



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Human Resources
Department No.: 064
For Agenda Of: 09/06/2011
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Jeri Muth, Interim Human Resources Director, 568-2816
Director(s)
Contact Info: Andreas Pyper, Employee Benefits Manager, 568-2821
SUBJECT: Amended and Restated IRS Section 125 Cafeteria Plan – Basic Plan Document
and Adoption Agreement

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Select_Other

As to form: No

Recommended Actions:

Approve the attached Adoption Agreement (Attachment 1) and the amended and restated IRS Section 125 Cafeteria – Basic Plan Document (Attachment 2), with a retroactive effective date of January 1, 2011.

Summary Text:

The Flexible Benefits Plan – IRS Section 125 Plan, originally adopted by the Board of Supervisors in May 1989, has been updated as the component plans, health care legislation, and IRS rules have changed. All of the changes made to the Plan document are mandated by law.

Background:

The Flexible Benefits Plan – IRS Section 125 Plan was originally created in May 1989 to offer a combination of non-taxable and taxable benefits for County employees under the IRS Section 125 provisions. All regular County employees are eligible for these benefits, and an annual open enrollment period is held prior to the January 1 effective date each year. Periodically, as health plan options change and IRS regulations are revised, plan provisions are updated. The restated Plan and adoption agreement incorporates the most recent changes mandated by the Health Insurance Portability and Accountability Act (HIPAA),

Uniformed Service Employment and Reemployment Rights Act (USERRA), Patient Protection and Affordable Care Act (PPACA), Heroes Earnings Assistance and Relief Tax Act (HEART Act), Consolidated Omnibus Budget Reconciliation Act (COBRA), and the Health Care Education and Reconciliation Act (HCERA) as well as recent IRS changes.

Summary of Key Updates

A. Summary of key updates in the Adoption Agreement (Attachment 1)

The following points are a summary of the key updates in the Adoption Agreement (see Attachment 1)

- i. IRS contribution limits and new restrictions on qualified medicines and drugs from the Health Care Reimbursement Account are incorporated in the document. (*Attachment 1: Adoption Agreement, pg.4 - C.2a*).
- ii. Annual benefit election language has been updated to reflect the IRS regulation that excludes HSA participants from the requirement to make an annual election for their Health Savings Account (HSA) contribution amount (*Attachment 1: Adoption Agreement, pg.7 - C.11(iii)*).
- iii. *Participants may elect to continue* participation in the plan, on a pre-tax or after tax basis, for non-medical benefits when on a leave of absence under Family Medical Leave Act (FMLA) or other leave type (other leave type is new provision) (*Attachment 1: Adoption Agreement, pg.7 - C.13a and b*).
- iv. Employees that cease to participate in the plan may continue to spend down Dependent Care Assistance account balances through the end of the year (and grace period) subject to normal claim filing deadlines (*Attachment 1: Adoption Agreement, pg.7 - C.15a*).
- v. Qualified Reservist Distributions per the Heroes Earnings Assistance and Relief Tax Act (HEART Act), to participants on qualified military leave, of unused balances in the Health Care Reimbursement Account (*Attachment 1: Adoption Agreement, pg. 8 - D.5 and Attachment 2: Basic Plan Document, pg.7, Section 4.02(d)*).

B. Summary of key updates in the Basic Plan Document (Attachment 2)

The following points are a summary of the key updates and changes the Basic Plan Document (see Attachment 2).

- i. Qualified Reservist Distributions per the Heroes Earnings Assistance and Relief Tax Act (HEART Act), to participants on qualified military leave, of unused balances in the Health Care Reimbursement Account (*Attachment 2: Basic Plan Document, pg.7, Section 4.02(d)*).
- ii. Updated Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule language (*Attachment 2: Basic Plan Document Section, pg.22, Section 7.03*).

- iii. Health Care Reimbursement Account (HCRA) expense reimbursement for child dependents up to their 26th birthday (*Attachment 2: Basic Plan Document, pg.6, Section 4.02*).
- iv. Consolidated Omnibus Budget Reconciliation Act (COBRA) language has been condensed (*Attachment 2: Basic Plan Document, pg.11, Section 4.06(g)*).
- v. HSA language has been condensed (*Attachment 2: Basic Plan Document, pg.13, Section 4.08*).
- vi. Nondiscrimination tests to be conducted annually (*Attachment 2: Basic Plan Document, p.14, Section 5.01*).
- vii. Flexible Spending Account (FSA) claim denial appeal process to be defined by the Plan Administrator to comply with new plan language (*Attachment 2: Basic Plan Document, pg.16, Section 6.02*).

Fiscal and Facilities Impacts:

None

Staffing Impacts:

Legal Positions:

FTEs:

None

Special Instructions:

Please send one signed copy of the attached Adoption Agreement to Andreas Pyper in the Human Resources Department

Attachments:

Attachment 1 – Adoption Agreement

Attachment 2 – The County of Santa Barbara – IRS Section 125 Basic Plan Document

Authored by:

Andreas Pyper

cc: