

SUMMARY OF MATERIAL MODIFICATION

Date: February 1, 2021

Plan Administrator: Commonwealth of Kentucky

Plan Name: Kentucky Employees' Health Plan

Plan Year: January 1, 2021, through December 31, 2021

Plan Document Amended: Flexible Benefits Plan

Amendment Summary: The Commonwealth of Kentucky's 2021 Flexible Benefits Plan Document was amended to allow for increased flexibility in making mid-year election changes to an FSA, to reflect the changes to the Health FSA's Permitted Carryover provisions, and to establish a carryover for DCFSA's. The Plan Document was also amended to reflect the changes to the age of a Qualifying Dependent for the purposes of reimbursement of Dependent Care Qualifying Expenses from a DCFSA.

Description of Amendment: The Commonwealth of Kentucky's 2020 Flexible Benefits Plan Document (Plan Document) was amended in 2020 based on Notice 2020-29 issued by the U.S. Treasury Department and the IRS dated May 12, 2020. Notice 2020-29 provided increased flexibility for making mid-year elections or changes under a Cafeteria Plan during calendar year 2020 related to employer-sponsored Health FSAs and DCFSA's. Notice 2020-29 allowed employees to do the following:

1. Revoke an election, make a new election, or decrease or increase an existing election applicable to a Health FSA on a prospective basis; and
2. Revoke an election, make a new election, or decrease or increase an existing election regarding a DCFSA on a prospective basis.

As a result of Notice 2020-29, the KEHP Plan Document was amended to permit flexibility in making mid-year elections as outlined in paragraphs (1) and (2) above, except that no election that reduced an FSA account below an amount already spent by the Employee would be authorized.

The flexibility in mid-year FSA election changes provided by Notice 2020-29 was extended by Congress in the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) (2021 Appropriations Act), Division EE, Section 214(e), which the President signed into law on December 27, 2020.

Additionally, Section 214 of the 2021 Appropriations Act gives an employer the option to allow a carryover of the full amount of any unused balance in a Health FSA or DCFSA after the Plan Year ending in 2021 to the following Plan Year, without the health plan losing its status as a cafeteria plan under the Internal Revenue Code (the Code). This is an exception to the prior rule that limited the Health FSA carryover to \$550 from one Plan Year to the following Plan Year. Previously, there has been no carryover for a DCFSA.

Further, Section 214(d) of the 2021 Appropriations Act provides that unused DCFSA funds from the 2020 Plan Year may be applied to expenses for eligible dependents who were not yet age 14 during the 2020 Plan Year. Additionally, any DCFSA carryover amounts from the 2020 Plan Year may be applied to expenses incurred during the 2021 Plan Year for eligible dependents who are not yet age 14.

The Plan Document was amended to allow for increased flexibility in making mid-year election changes to an FSA, to reflect the changes to the Health FSA's Permitted Carryover provisions, and to establish a carryover for DCFSAs. The Plan Document was also amended to reflect the changes to the age of a Qualifying Dependent for the purposes of reimbursement of Dependent Care Qualifying Expenses from a DCFSA.