover, expenses of a lactation consultant are included in the list of items and services that are subject to health care reform's preventive services mandate. <b>a</b> Consequently, the expenses of a lactation consultant should qualify.

\* Prop. Treas. Reg. §1.125-5(k)(4).

† Treas. Reg. §1.213-1(e)(1)(ii).

‡ IRS Announcement 2011-14, 2011-9 I.R.B. 532.

**a** See PHSA §2713 and FAQs About Affordable Care Act Implementation Part XII, Q/A-18 (Feb. 20, 2013).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Lactose intolerance tablets</b> (Example: Lactaid)	Qualifying expense	
<b>Lamaze classes</b>	Potentially qualifying expense	Expenses for Lamaze or other methods of childbirth education may qualify to the extent that

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		instruction relates to birth and not childrearing. * The fee should be apportioned to exclude instruction in topics such as newborn care and parenting. Expenses for the coach or significant other do not qualify. † See also <b>Doula</b> and <b>Midwife</b> .
<b>Language training</b>	Potentially qualifying expense	Such expenses will qualify for a child with dyslexia or another disability. ‡ But amounts paid for regular schooling normally don't qualify. a To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See also <b>Learning disability, instructional fees; Prepayments; Schools and education, residential/special;</b> and subsection L.14.
<b>Laser eye surgery, Lasik</b>	Qualifying expense	Will qualify because the procedure is done primarily to promote the correct function of the eye. b See also <b>Radial keratotomy; Vision correction procedures;</b> and <b>Prepayments</b> .
<b>Laser hair removal</b>	Not a qualifying expense	See <b>Cosmetic procedures</b> .
<b>Late fees (e.g., for late payment of bills for medical services)</b>	Not a qualifying expense	Such fees would not be for medical care. c
<b>Latex gloves</b>	Potentially qualifying expense	Won't qualify if used for general health purposes or other personal expense reasons. May qualify if used to treat or alleviate a specific medical condition, and if

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		the expense would not have been incurred "but for" the condition. Might also qualify where used to prevent a specific illness that is imminent (e.g., if a household member has a contagious disease). A note from a medical practitioner recommending the item to treat a specific medical condition (or, if applicable, to prevent a specific and imminent illness) is normally required.
<b>Laxatives</b> (Examples: Ex-Lax, Miralax)	Qualifying expense	

\* Priv. Ltr. Rul. 8919009 (Feb. 6, 1989).

† Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1998 ECFC Annual Symposium.

‡ See, e.g., Rev. Rul. 69-607, 1969-2 C.B. 40 and Priv. Ltr. Rul. 8401024 (Sept. 30, 1983).

a See, e.g., *Coyne v. Comm'r*, T.C. Memo 1982-262 (T.C. 1982) and *Barnes v. Comm'r*, T.C. Memo 1978-339 (T.C. 1978).

b Rev. Rul. 2003-57, 2003-22 I.R.B. 959 and IRS Publication 502 (Medical and Dental Expenses).

c Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 6, 2010 ECFC Annual Symposium.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Lead-based paint removal</b>	Potentially qualifying expense	The expense of removing lead-based paints from surfaces in the participant's home to prevent a child who has (or has

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>had) lead poisoning from eating the paint would qualify. * To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. The surfaces must be in poor repair (peeling or cracking) or be within the child's reach; the cost of repainting the scraped area does not qualify. If instead of removing the paint, the area is covered with wallboard or paneling, treat these items as <b>Capital expenses</b>. The cost of painting the wallboard does not qualify. See also <b>Chelation therapy</b>.</p>
<p><b>Learning disability, instructional fees</b></p>	<p>Potentially qualifying expense</p>	<p>If prescribed by a physician, tuition fees paid to a special school and tutoring fees paid to a specially trained teacher for a child who has learning disabilities caused by mental or physical impairments (such as nervous system disorders) will qualify. † See also <b>Prepayments; Schools and education, residential/special</b>; and subsection L.14.</p>
<p><b>Legal fees, general</b></p>	<p>Potentially qualifying expense</p>	<p>Legal fees may qualify as medical care if they bear a direct or proximate relationship to the provision of medical care-for example, if the medical care could not have been provided without legal assistance. † Fees</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		for legal services retained to authorize treatment for mental illness may qualify. But legal fees for management of a guardianship estate for conducting the affairs of the person being treated or other fees that aren't necessary for medical care do not qualify; <b>a</b> neither do divorce costs. <b>b</b> See <b>Legal fees in connection with fertility treatments.</b>
<b>Legal fees in connection with fertility treatments</b>	Potentially qualifying expense	May qualify if the legal fees are in connection with a medical procedure performed upon the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement. Legal fees for preparing a contract to obtain a donated egg from an egg donor may also qualify, if preparatory to a procedure performed on the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement. <b>c</b> In contrast, legal fees incurred in connection with a procedure performed on a surrogate mother do not constitute medical care. See <b>Fertility treatments and Legal fees, general.</b>
<b>Lens wipes</b>	Qualifying expense	

\* IRS Publication 502 (Medical and Dental Expenses).

† See, e.g., Treas. Reg. §1.213-1(e)(1)(v); *Sims v. Comm'r*, T.C. Memo 1979-499 (1979); and Rev. Rul. 78-340, 1978-2 C.B. 124. *Compare* Priv. Ltr. Rul. 8616069 (Jan. 22, 1986) (tuition failed to qualify as a medical care expense where child was not sent to special school to treat or alleviate a mental impairment or disorder but out of concern for "poor study habits and weak math and reading comprehension skills").

‡ Priv. Ltr. Rul. 200318017 (Jan. 9, 2003) (legal fees for preparing a contract between the taxpayer and an egg donor were found to be deductible as medical care). See also IRS Information Letter 2008-0033 (July 21, 2008) (explaining that legal fees and mileage directly related to establishing a guardianship to provide medical care would qualify as medical care expenses). *But see Magdalin v. Comm'r*, T.C. Memo. 2008-293 (2008) (legal fees and other expenses incurred to father children through unrelated egg donor and gestational carriers were not for medical care where expenses were not incurred to prevent or alleviate a physical or mental defect or illness of the taxpayer and did not affect a function or structure of the taxpayer's body), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009); and *Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017).

a Rev. Rul. 71-281, 1971-2 C.B. 165.

b *Smith v. Comm'r*, T.C. Memo 1982-441 (1982).

c Priv. Ltr. Rul. 200318017 (Jan. 9, 2003) (legal fees for preparing a contract between the taxpayer and an egg donor were found to be for medical care where donated egg was to be implanted into taxpayer's body); *Magdalin v. Comm'r*, T.C. Memo. 2008-293 (2008) (legal fees and other expenses incurred to father children through unrelated egg donor and gestational carriers were not for medical care where expenses were not incurred to prevent or alleviate a physical or mental defect or illness of the taxpayer and did not affect a function or structure of the taxpayer's body), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009). See also *Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Lice treatment	Qualifying expense	
Lip products, medicated	Qualifying expense	
Lipsticks	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
Liquid adhesive for small cuts	Qualifying expense	See <b>Bandages</b> .
Lodging at a hospital or similar institution	Qualifying expense	Will qualify if a principal reason for being there is to receive medical care. * Presumably, this

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		would include the additional cost of a private room, † but not separately charged nonmedical add-ons (e.g., internet or cable TV). See subsections L.8 and L.14. See also <b>Meals at a hospital or similar institution</b> and <b>Schools and education, residential</b> .
<b>Lodging not at a hospital or similar institution</b>	Potentially qualifying expense	Up to \$50 per night will qualify if these conditions are met: (1) The lodging is primarily for and essential to medical care; (2) the medical care is provided by a physician in a licensed hospital or medical care facility related to (or equivalent to) a licensed hospital; (3) the lodging isn't lavish or extravagant; and (4) there is no significant element of personal pleasure, recreation, or vacation in the travel. ‡ If a parent is traveling with a sick child, up to \$100 may qualify (\$50 for each person). See also <b>Meals not at a hospital</b> and subsection L.8.
<b>Lodging of a companion</b>	Potentially qualifying expense	Will qualify if accompanying a patient for medical reasons and all of the conditions described under <b>Lodging not at a hospital or similar institution</b> are also met. For example, if a parent is traveling with a sick child, up to \$100 per night (\$50 for each person) will qualify. See <b>Lodging not at a hospital or similar institution</b> . See also subsection L.8.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Lodging while attending a medical conference	Not a qualifying expense <a href="#">a</a>	See <b>Medical conference admission, transportation, meals, etc.</b> and <b>Meals while attending a medical conference.</b>
Long-term care insurance premiums	Depends on whether plan is a health FSA, HRA, or HSA	See <b>Insurance premiums.</b>

\* Treas. Reg. §1.213-1(e)(1)(v).

† See *Ferris v. Comm'r*, 42 AFTR 2d 78-5674 (7th Cir. 1978).

‡ Code §213(d)(2).

[a](#) Rev. Rul. 2000-24, 2000-19 I.R.B. 963.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Long-term care services	Depends on whether plan is a health FSA, HRA, or HSA; see next column for details	<i>Health FSA:</i> Qualified long-term care services (defined as certain services that a chronically ill individual requires and that are prescribed by a licensed health care practitioner under a plan of care) cannot be reimbursed on a tax-free basis, even if they otherwise qualify as medical care expenses. (To be chronically ill, an individual must be unable to perform two or more daily living activities for at least 90 days without substantial assistance from another individual, or have a severe cognitive impairment that requires substantial supervision to protect him or her from threats to health and safety.)



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>Furthermore, a health FSA likely cannot provide taxable reimbursement of such services, and it is unclear whether "nonqualified" long-term care services can be reimbursed to the extent that the services otherwise qualify as medical care expenses. See subsection L.10.</p> <p><i>HRA:</i> For HRAs that are health FSAs, the health FSA rules will apply (see above). HRAs that are not health FSAs should be able to reimburse qualified long-term care expenses that otherwise qualify as medical care expenses.</p> <p><i>HSA:</i> Long-term care services will qualify for reimbursement to the extent that the services otherwise qualify as medical care expenses.</p>
<b>Makeup</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Marijuana or other controlled substances in violation of federal law</b>	Not a qualifying expense	<p>Won't qualify, even if a state law allows its use with a physician's prescription (for example, to treat a specific medical condition). *</p> <p>See <b>Controlled substances</b> and <b>Illegal operations and treatments</b>.</p>
<b>Marriage counseling</b>	Not a qualifying expense	See <b>Counseling</b> .
<b>Masks or face shields, reusable or disposable</b>	Potentially qualifying expense	<p>Will qualify if for the primary purpose of preventing the spread of COVID-19. † May also qualify if used to treat or alleviate a specific medical condition and if the expense would not have been</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>incurred "but for" the condition, † or where used to prevent a specific illness that is imminent (e.g., if a household member has a contagious disease), in which case a note from a medical practitioner recommending the item to treat a specific medical condition (or, if applicable, to prevent a specific and imminent illness) is normally required. Won't qualify if used for general health purposes or other personal reasons.</p>
<p><b>Massage therapy</b></p>	<p>Potentially qualifying expense</p>	<p>The costs of a massage just to improve general health don't qualify. <b>a</b> However, if the massage therapy is recommended by a physician to treat a specific injury or trauma, then it would qualify. <b>b</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See subsection D.</p>

\* Treas. Reg. §1.213-1(e)(1)(ii) and Rev. Rul. 97-9, 1997-9 I.R.B. 4; see also IRS Publication 502 (Medical and Dental Expenses).

† IRS Announcement 2021-7, 2021-15 I.R.B. 1061; see subsection D.

‡ IRS Information Letter 2009-0209 (July 14, 2009).

**a** Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1998 ECFC Annual Symposium.

b Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Mastectomy-related special bras</b>	Qualifying expense	Will qualify when incurred following a mastectomy for cancer. See <b>Breast reconstructive surgery following mastectomy.</b>
<b>Maternity clothes</b>	Not a qualifying expense *	
<b>Mattresses</b>	Not a qualifying expense	In rare cases, a portion of the expenditure might qualify if a unique type of mattress is prescribed by a physician to treat a specific medical condition. † IRS officials have informally commented that in such cases, the excess cost of the special mattress over the cost of a regular mattress would qualify, if the administrator is provided with adequate documentation of the medical purpose and the cost of a regular mattress. ‡ See also <b>Capital expenses.</b>
<b>Meals at a hospital or similar institution</b>	Potentially qualifying expense	Meals that are part of the cost of inpatient care at a hospital or similar institution will qualify if a principal reason for the recipient's being there is to receive medical care; the meals must be furnished as a necessary incident to the individual's continuing medical care. Meals that are not part of inpatient care generally won't qualify. It is unclear whether meals provided at a hospital or

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		similar institution for an outpatient who must remain at the institution for continuing care for some period (e.g., following a medical procedure) would qualify. <b>a</b> See <b>Lodging at a hospital or similar institution; Meals of a companion; Schools and education, residential; and Schools and education, special.</b> See also subsections L.8 and L.14.
<b>Meals not at a hospital or similar institution</b>	Not a qualifying expense <b>b</b>	See <b>Lodging not at a hospital or similar institution.</b> See also subsection L.8.
<b>Meals of a companion</b>	Not a qualifying expense	Won't qualify even if accompanying a patient for medical reasons. See <b>Lodging of a companion</b> and subsection L.8.
<b>Meals while attending a medical conference</b>	Not a qualifying expense	See <b>Medical conference admission, transportation, meals, etc.</b>
<b>Medical alert bracelet or necklace</b>	Qualifying expense	Will qualify if recommended by a medical practitioner in connection with treating a medical condition. <b>c</b>
<b>Medical conference admission, transportation, meals, etc.</b>	Potentially qualifying expense	Expenses for admission and transportation to a medical conference qualify, if they relate to a chronic disease suffered by you, your spouse, or another individual whose expenses are eligible for tax-free reimbursement, and if the conference is primarily for and essential to the person in need of

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>medical care. <b>d</b> Includes transportation expenses to the city where the conference is held, plus local transportation to the conference. Most of the time at the conference must be spent attending sessions on medical information. The expenses of meals and lodging while attending the conference don't qualify. <b>e</b> See subsection L.8.</p>

\* IRS Publication 502 (Medical and Dental Expenses).

† Rev. Rul. 55-261, 1955-1 C.B. 307 (special mattress and boards for relief of spinal arthritis).

‡ Informal, nonbinding remarks of Bridget Tombul and Amy Wei, IRS, Office of Chief Counsel, Mar. 22, 2019 ECFC Annual Conference.

**a** Treas. Reg. §§1.213-1(e)(1)(iv) and (v) (referring to meals that are part of the cost of "inpatient care" as an expenditure for medical care), and Rev. Rul. 2000-24, 2000-19 I.R.B. 963. See also Rev. Rul. 73-325, 1973-2 C.B. 75 and IRS Publication 502 (Medical and Dental Expenses).

**b** IRS Publication 502 (Medical and Dental Expenses). See also *Levine v. Comm'r*, 695 F.2d 57 (2d Cir. 1982).

**c** Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 1997 ECFC Annual Symposium.

**d** Rev. Rul. 2000-24, 2000-19 I.R.B. 963.

**e** Rev. Rul. 2000-24, 2000-19 I.R.B. 963.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Medical information plan charges</b>	Qualifying expense	These are expenses paid to a plan to keep medical information so that it can be retrieved from a computer databank for the

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		medical care of you, your spouse, or another individual whose expenses are eligible for tax-free reimbursement. *
<b>Medical monitoring and testing devices</b>	Qualifying expense †	Examples of such devices are blood-pressure monitors, syringes, glucose kit, etc. See also <b>Blood-sugar test kits and test strips; Body scans; Diagnostic items/services; Ovulation monitor; and Pregnancy test kits.</b>
<b>Medical records charges</b>	Qualifying expense ‡	For example, the fee associated with transferring medical records to a new medical practitioner will qualify.
<b>Medicines and drugs</b>	Potentially qualifying expense	See <b>Drugs and medicines.</b>
<b>Menstrual care products</b>	Qualifying expense	Includes tampons, pads, liners, cups, sponges, or similar products used by individuals for menstruation or other genital tract secretions. <b>a</b>
<b>Menstrual pain relievers</b> (Examples: Midol, Pamprin)	Qualifying expense	
<b>Midwife</b>	Qualifying expense <b>b</b>	See also <b>Doula; Lamaze classes; and Nursing services.</b>
<b>Mineral supplements</b>	Potentially qualifying expense	Won't qualify if used to maintain general health. <b>c</b> But under narrow circumstances, mineral supplements might qualify if recommended by a medical practitioner for a specific medical condition (for example, a prescribed dosage of iron daily to treat iron-deficiency anemia). To show that the expense is primarily

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Dietary supplements</b> and subsection L.4.
<b>Missed appointment fees</b>	Not a qualifying expense	Such fees would not be for medical care.
<b>Moisturizers</b>	Not a qualifying expense	See <b>Cosmetics; Toiletries; and Cosmetic procedures.</b>
<b>"Morning-after" contraceptive pills</b>	Qualifying expense, when legally dispensed and administered <b>e</b>	See also <b>Birth-control pills</b> and <b>Contraceptives</b> . Note that reimbursement of illegal expenses could raise potential criminal exposure under applicable state law (including aiding and abetting provisions under state law of participant/resident). Plan sponsors and TPAs should confer with counsel and implement steps to limit exposure. Steps to consider may include limiting jurisdictions where expenses may be reimbursed (e.g., based on the participant's residency) and requiring participants to certify that services are legal under applicable state law.

