

**CLEVELAND PUBLIC LIBRARY
MEDICAL COST PROGRAM**

Amended and Restated
Effective January 1, 2013

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I. PURPOSE

Cleveland Public Library (the “Employer”) has maintained a program for the exclusive benefit of eligible employees by which eligible employees may elect to reduce their cash compensation and have contributions made on their behalf for the payment of all or a portion of the cost for benefits selected by the employees under certain benefit plans maintained by the Employer. The Employer has made prior amendments to this program, including changes to comply with the Patient Protection and Affordable Care Act of 2010, and now hereby amends and restates this program as the Cleveland Public Library Medical Cost Program (the “Plan”) taking into account such prior amendments and making certain additional desired changes to the program.

The applicable terms of the Plan only shall apply to each benefit plan, as listed in Supplement A hereto, that provides eligible employees of the Employer to elect to reduce their cash compensation under the Plan. When made applicable to any such plan, this Plan shall provide the language constituting a separate cafeteria plan (applicable only to such plan) for purposes of Section 125 of the Internal Revenue Code of 1986, as amended (the “Code”).

The Plan is intended to be a “cafeteria plan” within the meaning of Code Section 125.

II. DEFINITIONS

Whenever used in the Plan, the following words and phrases shall have the meanings set forth below, unless a different meaning is plainly required by the context:

2.1. Administrator

“Administrator” means the Cleveland Public Library or the person or persons appointed by Cleveland Public Library to administer the Plan in accordance with Article VII.

2.2. Benefits

“Benefits” mean the options, benefits or coverages available under Article VI for election by an eligible Employee.

2.3. Benefit Plan

“Benefit Plan” means any benefit plan maintained by an Employer for the benefit of employees which provides Benefits available to the eligible Employees under this Plan.

2.4. Code

“Code” means the Internal Revenue Code of 1986, as amended.

2.5. Dependent

“Dependent” means spouse, natural or adopted children, step-children, or children for whom an employee has legal custody.

2.6. Dependent Care Assistance Benefits

“Dependent Care Assistance Benefits” means the benefits provided under the Dependent Care Assistance Program pursuant to the Cleveland Public Library Flexible Spending Account Plan.

2.7. Employee

“Employee” means any individual who is classified as an employee by an Employer.

2.8. Employer

“Employer” means Cleveland Public Library.

2.9 Medical and Dental Expense Benefits

“Medical and Dental Expense Benefits” means the benefits provided under the Health Care Reimbursement Plan pursuant to the Cleveland Public Library Flexible Spending Account Plan.

2.10. Participant

“Participant” means an eligible Employee who participates in the Plan under Article III.

2.11. Plan

“Plan” means the Cleveland Public Library Medical Cost Program.

2.12. Plan Year

“Plan Year” means the 12 consecutive month period beginning each January 1.

2.13. Reimbursement Accounts

“Reimbursement Accounts” means the accounts established pursuant to Article V with respect to a Participant who has elected to receive Medical and Dental Expense Benefits and/or Dependent Care Assistance Benefits.

III. ELIGIBILITY AND PARTICIPATION

3.1. Eligibility.

An Employee shall become eligible to participate in the Plan with respect to any of the Benefits available under the Plan upon his or her satisfaction of the conditions to receive such Benefits, as determined by the Employer.

3.2. Participation.

An eligible Employee shall become a Participant in the Plan upon the filing of a completed benefit election form with the Administrator in accordance with the requirements of Article IV.

3.3. Termination of Participation.

An individual will cease to be a Participant on the earliest to occur of the following events:

- (a) the date on which he or she ceases to be eligible to participate under Section 3.1; or
- (b) the date on which he or she no longer has any Benefit elections in effect as provided in Article IV.

