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# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
R-2003-0294	Resolution	In Committee
Resolution relative to the Amendment of the Flexible Benefits Plan adopted by The City of West Allis.		
Introduced: 10/7/2003		Controlling Body: Administration & Finance Committee

*Adopt*

### COMMITTEE RECOMMENDATION

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>10-7-03</u>	<u>GDV</u>	<u>TL</u>	Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Lajsic	<input checked="" type="checkbox"/>			
			Narlock				
			Reinke	<input checked="" type="checkbox"/>			
			Sengstock				
			Trudell				
			Vitale				
			Weigel				
			TOTAL	<u>5</u>	<u>0</u>		

### SIGNATURE OF COMMITTEE MEMBER (RECORDER)

*[Signature]*

Chair \_\_\_\_\_ Vice-Chair \_\_\_\_\_ Member \_\_\_\_\_

### COMMON COUNCIL ACTION adopted

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>10-7-03</u>	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narlock	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Trudell	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
			Weigel	<input checked="" type="checkbox"/>			
			TOTAL	<u>10</u>	<u>-</u>		

*Ci Paul Ziebler, Sue Brees, Gary Schmidt*

**COMMITTEES OF THE WEST ALLIS COMMON COUNCIL  
2003**

ADMINISTRATION AND FINANCE

Chair: Alderperson Czaplewski  
V.C.: Alderperson Kopplin  
Alderpsons: Barczak  
Lajsic  
Reinke

ADVISORY

Chair: Alderperson Reinke  
V.C.: Alderperson Vitale  
Alderpsons: Kopplin  
Lajsic  
Narlock

LICENSE AND HEALTH

Chair: Alderperson Barczak  
V.C.: Alderperson Sengstock  
Alderpsons: Kopplin  
Trudell  
Vitale

SAFETY AND DEVELOPMENT

Chair: Alderperson Lajsic  
V.C.: Alderperson Weigel  
Alderpsons: Czaplewski  
Narlock  
Reinke

PUBLIC WORKS

Chair: Alderperson Narlock  
V.C.: Alderperson Trudell  
Alderpsons: Sengstock  
Weigel  
Vitale



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

File Number: R-2003-0294

Final Action:

10-7-03

Resolution relative to the Amendment of the Flexible Benefits Plan adopted by the City of West Allis.

WHEREAS, the City of West Allis desires to amend Plan's definition of "Eligible Medical Expenses" in light of IRS Revenue Ruling 2003-102, which permits the reimbursement of certain over the counter drugs;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of West Allis, that the definition of "Eligible Medical Expenses" in the Plan is replaced with the following definition:

"Eligible Medical Expenses" means those expenses incurred by the Employee, or the Employee's Spouse or Dependents, after the date of the Employee's participation in the Health FSA and during the Plan Year to the extent that the expense satisfies the conditions set forth in the Summary Plan Description and are for "medical care" as defined by Code Section 213(d). For purposes of this Plan, the following expenses are not considered "Eligible Medical Expenses" even if they otherwise constitute "medical care" under Code Section 213(d):

- i) Expenses for qualified long term care services (as defined in Code § 7702B); and
- ii) Expenses for health insurance premiums

For purposes of this Plan, an expense is "incurred" when the Participant or beneficiary is furnished the medical care or services giving rise to the claimed expense, regardless of when the expense is paid.

ADOPTED

October 7, 2003

Paul M. Ziehler, CAO, Clerk/Treasurer

APPROVED

October 10, 2003

Jeannette Bell, Mayor

**AMENDMENT TO THE  
FLEXIBLE BENEFITS PLAN DOCUMENT**

This Amendment to the Flexible Benefits Plan is adopted by the Employer (the "Employer"), named below, effective as of the date set forth herein.

