

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.24
(ID # 15268)

MEETING DATE:
Tuesday, June 22, 2021

FROM : HUMAN RESOURCES:

SUBJECT: HUMAN RESOURCES: Ratify and Approve Amendment No. 2 to the County of Riverside Flexible Benefit Program, effective 1/01/2021, for eligible County employees, All Districts. [Total Cost - \$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve Amendment No. 2 to the County of Riverside Flexible Benefit Program, effective January 1, 2021 (Attachment A); and
2. Authorize the Chair of the Board to sign three (3) copies of the document on behalf of the County; and
3. Direct the Clerk of the Board to retain one (1) copy of the signed document and return two (2) copies of the signed document to Human Resources for distribution.

ACTION:Policy



Brenda Diederichs, Assistant CEO / Human Resources Director 6/17/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Date: June 22, 2021
xc: HR

Kecia R. Harper
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment:	No
			For Fiscal Year:	20/21

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Flexible Benefit Program was first adopted November 20, 1986 to allow employees to select among various non-taxable benefits and cash compensation. The County offers a Flexible Spending Account Program which allows eligible employees to enroll in Internal Revenue Code Section 125 pre-tax Health Care Reimbursement and Dependent Care Reimbursement plans. The establishment of the Flexible Spending Account Program was approved by the Board on August 10, 1999, Item 3.62. Administrative services for the Health Care Reimbursement and Dependent Care Reimbursement plans are presently provided by Application Software, Inc. (ASI), pursuant to the administrative services contract originally approved by the Board on September 28, 2010, Item 3.52. The County, through the Human Resources Director, is the Plan Administrator.

The Health Care Reimbursement Plan option reimburses eligible participants on a pre-tax basis for out-of-pocket healthcare expenses incurred during the plan year that are not covered by insurance or a health plan. The Dependent Care Reimbursement Plan option is used to reimburse eligible participants for child day care expenses, or care of an adult dependent who is incapable of self-care and is claimed as a taxable dependent. For eligible employees who participate in the Health Care Reimbursement and/or Dependent Care Reimbursement plans, they do not pay taxes on the monies that are elected annually and deducted from their pay warrants.

Due to reasons related to the public health emergency involving COVID-19 and by the authority granted in Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, it is appropriate and necessary to amend the Plan as follows:

- To permit a “mid-year” enrollment period for the 2021 Plan Year for Eligible Employees and Participants through August 31, 2021 under the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan.

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- To extend the definition of "Grace Period" for the 2020 Plan Year until December 31, 2021 and the 2021 Plan Year until December 31, 2022 for the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan.
- To permit Participants of the Health Care Reimbursement Plan who terminate participating during the 2021 Plan Year to be reimbursed for expenses incurred after termination but during the 2021 Plan Year, up to the amount that the Participant contributed during the 2021 Plan Year at the time of termination.
- To extend the maximum age of eligible dependents under the Dependent Care Reimbursement Plan.

Amendment No. 2 to the County of Riverside Flexible Benefit Program will formally adopt these changes effective January 1, 2021.

Prev. Agn. Ref.: 08/10/1999, Item 3.62

Impact on Residents and Businesses

There is no direct impact to residents or private businesses in the County of Riverside.

ATTACHMENTS:

ATTACHMENT A. Amendment No. 2 to the County of Riverside Flexible Benefit Program (Effective from January 1, 2021)



Meghan Hahn, Administrative Analyst

6/14/2021



Gregory I. Priamos, Director County Counsel

6/8/2021

**2021 AMENDMENT NO 2. TO THE
COUNTY OF RIVERSIDE FLEXIBLE BENEFIT PROGRAM**

This Amendment is adopted the 22nd day of June, 2021.