\* IRS Publication 502 (Medical and Dental Expenses); Rev. Rul. 71-282, 1971-2 C.B. 166.

† Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services").

‡ Cf. Rev. Rul. 71-282, 1971-2 C.B. 166 (fee for retrieval of medical information from computer

databank).

**a** Code §106(f).

**b** Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 12, 2011 ECFC Annual Symposium.

**c** IRS Publication 502 (Medical and Dental Expenses).

**e** FAQs About Affordable Care Act Implementation Part 54, Q/A-6 (July 28, 2022) (confirming that HSAs, HRAs, and health FSAs may reimburse the cost of OTC contraception to the extent the cost is not paid or reimbursed by another plan or coverage) (as visited Aug. 30, 2022).

<b>Expense</b>	<b>Is Expense a Qualifying Expense?</b>	<b>Comments and Special Rules</b>
<b>Motion sickness pills</b> (Examples: Bonine, Dramamine)	Qualifying expense	
<b>Motion sickness wristbands</b>	Qualifying expense	
<b>Mouthwash</b>	Not a qualifying expense	Such expenses generally won't qualify. † See <b>Cosmetics</b> and <b>Toiletries</b> . However, depending on the facts and circumstances, a special mouthwash recommended by a medical practitioner for the treatment of gingivitis might qualify. ‡
<b>Multivitamins</b> (Example: One-a-Day)	Potentially qualifying expense	Won't qualify if used to maintain general health. May qualify if recommended by a medical practitioner for a specific medical condition (e.g., pregnancy or an iron deficiency). To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Vitamins</b> .
<b>Nail polish</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Nasal strips or sprays</b>	Potentially qualifying expense	Nasal sprays or strips that are used to treat sinus problems qualify as being primarily for medical care, as would those that are used to prevent sleep apnea. <b>a</b> However, nasal strips or sprays marketed primarily to increase athletic performance may not qualify.
<b>Naturopathic healers</b>	Potentially qualifying expense	See <b>Alternative healers; Drugs and medicines; Special foods; Vitamins;</b> and subsections L.2, L.3, L.4, and L.7.
<b>Nicotine gum or patches</b> (Examples: Nicoderm, Nicorette)	Qualifying expense	Such items are primarily for medical care when used for stop-smoking purposes.
<b>Nonprescription drugs and medicines</b>	Potentially qualifying expense	See <b>Drugs and Medicines.</b>
<b>Norplant insertion or removal</b>	Qualifying expense, when legally dispensed and administered <b>b</b>	See also <b>Contraceptives; Birth-control pills; Vasectomy;</b> and <b>Spermicides.</b> Note that reimbursement of illegal expenses could raise potential criminal exposure under applicable state law (including aiding and abetting provisions under state law of participant/resident). Plan sponsors and TPAs should confer with counsel and implement steps to limit exposure. Steps to consider may include limiting jurisdictions where expenses may be reimbursed (e.g., based on the participant's residency) and requiring participants to certify that services are legal under

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		applicable state law.
<b>Nursing services for a baby</b>	Not a qualifying expense.	Won't qualify if the baby is healthy. <b>c</b>

† Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of Chief Counsel, Oct. 22, 2003 ECFC Teleconference.

‡ Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of Chief Counsel, Oct. 22, 2003 ECFC Teleconference.

**a** IRS Information Letter 2009-0209 (July 14, 2009).

**b** Treas. Reg. §1.213-1(e).

**c** IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Nursing services provided by a nurse or other attendant</b>	Potentially qualifying expense	Amounts paid for medically related nursing services (including extra costs for nurses' room and board, wages, and employment taxes) generally will qualify, whether provided in the participant's home or another facility. * The attendant doesn't have to be a nurse, so long as the services are of a kind generally performed by a nurse. These include services connected with caring for the patient's condition, such as giving medication or changing dressings, as well as bathing and grooming. But if the person providing nursing services also provides household and personal services, the amounts

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		must be accounted for separately-only those for nursing services qualify. † See also subsection L.10.
<b>Nutritional supplements</b>	Potentially qualifying expense	See <b>Dietary Supplements.</b> ‡
<b>Nutritionist's professional expenses</b>	Potentially qualifying expense	May qualify if the treatment relates to a specifically diagnosed medical condition. Won't qualify if the expense is for general health. <b>a</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>Special foods</b> and subsections L.3 and L.4.
<b>Obstetrical expenses</b>	Qualifying expense <b>b</b>	Medically related obstetrical services qualify regardless of practitioner's licensure, so long as the services are legal where provided.
<b>Occlusal guards to prevent teeth grinding</b>	Qualifying expense <b>c</b>	In contrast, a mouth guard to protect the teeth during sports generally would not qualify. <b>d</b>
<b>Occupational therapy</b>	Potentially qualifying expense	Will qualify if it treats or alleviates a medical condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required.
<b>Omega-3 supplements</b>	Potentially qualifying expense	See <b>Dietary supplements</b> and subsection L.3.

\* Treas. Reg. §1.213-1(e)(1)(ii).

† IRS Publication 502 (Medical and Dental Expenses).

‡ Rev. Rul. 2003-102, 2003-38 I.R.B. 559. Although the IRS has declared this Ruling obsolete as of January 1, 2011 (see Rev. Rul. 2010-23, 2010-39 I.R.B. 388), its logic would still seem to be applicable regarding nutritional supplements.

**a** Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1999 ECFC Annual Symposium.

**b** Treas. Reg. §1.213-1(e)(1)(ii).

**c** Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1996 ECFC Annual Symposium.

**d** Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Aug. 2017 ECFC Annual Symposium.

<b>Expense</b>	<b>Is Expense a Qualifying Expense?</b>	<b>Comments and Special Rules</b>
<b>Online or telephone consultation, medical practitioner's fee for</b>	Qualifying expense	Will qualify, so long as the consultation's purpose is to obtain advice to diagnose, treat, or mitigate a medical condition and the practice is legal in the applicable state or other locality. * See also <b>Telemedicine, medical practitioner's fee for</b> and subsection L.15.
<b>Operations</b>	Qualifying expense	Will qualify if the operations are legal (and aren't cosmetic procedures). † See <b>Cosmetic procedures</b> and subsection L.1.
<b>Optometrist</b>	Qualifying expense	See also <b>Eye examinations, eyeglasses, equipment, and materials</b> .
<b>Organ donors</b>	Qualifying expense	See <b>Transplants</b> .
<b>Orthodontia</b>	Qualifying expense	Such expenses generally will

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		qualify. ‡ When an orthodontic treatment plan is paid up-front at the time of the first visit, some health FSAs will apportion the reimbursements as services are provided during the treatment plan. See also <b>Dental services and procedures; Prepayments;</b> and subsections G.3 and L.1.
<b>Orthopedic shoe inserts</b>	Potentially qualifying expense	Won't qualify if used for general comfort, to reduce odor, or other personal reasons. If used to treat or alleviate a specific medical condition, will qualify. <b>a</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Orthopedic shoes</b>	Potentially qualifying expense	Won't qualify if used for personal or preventive reasons. If used to treat or alleviate a specific medical condition, only the excess cost of the specialized orthopedic shoe over the cost of a regular shoe will qualify. <b>b</b> To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Osteopath fees</b>	Qualifying expense <b>c</b>	
<b>Over-the-counter (OTC) drugs</b>	Potentially qualifying expense	See <b>Drugs and medicines.</b>
<b>Ovulation monitor</b>	Qualifying expense <b>d</b>	See also <b>Medical monitoring and testing devices</b> and

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>Pregnancy test kits.</b>
<b>Oximeter</b>	Qualifying expense	Devices that test for oxygen in the blood measure a condition of the body and should qualify as diagnostic devices. <b>e</b> See <b>Diagnostic items/services.</b>
<b>Oxygen</b>	Qualifying expense	This includes the expenses of oxygen and oxygen equipment for breathing problems caused by a medical condition. <b>f</b> Won't qualify if used for general health reasons, such as to improve athletic performance. <b>g</b>

\* Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 12, 2011 ECFC Annual Symposium.