**WHEREAS**, the Employer desires to amend Plan's definition of "Eligible Medical Expenses" in light of IRS Revenue Ruling 2003-102, which permits the reimbursement of certain over the counter drugs;

**NOW, THEREFORE**, effective September 3, 2003, the definition of "Eligible Medical Expenses" in the Plan is replaced with the following definition:

**"Eligible Medical Expenses"** means those expenses incurred by the Employee, or the Employee's Spouse or Dependents, after the date of the Employee's participation in the Health FSA and during the Plan Year to the extent that the expense satisfies the conditions set forth in the Summary Plan Description and are for "medical care" as defined by Code Section 213(d). For purposes of this Plan, the following expenses are not considered "Eligible Medical Expenses" even if they otherwise constitute "medical care" under Code Section 213(d):

- i) Expenses for qualified long term care services (as defined in Code § 7702B); and
- ii) Expenses for health insurance premiums

For purposes of this Plan, an expense is "incurred" when the Participant or beneficiary is furnished the medical care or services giving rise to the claimed expense, regardless of when the expense is paid.

**IN WITNESS WHEREOF**, and as evidence of the adoption of the amendments set forth herein, the undersigned officer of the Employer named below has executed this Amendment to the Plan, this 13 day of October, 2003.

Print Name of Employer: City of West Allis

By (Print Name): Paul M. Ziehler

Signature: 

Title: City Administrative Officer  
Clerk/Treasurer

**ACTIONS TAKEN AND RESOLUTIONS ADOPTED BY CONSENT  
OF THE AUTHORIZED COMMITTEE**

The undersigned, being all of the members of the authorized Committee of City of West Allis (Print Name of Employer), (the "Employer"), hereby adopt the following resolutions by unanimous consent and direct that this Consent Resolution be entered in the minute books of the Entity.

WHEREAS, the Entity desires to amend the Health Care Reimbursement Account's (HCRA) definition of "Eligible Medical Expenses", effective September 3, 2003, to include certain over-the-counter drugs incurred by the participant, spouse, or eligible dependent(s), as set forth in the attached Amendment; and

NOW, THEREFORE, BE IT RESOLVED, that the Committee hereby adopts the attached amendment effective as of September 3, 2003;

BE IT FURTHER RESOLVED, that the members of the Committee are authorized and directed to take any and all action as may be necessary to effectuate this Resolution.

Print Name of Employer: City of West Allis

By (Print Name): Paul M. Ziehler

Authorized Signature: 

Title: City Administrative Officer  
Clerk/Treasurer

Date: October 13, 2003

## **FLEXIBLE BENEFITS PLAN**

### **SUMMARY OF MATERIAL MODIFICATIONS TO YOUR HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) SUMMARY PLAN DESCRIPTION**

*This document summarizes important changes to your Health Care Reimbursement Account (HCRA) and should be kept with your Summary Plan Description (SPD) for future reference.*

Effective September 3, 2003, the current definition of "eligible medical expenses" in your SPD should be replaced with the revised definition below:

An "Eligible Medical Expense" is an expense that has been incurred by you and/or your eligible dependents that satisfies the following conditions:

- The expense is for "medical care" as defined by Code Section 213(d);
- The expense has not been reimbursed by any other source and you will not seek reimbursement for the expense from any other source.

The Code generally defines "medical care" as any amounts incurred to diagnose, treat or prevent a specific medical condition or for purposes of affecting any function or structure of the body. This includes, but is not limited to, both prescription and over-the-counter drugs. Not every health-related expense you or your eligible dependents incur will constitute an expense for "medical care." For example, as defined by the Code, an expense is not for "medical care" if it is merely for the beneficial health of you and/or your eligible dependents (e.g. vitamins or nutritional supplements that are not taken to treat a specific medical condition). Expenses for cosmetic purposes are also not reimbursable unless they are necessary to correct an abnormality caused by illness, injury or birth defect.

In addition, certain expenses that might otherwise constitute "medical care" as defined by the Code are not reimbursable under any HCRA (per IRS regulations):

- Health insurance premiums; and
- Expenses incurred for qualified long term care services.

