

**AMENDMENT NO. 1
TO THE
NCFlex PLAN
FOR EMPLOYEES OF THE
STATE OF NORTH CAROLINA**

(Effective as Amendment and Restated January 2020)

WHEREAS, the State of North Carolina (“State”) established a Statewide Flexible Benefits Program, known as the NCFlex Plan (“Plan”), effective January 1, 1996, for the benefit of its eligible employees and eligible employees of participating employers;

WHEREAS, pursuant to Section 10.01 of the Plan, the State has reserved the right to amend the Plan; and

WHEREAS, the State desires to amend the Plan effective January 1, 2021 to reflect certain plan design features provided in the Consolidated Appropriations Act, 2021 (“2021 CAA”), and IRS Notice 2021-15);

NOW THEREFORE, the Plan is amended effective as of January 1, 2021, as follows:

1. The Explanation and History section is amended by adding the following after the last bullet point:

- Effective January 1, 2021, to allow any unused contributions to the Health Care Flexible Spending Account at the end of the Plan Year beginning in 2020 to carry over to the Plan Year beginning in 2021.
- Effective January 1, 2021, to allow any unused contributions to the Health Care Flexible Spending Account at the end of the Plan Year beginning in 2021 to carry over to the Plan Year beginning in 2022.
- Effective January 1, 2021, to extend the Dependent Day Care Flexible Spending Account Grace Period applicable to the 2020 Plan Year that would have ended as of March 15, 2021 to December 31, 2021.
- Effective January 1, 2021, to extend the Dependent Day Care Flexible Spending Account Grace Period applicable to the 2021 Plan Year that would have ended as of March 15, 2022 to December 31, 2022.
- Effective January 1, 2021, to extend to age 14 for the 2021 Plan Year only, the definition of Dependent for purpose of reimbursements from the Dependent Day Care Flexible Spending Account, to the extent of the balance available at the end of the prior Plan Year.

2. Section 2.10(c)(1), Dependent, is amended to read as follows:

- (c) a dependent of the Participant (as defined in Code Section 152(a)(1)) who has not attained the age of 13 (age 14 for the 2021 Plan Year only, pursuant to the 2021 Consolidated Appropriations Act of 2021 (“CAA 2021”) and IRS Notice 2021-15);

3. Section 4.06(b)(6)(B), Irrevocability Of Election by the Participant During the Plan Year, is amended to read as follows:

- (B) Child Become Ineligible or Begins School. If a child reaches age 13 (age 14 for the 2021 Plan Year only, pursuant to the CAA 2021 and IRS Notice 2021-15) during the Plan Year and becomes ineligible under the Dependent Day Care Flexible Spending Account, the Participant may decrease or terminate his election. If a child begins kindergarten or first grade, the Participant may decrease or terminate his Dependent Day Care Flexible Spending Account election.

4. Section 6.06, Submission of Claims, is amended to replace the last sentence with the following:

As a result of the COVID-19 public health emergency, claims submission requirements are extended during the Outbreak Period as provided in EBSA Disaster Relief Notice 2021-01.

5. Section 7.04(a) is amended to add a new sentence after the third sentence, so that the Section reads as follows:

- (a) the expenses must have been paid for household services or dependent day care services incurred, that is the date service is rendered, after the Participant's Entry Date, while the Participant is covered under the Dependent Day Care Flexible Spending Account, and within the Plan Year to enable the Participant (or if married, the Participant and his Spouse) to be employed for any period for which there are one or more Dependents, with respect to the Participant. Effective January 1, 2011, such services may also be incurred between January 1 and March 15 of the next year following the end of the Plan Year, which is referred to as the Grace Period. However, the Grace Period applicable to the 2019 Plan Year which would have ended as of March 15, 2020 will be extended through September 30, 2020 in accordance with IRS Notice 2020-29. Additionally, the Grace Period applicable to the 2020 and 2021 Plan Years which would have ended as of March 15, 2021 and March 15, 2022, respectively will be extended through December 31, 2021 and December 31, 2022, respectively, in accordance with the CAA 2021 and IRS Notice 2021-15.

6. Section 7.04(b) is amended to add a new sentence after the third sentence, so that the Section reads as follows:

- (b) if such services are provided outside the Participant's household, they must be incurred for care of a Participant's Dependent who has not attained the age of 13 (age of 14 for the 2021 Plan Year only, pursuant to the CAA 2021 and IRS Notice 2021-15 and only to the extent of the remaining balance in the Dependent Day Care Flexible Spending Account as of the end of the 2020 Plan Year), or another Dependent who regularly spends at least eight hours per day in the Participant's household;

7. Section 8.02(c), Health Care Flexible Spending Account Adjustments and Forfeitures, *Forfeitures (carry-over)* is amended to add a new sentence after the first sentence, so that the Section reads as follows:

- (c) Forfeitures (carry-over): If, as of the end of the Plan Year, the Participant has a balance in his/her Health Care Flexible Spending Account (net of claims incurred but not reimbursed), such remaining balance in excess of five hundred fifty dollars (\$550) shall be forfeited to the extent not paid to the Participant pursuant to a claim properly submitted by the applicable claim submission deadline. Notwithstanding the preceding sentence, pursuant to the CAA 2021 and IRS Notice 2021-15, any balance remaining in a Participant's Health Care Flexible Spending Account at the end of the 2020 Plan Year shall carry over to the 2021 Plan Year, and any balance remaining in a Participant's Health Care Flexible Spending Account at the end of the 2021 Plan Year shall carry over to the 2022 Plan Year. All claims must be submitted on or before April 30 (or such other date as determined by the Plan Administrator) following the end of the Plan Year. The forfeited amounts may be used to reduce the plan administrative expenses. Any claims pursuant to Article VI that are incurred within the Plan Year and prior to the Participant's termination or ineligible date, unless COBRA is elected, but unpaid as of December 31, shall be processed before any amounts are forfeited. Such claims must be submitted on or before April 30 (or such other date as determined by the Plan Administrator) of such next Plan Year.

THE STATE OF NORTH CAROLINA

DocuSigned by:

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Glenda Farrell

7/16/2021

Date