† Treas. Reg. §1.213-1(e)(1)(ii).

‡ See IRS Information Letter (Feb. 19, 1997).

**a** IRS Information Letter 2009-0209 (July 14, 2009).

**b** IRS Information Letter 2009-0209 (July 14, 2009).

**c** Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54.

**d** Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental and other diagnostic and healing services").

**e** Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference.

**f** Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54.

**g** Informal, nonbinding remarks of Amy Wei, IRS, Office of Chief Counsel, Mar. 18, 2022 ECFC Annual Conference.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Pain relievers</b> (Examples: Advil, Aspirin, Tylenol)	Qualifying expense	
<b>Payment processing fees for medical expenses</b>	Qualifying expense	If imposed by a provider or merchant as part of the cost of obtaining an item or service that constitutes medical care, such fees should qualify. See subsection L.12.
<b>Perfume</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Permanent waves</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Personal trainer fees</b>	Potentially qualifying expense	Will qualify if a medical practitioner has recommended a supervised exercise regimen in order to treat a disease or injury (e.g., rehabilitation after surgery or the treatment of obesity) and if incurred for a limited duration. * The expense must not have been incurred "but for" the disease (e.g., if you were working with a personal trainer before being diagnosed, the expense would not qualify). To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Weight-loss programs and/or drugs prescribed to induce weight loss</b> .
<b>Petroleum jelly</b>	Potentially qualifying expense	Won't qualify if used to maintain general health or for other personal reasons (e.g., as a

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		toiletry or a cosmetic). May qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred "but for" the condition. † To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Physical exams</b>	Qualifying expense ‡	Includes physicals required before participating in sports activities (sports physicals), as these are intended to determine whether individuals have disorders or conditions of the body that might affect their ability to engage in athletic activity. a
<b>Physical therapy</b>	Potentially qualifying expense b	Will qualify if the physical therapy treats or alleviates a medical condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required.
<b>Pregnancy test kits</b>	Qualifying expense c	See also <b>Medical monitoring and testing devices</b> and <b>Ovulation monitor</b> .

\* Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of Chief Counsel, October 22, 2003 ECFC Teleconference.

† IRS Information Letter 2009-0209 (July 14, 2009).

‡ Rev. Rul. 2007-72, 2007-50 I.R.B. 1154 (annual physical exam is diagnostic and qualifies as a



medical care expense, even when individual lacks symptoms of illness).

**a** Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference.

**b** Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54.

**c** Treas. Reg. §1.213-1(e)(1)(ii) (allowing that payments for medical care include "medical, laboratory, surgical, dental, and other diagnostic and healing services"); see also Rev. Rul. 2007-72, 2007-50 I.R.B. 1154 (pregnancy test kit is for medical care).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Prenatal vitamins</b>	Potentially qualifying expense	Obstetricians routinely recommend prenatal vitamins for the health of unborn children. If taken during pregnancy (a medical condition), prenatal vitamins would be considered primarily for medical care. * Vitamins taken at other times generally do not qualify unless recommended to treat a specific medical condition. See <b>Vitamins</b> .
<b>Prepayments for medical expenses</b>	Not a qualifying expense	Prepayments for items or services that have not yet been incurred or obtained generally will not qualify until the treatment or service has been provided. See <b>Dental services and procedures; Fertility treatments; and Orthodontia</b> .
<b>Prescription drug discount programs</b>	Not a qualifying expense	If an individual pays a fee for a card that provides for a 20% discount on all prescribed drugs, the fee itself would not qualify. In contrast, the cost of a prescribed drug generally will qualify. See <b>Drugs and Medicines</b> .
<b>Prescription drugs</b>	Potentially qualifying expense	See <b>Drugs and medicines</b> .

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Prescription drugs and medicines obtained from other countries</b>	Not a qualifying expense unless the importation is legal	Importing prescription drugs from other countries generally will violate federal law. † However, a drug or medicine may qualify for reimbursement if (1) it is purchased and consumed in the other country and is legal in both that country and the U.S. or (2) the FDA announces that it can be legally imported by individuals. See <b>Drugs and medicines</b> and subsection L.2.
<b>Preventive care screenings</b>	Qualifying expense	Will qualify if the tests are used for medical diagnoses. ‡ Examples include blood pressure, hearing, vision, skin cancer, and cholesterol screenings. See also <b>Body scans</b> and <b>Diagnostic items/services</b> .
<b>Probiotics</b>	Potentially qualifying expense	Won't qualify if used to maintain general health or for other personal reasons. May qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred "but for" the condition. a To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Propecia</b>	Potentially qualifying expense	Generally won't qualify if purchased for cosmetic purposes (for example, to treat male pattern baldness), even if recommended by a medical practitioner. But the

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		expense may qualify if it is to ameliorate a deformity arising from a congenital abnormality, personal injury from an accident or trauma, or disfiguring disease. See <b>Cosmetic procedures</b> and <b>Drugs and medicines</b> .
<b>Prosthesis</b>	Qualifying expense <b>b</b>	See <b>Artificial limbs and teeth</b> .
<b>Psychiatric care</b>	Qualifying expense	Also includes the cost of supporting mentally ill dependent at a special center that provides medical care. <b>c</b>

\* Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, Nov. 5, 2003 ECFC Teleconference.

† See IRS Publication 502 (Medical and Dental Expenses) and IRS Information Letter 2005-0011 (Mar. 14, 2005).

‡ Priv. Ltr. Rul. 200140017 (June 25, 2001).

**a** IRS Information Letter 2009-0209 (July 14, 2009).

**b** IRS Publication 502 (Medical and Dental Expenses).

**c** IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Psychoanalysis</b>	Potentially qualifying expense	Will qualify if provided for medical care, and not just for the general improvement of mental health, relief of stress, or personal enjoyment, nor if the expense stems from training to be a psychoanalyst. * To show that the expense is primarily for medical

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See also <b>Counseling</b> and <b>Psychologist</b> .
<b>Psychologist</b>	Potentially qualifying expense	Will qualify if the expense is for medical care, † and not just for the general improvement of mental health, relief of stress, or personal enjoyment. ‡ To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See also <b>Counseling</b> .
<b>Radial keratotomy</b>	Qualifying expense <b>a</b>	Corneal ring segments (removable plastic half-rings that correct vision) would also qualify. <b>b</b> See <b>Laser eye surgery, Lasik</b> and <b>Vision correction procedures</b> .
<b>Reading glasses</b>	Qualifying expense <b>c</b>	Both prescription and nonprescription reading glasses would qualify. See also <b>Eye examinations, eyeglasses, equipment, and materials</b> .
<b>Recliner chairs</b>	Potentially qualifying expense	Generally won't qualify, unless used exclusively to treat a specific medical condition, as diagnosed and prescribed by a medical practitioner. See <b>Mattresses</b> .
<b>Rehydration solution</b> (Example: Pedialyte)	Potentially qualifying expense <b>d</b>	Note that adult athletic rehydration fluids typically will not qualify.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Rental cars	Potentially qualifying expense	See <b>Transportation</b> .
Rental fee, for equipment	Potentially qualifying expense	Will qualify if the equipment otherwise qualifies as a medical care expense (for example, <b>Breast pumps</b> or <b>Crutches</b> ). <b>e</b>
Retin-A	Potentially qualifying expense	Generally won't qualify if purchased for cosmetic purposes (for example, to reduce wrinkles), even if recommended by a medical practitioner. But may qualify if recommended by a medical practitioner for a specific medical condition (e.g., acne vulgaris) and not for cosmetic purposes. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Acne treatment; Cosmetic procedures; Drugs and medicines</b> ; and subsections L.1 and L.2.

