

**SIXTH AMENDMENT TO  
THE ARIZONA BOARD OF REGENTS PREMIUM PAYMENT,  
HEALTH AND DEPENDENT CARE CAFETERIA PLAN  
As Amended and Restated Effective  
January 1, 2010**

WHEREAS, the Arizona Board of Regents (the "Board") adopted The Arizona Board of Regents Premium Payment, Health and Dependent Care Cafeteria Plan (the "Plan"), originally effective as of April 1, 1991, and thereafter amended and restated the Plan, effective January 1, 2010, to provide certain cafeteria plan benefits to its employees;

WHEREAS, the Board is authorized, pursuant to Section 15.3 of the Plan, to adopt amendments to the Plan;

WHEREAS, in response to the 2019 novel coronavirus (COVID-19) outbreak, in 2020 the Board adopted a Fifth Amendment to the Plan to incorporate changes authorized by the IRS and amendments to the Internal Revenue Code to relax some of the rules applicable to cafeteria plans described in Code § 125;

WHEREAS, Congress has now enacted the Consolidated Appropriations Act of 2021 (Pub. L. No. 116-260) and the IRS has issued Notice 2021-15 further relaxing rules applicable to cafeteria plans by extending grace periods or permitting carry forward of FSA and DCAP account balances into succeeding years;

WHEREAS, the IRS has also released Announcement 2021-7 permitting health FSAs under cafeteria plans to reimburse personal protective equipment, such as masks, hand sanitizer and sanitizing wipes, for the primary purpose of preventing the spread of COVID-19 ("COVID-19 PPE");

WHEREAS, On March 13, 2020, President Donald J. Trump signed the Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak (the “COVID-19 National Emergency”) and thereafter on April 28, 2020, the Department of Labor, the Department of the Treasury, and the IRS issued a joint proclamation in the Federal Register (the “Joint Notice”) (which was thereafter interpreted by EBSA Disaster Relief Notice 2021-01 (“Notice 2021-01”)) requiring certain group health plans subject to the Employee Retirement Income Security Act of 1974 (“ERISA”) and the Internal Revenue Code (the “Code”) to allow plan participants and beneficiaries additional time to comply with certain deadlines, including making claims under such plans;

WHEREAS, although the Plan is not subject to ERISA and only certain provisions in the Plan are subject to the Code, the Board has determined that the time deadlines for all claims made during the COVID-19 National Emergency shall be extended in accordance with the Joint Notice, Notice 2021-01 and any other guidance issued hereafter (collectively referred to as the “Notices”);

WHEREAS, the Board wishes to amend the Plan to (1) permit the carryover of unused account balances in a Participant’s Health FSA Account from the 2020 and 2021 Plan Years to the immediately succeeding Plan Year; (2) extend the Grace Period a Participant may apply for reimbursement from the Participant’s DCAP Account for claims incurred during the 2020 and 2021 Plan Years to the end of the immediately succeeding Plan Year; (3) permit the reimbursement for COVID-19 PPE from a Participant’s Health FSA Account; and (4) extend the deadline for submitting

claims for reimbursement under the Plan and the time period for appealing the denial of any such claim or an appeal in accordance with the Notices; and

WHEREAS, the Board has determined that these amendments are required to assure the Plan's successful operation and administration and to maintain qualification of the Plan.

NOW, THEREFORE, pursuant to the authority granted to the Board in Section 15.3 of the Plan, the Plan is hereby amended as follows:

1. Carryover of Unused Amounts. Notwithstanding the provisions of Section 7.6 of the Plan, any unused balance remaining in the Participant's Health FSA Account at the end of the 2020 and 2021 Plan Years shall be carried forward to the immediately succeeding Plan Year to reimburse the Participant for Medical Care Expenses incurred during the subsequent Plan Year. If the Participant was enrolled in the General-Purpose Health FSA Option described in Section 7.3(b) in the Plan Year from which the carryover amount is carried into a subsequent Plan Year and if the Participant is enrolled in the Limited Health FSA Option described in Section 7.3(b) in the subsequent Plan Year, any amounts carried forward into the subsequent Plan Year may only be used to reimburse Medical Care Expenses incurred in the subsequent Plan Year that are eligible for reimbursement under the Limited Health FSA Option.

2. Grace Period for Dependent Care Expenses. Notwithstanding Section 9.4(e) of the Plan (as added by the Fifth Amendment to the Plan), for the Plan Years ending December 31, 2020 and 2021, the term "Grace Period" for DCAP Benefits shall mean the period that begins immediately following the close of a Plan Year and ends on December 31 of the immediately succeeding Plan Year.

3. Reimbursement of COVID-19 PPE. Effective January 1, 2020, the term "Medical Care Expenses" for a General-Purpose Health FSA Option as defined in Section 7.3 of the Plan is hereby amended to include expenses incurred by a Participant or his or her Spouse or Dependents for personal protective equipment, such as masks, hand sanitizer and sanitizing wipes, for the primary purpose of preventing the spread of COVID-19 ("COVID-19 PPE").

4. Extension of Claims Periods. Effective with respect to any claims or appeals therefrom within the time frame included within the Notices, the time periods for a Participant or Beneficiary to comply with the filing of such claims or appeals shall be extended as set forth in the Notices.

5. In all other respects, the Plan, as amended, is hereby affirmed.

IN WITNESS WHEREOF, the Board has caused this Sixth Amendment to be signed by its duly authorized representative.

DATED this 14<sup>th</sup> day of June, 2021.

ARIZONA BOARD OF REGENTS

By:   
Title: Chair, Arizona Board of Regents