3.4. Participation During Leaves of Absence.

- (a) A Participant who is not at work because of an unpaid FMLA leave, an approved unpaid leave or suspension, or due to an unpaid period of duty in the uniformed services (within the meaning of the Uniformed Services Employment and Reemployment Rights Act of 1994) lasting more than 31 days, may, at the Participant's option, continue any or all Benefits under the Plan, subject to the terms of the Benefit Plans listed in Exhibit A, that the Participant elected during the period of absence so long as the Participant continues to make any required contributions for such Benefits. During the absence, the Participant may choose to make these contributions by paying an Employer for the amounts that became due during the leave out of the Participant's compensation payable after his or her return from the leave.
- (b) Subject to any specific limitations for any particular Benefit which the Participant has elected, an individual who is on a paid leave of absence shall continue to be a Participant during such leave of absence.
- (c) Except as otherwise provided in paragraph (a), an individual's participation shall be suspended (i) during an unpaid leave of absence or suspension or (ii) during a period in which he or she ceases to be eligible for a Benefit that he or she has elected; provided that the individual continues to be an Employee during such period. Notwithstanding the foregoing, nothing in this Section shall prevent a participant on unpaid leave from receiving any available Medical and Dental Expense Benefits or Dependant Care Assistance Benefits as if such Participant were otherwise actively employed by the Employer.

IV. BENEFIT ELECTIONS

4.1. Election of Benefits.

- (a) An eligible Employee may elect under this Plan (i) to receive one or more of the Benefits available under Article VI for any Plan Year or (ii) to waive Benefits available under this Plan for any Plan Year and receive his or her full compensation in cash.
- (b) An eligible Employee who elects to receive Medical and Dental Expense Benefits shall specify the dollar amount of coverage elected for the Plan Year, which amount shall not exceed \$2,500.
- (c) An Employee who elects to receive Dependent Care Assistance Benefits shall specify the dollar amount of coverage elected for the Plan Year, which amount shall not exceed \$5,000, or, if the Employee is married and files a separate tax return, \$2,500.

4.2. Compensation Reduction.

Each Participant who elects to receive one or more of the Benefits shall agree to a reduction in his or her cash compensation for the Plan Year on a pre-tax basis in an amount equal to –

- (a) the Participant's share of the cost of such Benefits as determined pursuant to Section 6.2,
- (b) the amount of Medical and Dental Expense Benefits coverage elected for the Plan Year, if any, and
- (c) the amount of Dependent Care Assistance Benefits coverage elected for the Plan Year, if any.

4.3. Initial Benefit Election Period.

- (a) An Employee who is eligible to participate and who wishes to receive one or more of the Benefits available under the Plan shall elect such Benefit(s) under the method determined and communicated by the Administrator on or before such date as the Administrator shall specify.
- (b) A Benefit election by an Employee pursuant to this Section 4.3 shall be effective, subject to Section 4.4, for the period beginning on the first full payroll period beginning after the date as of which the benefit election is properly made and ending on the last day of the Plan Year.
- (c) An eligible Employee who fails to properly complete a Benefit election may not elect any Benefits under the Plan until the next annual benefit election period as described in Section 4.4 or until an event that would permit a benefit election change under Section 4.5.

4.4. Annual Benefit Election Period.

- (a) For any Plan Year beginning after an eligible Employee's initial election period under Section 4.3, such Employee may make a new election or change a prior election to receive one or more of the Benefits available under Article VI for such Plan Year by making a proper election with the Administrator on or before such date as the Administrator shall specify, which date shall be no later than the last day of the preceding Plan Year.
- (b) An eligible Employee who fails to complete and file a benefit election form with the Administrator before the specified due date shall be deemed –

 - (i) With respect to Medical and Dental Expense Benefits and Dependent Care Assistance Benefits, to have elected not to receive any such Benefits for the Plan Year; and
 - (ii) With respect to all other Benefits, to have made the same election as was in effect immediately prior to the end of the preceding Plan Year.

4.5. Benefit Election Changes by Participant During Plan Year.

Except as provided in this Section 4.5, a Participant's election (or deemed election) under this Article IV for any Plan Year may not be changed or revoked by the Participant during such Plan Year.