\* IRS Publication 502 (Medical and Dental Expenses).

† Rev. Rul. 75-187, 1975-1 C.B. 92.

‡ IRS Publication 502 (Medical and Dental Expenses).

**a** Priv. Ltr. Rul. 9625049 (June 21, 1996); Priv. Ltr. Rul. 200226003 (Mar. 7, 2002); IRS Publication 502 (Medical and Dental Expenses).

**b** Rev. Rul. 2003-57, 2003-22 I.R.B. 959.

**c** Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1999 ECFC Annual Symposium.

d IRS Information Letter 2009-0209 (July 14, 2009).

e Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 8, 2014 ECFC Annual Symposium.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Rogaine</b>	Potentially qualifying expense	Generally won't qualify if purchased solely for cosmetic purposes. But may qualify if it is recommended by a medical practitioner for a specific medical condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Propecia</b> and <b>Drugs and medicines</b> . See also subsections L.1 and L.2.
<b>Rubbing alcohol</b>	Qualifying expense	Will qualify when purchased for first-aid purposes (e.g., when purchased in first-aid quantities in a pharmacy or first-aid section of a retail store).
<b>Rubdowns</b>	Potentially qualifying expense	Generally won't qualify, unless a medical practitioner determines that the procedure is necessary to treat a specific medical condition. * To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Massage therapy</b> and subsection L.6.
<b>Safety glasses</b>	Not a qualifying expense	Probably won't qualify unless prescribed. † See <b>Eye</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<b>examinations, eyeglasses, equipment, and materials.</b>
<b>Sales taxes on medical items and services</b>	Qualifying expense	Will generally qualify to the extent that the tax is imposed on qualified medical care items or services. See <b>Taxes on medical items and services</b> and subsection L.12.
<b>Schools and education, residential</b>	Potentially qualifying expense	<p>Payments made to a residential school or program to treat an individual for behavioral, emotional, or addictive conditions (tuition, meals, and lodging) will qualify if a principal reason for attending the program is to receive medical care. (Ordinary education must be an incidental component.) Whether someone is attending to receive medical care is a question of fact that must be determined for each individual-just because a school or program provides medical care to some individuals does not mean that it provides medical care to all individuals. If a child is at a school because the courses and disciplinary methods have a beneficial effect on the child's attitude, the expenses won't qualify unless the availability of medical care in the school is a principal reason for sending the child there. See subsection L.14.</p> <p>See also <b>Schools and education, special</b> and <b>Pre-payments.</b></p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Schools and education, special</b>	Potentially qualifying expense	Payments made for a person with a mental or physical disability to attend a special school (tuition, meals, and lodging) will qualify if a principal reason for attending the school is to overcome or alleviate the disability. (Ordinary education must be an incidental component.) This includes teaching Braille to a person with a visual impairment, teaching lip reading to a person with a hearing disability, and remedial language training to correct a condition caused by a birth defect. If a child is at a school because the courses and disciplinary methods have a beneficial effect on the child's attitude, the expenses won't qualify unless the availability of medical care in the school is a principal reason for sending the child there. See subsection L.14. See also <b>Schools and education, residential</b> and <b>Prepayments</b> .

\* IRS Information Letter 2000-0405 (Dec. 29, 2000).

† Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1999 ECFC Annual Symposium.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Scooter, electric</b>	Potentially qualifying expense	Will only qualify if used to relieve



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		sickness or disability. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required.
<b>Screening tests</b>	Qualifying expense	Will qualify if the tests are used for medical diagnoses. * Examples include hearing, vision, cholesterol, and COVID-19 screenings. See also <b>Body scans</b> and <b>Diagnostic items/services</b> .
<b>Service animal, to assist individual with mental health disabilities</b>	Potentially qualifying expense	Expenses of buying, training, and maintaining a service animal to assist an individual with a mental health condition may qualify if the individual can show that he or she is using the service animal primarily for medical care to alleviate a mental health condition and would not have paid the expenses but for the defect or illness. † While IRS authority applies the "but for" standard, application of a standard that is stricter than that applicable for physical conditions may fail to comply with mental health parity requirements, which will apply if the health FSA is not an excepted benefit. ‡ See also <b>Guide dog</b> and <b>Veterinary fees</b> .
<b>Shampoos</b>	Not a qualifying expense	Generally won't qualify. See <b>Cosmetics</b> and <b>Toiletries</b> . But may qualify if recommended by a

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		medical practitioner for a specific medical condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Shaving cream or lotion</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Shipping and handling fees</b>	Qualifying expense	Shipping and handling fees incurred to obtain an item or service that constitutes medical care (e.g., drugs or medicine) are inextricably linked to the cost of the medical care and therefore qualify. <b>a</b> See subsection L.12.
<b>Sinus medications</b> (Examples: Sinutab, Sudafed)	Qualifying expense	See also <b>Nasal strips or sprays</b> .
<b>Skin moisturizers</b>	Not a qualifying expense	See <b>Cosmetics</b> and <b>Toiletries</b> .
<b>Sleep-deprivation treatment</b>	Qualifying expense	Probably qualifies if the person is under the care of a medical practitioner.
<b>Smoking-cessation medications</b>	Qualifying expense	Amounts paid for drugs used to stop smoking would qualify. <b>b</b> See also <b>Nicotine gum or patches</b> .

\* Priv. Ltr. Rul. 200140017 (June 25, 2001). See also IRS News Release IR-2021-181 (Sept. 10, 2021) (IRS reminder that cost of home testing for COVID-19 is an eligible medical expense that can be paid or reimbursed by health FSAs) (as visited Nov. 18, 2022).

† IRS Information Letter 2010-0129 (May 11, 2010).

‡ See Section XXII.

a Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of

Chief Counsel, Oct. 22, 2003 ECFC Teleconference.

b Rev. Rul. 99-28, 1999-25 I.R.B. 6.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Smoking-cessation programs</b>	Qualifying expense	Amounts paid for a smoking-cessation (stop-smoking) program would qualify. * See <b>Smoking-cessation medications</b> and subsection L.2.
<b>Soaps</b>	Not a qualifying expense	Generally won't qualify. See <b>Cosmetics</b> and <b>Toiletries</b> . But may qualify if recommended by a medical practitioner for a specific medical condition. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.
<b>Special foods</b>	Potentially qualifying expense	Will qualify if prescribed by a medical practitioner to treat a specific illness or ailment and if the foods do not substitute for normal nutritional requirements. † Food modified for special diets (e.g., gluten-free) may also qualify, but only to the extent that the cost of the special food exceeds the cost of commonly available versions of the same product. ‡ To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		is normally required. See subsection L.4; see also <b>Infant formula</b> .
<b>Special home, for person with a mental health disability</b>	Potentially qualifying expense	The cost of keeping a person with a mental health disability in a special home (not a relative's home) on a physician's recommendation to help that person adjust to community living may qualify. <b>a</b> See also <b>Schools and education, residential</b> and subsection L.14.
<b>Speech therapy</b>	Qualifying expense <b>b</b>	
<b>Sperm, storage fees</b>	Potentially qualifying expense	Fees for temporary storage might qualify, but only to the extent necessary for immediate conception. Storage fees for undefined future conception aren't likely to be considered for medical care and may present a deferred compensation problem. "Temporary" is not defined; however, one consideration might be whether it is stored and used within the same year. <b>c</b> See also <b>Fertility treatments; Eggs and embryos, storage fees; Surrogate or gestational carrier expenses; Prepayments;</b> and subsection L.13.
<b>Spermicides</b>	Qualifying expense	See <b>Contraceptives</b> .
<b>St. John's Wort</b>	Potentially qualifying expense	Will qualify if used primarily for medical care (for example, to treat a diagnosed medical condition such as depression); won't qualify if used to maintain general health. To show that the

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required.

\* Rev. Rul. 99-28, 1999-25 I.R.B. 6.

† See, e.g., Rev. Rul. 2002-19, 2002-16 I.R.B. 778, Rev. Rul. 55-261, 1955-1 C.B. 307, Priv. Ltr. Rul. 200941003 (July 1, 2009) (infant formula for the healthy baby of a woman who could not breastfeed due to a double mastectomy was a personal expense; because the formula satisfied the baby's normal nutritional needs, it was food that the baby would normally consume and was not a medical care expense).

