



STAFF REPORT

DATE: July 27, 2020
TO: Sacramento Regional Transit Board of Directors
FROM: Steve Booth, AVP, Human Resources and Labor Relations
SUBJ: APPROVING THE SECOND, THIRD, FOURTH AND FIFTH AMENDMENTS TO THE FLEXIBLE BENEFITS PLAN ALLOWING MID-YEAR ELECTION CHANGES, CLAIMS RUN OUT EXTENSIONS AND INCREASE CARRYOVER LIMIT FOR PLAN YEAR 2020

RECOMMENDATION

Adopt the Attached Resolution.

RESULT OF RECOMMENDED ACTION

SacRT employees will receive the enhanced benefits described below related to their Flexible Spending Accounts.

FISCAL IMPACT

There is no fiscal impact associated with the Contract Amendment of the Flexible Benefits Plan.

DISCUSSION

Flexible Spending Accounts (FSA) are governed by Internal Revenue Code (IRC) Section 125 and allow an individual to have pre-tax payroll deductions for certain medical and dependent care expenses. A flexible spending arrangement is a form of cafeteria plan benefit, one hundred percent funded by a pre-tax salary reduction, that reimburses employees for expenses incurred for certain qualified expenses. A Healthcare Flexible Spending Account is a pre-tax benefit account that allows a participant to pay for eligible qualified medical expenses. An employee funds the Healthcare FSA through pre-tax deductions which are elected during SacRT's Open Enrollment period and is available for use at the beginning of the following plan year. The maximum amount a participant can contribute is determined by the Internal Revenue Service (IRS). The employer then deducts the election contribution amount (in equal portions) from the employees' paychecks throughout the plan year.

The general rule under Section 125 regulations is an individual must make § 125 cafeteria plan elections before the start of the plan year, and those plan elections must be irrevocable during the plan year, with limited exceptions that include certain changes in status to prevent the elections from constituting a deferral of compensation in contravention of § 125(d)(2)(A). As a result, an individual would be unable to modify a health FSA on or after the first day of the plan year of the § 125 cafeteria plan.

On May 12, 2020, the IRS released Notice 2020-29 in response to the coronavirus (COVID-19) health emergency and provides flexibility for employers to allow prospective mid-year changes during the 2020 calendar year. This is a temporary change effective only for the plan year beginning in 2020. The Notice provides increased flexibility with respect to mid-year elections under a § 125 cafeteria plan. An employee can revoke an election, make a new election and/or increase or decrease an existing election to the health and dependent care flexible spending accounts. Exhibit A contains a Summary of Material Modifications prepared by SacRT's Flexible Benefit Plan provider, Navia Benefit Solutions, providing details of the Summary of Changes and is the Second Amendment to the Flexible Benefits Plan.

Notice 2013-71, provides that a § 125 cafeteria plan may allow up to \$500 of unused amounts in a participant's health flexible spending account as of the end of a plan year to be carried over to pay or reimburse the participant for medical care expenses incurred in the immediately following plan year.

On May 12, 2020, the Internal Revenue Service released guidance impacting section 125 cafeteria plans. Notice 2020-33 modifies Notice 2013-71, 2013-47 IRB 532, to increase the carryover limit (currently \$500) to a carryover limit of \$550 of unused amounts remaining as of the end of a plan year in a health flexible spending account under a § 125 cafeteria plan that may be carried over to pay or reimburse a participant for medical care expenses incurred during the following plan year. This guidance is designed to provide temporary flexibility for employers and employees to assist with the National response to the 2019 Novel Coronavirus outbreak (COVID-19). These changes permit participants to carryover \$550 for the plan year beginning on or after January 1, 2020. Exhibit B contains a Summary of Material Modifications prepared by SacRT's Flexible Benefit Plan provider, Navia Benefit Solutions, providing details of the Summary of Changes and is the Third Amendment to the Flexible Benefits Plan.

FSA claims for health and dependent care reimbursement must be received no later than 60 days after the end of the Plan Year. Any claims submitted after that time will not be considered. Additionally, participants may file an appeal on adverse benefit determinations under the plan's claims procedure and typically have 180 days to appeal a healthcare FSA denial.