- (a) **HIPAA Special Enrollment.** A Participant may revoke an election for accident (if any) or health coverage during the Plan Year and make a new election that corresponds with the HIPAA special enrollment rights provided in Section 9801(f) of the Code.
- (b) **Changes in Status.** A Participant may prospectively change or revoke his or her benefit election during the Plan Year if the Administrator, in the sole discretion, determines that such benefit election change or revocation is on account of, and is consistent with, a "change in status" event described in clause (i) below.
 - (i) A "change in status" is one of the following events:
 - (A) Legal Marital Status. An event that changes the Participant's legal marital status, including marriage, death of spouse, divorce, dissolution, legal separation, or annulment.
 - (B) Number of Dependents. An event that changes the Participant's number of Dependents, including birth, death, adoption, placement for adoption, of a Dependent.
 - (C) Employment Status. Any of the following events that change the employment status of the Employee or the Employee's Dependent: a termination or commencement of employment; a strike or lockout; the commencement or return from an unpaid leave of absence; or any other change in employment status that causes the Employee or Dependent to become, or cease to be, eligible for a Benefit (such as a switch between part-time and full-time status).
 - (D) Change in Dependent's Eligibility. An event that causes a Participant's Dependent to satisfy, or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance under a Benefit Plan that qualifies or disqualifies a Dependent for coverage, including coverage under another benefit option or plan.
 - (E) Residence. A change in the place of residence of the Employee or Dependent.
 - (ii) A Participant's change or revocation of his or her benefit election shall be subject to the following rules:

- (A) The Benefit election change must be made within 30 days before or after the date of the Change in Status event.
 - (B) A Participant may not cancel coverage for an individual who has become eligible for coverage under another plan unless and until the individual actually becomes covered under the other plan.
 - (C) A Benefit election change must be made on account of, and correspond with, a change in status that affects eligibility for coverage under a Benefit Plan. A change in status that affects eligibility under a Benefit Plan includes a change in status that results in an increase or decrease in the number of an Employee's family members or Dependents who may benefit from coverage under that plan.
 - (D) A Participant may make an election change with respect to Dependent Care Assistance Benefits if a Change of Status affects his or her qualified employment-related expenses under Section 129 of the Code.
- (c) **Changes in Cost.** A Participant may prospectively change or revoke his or her Benefit election during the Plan Year if the Administrator, in its sole discretion, determines that such benefit election change or revocation is on account of a change in cost for benefits. Notwithstanding the foregoing, no change may be made under this subsection during the Plan year with respect to a Participant's election of Medical and Dental Expense Benefits.
- (i) Automatic Changes. If the cost of a Benefit increases or decreases during a Plan Year and, under the terms of that plan, Participants are required to make a corresponding change in their payments, the Administrator will automatically make a prospective increase (or decrease) in any affected Participants' elective contributions for this Plan.
 - (ii) Significant Cost Changes. If the cost charged to a Participant for a Benefit option significantly increases or significantly decreases during a Plan Year, the affected Participant may make a corresponding change in his or her benefit election under this Plan.
 - (A) Changes that may be made include commencing participation in this Plan in a particular Benefit option with a decrease in cost, or, in the case of an increase in cost, revoking an election for that coverage and, instead, either receiving on a prospective basis coverage under another Benefit option providing similar coverage or dropping coverage if no other benefit package option providing similar coverage is available.