‡ See, e.g., *Randolph v. Comm'r*, 67 T.C. 481 (1976).

a IRS Publication 502 (Medical and Dental Expenses).

b Rev. Rul. 55-261, 1955-1 C.B. 307, as modified by Rev. Rul. 63-91, 1963-1 C.B. 54.

c Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Stem cell, harvesting and/or storage of</b>	Potentially qualifying expense	Might qualify if there is a specific and imminent medical condition that the stem cells are intended to treat. For example, the cost of harvesting and storing stem cells because a newborn has a birth defect and the stem cells would be needed in the near future might be allowable. * But collection and storage indefinitely, just in case an item might be needed, likely is not medical care and may present a deferred

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		compensation problem. † See <b>DNA collection and storage</b> ; <b>Prepayments</b> ; and <b>Umbilical cord blood storage</b> .
<b>Sterilization procedures</b>	Qualifying expense	Sterilization expenses include the cost of a legally performed operation to make a person unable to have children. ‡ See also <b>Vasectomy</b> .
<b>Stop-smoking program</b>	Qualifying expense	See <b>Smoking-cessation programs</b> .
<b>Student health fee</b>	Potentially qualifying expense	A fee that is simply the cost of belonging to the program won't qualify. Expenses for specific medical services might qualify.
<b>Sunburn creams and ointments, medicated</b> (Example: Solarcaine)	Qualifying expense	Will qualify if used to treat a sunburn (and not as regular skin moisturizers). See also <b>Sunscreen</b> .
<b>Sunglasses</b>	Potentially qualifying expense	Prescription sunglasses would qualify. Allowable amounts include the expenses of eye examinations, eyeglasses, and lenses needed for medical reasons. It is unclear whether nonprescription sunglasses or clip-on sunglasses recommended by a physician to alleviate an eye condition would qualify. <b>a</b>
<b>Sun-protective (SPF) clothing</b>	Potentially qualifying expense	Won't qualify if used to maintain general health or for other personal reasons. May qualify if used to treat or alleviate a specific medical condition (e.g., melanoma) and if the expense would not have been incurred

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>"but for" the condition, but only the excess cost of the specialized garment over the cost of ordinary clothing will qualify. To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>Sunscreen and Sunscreen, cosmetics or similar products with.</b></p>
<p><b>Sunscreen</b> (excluding cosmetics or similar products containing sunscreen)</p>	<p>Qualifying expense</p>	<p>There is no official guidance, but an IRS official has informally commented that sunscreen will likely qualify as a medical care expense because its sole purpose is to prevent sunburn. <b>b</b> Some plans may take a more cautious approach, for example, by reimbursing only products at or above a specified SPF (e.g., 15, due to FDA guidance). <b>c</b> See also <b>Sunscreen, cosmetics or similar products with and Suntan lotion without sunscreen.</b></p>

\* See ABA Joint Committee on Employee Benefits, Questions and Answers for the IRS, Q/A-3 (May 11, 2002) (as visited Nov. 18, 2022). See also IRS Information Letter 2010-0017 (Nov. 2, 2009).

† See, e.g., IRS Information Letter 2010-0017 (Nov. 2, 2009) and Priv. Ltr. Rul. 200140017 (June 25, 2001).

‡ Rev. Rul. 73-603, 1973-2 C.B. 76.

a IRS Information Letter 2000-0073 (June 30, 2000).

**b** Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 17, 2012 ECFC Annual Symposium, Mar. 30, 2012 ECFC Annual Conference, and Aug. 12, 2011 ECFC Annual Symposium; *but see* IRS Information Letter 2009-0209 (July 14, 2009) (characterizing sunscreen as a dual-purpose item that may qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred but for the condition).

**c** Sunscreen: How to Help Protect Your Skin from the Sun (as visited Nov. 18, 2022). Although not official guidance, the Federal Flexible Benefits Plan treats sunscreen with SPF of 15 or above as a reimbursable expense that does not require a prescription. See the Federal Flexible Benefits Plan eligible expenses list (as visited Nov. 18, 2022).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Sunscreen, cosmetics or similar products with</b>	Potentially qualifying expense	There is no official guidance, but an IRS official has informally commented that the excess cost of the version of the item with the sunscreen over the cost of the regular item would probably qualify. * Some plans may take a more cautious approach, for example, by not reimbursing the excess cost of items with a sunscreen component, or by reimbursing only products at or above a specified SPF (e.g., 15, due to FDA guidance). † See also <b>Sunscreen and Suntan lotion without sunscreen.</b>
<b>Suntan lotion without sunscreen</b>	Not a qualifying expense	Suntan lotion and similar products without sunscreen generally won't qualify. ‡ See also <b>Sunscreen</b> and <b>Sunscreen, cosmetics or similar products with.</b>
<b>Supplies to treat medical condition</b>	Qualifying expense	Will qualify if the medical supply is used to diagnose or treat a specific medical condition and isn't a personal comfort item. See also <b>Bandages</b> and <b>Crutches.</b>



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Support braces</b>	Qualifying expense	Will qualify if used for injured or weakened body parts. <b>a</b>
<b>Surgery</b>	Qualifying expense	Generally will qualify if legal and not for cosmetic purposes. See <b>Operations</b> .
<b>Surrogate or gestational carrier expenses</b>	Not a qualifying expense	Such expenses generally won't qualify, even if they are for medical care of the surrogate/gestational carrier or her unborn child. <b>b</b> The procedure must be performed upon the participant, spouse, or another individual whose expenses are eligible for tax-free reimbursement in order to be medical care. See also <b>Fertility treatments; Egg donor fees; Eggs and embryos, storage fees; Legal fees in connection with fertility treatments; Sperm, storage fees;</b> and subsection L.13.
<b>Swimming lessons</b>	Potentially qualifying expense	Such expenses generally won't qualify, but there are some exceptions. <b>c</b> See <b>Dancing lessons</b> and subsection D.

\* Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 17, 2012 ECFC Annual Symposium, Mar. 30, 2012 ECFC Annual Conference, and Aug. 12, 2011 ECFC Annual Symposium; *but see* IRS Information Letter 2009-0209 (July 14, 2009) (characterizing sunscreen as a dual-purpose item that may qualify if used to treat or alleviate a specific medical condition, and if the expense would not have been incurred but for the condition).

† Sunscreen: How to Help Protect Your Skin from the Sun (as visited Nov. 18, 2022).

‡ Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Mar. 30, 2012 ECFC Annual Conference.

**a** IRS Information Letter 2009-0209 (July 14, 2009).

**b** IRS Information Letter 2002-0291 (Aug. 12, 2002); *Magdalin v. Comm'r*, T.C. Memo. 2008-293 (2008), *aff'd* 105 AFTR 2d 2010-442 (1st Cir. 2009); *Morrissey v. United States*, 119 AFTR 2d 2017-401 (M.D. Fla. 2016), *aff'd* 120 AFTR 2d 2017-5852 (11th Cir. 2017). See also *Longino v. Comm'r*, T.C. Memo 2013-80 (2013), *aff'd* 114 AFTR 2d 2014-6910 (11th Cir. 2014).

**c** IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Swimming pool maintenance</b>	Potentially qualifying expense	Such expenses generally won't qualify if the swimming pool is used for recreation. However, if the swimming pool is used primarily for medical care by someone who has been diagnosed with a medical condition and a medical practitioner has substantiated that the pool is part of the medical treatment, then the cost of maintaining the pool might qualify. * See also <b>Capital expenses</b> .
<b>Tanning salons and equipment</b>	Not a qualifying expense	See <b>Cosmetic procedures</b> . In rare cases, they might qualify if recommended for a specific medical condition (such as a skin disorder), so long as there is no personal element or use of the equipment by other family members. †
<b>Taxes on medical items and services</b>	Qualifying expense	Such expenses generally will qualify to the extent that the tax is imposed on qualified medical care items or services. This includes local sales, service, and other taxes. See subsection L.12.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Teeth whitening</b>	Not a qualifying expense	Won't qualify if tooth discoloration is simply the result of aging or other natural processes, and the whitening is done for cosmetic purposes. ‡ But if tooth discoloration (rising to the level of a deformity) was caused by disease, birth defect, or injury, expenses for teeth whitening might qualify. <b>a</b> See <b>Cosmetic procedures</b> and subsection L.1.
<b>Telemedicine, medical practitioner's fee for</b>	Qualifying expense	Will qualify, so long as the consultation's purpose is to obtain advice to diagnose, treat, or mitigate a medical condition and the practice is legal in the applicable state or other locality. <b>b</b> See also <b>Online or telephone consultation, medical practitioner's fee for</b> and subsection L.15.
<b>Telephone equipment for persons with hearing or speech disabilities</b>	Qualifying expense	The expenses of buying and repairing special telephone equipment that lets a person who is deaf, hard of hearing, or has a speech disability communicate over a regular telephone will qualify. <b>c</b> This includes teletypewriter (TTY) and telecommunications device for the deaf (TDD) equipment. See <b>Capital expenses</b> .
<b>Television for persons with hearing disabilities</b>	Qualifying expense	Equipment that displays the audio part of television programs as subtitles for a person with a hearing disability will qualify. But the amount that qualifies is limited

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		to the excess of the cost over the cost of the regular item. For example, the cost of a specially equipped television qualifies only to the extent that it exceeds the cost of a regular model. <b>d</b> See <b>Capital expenses</b> .
<b>Therapy</b>	Potentially qualifying expense	Depends on the type and purpose of the therapy. Will qualify if provided for medical care (and not just for the general improvement of mental health, relief of stress, or personal enjoyment). <b>e</b> See entries throughout for various types of therapy and counseling; see also <b>Schools and education, residential/special</b> and subsection L.14.