In response to the COVID-19 pandemic, the IRS has relaxed the Section 125 use-it-or-lose-it rule for FSAs. On April 29, 2020, the Department of Labor, Revenue, and Treasury (the "Departments") issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency. As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the health and day care FSA claims run out and the FSA appeals timeline. The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the 'Outbreak Period')." Exhibit C contains a Summary of Material Modifications prepared by SacRT's Flexible Benefit Plan provider, Navia Benefit Solutions, providing details of the Summary of Changes and is the Fourth Amendment to the Flexible Benefits Plan.

The Health Insurance Portability and Accountability Act allows eligible employees to enroll themselves and/or their eligible dependents in group health coverage within 30 days from the date that (i) the individual ceased to be covered by another group health plan or certain other health coverage or (ii) an individual becomes a dependent of an eligible employee by birth, marriage, adoption or placement for adoption.

On April 29, 2020, the Department of Labor, Revenue, and Treasury (the "Departments") issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency. As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the COBRA election period and payment timeline.

The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the 'Outbreak Period') for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates— "

The Outbreak Period regarding COBRA Continuation Coverage is disregarded in applying the time limits for an individual to notify the Plan of certain qualifying events, to elect COBRA continuation coverage and to timely pay the applicable COBRA premiums. Exhibit D contains a Summary of Material Modifications prepared by SacRT's Flexible Benefit Plan provider, Navia Benefit Solutions, providing details of the Summary of Changes and is the Fifth Amendment to the Flexible Benefits Plan.

As Flexible Benefit Plan changes continue to occur in response to the coronavirus (COVID-19) health emergency, in an effort to expedite the implementation of changes and notification to employees, staff recommends the Board authorize delegation to the General Manager/CEO to fill out, execute and submit any and all forms, documents and agreements necessary to effectuate any additional contract Amendments to the Flexible Benefits Plan in response to the coronavirus (COVID-19) health emergency.

RESOLUTION NO. 20-07-0068

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

July 27, 2020

APPROVING THE SECOND, THIRD, FOURTH AND FIFTH AMENDMENTS TO THE FLEXIBLE BENEFITS PLAN ALLOWING MID-YEAR ELECTION CHANGES, CLAIMS RUN OUT EXTENSIONS AND INCREASE CARRYOVER LIMIT FOR PLAN YEAR 2020

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby approves the Second, Third, Fourth and Fifth Amendments to the Flexible Benefits Plan allowing mid-year election changes, claims run out extensions and increase carryover limit for plan year 2020.

THAT, the Board hereby authorizes the General Manager/CEO to fill out, execute and submit any and all forms documents and agreements necessary to effectuate the Amendments to the Flexible Benefits Plan herein approved.

THAT, the Board hereby delegates authority to the General Manager/CEO to fill out, execute and submit any and all forms documents and agreements necessary to effectuate any additional contract Amendments to the Flexible Benefits Plan in response to the coronavirus (COVID-19) health emergency.

STEVE HANSEN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

**SACRAMENTO REGIONAL TRANSIT DISTRICT FLEXIBLE BENEFITS PLAN
AMENDMENT 2**

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to Sacramento Regional Transit District Flexible Benefits Plan (the "Plan"). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.

**ARTICLE II
ELECTIONS**

- 2.1 **Effective Date.** The provisions of this Amendment, unless otherwise indicated are effective as of January 1, 2020 (the "Effective date").
- 2.2 **Section 125 Change in Status under the Health or Dependent Care FSA.**

Effective as of the effective date, the Employer amends their plan to allow for the below change in status flexibility. This is a temporary change effective only for the plan year beginning in 2020.

On May 12, 2020, the Internal Revenue Service released guidance impacting section 125 cafeteria plans. This guidance is designed to provide temporary flexibility for employers and employees and assist with the National response to the 2019 Novel Coronavirus outbreak (COVID-19). These changes permit, under certain circumstances, prospective changes to health and dependent care FSA elections as follows:

- a) employees may revoke a health FSA election, make a new election, or decrease or increase an existing election on a prospective basis; and
- b) employees may revoke a dependent care FSA election, make a new election, or decrease or increase an existing election on a prospective basis.

Employers are not required to allow unlimited election changes but may determine the extent to which such changes are permitted and applied. Any change allowed shall not permit a revocation or decrease in election below the amount already disbursed.

This amendment has been executed this _____ day of _____, _____.

