

RESOLUTION No. 4938

A RESOLUTION AMENDING THE COUNTY'S FLEXIBLE BENEFITS PLAN

WHEREAS, the County Board of Champaign County has previously adopted a Flexible Benefits Plan, a Code Section 125 Cafeteria Plan, so that its eligible employees who elected to participate could pay their share of certain qualified benefits identified in the Plan with pre-tax salary reductions; and

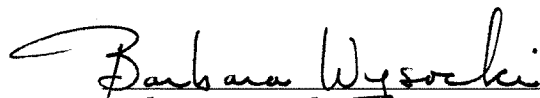
WHEREAS, the County Board of Champaign County previously adopted a Health Care Reimbursement Account, a Code Section 105 health care reimbursement plan, and a Dependent Care Reimbursement Account, a Code Section 129 dependent care reimbursement plan, so that its eligible employees who elected to participate could receive tax-free reimbursement for certain eligible expenses; and

WHEREAS, the Champaign County Board desires to amend the Plan, the Health Care Reimbursement Account, and the Dependent Care Reimbursement Account, to reflect certain changes in the applicable rules and regulations.

NOW, THEREFORE BE IT RESOLVED by the County Board of Champaign County that the County Board approves the attached Amendment and Summaries of Material Modification, effective as of the dates set forth in the attached amendments; and

BE IT FURTHER RESOLVED that the County Board Chair is authorized and directed to take any and all action as may be necessary to effectuate the attached Amendment and Summary of Material Modifications.

PRESENTED, PASSED, APPROVED and RECORDED this 31<sup>st</sup> day of March, A.D. 2005.

  
\_\_\_\_\_  
Barbara Wysocki, Chair  
Champaign County Board

ATTEST:

  
\_\_\_\_\_  
Mark Shelden, County Clerk and  
Ex-officio Clerk of the County Board

**AMENDMENT TO THE  
FLEXIBLE BENEFITS PLAN**

This Amendment to the **Flexible Benefits Plan** (the "Plan") is adopted by the Employer named below (the "Employer"), effective as of the dates set forth herein.

**NOW, THEREFORE**, effective January 1, 2005, the Plan is amended as follows:

A. The definition of "Dependent" is deleted in its entirety and replaced with the following new definition:

**"Dependent"** means any individual who is a tax Dependent of the Participant as defined generally in Code Section 152; however, for health plan purposes, a Dependent is defined as set forth in Code Section 105(b) and for the Dependent Care Reimbursement Account (if offered under the Plan) purposes, a Dependent also means an individual described in Code Section 21(e)(5) (i.e., Dependent of the parent with custody for the greatest portion of the year).

B. The definition of "Qualifying Individual" is deleted in its entirety and replaced with the following new definition:

**"Qualifying Individual"** means an individual defined as a "Qualifying Individual" in the Summary Plan Description.

C. Effective the first plan year beginning on or after November 26, 2004, The "Continuation Coverage Under COBRA" Section is deleted in its entirety and replaced with the following:

**CONTINUATION COVERAGE UNDER COBRA**

The following provisions shall be applicable to the HCRA to the extent the HCRA is subject to COBRA as set forth in ERISA §601 et seq. and Code §4980B, and the *Public Health Service Act, 42 U.S.C. 3066-1*, and the regulations issued thereunder. As noted in Section 11.05, COBRA coverage need not be extended to certain HCRA Participants. The intent of this Article is to extend continuation rights required by COBRA. To the extent greater rights are provided for hereunder, this Article or that portion thereof shall be void.

**11.01 Continuation Coverage after Termination of Normal Participation.** During any Plan Year during which the Employer is subject to Code Section 4980B (COBRA), 38 U.S.C. Section 4301 et seq. (Uniformed Services Employment and Reemployment Rights Act or "USERRA"), or the *Public Health Service Act, 42 U.S.C. 3066-1*, each person who is a Qualified Beneficiary described in Section 11.02 herein shall have the right to elect to continue coverage under the Plan upon the occurrence of a Qualifying Event that would otherwise result in such person losing coverage hereunder. Such extended coverage under the plan is known as "Continuation Coverage."

**11.02 Who is a "Qualified Beneficiary."** A "Qualified Beneficiary" is any person who is, as of the day before a Qualifying Event, covered under HCRA and is (a) an Employee of the Employer (such persons are called "Covered Employees"), (b) the Spouse of the Covered Employee, or (c) a Dependent child of the Covered Employee. A Covered Employee can be a Qualified Beneficiary only if the Qualifying Event consists of termination of employment (for any reason other than gross misconduct) or reduction of hours of the Covered Employee's employment. A child born to or placed for adoption with a Covered Employee during Continuation Coverage will also be a Qualified Beneficiary.

