



Merck's Adoption/Surrogacy Assistance Program

Effective Date: January 1, 2021, Release Date: December 2021



Merck is pleased to offer the Adoption/Surrogacy Assistance Program (the Program), which provides reimbursement of up to \$25,000 per child, per family for eligible adoption and third-party surrogacy-related expenses. This brochure provides information about the Program, including an overview of available benefits, eligible expenses, important tax information and details for requesting reimbursement.

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Who's eligible

The Program is available to U.S.-based salaried and hourly employees (except those employees covered by a collective bargaining agreement, who may participate in the Program only if the collective bargaining agreement or other agreement between the parties provides for such participation) and U.S. expatriate employees, in each case employed by a Participating Employer. Participating Employers are all wholly owned U.S. subsidiaries of Merck & Co., Inc., excluding Antimicrobial Stewardship, LLC and Merck Global Health Innovation Fund, LLC and each of their subsidiaries.

The Program is not available to employees of Merck & Co, Inc. or its subsidiaries who are on a global assignment in the U.S.

Questions

If you have questions regarding the Program, please contact the Merck HR Support Center at **908-423-HELP (908-423-4357)** or **866-MERCK-HD (866-637-2543)**.

When participation begins

Eligibility to participate in the Program begins on the date the eligible employee's employment begins.

How the program works

The Program is designed to reimburse a portion of expenses related to adoptions and/or expenses related to the birth of a child through a third-party surrogate.

Available benefit

Merck reimburses up to \$25,000 per child, per family for eligible adoption and/or surrogacy related expenses. Merck reimburses up to \$25,000 for each unsuccessful surrogacy or adoption, limited to three combined (adoption/surrogacy) attempts per family. *If both parents are eligible for the Program, the maximum benefit (\$25,000 per child) applies jointly.*

When participation ends

Eligibility for participation in the Program ends on the earliest of the following occur:

- The date your employment ends
- The date you no longer meet the Program's eligibility requirements
- The date Merck terminates the Program



If you are legally required to adopt the child born through a surrogate, it is recommended that you first include any adoption-related expenses under the adoption section of the Adoption/Surrogacy Assistance Program Reimbursement Form, and any remaining eligible expenses under the surrogacy section, to maximize your tax-free benefit.

Adoption

Eligibility requirements for adoptive children

To be eligible for adoption benefits through the Program, the adoptive child generally must be under the age of 18. If the child is physically or mentally incapable of caring for himself/herself (as outlined in *IRS Publication 968 — Tax Benefits for Adoption*), no age limit applies. In addition, expenses related to the adoption of stepchildren are not eligible for reimbursement through the Program. Note that children of your domestic partner are considered your stepchildren under the Program.

Adoption expenses eligible for reimbursement

Only expenses that are reasonably and directly related to adoption are eligible for reimbursement. Eligible expenses must be consistent with the guidelines described in IRS publication *Instructions for Form 8839, Qualified Adoption Expenses*, available at <https://www.irs.gov/forms-pubs/about-form-8839>. Examples of reimbursable adoption expenses include the following:

- Agency and placement fees (including home study fees)
- Legal fees and court costs
- Medical expenses for the adoptive child prior to adoption not otherwise covered by any other insurance prior to the placement
- Medical expenses for the adoptive child's birth mother not otherwise covered by any other insurance prior to the placement
- Temporary foster care costs
- Immigration, immunization and translation fees
- Travel and transportation costs (including amounts spent for meals and lodging)
- Counseling fees associated with placement and initial adjustment (beyond what's covered under an employer's medical plan)
- Otherwise eligible expenses that were part of an unsuccessful attempt to adopt a child*

*Unsuccessful attempts are eligible expenses. However, unsuccessful attempts to adopt a foreign child are taxable. Please refer to the IRS publication *Instructions for Form 8839, When To Take the Credit or Exclusion*, available at <https://www.irs.gov/forms-pubs/about-form-8839>.

- Other expenses as determined by Merck, consistent with IRS publication *Instructions for Form 8839, Qualified Adoption Expenses*, available at <https://www.irs.gov/forms-pubs/about-form-8839>

To be eligible for reimbursement, expenses must be incurred while you are eligible to participate in the Program.