WHEREAS, the County of Riverside (“County”) maintains The County of Riverside Flexible Benefit Program as amended and restated effective January 1, 2021 (“Plan”), which incorporates The County of Riverside Health Care Reimbursement Plan (“Health Care Reimbursement Plan”) and The County of Riverside Dependent Care Reimbursement Plan (“Dependent Care Reimbursement Plan”);

WHEREAS, Section 1.3 of the Plan provides that the purpose of the Plan document is to allow Eligible Employees to select among Compensation and coverage under one or more Benefits, and for such Benefits to be eligible for exclusion from federal income tax;

WHEREAS, pursuant to Section 7.1 of the Plan, the County has the authority to amend the Plan at any time, provided that no amendment shall change the terms and conditions of payment of any Benefit that a Participant, Spouse, Dependent, or designated beneficiary was or might have been entitled to under the Plan prior to the amendment;

WHEREAS, for reasons related to the public health emergency involving COVID-19 and by the authority granted in Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, it is appropriate and necessary to amend the Plan to permit a “mid-year” enrollment period for the 2021 Plan Year for Eligible Employees and Participants through August 31, 2021 under the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan;

WHEREAS, for reasons related to the public health emergency involving COVID-19 and by the authority granted in Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, it is appropriate and necessary to amend the Plan to extend the definition of “Grace Period” for the 2020 Plan Year until December 31, 2021 and the 2021 Plan Year until December 31, 2022 for the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan;

WHEREAS, for reasons related to the public health emergency involving COVID-19 and by the authority granted in Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, it is appropriate and necessary to amend the Plan to permit Participants of the Health Care Reimbursement Plan who terminate participating during the 2021 Plan Year to be reimbursed for expenses incurred after termination but during the 2021 Plan Year, up to the amount that the Participant contributed during the 2021 Plan Year at the time of termination;

WHEREAS, for reasons related to the public health emergency involving COVID-19 and by the authority granted in Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, it is appropriate and necessary to amend the Plan to extend the maximum age of eligible dependents under the Dependent Care Reimbursement Plan;

NOW THEREFORE, the Plan is hereby amended effective January 1, 2021 as set forth below:

1. Section 4.3 of the Plan is amended to add a paragraph at the end of the Section to provide for a “mid-year” enrollment period for reasons related to the public health emergency involving COVID-19 as follows:

4.3 Change in Participant's/Eligible Employee's Benefits Enrollment.

...

Notwithstanding the foregoing, for reasons related to the public health emergency involving COVID-19, an Eligible Employee who elected not to participate in the Plan for the 2021 Plan Year shall be permitted to elect participation in the Plan with respect to coverage under the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan during a "mid-year" enrollment period. Participants who elected participation in the Plan with respect to coverage under the Health Care Reimbursement Plan and Dependent Care Reimbursement Plan shall be permitted to increase, decrease, or revoke their existing election for the 2021 Plan Year without having to experience a Status Change or special enrollment right as outlined above. This one-time "mid-year" enrollment period election is permitted for any reason, but the Participant or Eligible Employee must provide a new Benefits Enrollment Application no later than August 31, 2021. The new Benefits Enrollment Application shall be effective prospectively and shall apply only to those Benefits accruing to the Participant, Spouse, or Dependents after the effective date of the new Benefits Enrollment Application. A Participant may not elect to reduce or revoke an existing election to an amount lower than the amount that has already been reimbursed to the Participant for the 2021 Plan Year.

2. Sections 2.1 and 4.4 of Schedule A to the Plan are amended to revise the definition of "Grace Period" and extend the period for submitting claims incurred during the extended Grace Period for reasons related to the public health emergency involving COVID-19 as follows:

2.1 "Grace Period" means the provisions that allows a Participant to use amounts remaining from the Plan Year for expenses incurred during an additional 2.5 month period immediately following the Plan Year (i.e., January 1 through March 15 of the following Plan Year), accordance with IRS Notice 2013-71.

For reasons related to the public health emergency involved COVID-19 and in accordance with Section 214 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, the Grace Period applicable to the 2020 Plan Year extends to December 31, 2021. A Participant may use amounts remaining from the 2020 Plan Year until December 31, 2021. Additionally, the Grace Period applicable to the 2021 Plan Year extends to December 31, 2022. A Participant may use amounts remaining from the 2021 Plan Year until December 31, 2022.

...

