

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

Montgomery County Cafeteria Plan
(Name of Plan)

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Montgomery County Cafeteria Plan ("Plan"). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description ("SPD") previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

This amendment is effective January 1, 2020.

You may now request reimbursement for the purchase of "over the counter" drugs without a prescription.

You may now request reimbursement of the purchase of menstrual care products, including tampons, pads, and other products.

You may now request reimbursement of telehealth services.

If you did not spend all the amounts in your *[Health Flexible Spending Account]*, *[Dependent Care Flexible Spending Account]* by the end of the 2019 Plan Year, you may continue to incur claims for expenses for a 2019 calendar year or off calendar year plan ending within 2020 until December 31, 2020.

The deadlines for submitting claims, exercising HIPAA special enrollment rights, and electing COBRA coverage will be extended due to the pandemic. If you are submitting claims incurred after March 1, or electing special enrollment rights or electing COBRA coverage, you will have an extended period in which to submit claims or make these elections. Your Administrator will provide you with details.

2020 AMENDMENT FOR CARES ACT AND OTHER CHANGES

ARTICLE 1 PREAMBLE; DEFINITIONS

- 1.1 **Adoption of Amendment.** The Employer adopts this Amendment to implement provisions of the Act and other regulations and Notices issued by the IRS or DOL which affect the Plan.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definition applies specifically to this Amendment:

The "Act" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.

ARTICLE 2 IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

- 2.1 **Identifying information.**
- A. Name of Employer: Montgomery County
- B. Name of Plan: Montgomery County Cafeteria Plan
- 2.2 **Medical Expenses.** Will the Plan reimburse any or all of the following amounts, as described in Article 3, for Participants?
- (a) **Over the Counter Medications.**
- (b) **Menstrual products.**
- (c) **Telehealth (to the extent not otherwise provided).**
- 2.7 **Grace Period and Extended Claims Period for Unused Amounts.** Will the Plan adopt the extension of time through December 31, 2020 to permit employees to apply unused amounts remaining in the Health Flexible Spending Account and/or Dependent Care Flexible Spending account as described in Article 6.3?
- (a) **Yes, and the extension will apply to:**
- (1) **Health Flexible Spending Account.**
- (2) **Dependent Care Flexible Spending Account.**
- (b) **No.**
- 2.8 **Effective Date.** This Amendment is effective as of January 1, 2020, or, if later, the following date: _____ . Expenses must be incurred after _____ . (Enter a date not earlier than December 31, 2019.)

**ARTICLE 3
MEDICAL EXPENSES REIMBURSED**

- 3.1 **Application.** The Plan's definition of "Medical Expenses" under the Plan is amended by the addition of the following provisions as selected at Section 2.2.
- 3.2 **Over the Counter Medications.** This Section 3.2 applies if the Employer has made Election 2.2(a). Notwithstanding anything in the Plan to the contrary, a Participant may be reimbursed for the cost of any medicine or drug for medical care, within the meaning of the term "medical care" as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, determined without regard to whether medicines or drugs have been prescribed. Insulin remains a covered expense. The intention of this provision is to permit coverage for over the counter medications.
- 3.3 **Menstrual Products.** If the Employer has made Election 2.2(b), a Participant may be reimbursed for the purchase of menstrual care products as defined in Code Section 223(d)(2)(D) and as authorized in Code Section 106(f).
- 3.4 **Telehealth.** If the Employer has made Election 2.2(c), a Participant may be reimbursed for expenses related to telehealth and other remote care as defined in the CARES Act and further guidance. Such coverage will not disqualify an HSA-eligible High Deductible Health Plan if made for services provided on or after January 1, 2020, with respect to Plan Years beginning on or before December 31, 2021 or, and with respect to such additional Plan Years as may become permissible under applicable law and/or IRS guidance.

**ARTICLE 6
CLAIMS SUBMISSION AND OTHER DEADLINES**

- 6.1 **Application.** The Plan's deadlines contained within its claims procedures, and various other statutory deadlines are temporarily extended by the "outbreak period" as set forth in IRS Notice 2020-23, EBSA Disaster Relief Notice 2020-01, the joint notice of the IRS and DOL published May 4, 2020, entitled "Extension of Certain Timeframes for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID-19 Outbreak," and subsequent guidance. Such deadlines shall include but are not limited to HIPAA special enrollment, COBRA elections and claims procedure deadlines, including initial filing and appeal of adverse benefit determination.
- 6.2 **"Outbreak Period."** The "outbreak period" begins March 1, 2020 and extends until 60 days after the end of the National Emergency or such other date as announced by the IRS and DOL, or otherwise declared by the Federal government as a result of the national emergency due to the COVID 19 pandemic.
- 6.3 **Grace Period and Extension of Unused Amounts.** This Section 6.3 will apply if the Employer has made Election 2.7. If the Plan uses a grace period for the Health Flexible Spending Account and/or Dependent Care Flexible Spending Account, the grace period for a calendar year Plan now extends to December 31, 2020. For a grace period or plan year that ends within 2020, the Plan may permit expenses to be paid or reimbursed through December 31, 2020. Unless such Health Flexible Spending Account is a limited purpose flexible spending account, a Participant will not be permitted to contribute to a Health Savings Account (HSA) during the extended period.

* * * * *

This Amendment has been executed this 24 day of August, 2020.

Name of Plan: Montgomery County Cafeteria Plan

Name of Employer: Montgomery County

By: Joseph M. Carter
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Montgomery County (the Employer) hereby certifies that the following resolution was duly adopted by Employer on Aug. 24, 2020, and that such resolution has not been modified or rescinded as of the date hereof;

RESOLVED, this Amendment to the Montgomery County Cafeteria Plan is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: August 24, 2020

Signed: Joyle M. Carter

Joyle M. Carter / Director of Human Resources
[print name/title]