- (B) If the cost of an indemnity option under an accident or health plan significantly increases during a period of coverage, Employees who are covered by the indemnity option may make a corresponding prospective increase in their payments or may instead elect to revoke their election for the indemnity option and, instead, elect coverage under another Benefit option including an HMO option (if then offered through this Plan), or drop coverage under the accident or health plan if no other benefit package option is offered.
- (iii) Applicable Cost Changes. For purposes of this section, a “cost increase or decrease” refers to an increase or decrease in the amount of the elective contributions under this Plan, whether that increase or decrease results from an action taken by the Employee (such as switching between full-time and part-time status) or from an action taken by the Employer (such as reducing the amount of employer contributions for a class of employees).
- (iv) Dependent Care Assistance Benefits. A Participant’s prior election with respect to Dependent Care Assistance Benefits may be altered only if the cost change is imposed by a dependent care provider who is not a relative of the Employee (within the meaning of Section 152 of the Code).
- (d) Significant Changes in Coverage.** A Participant may prospectively change or revoke his or her benefit election during the Plan Year if the Administrator, in its sole discretion, determines that such benefit election change or revocation is on account of a change in coverage. Notwithstanding the foregoing, no change may be made under this subsection during the Plan Year with respect to a Participant’s election of Medical and Dental Expense Benefits.
- (i) Significant Curtailment of Coverage. If a Participant (or the Participant’s Dependent) has a significant curtailment of a Benefit during a Plan Year that is not a loss of coverage described in clause (ii) below (e.g., there is a significant increase in the deductible, the required copayments, or the out-of-pocket cost sharing limit under a group health plan), such Participant may revoke his or her election for that coverage and, instead, elect to receive on a prospective basis coverage under another Benefit option providing similar coverage. For this purpose, coverage is “significantly curtailed” only if there is an overall reduction in coverage so as to constitute reduced coverage generally.
- (ii) Loss of Coverage. If a Participant (or the Participant’s Dependent) has a loss of coverage with respect to a particular Benefit, the Participant may revoke his or her Benefit election and, in lieu thereof, to elect either to receive on a prospective

basis coverage under another Benefit option providing similar coverage or to drop coverage if no similar benefit option is available.

A “loss of coverage” means a complete loss of coverage under the benefit package option or other coverage option (including the elimination of a Benefit option, and HMO ceasing to be available in the area where the individual resides, or the individual losing all coverage under the option by reason of an overall lifetime or annual limitation). A loss of coverage includes (A) a substantial decrease in the medical care providers available under the option; (B) a reduction in the benefits for a specific type of medical condition or treatment with respect to which the Employee or the Employee’s Dependent is currently in a course of treatment; or (C) any other similar fundamental loss of coverage.

- (iii) Addition or Improvement of Benefit Option. If a Benefit Plan adds a new Benefit option or other coverage option, or if coverage under an existing Benefit or other coverage option is significantly improved during a period of coverage, eligible Employees (whether or not they have previously made an election under the Plan or have previously elected the Benefit option) may revoke their election under the Plan and, in lieu thereof, make an election on a prospective basis for coverage under the new or improved Benefit option.
- (e) **Medicare or Medicaid Entitlement.** If a Participant or the Participant’s Dependent becomes enrolled for general benefits under Medicare or Medicaid (i.e., benefits in addition to pediatric vaccinations), the Participant may revoke coverage for such individual. If the Participant or Dependent loses coverage under Medicare or Medicaid, the Participant may make a prospective election to begin or increase coverage of that individual under an Employer’s accident (if any) or health plan.
- (f) **Court Ordered Coverage.**
 - (i) If a participant is required to provide health insurance coverage for a Dependent child or foster child as a result of a divorce, dissolution, legal separation, annulment, or change in legal custody (for example, under the Child Support Performance and Incentive Act), the Plan may change the Participant’s election during a Plan Year unilaterally to comply with the legal instrument mandating coverage.
 - (ii) A Participant may make an election change to cancel coverage for a Dependent child or foster child if (A) the order requires the spouse, former spouse, or other individual to provide coverage for the child, and (B) that coverage is, in fact, provided.

- (g) **FMLA Leave.** A Participant who takes FMLA leave shall have the right to make any election change under an Employer-sponsored group health plan option as may be provided for under FMLA.
- (h) **Other Permitted Changes.** A Participant may prospectively change or revoke his or her Benefit election during the Plan Year if the Administrator, in its sole discretion, determines that such benefit election change or revocation is on account of, and consistent with, a change permitted under IRS Regulation Section 1.125-4 (or any successor regulation thereto) or IRS rulings under Section 125 of the Code.
- (i) **When Benefit Election Change Becomes Effective.** Any new election under this Section 4.5 shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the Benefit election form is completed and returned to the Administrator.