Name of Employer: _____

By: _____
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Sacramento Regional Transit District hereby certifies that the following resolutions were duly adopted on _____ (date) and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Plan (the Amendment) is hereby approved and adopted, and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

**SUMMARY OF MATERIAL MODIFICATIONS
for the
Sacramento Regional Transit District**

Flexible Benefits Plan

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Employer Name Flexible Benefits Plan (the “Plan”). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description (“SPD”) previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

Section 125 Change in Status under the Health or Dependent Care FSA.

Effective as of the effective date, the Employer amends their plan to allow for the below change in status flexibility. This is a temporary change effective only for the plan year beginning in 2020.

On May 12, 2020, the Internal Revenue Service released guidance impacting section 125 cafeteria plans. This guidance is designed to provide temporary flexibility for employers and employees and assist with the National response to the 2019 Novel Coronavirus outbreak (COVID-19). These changes permit, under certain circumstances, prospective changes to health and dependent care FSA elections as follows:

- a) employees may revoke a health FSA election, make a new election, or decrease or increase an existing election on a prospective basis; and
- b) employees may revoke a dependent care FSA election, make a new election, or decrease or increase an existing election on a prospective basis.

Employers are not required to allow unlimited election changes but may determine the extent to which such changes are permitted and applied. Any change allowed shall not permit a revocation or decrease in election below the amount already disbursed.

**SACRAMENTO REGIONAL TRANSIT DISTRICT FLEXIBLE BENEFITS PLAN
AMENDMENT 3**

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to Sacramento Regional Transit District Flexible Benefits Plan (the "Plan"). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.

**ARTICLE II
ELECTIONS**

- 2.1 **Effective Date.** The provisions of this Amendment, unless otherwise indicated are effective as of January 1, 2020 (the "Effective date").
- 2.2 **Increase and Indexing of Carryover.**

Effective as of the effective date, the Employer amends their plan to increase the carryover and allow for indexing.

On May 12, 2020, the Internal Revenue Service released guidance impacting section 125 cafeteria plans. This guidance is designed to provide temporary flexibility for employers and employees and assist with the National response to the 2019 Novel Coronavirus outbreak (COVID-19).

These changes permit participants to carryover \$550 for the plan year beginning on or after January 1, 2020. Additionally, the increase in the amount that can be carried over from one plan year to the next shall be indexed for inflation.

This amendment has been executed this _____ day of _____, _____.

Name of Employer: _____

By: _____
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Sacramento Regional Transit District hereby certifies that the following resolutions were duly adopted on _____ (date) and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Plan (the Amendment) is hereby approved and adopted, and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

Sacramento Regional Transit District
Flexible Benefits Plan

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Employer Name Flexible Benefits Plan (the “Plan”). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description (“SPD”) previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

Increase and Indexing of Carryover.

Effective as of the effective date, the Employer amends their plan to increase the carryover and allow for indexing.

On May 12, 2020, the Internal Revenue Service released guidance impacting section 125 cafeteria plans. This guidance is designed to provide temporary flexibility for employers and employees and assist with the National response to the 2019 Novel Coronavirus outbreak (COVID-19).

These changes permit participants to carryover \$550 for the plan year beginning on or after January 1, 2020. Additionally, the increase in the amount that can be carried over from one plan year to the next shall be indexed for inflation.

SACRAMENTO REGIONAL TRANSIT DISTRICT FLEXIBLE BENEFITS PLAN AMENDMENT 4

ARTICLE I PREAMBLE

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to Sacramento Regional Transit District Flexible Benefits Plan (the "Plan"). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.

ARTICLE II ELECTIONS

- 2.1 **Effective Date.** The provisions of this Amendment, unless otherwise indicated are effective as of May 1, 2020 (the "Effective date").
- 2.2 **Health and Day Care FSA Claims Run-Out Extensions.**

The employer hereby amends the Plan as follows:

On April 29, 2020, the Department of Labor, Revenue, and Treasury (the "Departments") issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency.

As background, on March 13, 2020, President Trump issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and by separate letter declared a national emergency under the Stafford Act effective March 1, 2020.

As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the health and day care FSA claims run out and the FSA appeals timeline.

The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the "Outbreak Period") for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates— "

Pursuant to this guidance the Employer amends the plan to extend the following timeframes that apply to Employer's Health and Day Care FSA. Specifically, any claims run-out or appeals timeframes that fall within the outbreak period shall be tolled (paused or suspended) and added onto the end of the outbreak period to create the new applicable deadline. The following examples are illustrative.