\* See *Emanuel v. Comm'r*, T.C. Summary Opinion 2002-127 (2002).

† Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1998 ECFC Annual Symposium.

‡ Rev. Rul. 2003-57, 2003-22 I.R.B. 959.

**a** Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

**b** Informal, nonbinding remarks of Bridget Tombul, IRS, Office of Chief Counsel, Mar. 16, 2018 ECFC Annual Conference and Donna Crisalli, IRS, Office of Chief Counsel, Aug. 12, 2011 ECFC Annual Symposium.

**c** Rev. Rul. 71-48, 1971-1 C.B. 99; Rev. Rul. 73-53, 1973-1 C.B. 139. See also IRS Information Letter 2000-0032 (June 30, 2000) (while specialized equipment to enable a person with a hearing disability to communicate effectively over a regular telephone was a medical care expense, the telephone itself was not) and IRS Publication 502 (Medical and Dental Expenses).

- d Rev. Rul. 80-340, 1980-2 C.B. 81; IRS Publication 502 (Medical and Dental Expenses).
- e IRS Publication 502 (Medical and Dental Expenses).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Thermometers</b>	Qualifying expense	Will qualify if for medical use. See <b>Supplies to treat medical condition.</b>
<b>Throat lozenges</b> (Examples: Cepacol, Chloraseptic)	Qualifying expense	See also <b>Cough suppressants.</b>
<b>Toiletries</b>	Not a qualifying expense	A toiletry is an article or preparation that is used in the process of dressing and grooming oneself. Examples include toothpaste, shaving cream or lotion, and cologne. See also <b>Cosmetics.</b>
<b>Toothache and teething pain relievers</b> (Examples: Anbesol, Orajel)	Qualifying expense	
<b>Toothbrushes</b>	Not a qualifying expense	Won't qualify, even if a dentist recommends special ones (such as electric or battery-powered) to treat a medical condition like gingivitis. Toothbrushes are items that are used primarily to maintain general health-a person would still use one even without the medical condition. Thus, they are not primarily for medical care. * See <b>Toiletries</b> and <b>Cosmetics.</b>
<b>Toothpaste</b>	Not a qualifying expense	Generally won't qualify because it is considered a toiletry. † However, the excess cost of a special toothpaste that is recommended to treat a specific

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>medical condition might qualify. †</p> <p>In addition, topical creams or other drugs (e.g., fluoride treatment) used to treat a medical condition would qualify, so long as they are primarily for medical care. See <b>Cosmetics; Dental services and procedures; Drugs and medicines; Fluoride rinses; and Toiletries.</b></p>
<b>Transplants</b>	Qualifying expense	Includes surgical, hospital, and laboratory services as well as transportation expenses for organ donors. <b>a</b>
<b>Transportation costs of individuals with disabilities commuting to and from work</b>	Not a qualifying expense	The costs of commuting to and from work are personal expenses and not expenses for medical care, even for persons with disabilities. <b>b</b> However, the costs incurred for transportation to and from work may be medical expenses if the employment itself is explicitly prescribed as therapy to treat a medical condition. <b>c</b>

\* Informal, nonbinding remarks of Harry Beker, Barbara Pie, and John Sapienza, IRS, Office of Chief Counsel, Oct. 22, 2003 ECFC Teleconference.

† Treas. Reg. §1.213-1(e)(2).

‡ Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Mar. 30, 2012 ECFC Annual Conference.

**a** Rev. Rul. 73-189, 1973-1 C.B. 139.

**b** See, e.g., *Alderman v. Comm'r*, T.C. Summary Opinion 2004-74 (2004) (citing cases).

**c** *Weinzimer v. Comm'r*, T.C. Memo. 1958-137 (1958); *Misfeldt v. Kelm*, 44 AFTR 1033 (D. Minn.

1951).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<p><b>Transportation (travel) expenses for person to receive medical care</b></p>	<p>Qualifying expense</p>	<p>Will qualify if the transportation is primarily for and essential to medical care. * Includes car and rental car † expenses; bus, taxi, rideshare, train, plane, and ferry fares; and ambulance services. Note that rental car expenses are limited to the portion attributable to the medical appointment or other care. ‡ Instead of actual car expenses, a standard mileage rate (18 cents per mile for January 1, 2022-June 30, 2022, and 22 cents per mile for July 1, 2022-December 31, 2022; 22 cents per mile for 2023) for use of a car to obtain medical care is allowed. Parking fees and tolls can also qualify. a See also <b>Lodging not at a hospital or similar institution</b> and subsection L.8.</p>
<p><b>Transportation (travel) expenses of someone other than the person receiving medical care</b></p>	<p>Potentially qualifying expense</p>	<p>Will qualify in some cases. Transportation expenses of the following persons will qualify: (1) a parent who must go with a child who needs medical care; (2) a nurse or other person who gives injections, medications, or other treatment required by a patient who is traveling to get medical care and is unable to travel alone; and (3) an individual who travels to visit a mentally ill dependent, if such visits are recommended as</p>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		part of treatment. See <b>Transportation (travel) expenses for person to receive medical care; Lodging not at a hospital or similar institution; Lodging of a companion;</b> and subsection L.8.
<b>Transportation (travel) expenses to and from a medical conference</b>	Potentially qualifying expense	See <b>Medical conference admission, transportation, meals, etc.</b> See also subsection L.8.
<b>Treadmill</b>	Potentially qualifying expense	See <b>Exercise equipment or programs; Capital expenses;</b> and subsection L.9.
<b>Tuition evidencing separate breakdown for medical expenses</b>	Qualifying expense	Will qualify to the extent that charges for medical expenses are separately broken down in a bill for tuition for a college or private school and are for specific qualified medical services/items that have been incurred/obtained (and are not premiums for medical care generally). See <b>Student health fee</b> and <b>Insurance premiums.</b>
<b>Tuition for special-needs program</b>	Potentially qualifying expense	Will qualify if the primary purpose is for medical care. <b>b</b> Includes reading program for dyslexia. See <b>Learning disability, instructional fees; Schools and education, residential/special; Prepayments;</b> and subsection L.14.
<b>Ultrasound, prenatal</b>	Potentially qualifying expense	Will qualify if used as a diagnostic tool to determine fetal health and development. Won't qualify if for other purposes (e.g., to obtain



Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		prenatal snapshots). See also <b>Genetic testing.</b>

\* Code §213(d)(1)(B) and Treas. Reg. §1.213-1(e)(1)(iv).

† Priv. Ltr. Rul. 8321042 (Feb. 18, 1983).

