

HUMAN RESOURCES DEPARTMENT
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Date: July 31, 2015

To: Dee Bruemmer, County Administrator

From: Mary J. Thee, Human Resources Director/Asst. County Administrator

Subject: Health Care Flex Spending Account

The IRS regulations have been modified allowing the County to amend our Health Care Flex Spending Account. Our plan contains a provision for "Nondiscrimination Requirements." WageWorks has instituted a simplified process for remedying nondiscrimination should the plan be found discriminatory and participant account adjustments are needed. By passing this amendment we'll simplify this portion of our plan. The amendment is attached.

Cc: Cheri Sexton, Benefits Coordinator

HEALTH CARE FLEXIBLE SPENDING ACCOUNT AMENDMENT

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the Scott County, Iowa plan (“Plan”) to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. 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.

**ARTICLE II
NONDISCRIMINATION REQUIREMENTS**

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.
- 2.2 **Nondiscrimination Requirements.** Notwithstanding any provision contained in this Health Care Flexible Spending Account Plan to the contrary, the “Adjustment to avoid test failure.” shall read as follows:

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

This Amendment has been executed this ____ day of _____, _____.

Name of Employer:

By: Mary J. Thee on behalf of Scott County Iowa
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Scott County of Iowa (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on _____ (date), and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Scott County, Iowa 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)

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES
THAT THIS RESOLUTION HAS BEEN FORMALLY
APPROVED BY THE BOARD OF SUPERVISORS ON

DATE

SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS

August 13, 2015

APPROVAL OF AMENDMENT TO FLEXIBLE SPENDING ACCOUNT PLAN

BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That the County's Health Care Flexible Spending Account is hereby amended to simplify the non-discrimination testing process.

Section 2. That the Human Resources Director hereby authorized to sign the FSA contracts for services on behalf of the Board.

Section 3. This resolution shall take effect immediately.