- 1) **The Health and Day Care FSA Claims Timeframes.** The date within which individuals must file a claim under the plan's claims procedures.

The following examples illustrate the application of the guidance to the claims run-out deadline.

January 1st – December 31st Plan Year.

Employer's plan runs January through December with a ninety-day claims run-out period ending March 31, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until March 31, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **August 29, 2020**.

February 1st – January 31st Plan Year.

Employer's plan runs February 1st through January 31st with a ninety-day claims run-out period ending April 30, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until April 30, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **September 28, 2020**.

March 1st – February 29th Plan Year.

Employer's plan runs March 1st through February 29th with a ninety-day claims run-out period ending May 29, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until May 29, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **October 27, 2020**.

- 2) **Appeal Deadlines.** The date within which claimants may file an appeal of an adverse benefit determination under the plan's claims procedure. Participants typically have 180 days to appeal a Health FSA denial. This extension does not apply to the day care FSA.

The following example illustrates the application of the guidance to the appeals deadline.

Assume the end of the outbreak period is July 30, 2020. FSA participant receives a denial of her FSA claim on March 15, 2020. She normally has 180 days from March 15, 2020, to file an appeal. Since the timeframe beginning March 15, 2020, (the date of the denial) through the end of the Outbreak period (July 30, 2020) is disregarded, she now has until June 12, 2021, to file her appeal. In this example we add the 137 days tolled from March 15, 2020, through July 30, 2020, to the end of the outbreak period plus the 180 days to appeal.

This amendment has been executed this _____ day of _____, _____.

Name of Employer: _____

By: _____
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Sacramento Regional Transit District hereby certifies that the following resolutions were duly adopted on _____ (date) and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Plan (the Amendment) is hereby approved and adopted, and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

Sacramento Regional Transit District
Flexible Benefits Plan

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Employer Name Flexible Benefits Plan (the “Plan”). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description (“SPD”) previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

Health and Day Care FSA Claims Run-Out Extensions.

The employer hereby amends the Plan as follows:

On April 29, 2020, the Department of Labor, Revenue, and Treasury (the “Departments”) issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency.

As background, on March 13, 2020, President Trump issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and by separate letter declared a national emergency under the Stafford Act effective March 1, 2020.

As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the health and day care FSA claims run out and the FSA appeals timeline.

The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the “Outbreak Period”) for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates— "

Pursuant to this guidance the Employer amends the plan to extend the following timeframes that apply to Employer’s Health and Day Care FSA. Specifically, any claims run-out or appeals timeframes that fall within the outbreak period shall be tolled (paused or suspended) and added onto the end of the outbreak period to create the new applicable deadline. The following examples are illustrative.

- 1) **The Health and Day Care FSA Claims Timeframes.** The date within which individuals must file a claim under the plan’s claims procedures.

The following examples illustrate the application of the guidance to the claims run-out deadline.

January 1st – December 31st Plan Year.

Employer’s plan runs January through December with a ninety-day claims run-out period ending March 31, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until March 31, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **August 29, 2020.**

February 1st – January 31st Plan Year.

Employer’s plan runs February 1st through January 31st with a ninety-day claims run-out period ending April 30, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is

May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until April 30, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **September 28, 2020**.

March 1st – February 29th Plan Year.

Employer's plan runs March 1st through February 29th with a ninety-day claims run-out period ending May 29, 2020. The national emergency is effective March 1, 2020. Assume the end of the national emergency is May 31, 2020, thus the end of the outbreak period is 60 days after May 31, 2020, or July 30, 2020. Since the time is tolled during the outbreak period beginning March 1, 2020, until May 29, 2020 (the end of the original claims filing period), those days are added to the end of the outbreak period. The new claims runout deadline is **October 27, 2020**.

- 2) **Appeal Deadlines.** The date within which claimants may file an appeal of an adverse benefit determination under the plan's claims procedure. Participants typically have 180 days to appeal a Health FSA denial. This extension does not apply to the day care FSA.

The following example illustrates the application of the guidance to the appeals deadline.