Adoption expenses not eligible for reimbursement

Expenses not eligible for reimbursement through the Program include, but are not limited to, those expenses that are:

- Incurred before your participation in the Program begins (see *When participation begins*)
- Incurred after your participation in the Program ends (see *When participation ends*)
- Allowed as a credit or deduction under any other federal income tax rules
- Reimbursable under a federal, state or local program
- Reimbursable under another employer-sponsored program
- In violation of federal or state law
- Associated with the adoption of the employee's spouse's or domestic partner's children (stepchildren)
- Submitted later than 12 months following the date the adoption becomes final
- Incurred with respect to adoptions not finalized while you are an employee of Merck & Co., Inc. or one of its worldwide wholly owned subsidiaries
- Expenses submitted for reimbursement before the adoption is finalized
- Determined as ineligible by Merck, consistent with IRS publication *Instructions for Form 8839, Qualified Adoption Expenses*, available at <https://www.irs.gov/forms-pubs/about-form-8839>

When an adoption is final

In order to show that an adoption has been finalized, you must submit, along with your request for reimbursement:

- For a domestic or foreign adoption finalized in the U.S., a copy of the adoption order or decree
- For a foreign adoption finalized outside the U.S., a copy of:
 - A Hague Adoption Certificate (Immigrating Child)
 - An IH-3, IR-2 or IR-3 visa, or
 - A foreign adoption decree, translated into English

Getting reimbursed for eligible adoption expenses

Once an adoption is finalized, reimbursement may be requested by:

- Completing and submitting Merck's *Adoption/Surrogacy Assistance Program Reimbursement Form* within 12 months of the adoption's finalization
- Attaching any itemized bills or receipts for eligible expenses — and a copy of the final *Adoption Decree*
- Sending all paperwork:

via email to:

1absence@merck.com

or via mail to:

Merck HR Service Delivery
10301 David Taylor Dr.
Charlotte, NC 28262

Reimbursement requests will be reviewed and, to the extent approved, reimbursed as soon as administratively possible.

If your request for reimbursement is denied, you can submit an appeal. Your appeal must be submitted in writing — and within 60 days of the denial — to Merck's Adoption/Surrogacy Assistance Program at the address listed above.

Tax considerations for reimbursed adoption expenses

As with many employer-sponsored benefits, a few important tax considerations apply:

- Adoption assistance benefits are provided tax free (pre-tax) up to \$14,440 for 2021. (Note: This limit may change in future years.) Benefits received in excess of this amount (up to \$25,000) will be considered taxable income. It's important to consult your tax advisor to ensure that all potential tax matters are addressed relative to an adoption and use of this benefit.

Benefits may still be considered taxable income when you file your tax return. If you must include any of the payments in your income, your withholding may not be enough to cover the tax on those payments. Therefore, you may need to adjust your withholding by filing a new Form W-4.

- Merck is required to withhold employment taxes* on reimbursements — and to report them on Form W-2.
- Income and limitations — The income limit on adoption credit or exclusion is based on your modified adjusted gross income (MAGI). If your MAGI amount for 2022 falls between certain dollar limits, your credit or exclusion will be subject to a phase out (is reduced or eliminated). As an example, for tax year 2020, the MAGI phase out began at \$214,500 and ended at \$254,520. Thus, if your MAGI amount was below \$214,500 for 2020, your credit or exclusion was not affected by the MAGI phase out; whereas, if your MAGI amount for 2020 was \$254,520 or more, your credit exclusion was zero. (Note: These limits may change in future years.)

For additional information about exclusions and income limits and when an adoption is considered final, please refer to the IRS publication *Instructions for Form 8839, Qualified Adoption Expenses*, available at <https://www.irs.gov/forms-pubs/about-form-8839>

*State tax may be withheld as well.



Surrogacy

Only expenses from a legally recognized third-party surrogacy relationship are eligible for reimbursement. The legality of surrogacy varies from state to state.

It is the employee's responsibility to make sure that the surrogacy relationship between the employee and the surrogate is legal. For purposes of this Program, third-party surrogacy includes a third-party gestational carrier. Third party means a carrier who is not the employee's spouse or domestic partner.

Surrogacy expenses eligible for reimbursement

Only expenses that are reasonably and directly related to legal third-party surrogacy arrangements are eligible for reimbursement under the Program. Examples of reimbursable surrogacy expenses include the following:

- Court costs, legal and attorney fees
- Surrogacy agency fees or fees described in a legally recognized third-party surrogacy arrangement, unless specifically excluded in this policy
- Travel expenses for the intended parents
- Fees associated with the adoption of a child through a legally recognized third-party surrogate arrangement

Note: These expenses are covered and should be submitted through the adoption reimbursement portion of the Program. Refer to the callout on page 3 for more details.

- Medical expenses for the child not otherwise covered by any other insurance prior to placement
- Medical expenses related to pregnancy and delivery of the third-party surrogate not otherwise covered by any other insurance (cost for the purpose of becoming pregnant, such as infertility treatments, are excluded)
- Otherwise eligible expenses that were part of an unsuccessful surrogacy (limited to three unsuccessful attempts)

To be eligible for reimbursement, expenses must be incurred while you are eligible to participate in the Program.

If two employees of the Participating Employers are becoming parents of the same child through a third-party surrogate, the maximum reimbursement for that child is \$25,000.