**11.03 Who is not a "Qualified Beneficiary."** A person is not a Qualified Beneficiary if, as of such day, the individual is covered under the HCRA by virtue of the election of Continuation Coverage by another person and is not already a Qualified Beneficiary by reason of a prior Qualifying Event. Furthermore, an individual who fails to elect Continuation Coverage within the election period provided in Section 11.08, below, shall not be considered to be a Qualified Beneficiary.

**11.04 What is a "Qualifying Event."** Any of the following shall be considered as a "Qualifying Event" to the extent such event causes the Qualified Beneficiary to lose coverage under the HCRA:

- (a) death of a Covered Employee;
- (b) termination (other than by reason of gross misconduct) of the Covered Employee's employment or reduction of hours of employment (including but not limited to the Covered Employee's approved military leave);
- (c) divorce or legal separation of a Covered Employee from the employee's Spouse;
- (d) a Covered Employee becoming entitled to receive Medicare benefits under Title XVIII of the Social Security Act; or
- (e) a dependent child of a Covered Employee ceasing to be a Dependent.

**11.05 COBRA Not Applicable to Certain HCRA Participants.** In accordance with IRS regulations, COBRA continuation coverage will not be offered to HCRA participants under certain circumstances:

- (a) **Unavailability of COBRA in Subsequent Plan Years.** COBRA continuation will not be offered to a HCRA Participant in any Plan Year following the Plan Year in which the Qualifying Event occurs if:
  - (i) **HCRA is Exempt from HIPAA.** The HCRA is exempt from HIPAA (i.e., a major medical plan is equally "available" in addition to the HCRA, and the HCRA benefit does not exceed two times the salary reduction or, if greater, the salary reduction plus \$500); and

- (ii) **COBRA Premium Equals or Exceeds HCRA Benefit.** If for the plan year in which the Qualifying Event occurs, the maximum amount the Qualified Beneficiary could be required to pay for a full year of HCRA COBRA coverage equals or exceeds the maximum benefit available to the Qualified Beneficiary for the plan year.
- (b) **Unavailability of COBRA in Plan Year in which Qualifying Event Occurs.** COBRA continuation coverage will not be offered to a Qualified Beneficiary in the Plan Year in which the Qualifying Event occurred if:
  - (i) **Conditions in 11.05(a) are Satisfied.** The HCRA satisfies the conditions set forth in Section 11.05(a); and
  - (ii) **Participant's Reimbursement Account has a Deficit at the Time of the Qualifying Event.** Taking into account all claims submitted on or before the date of the Qualifying Event, the Qualified Beneficiary's remaining HCRA balance for the Plan Year is less than the maximum required COBRA premiums for the rest of the year; i.e., the Participant's Reimbursement Account is in a deficit position.

**11.06 What Benefit is Available under Continuation Coverage.** Each person who is eligible to elect to continue coverage under the COBRA Continuation section shall have the right to continue the level of coverage in effect on the day before the Qualifying Event (or a lesser level of coverage). A premium for Continuation Coverage shall be charged to Qualified Beneficiaries in such amounts and shall be payable at such times as are established by the Plan Administrator and permitted by applicable law.

**11.07 Notice Requirements.**

- (a) When an Employee becomes covered under this HCRA, the Plan Administrator must inform the Participant (and Spouse, if any) in writing of the rights to continued coverage, as described in Article XI.
- (b) The Employer shall give the Plan Administrator (if different from the Employer) written notice of a Qualifying Event within thirty (30) days of the occurrence thereof.
- (c) Within fourteen (14) days of receipt of the Employer's notice or the Qualified Beneficiary's notice as set forth in 11.07(d), the Plan Administrator (or its designee) shall furnish each Qualifying Beneficiary with written notification of the rights of any such Beneficiary to elect Continuation Coverage, as required by Code Section 4980B, ERISA § 601, and the **Public Health Service Act 42 U.S.C. 3066-1** (and the regulations issued thereunder), in accordance with the terms of this Plan. If the Employer and the Plan Administrator are the same entity, then the Plan Administrator will have 44 days to provide notice with respect to Qualifying Events set forth in 11.07(a),(b) or (d).