Assume the end of the outbreak period is July 30, 2020. FSA participant receives a denial of her FSA claim on March 15, 2020. She normally has 180 days from March 15, 2020, to file an appeal. Since the timeframe beginning March 15, 2020, (the date of the denial) through the end of the Outbreak period (July 30, 2020) is disregarded, she now has until June 12, 2021, to file her appeal. In this example we add the 137 days tolled from March 15, 2020, through July 30, 2020, to the end of the outbreak period plus the 180 days to appeal.

**SACRAMENTO REGIONAL TRANSIT DISTRICT FLEXIBLE BENEFITS PLAN
AMENDMENT 5**

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to Sacramento Regional Transit District Flexible Benefits Plan (the "Plan"). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.

**ARTICLE II
ELECTIONS**

- 2.1 **Effective Date.** The provisions of this Amendment, unless otherwise indicated are effective as of May 1, 2020 (the "Effective date").
- 2.2 **COBRA Election and Payment Deadlines Extended to after the "Outbreak Period"**

On April 29, 2020, the Department of Labor, Revenue, and Treasury (the "Departments") issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency.

As background, on March 13, 2020, President Trump issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and by separate letter declared a national emergency under the Stafford Act effective March 1, 2020.

As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the COBRA election period and payment timeline. The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the 'Outbreak Period') for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates— "

Pursuant to this guidance the Employer amends the plan to extend the following timeframes:

COBRA Continuation Coverage. The Outbreak Period is disregarded in applying the time limits for an individual to notify the Plan of certain qualifying events, to elect COBRA continuation coverage and to timely pay the applicable COBRA premiums

This amendment has been executed this _____ day of _____, _____.

Name of Employer: _____

By: _____
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Sacramento Regional Transit District hereby certifies that the following resolutions were duly adopted on _____ (date) and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Plan (the Amendment) is hereby approved and adopted, and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

Sacramento Regional Transit District
Flexible Benefits Plan

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Employer Name Flexible Benefits Plan (the “Plan”). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description (“SPD”) previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

COBRA Election and Payment Deadlines Extended to after the "Outbreak Period"

On April 29, 2020, the Department of Labor, Revenue, and Treasury (the “Departments”) issued guidance extending certain timeframes for group health plans during the COVID-19 National Emergency.

As background, on March 13, 2020, President Trump issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and by separate letter declared a national emergency under the Stafford Act effective March 1, 2020.

As a result of the National Emergency, the Departments recognized that participants may find it difficult to meet or comply with certain pre-established timeframes, specifically the health and day care FSA claims run out and the FSA appeals timeline.

The guidance announced that plans, "must disregard the period from March 1, 2020 until sixty (60) days after the announced end of the National Emergency or such other date announced by the Agencies [Departments] in a future notice (the ‘Outbreak Period’) for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates— ”.

Pursuant to this guidance the Employer amends the plan to extend the following timeframes:

COBRA Continuation Coverage. The Outbreak Period is disregarded in applying the time limits for an individual to notify the Plan of certain qualifying events, to elect COBRA continuation coverage and to timely pay the applicable COBRA premiums. The following examples illustrate the application of the guidance to these COBRA time limits:

Notification of Certain Qualifying Events. The employee or ex-spouse must notify the Plan within 60 days of a divorce in order for the ex-spouse to be eligible to elect COBRA continuation coverage. The couple’s judgment of divorce is entered on March 31, 2020. The 60 day notice period would otherwise end on May 30, 2020. However, if the Outbreak Period ends on July 30, 2020 (see above example), notice will be timely if provided by no later than September 28, 2020 (60 days after the Outbreak Period ends).

Electing COBRA. The employee experiences a qualifying event and is provided an election notice on February 23, 2020. The 60 day notice period would otherwise end on April 23, 2020. However, the Outbreak Period started on March 1, 2020 and if it ends on July 30, 2020 (see above example), the first 6 days of the 60 day election period occurred before the Outbreak Period began and the remaining 54 days occur after the Outbreak Period ends. As a result, the employee has until September 22, 2020 to timely elect COBRA continuation coverage.

COBRA Premium Payments. The employee experiences a qualifying event in 2019 and elects COBRA continuation coverage. Monthly payment for March, April, May and June 2020 are due on the first day of the applicable month, with a 30 day grace period for timely payment. The Outbreak Period began on March 1, 2020 and assuming it ends on July 30, 2020 (see above example), the employee has 30 days until after July 30, 2020 (August 29, 2020) to timely make the monthly premiums for these four months.