4.6. Changes to Comply with Nondiscrimination Rules.

If the Administrator determines, before or during any Plan Year, that the Plan may fail to satisfy for such Plan Year any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to any Participant who is considered to be “highly compensated” within the meaning of Section 125(e) of the Code, or is otherwise a “Key Employee” within the meaning of Section 416(i)(1) of the Code, the Administrator shall take such action as it deems appropriate, under rules uniformly applicable to similarly situated participants, to assure compliance with such requirement or limitation. Such action may include, without limitation, a modification of any elections made by highly compensated Employees or Key Employees with or without the consent of such Employees.

4.7. Automatic Termination of Election.

- (a) A Participant’s election with respect to a Benefit under this Plan (or deemed to be made) shall automatically terminate upon the occurrence of either of the following events occurs:
 - (i) the date of which the Participant ceases to be eligible for such Benefit; or
 - (ii) the Participant fails to make required contributions for such Benefit, unless the Participant makes such delinquent contributions current within 30 days after the date on which such contributions first became delinquent.
- (b) If a Participant’s Benefit election is terminated pursuant to this Section 4.7, the Participant may not make a new election with respect to such Benefit until the next annual enrollment period.

V. REIMBURSEMENT ACCOUNTS

5.1 Establishment of Reimbursement Accounts.

For each Plan Year, the Administrator shall establish unfunded memorandum accounts for each Participant who elects to receive Medical and Dental Expense Benefits and/or Dependent Care Assistance Benefits. Such accounts shall be used to record amounts which are available for reimbursement as Medical and Dental Expense Benefits and Dependent Care Assistance Benefits. No money shall actually be allocated to any Reimbursement Account and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer as a result of the establishment of such Account.

5.2 Crediting and Debiting Reimbursement Accounts.

- (a) During a Plan Year, a Participant's Reimbursement Accounts shall be credited as follows:
 - (i) the Participant's Medical and Dental Expense Benefit Reimbursement Account shall be credited with an amount equal to the dollar amount of coverage elected by the Participant for the Plan Year; and
 - (ii) the Participant's Dependent Care Assistance Benefit Reimbursement Account shall be credited with the amounts with which his or her compensation has actually been reduced during the Plan Year.
- (b) A Participant's Reimbursement Accounts shall be debited with amounts which have been paid as Medical and Dental Expense Benefits or Dependent Care Assistance Benefits during the Plan Year.
- (c) No interest or earnings will be credited to or paid on amounts credited to any Reimbursement Account.

5.3 Forfeiture of Unused Account Balance.

- (a) For each Plan Year, any balance remaining in a Participant's Reimbursement Accounts after payment of all reimbursements claimed and approved as Medical and Dental Expense Benefits or Dependent Care Assistance Benefits for such Plan Year and applicable Extended Grace Period (as defined in the Cleveland Public Library Flexible Spending Account Plan) shall be forfeited and the Accounts shall be reduced to zero.
- (b) A Participant shall not be entitled to any additional compensation as a result of such forfeiture.

- (c) Such forfeitures may be used for any purpose that the Administrator deems appropriate, including, without limitation, the payment of reasonable and necessary expenses of the Plan.

VI. BENEFITS

6.1. Available Benefits.

The Benefits available for election by a Participant under this Plan shall be provided pursuant to the Benefits Plans set forth in Supplement A.

6.2. Determination of Cost for Benefits.

The Administrator shall determine from time to time the applicable amount of the premiums required to be paid by Participants for Benefits available under Section 6.1.

6.3. Governing Benefit Provisions.

The type, amount and duration of Benefits available pursuant to Section 6.1, the conditions and requirements for participating in such Benefits, and any other terms and conditions for coverage with respect to such Benefits shall be determined solely on the basis of the terms and provisions of the applicable Benefit Plan providing such Benefits, as embodied in the plan documents comprising such Benefit Plan. The benefit descriptions in such Benefit Plans, as in effect from time to time, are hereby incorporated by reference into this Plan.