‡ Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 8, 2014 ECFC Annual Symposium.

a IRS Notice 2022-3, 2022-2 I.R.B. 308; IRS Announcement 2022-13, 2022-26 I.R.B. 1185; IRS Notice 2023-3, 2023-\_\_ I.R.B. \_\_; and IRS Publication 502 (Medical and Dental Expenses). See the Table of Limits regarding the mileage rate for other years.

b See, e.g., Rev. Rul. 69-607, 1969-2 C.B. 40 and Priv. Ltr. Rul. 200521003 (Mar. 1, 2005).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Umbilical cord blood storage</b>	Potentially qualifying expense	Collection and storage as a precaution to treat a disease or condition that might possibly develop in the future, in case it is needed, is not medical care and may present a deferred compensation problem. * But might qualify if there is an existing or imminently probable disease that the umbilical cord blood is intended to treat. † For example, the cost of storing cord blood where a newborn has a birth defect and where the cord blood would be needed in the near future might qualify. ‡ See also <b>Blood storage; Stem cell, harvesting and/or storage of; and Prepayments.</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Usual and customary charges, excess	Qualifying expense	Medical expenses in excess of an insurance plan's usual, customary, and reasonable charges qualify if the underlying expense is for medical care.
Vaccines	Qualifying expense	See <b>Immunizations</b> .
Varicose veins, treatment of	Potentially qualifying expense	Such expenses generally won't qualify if the procedure merely improves appearance and doesn't meaningfully promote the proper function of the body or prevent or treat illness or disease. May qualify if the procedure promotes the proper function of the body or prevents or treats an illness or disease. To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required. See <b>Cosmetic procedures</b> .
Vasectomy	Qualifying expense <b>a</b>	See <b>Sterilization procedures</b> .
Vasectomy reversal	Qualifying expense	
Veneers	Not a qualifying expense	Such expenses generally won't qualify, as veneers are used primarily for cosmetic purposes. See <b>Cosmetic procedures</b> and <b>Teeth whitening</b> .
Veterinary fees	Potentially qualifying expense	Will qualify if the veterinary fees are incurred for the care of a guide dog or other animal used by a person with a disability. <b>b</b> Otherwise, no.
Viagra	Qualifying expense	Will qualify if prescribed by a physician to treat a medical

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		condition. <b>c</b> See <b>Drugs and medicines</b> .
<b>Vision correction procedures</b>	Qualifying expense	Medical procedures that correct vision, including laser procedures such as Lasik and radial keratotomy, qualify. <b>d</b> See also <b>Laser eye surgery, Lasik and Radial keratotomy</b> .

\* Informal, nonbinding remarks of Donna Crisalli, IRS, Office of Chief Counsel, Aug. 2, 2013 ECFC Annual Symposium.

† See, e.g., IRS Information Letter 2010-0017 (Nov. 2, 2009) and Priv. Ltr. Rul. 200140017 (June 25, 2001).

‡ Informal, nonbinding remarks of John Sapienza, IRS, Office of Chief Counsel, May 2002 ECFC Teleconference.

**a** IRS Publication 502 (Medical and Dental Expenses).

**b** IRS Publication 502 (Medical and Dental Expenses).

**c** Informal, nonbinding remarks of Katherine Kiss, IRS, Office of Chief Counsel, Aug. 1998 ECFC Annual Symposium.

**d** Rev. Rul. 2003-57, 2003-22 I.R.B. 959.

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
<b>Vision discount programs</b>	Not a qualifying expense	Such expenses generally won't qualify. See <b>Insurance premiums</b> . In contrast, expenses for actual medical treatment (such as an eye exam) generally will qualify.
<b>Vitamins</b>	Potentially qualifying expense	Won't qualify if used to maintain general health. * But under narrow circumstances, vitamins

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>might qualify if recommended by a medical practitioner for a specific medical condition (for example, a prescribed dosage of Vitamin B-12 daily to treat a specific vitamin deficiency). To show that the expense is primarily for medical care, a note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See <b>Prenatal vitamins; Dietary supplements; Special foods</b>; and subsection L.4.</p>
<b>Walkers</b>	Qualifying expense	Will qualify if used to relieve sickness or disability; includes related supplies.
<b>Walking aids (e.g., canes, crutches, rollators, and walkers)</b>	Qualifying expense	Will qualify if used to relieve sickness or disability; includes related supplies.
<b>Wart remover treatments</b> (Examples: Compound W, FreezeAway)	Qualifying expense	Although not addressed in IRS guidance, we believe such products are for the treatment of a disease and thus would qualify as medical care. †
<b>Weight-loss programs and/or drugs prescribed to induce weight loss</b>	Potentially qualifying expense	Weight-loss programs will qualify if recommended by a medical practitioner to treat a specific medical condition (such as obesity, heart disease, or diabetes) and not simply to improve general health. However, food associated with a weight-loss program (such as special pre-packaged meals) would not qualify, since it just

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		<p>meets normal nutritional needs. †</p> <p>To show that the expense is primarily for medical care, a note from a medical practitioner recommending it to treat a specific medical condition is normally required.</p> <p>Over-the-counter (OTC) medicines must be prescribed if incurred before 2020. See <b>Diet foods; Drugs and medicines; Exercise equipment or programs; Health club fees; Prepayments; Special Foods;</b> and subsection L.5.</p>
<b>Wheelchair</b>	Qualifying expense	<p>If used to relieve sickness or disability, amounts paid for a wheelchair or autoette and its repair and upkeep will qualify. <b>a</b></p> <p>Wheelchair cushions will also qualify as a necessary accessory to the wheelchair. <b>b</b></p>

\* Rev. Rul. 2003-102, 2003-38 I.R.B. 559. Although the IRS declared this Ruling obsolete as of January 1, 2011 (see Rev. Rul. 2010-23, 2010-39 I.R.B. 388), its logic would still seem to be applicable regarding vitamins. Moreover, as discussed in subsection L.2, the legislative changes that prompted Rev. Rul. 2010-23 have since been repealed. See *also* IRS Information Letter 2001-0102 (June 29, 2001).

† According to the U.S. National Library of Medicine, a wart is "caused by an infection with human papilloma virus, or HPV." U.S. National Library of Medicine, MEDLINEplus (as visited Nov. 18, 2022).

‡ Rev. Rul. 2002-19, 2002-16 I.R.B. 778.

**a** Treas. Reg. §1.213-1(e)(1)(iii).

**b** IRS Information Letter 2009-0209 (July 14, 2009).

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
Wigs	Potentially qualifying expense	Might qualify if the wig is prescribed by a physician for the mental health of a patient who has lost all of his or her hair from disease or treatment (e.g., chemotherapy or radiation). *
<b>Wipes, for cleaning and disinfecting external (i.e., non-bodily) surfaces</b> (Examples: Clorox, Lysol)	Not a qualifying expense	May qualify if wipe can also be used for bodily cleansing, so long as it is used to treat or alleviate a specific medical condition, and if the expense would not have been incurred but for the condition. A note from a medical practitioner recommending the item to treat a specific medical condition (or if applicable, to prevent a specific and imminent illness) is normally required. See also <b>COVID-19-related personal protective equipment (PPE) and Hand sanitizer or hand-sanitizing wipes.</b>
<b>Wipes and cleansers, for personal (e.g., perineal) use</b> (Examples: Dude Wipes, Cottonelle)	Potentially qualifying expense	May qualify if used to treat or alleviate a specific medical condition (e.g., hemorrhoids) and if the expense would not have been incurred but for the condition. Won't qualify if used for general health purposes or other personal reasons (e.g., as a toiletry). A note from a medical practitioner recommending the item to treat a specific medical condition is normally required. See also <b>COVID-19-related personal protective equipment (PPE) and Hand sanitizer or</b>

Expense	Is Expense a Qualifying Expense?	Comments and Special Rules
		hand-sanitizing wipes.
Wound care	Qualifying expense	
X-ray fees	Qualifying expense	Will qualify if the X-rays are performed for medical reasons. †
Yeast infection medications (Examples: Gyne-Lotrimin, Monistat)	Qualifying expense	
YMCA day camp	Not a qualifying expense	Such expenses at a YMCA or similar facility generally won't qualify. However, if a camp is a special program that is therapeutic and treats a specific disability, then the expense might qualify. ‡ To the extent attributable to a qualifying individual under a dependent care assistance program (DCAP), such expenses might be reimbursable under a DCAP if applicable rules are met (but the same expenses may not be reimbursed under a health FSA, HRA, or HSA and a DCAP-there is no "double-dipping" allowed). Non-medical expenses of the camp may also be reimbursable under a DCAP if applicable rules are met. See Section XXIV.

\* Rev. Rul. 62-189, 1962-2 C.B. 88; compare Rev. Rul. 55-261, 1955-1 C.B. 307 (generally no deduction for wigs).

† Treas. Reg. §1.213-1(e)(1)(ii).

‡ See *Emanuel v. Comm'r*, T.C. Summary Opinion 2002-127 (2002).

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