- (d) In the case of a Qualifying Event described in Section 11.04(c) or (e), or if COBRA coverage is already effective, a Qualifying Event (other than the Covered Employee's termination of employment) that occurs during the 18 or 29 month COBRA coverage period, a Covered Employee or a Qualified Beneficiary who is a Spouse or Dependent child of such Employee must notify the Plan Administrator within sixty (60) days of the later of the occurrence thereof or the date coverage is lost as a result of the occurrence thereof. The 60 day notice period will not begin to run until the Covered Employee or Qualified Beneficiary has been furnished notice of his/her obligation to provide notice as set forth in this 11.07(d) through the General Notice (described in 11.07(a)) or the Summary Plan Description.

Notwithstanding any of the foregoing, notification to a Qualified Beneficiary who is a Spouse of a Covered Employee is treated as notification to all other Qualified Beneficiaries residing with that person at the time notification is made.

**11.08 Election Period.** Any Qualified Beneficiary entitled to Continuation Coverage shall have 60 days from the later of the date of the notice required by Section 11.07(c) or the date coverage terminates as a result of the Qualifying Event in which to return a signed election to the Plan Administrator indicating the choice to continue benefits under this Plan.

**11.09 Duration of Continuation Coverage.** Except as otherwise provided in this Plan, Continuation Coverage shall extend for a period of 18 months after the date that regular coverage ceased due to occurrence of the initial Qualifying Event described in Section 11.04(b), unless during such 18 month or 29 month period (if the COBRA period is extended due to a Qualified Beneficiary's disability determination as set forth herein) a subsequent Qualifying Event occurs, in which case, another election to extend coverage for 18 months shall be available to the Beneficiary. Except as otherwise provided in this Section, in the case of a Qualifying Event not described in Section 11.04(b), Continuation Coverage shall extend for a period of 36 months after the date that regular coverage ceased due to the occurrence of the Qualifying Event. In the case of a Qualified Beneficiary who is determined, under Title II or XVI of the Social Security Act, to have been disabled prior to the end of the first 60 days of COBRA coverage, Continuation Coverage with respect to such event shall extend for a period of 29 months after the date that regular coverage ceased due to the occurrence of the Qualifying Event if the Qualified Beneficiary has provided notice of such determination prior to the end of the 18 month period or the 60 day notice period, whichever ends first. The 60 day notice period ends 60 days after the later of (i) the Qualifying Event or (ii) the date of the Social Security Administration's determination. The 60-day notice period will not begin to run until the Covered Employee or Qualified Beneficiary has been furnished notice of his/her obligation to provide notice as set forth in 11.07(d) through the General Notice (described in 11.07(a)) or the Summary Plan Description.

**11.10 Payment of Premiums.** The Plan may require a Qualified Beneficiary to pay 102% of the applicable premium (as defined in ERISA, the Code, and the regulations issued thereunder) of the Continuation Coverage elected by the Qualified Beneficiary. The first premium for Continuation Coverage is due no later than 45 days after the election is made as set forth in 11.08 herein. All subsequent premiums are due on the first day of the month. Subsequent premiums not submitted within 30 days of the due date will result in termination of coverage as set forth in Section 11.11 herein. A Qualified Beneficiary will have 30 days to cure an insignificantly insufficient premium. A premium is insignificantly insufficient if it is insufficient by the lesser of \$50 or 10% of the premium. Future premium payments will first be applied to satisfy prior insufficient premium payments and that may result in subsequent premium payments being insignificantly insufficient or significantly insufficient (which may result in a termination of coverage).

**11.11 Automatic Termination of Continuation Coverage.** Continuation Coverage shall automatically cease if (a) the Employer no longer offers the particular group health coverage to any of its employees (b) the required premium for Continuation Coverage for a particular coverage is not timely paid within the due dates set forth herein, (c) (except for those receiving continuation of coverage during the first 18 months following a military leave covered under USERRA) an electing Qualified Beneficiary becomes covered under another group health plan other than a group health plan which may limit a Qualified Beneficiary's coverage because it involves a pre-existing condition except for continuation coverage arising from a Qualifying Event described in 11.04(f), or (d) (except for those receiving continuation of coverage during the first 18 months following a military leave covered under USERRA) an electing Qualified Beneficiary becomes entitled to receive benefits under Medicare except for continuation coverage arising from a Qualifying Event described in 11.04(f).

County of Champaign  
Employer (Please Print)

Barbara Wysocki  
Name (Please Print)

Barbara Wysocki  
Signature

County Board Chair  
Title

March 31, 2005  
Date