VII. ADMINISTRATION

7.1. Plan Administrator.

The Plan shall be administered by the Employer or such other person or committee as may be appointed from time to time by the Employer.

7.2. Administrator's Authority and Powers.

The Administrator shall have full authority and power to administer and construe the Plan, subject to applicable requirements of law. Without limiting the generality of the foregoing, the Administrator shall have the following powers and duties:

- (a) To make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, its interpretation thereof to be final and conclusive on all persons claiming benefits under the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in, and receive benefits under, the Plan;
- (d) To appoint such agents, counsel, accountants, consultants and other persons as may be required to assist in administering the Plan; and
- (e) To determine the cost for Benefits available to any person under the provisions of the Plan and the amount of cash compensation to be paid in lieu of benefits, if any.

Notwithstanding the foregoing, any claim for Benefits shall not be subject to review under this Plan, and the Administrator's authority under this Section 7.2 shall not extend to any matter as to which an administrator under the Benefit Plan providing such Benefits is empowered to make determination under such plan.

7.3. Delegation of Duties.

The Administrator may delegate such of its duties and may engage such experts and other persons as it deems appropriate in connection with administering the Plan. The Administrator shall be entitled to rely conclusively upon and shall be fully protected in any action taken by the Administrator in good faith in reliance upon any opinions or reports furnished them by any such experts or other persons.

7.4. Expenses.

All expenses incurred prior to the termination of the Plan that shall arise in connection with the administration of the Plan, including, without limitation, administrative expenses and compensation and other expenses and charges of any actuary, counsel, accountant, specialist or

other person who shall be employed by the Administrator in connection with the administration of the plan, shall be paid by the Employer.

7.5. Indemnification of Administrator.

To the extent required by law, the Employer agrees to indemnify and to defend any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who formerly served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) directly resulting from by any act or omission to act in connection with the Plan, if such act or omission is in good faith, is not manifestly outside the scope of employment, and is not the result of the Administrator's willful misconduct or willful breach of the Plan.

7.6. Liability.

To the extent permitted by law, neither the Administrator nor any other person shall incur any liability for any acts or for any failure to act except for liability arising out of such person's own willful misconduct or willful breach of the Plan or acts manifestly outside the scope of employment or in bad faith.

VIII. AMENDMENT OR TERMINATION OF PLAN

8.1. Right to Amend or Modify Plan.

The Employer's Board of Trustees may at any time and from time to time (and retroactively, if necessary or appropriate to meet the requirements of the Code) modify or amend, in whole or in part, any or all provisions of the Plan.

8.2. Right to Terminate Plan.

The Employer, by action of its Board of Trustees, may discontinue or terminate the Plan at any time.

8.3. Effective Date of Amendment or Termination.

Any amendment, discontinuance or termination of the Plan shall be effective as of the date determined by the Employer.

IX. GENERAL PROVISIONS

9.1. No Right to Continued Employment.

Neither the Plan nor any action taken with respect to it shall confer upon any person the right to continue in the employ of an Employer.

9.2. Governing Laws.

The provisions of the Plan shall be construed, administered and enforced according to applicable Federal law and the laws of the State of Ohio.

9.3. Severability.

The provisions of the Plan are severable. If any provision of the Plan is deemed legally or factually invalid or unenforceable to any extent or in any application, then the remainder of the provision and the Plan, except to such extent or in such application, shall not be affected, and each and every provision of the Plan shall be valid and enforceable to the fullest extent and in the broadest application permitted by law.

IN WITNESS WHEREOF, Cleveland Public Library has adopted this Amended and Restated Plan as of the ____ day of _____, 2013.

CLEVELAND PUBLIC LIBRARY

By:

Name:

Title

SUPPLEMENT A: BENEFIT PLANS

As of January 1, 2013:

1. Employee premiums required for coverage under the health care, dental and vision coverages made available by or through the Employer.
2. The Cleveland Public Library Flexible Spending Account Plan
 - Health Care Reimbursement Plan
 - Dependent Care Assistance Program