Surrogacy expenses not eligible for reimbursement

Expenses not eligible for reimbursement through the Program include, but are not limited to, those expenses that are:

- Incurred before your participation in the Program begins (see *When participation begins*)
- Incurred after your participation in the Program ends (see *When participation ends*)
- Incurred with respect to surrogacy arrangements that are not legally recognized
- Related to getting pregnant (e.g., infertility treatment)
- For the surrogate and covered by any other insurance
- For the child and covered by any other insurance prior to placement
- For an employee, spouse or domestic partner submitted later than 12 months following the date the child is born to the third-party surrogate
- Allowed as a credit or deduction under any federal income tax rules
- Reimbursable under a federal, state or local program
- Reimbursable under another employer-sponsored program
- In violation of federal or state law
- Associated with the child of the employee's spouse or domestic partner (stepchildren)
- Incurred with respect to the birth of a child born to the third-party surrogate while you are not an eligible employee
- Submitted for reimbursement before the birth of a child born to the third-party surrogate

Getting reimbursed for eligible surrogacy expenses

Reimbursement may be requested by:

- Completing and submitting Merck's Adoption/ Surrogacy Assistance Program Reimbursement Form within 12 months of the birth of the child to a third-party surrogate
- Attaching any itemized bills or receipts for eligible expenses
- Sending all paperwork:

via email to: **1absence@merck.com** **or** via mail to:
Merck HR Service Delivery
10301 David Taylor Dr.
Charlotte, NC 28262

Reimbursement requests will be reviewed and, to the extent approved, reimbursed as soon as administratively possible.

If your request for reimbursement is denied, you can submit an appeal. Your appeal must be submitted in writing — and within 60 days of the denial — to Merck's Adoption /Surrogacy Assistance Program at the address listed above.

Tax considerations

Reimbursements for surrogacy expenses are considered a taxable event and are generally treated as income to the employee and subject to applicable withholding and reporting to the IRS.

It's important to consult your tax advisor to ensure that all potential tax matters are addressed relative to an adoption and use of this benefit.





Other important information regarding adoption or birth of a child through a third-party surrogate

Updating your Merck benefits

Adding a child to your family is considered a life event that allows you to make certain permitted plan changes to the benefits provided to you by Merck and/or through your collective bargaining unit.*

For benefits provided by Merck, please refer to the summary plan descriptions for Merck's benefits available on Sync, the Merck intranet, for more details about your ability to change your benefit coverages — including time limits applicable to enrolling a newly eligible dependent for benefits. Please note that you may not need to wait until the adoption is final in order to make changes to your benefits — or to enroll your newly eligible dependent. For more information, please contact the Merck Benefits Service Center at **800-66-MERCK (800-666-3725)**.

Employees represented by the USW Local 10-0086 should contact richard Gabriel associates at **215-773-0900** for information on changing medical and dental benefits.* If you add a new dependent to medical coverage, you will receive a letter or email from Cotiviti (an independent third-party vendor designated by Merck to conduct dependent eligibility verifications) requesting documentation to verify your dependent's eligibility (e.g., adoption decree, etc.). Failure to respond or provide all required documentation will result in the removal of your dependent(s) from any company-sponsored benefits in which they are currently enrolled and COBRA coverage will not be offered. The company, in its sole discretion, maintains the right to audit any and all dependent information on file at any time.

*Medical coverage for employees represented by USW Local 10-0086 is provided by the plan described in the applicable collective bargaining agreement and administered through richard Gabriel associates. The dependent audit is not applicable to members of USW Local 10-00086.

Administrative information

Merck Sharp & Dohme Corp. is the administrator for the Program. Benefits under this Program will be paid only if Merck Sharp & Dohme Corp. decides, in its discretion, that you are entitled to them. Merck shall make, in its sole discretion, all determinations arising in the administration, construction or interpretation of the Program, and in connection therewith it shall construe Program terms and provisions, correct any defects, make factual determinations, reconcile any inconsistencies and supply any omissions — and any such determinations shall be conclusive and binding on all persons, to the maximum extent permitted by law. Merck reserves the right to amend or terminate the Program at any time.

Change in control

Notwithstanding anything contained herein to the contrary, in the event of a “Change in Control” of Merck & Co., Inc. (parent of Merck Sharp & Dohme Corp.), (a) except to the extent required by applicable law, for two years following the Change in Control, the material terms of the Program (including terms relating to eligibility and benefits) cannot be modified in a manner that is materially adverse to individuals who participated in the Program immediately before the Change in Control; and (b) for two years following the Change in Control, the Program cannot be amended to reduce or eliminate the protections set forth in the foregoing clause (a); and (c) Merck will pay the legal fees and related expenses reasonably and in good faith incurred by any participant that prevails on at least one material item of his or her claim for relief in an action regarding an amendment to the Program (but excluding claims for plan benefits in the ordinary course) that is impermissible under the foregoing clauses (a) and (b). “Change in Control” has the same meaning that it has under the Merck & Co., Inc. Change in Control Separation Benefits Plan, as it may be amended in accordance with its terms from time to time.