4.4 Timing of Claims and Forfeiture of Health Care Reimbursement Benefits.

If, as of the end of the Plan Year, a Participant has not incurred Qualified Expenses equal to the amount credited to his/her Health Care Reimbursement Benefits Account, the Participant shall be given a Grace Period in which to incur Qualified Expenses to submit for reimbursement against that remaining balance. For any Plan Year, claims for reimbursement of Qualified Expenses incurred either during the Plan Year or the Grace Period must be provided to the Plan Administrator no later than April 15th following the end of the Plan Year. Notwithstanding the foregoing, for the 2020 Plan Year and 2021 Plan Year, claims for reimbursement of Dependent Care Expenses incurred either during the Plan Year or the Grace Period must be provided to the Plan Administrator no later than April 15th following the end of the Grace Period. Any

remaining balance credited to the Participant's Health Care Reimbursement Benefits Account after the Grace Period for that Plan Year shall be forfeited.

Notwithstanding the above, Participants who terminate employment prior to the end of the Plan Year (including the corresponding Grace Period) and do not continue coverage in accordance with Code Section 4980B must submit outstanding claims incurred through their last day of employment no later than the last day of the Plan Year.

Upon forfeiture, the Participant's Health Care Reimbursement Benefits Account shall be reduced to \$0.00. At the discretion of the County, forfeitures of Health Care Reimbursement Benefits may be reallocated to Participants in any reasonable manner. Forfeitures may also be applied towards the cost of administering the Health Care Plan. All forfeitures shall become the sole property of the County.

3. Section 2.4 of Schedule A to the Plan is amended to add a paragraph at the end of the definition of "Qualified Expenses" for reasons related to the public health emergency involving COVID-19 as follows:

2.4 "Qualified Expenses"

...

Notwithstanding the foregoing, for the 2021 Plan Year, medical expenses that would otherwise be Qualified Expenses but for being incurred after the Participant's participation in the Health Care Plan ends shall be Qualified Expenses so long as the medical expense:

- Is incurred during the 2021 Plan Year, including the corresponding Grace Period, and
- Is not in excess of the salary reduction contributions made up to the time the Participant's participation in the Health Care Plan ends, less the amount of reimbursements previously made for such Plan Year.

4. Section 3.1 of Schedule A to the Plan is amended to add a paragraph at the end of Section for reasons related to the public health emergency involving COVID-19 as follows:

3.1 Provision of Health Care Reimbursement Benefits.

...

Notwithstanding the foregoing, a former Participant shall be entitled to reimbursement of Qualified Expenses incurred after termination of being a Participant until the end of the 2021 Plan Year, including the corresponding Grace Period.

5. Section 2.5 of Schedule B to the Plan is amended to add a paragraph at the end of the definition of "Dependent" for reasons related to the public health emergency involving COVID-19 as follows:

2.5 “Dependent”

...

Notwithstanding subsection (a) above, “under the age of 13” is substituted with “under the age of 14” if the Participant was a Participant during the 2020 Plan Year and has one or more Dependents who attain the age of 13 either: (i) during the 2020 Plan Year; or (ii) in the case of a Participant who has unused Dependent Care Reimbursement Benefits from the 2020 Plan Year, during the 2021 Plan Year. Such unused amounts can be used only for the Dependent(s) who attained the age of 13 in the 2020 Plan Year or the 2021 Plan Year. This provision will apply only to the extent allowed by the IRS and any applicable law.

6. Section 5.4 of Schedule B to the Plan is revised for reasons related to the public health emergency involving COVID-19 as follows:

5.4 Forfeiture of Benefits.

...

Notwithstanding the foregoing, for the 2020 Plan Year and the 2021 Plan Year, the grace period shall extend until December 31 of the immediately following Plan Year. For the 2020 Plan Year and 2021 Plan Year, claims for reimbursement of Dependent Care Expenses incurred either during the Plan Year or the grace period must be provided to the Plan Administrator no later than April 15th following the end of the grace period.

This Amendment No. 2 to The County of Riverside Flexible Benefit Program is approved by the Board of Supervisors of the County of Riverside, a political subdivision of the State of California, on this 22nd day of June, 2021.

By: Karen S. Spiegel
Karen Spiegel, Chairwoman
Board of Supervisors

Date: 06/22/2021

ATTEST:
Clerk of the Board
Kecia Harper

By: [Signature]
Deputy

Date: 06/22/2021

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By: [Signature]
Deputy County Counsel
LISA SANCHEZ

Date: 8/16/2021