The claims and plan administrator have the authority to request additional substantiation if the claims or plan administrator deems it necessary to properly substantiate that the expense was for "medical care".

{\*NOTE: Only expenses incurred on or after the effective date of September 3, 2003 may be reimbursed under the HCRA, subject to any other limitations described in your SPD (e.g. annual reimbursement limit, etc.)

# FLEXBEN CORPORATION



September 4, 2003

Wisconsin Office  
10404 N. Baehr Road  
Mequon, WI 53092  
(262) 238-4000  
fax: (262) 238-4015

Dear Client:

Other Locations  
• Troy, Michigan  
• Lombard, Illinois  
• Wellesley, Massachusetts

It is with great excitement that we bring you unprecedented news! The IRS announced yesterday, September 3, 2003, that over-the-counter **drugs** can now be paid for with pre-tax dollars through the Health Care Reimbursement Account (HCRA) and the Health Reimbursement Arrangement (HRA). More specifically, the ruling concludes that a reimbursement plan may reimburse an employee for purchases that meet the definition of an eligible medical expense. This definition has not changed, and as a reminder, the IRS defines "medical care" to include amounts paid "for the diagnosis, cure, mitigation (to make less harsh or severe), treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body."

For example, according to the IRS's new Revenue Ruling 2003-108, an over-the-counter antacid, allergy medicine, pain reliever or cold medicine purchased by the participant or eligible spouse/dependent for personal use would now be eligible for reimbursement. Expenses for over-the-counter vitamins and herbal and dietary supplements **would not** be eligible as they are merely beneficial for general well-being and do not meet the definition of "medical care" above. Also, over-the-counter purchases for cosmetic purposes would continue to be an **ineligible expense**. FlexBen Corporation will continue to ensure that reimbursements are made only for eligible medical expenses per applicable rulings. This will require participants' receipts that meet all the usual substantiation requirements (i.e., date of service, identification of the purchase, amount of the purchase).

How does this affect over-the-counter vitamins with a doctor's letter of medical necessity due to pregnancy? If a doctor indicates that the vitamins are necessary because of a medical condition, then they would be considered an eligible expense.

## What does this mean for our clients?

Per the advice of our general counsel, over-the-counter drugs that meet the definition of an eligible medical expense will be reimbursable **IF THE DATE OF THE PURCHASE IS SEPTEMBER 3, 2003 OR LATER. PURCHASES THAT WERE MADE PRIOR TO THIS DATE CANNOT BE ACCEPTED FOR REIMBURSEMENT.**

Current Plan Documents and Summary Plan Descriptions do not allow for over-the-counter reimbursements, and will, therefore, need to be amended to include this new provision.

- Enclosed is a Plan Document Amendment and Summary of Material Modification to the Summary Plan Description (SPD) for this purpose, along with a Resolution approving the amendment. **Please have these documents reviewed by your legal counsel and signed by an authorized representative. Return a signed copy of the Amendment and Resolution to:**

FlexBen Corporation  
Attn: Compliance Department  
10404 N. Baehr Road  
Mequon, WI 53092



Shaping The Future



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- Also enclosed for your information is a flyer announcing the IRS Ruling. However, the flyer can also be used as a communication piece for you to immediately distribute to your participants, if desired. Please note that FlexBen Corporation will also include this flyer with the next mailing of employee statements. In addition, you may find this flyer on our website at [www.flexbenwi.com](http://www.flexbenwi.com).

Per Internal Revenue Service regulations, this new provision **IS NOT** considered a qualifying event and **DOES NOT** allow an increase in HCRA elections.

Allowing non-prescription drugs as an eligible expense under the HCRA and HRA will greatly affect both employees and employers. Some employees have been hesitant to participate in the HCRA since unused HCRA dollars are forfeited at year end. Expanding eligible medical expenses to include non-prescription drugs should greatly diminish this apprehension among employees, and increase participation. As a result, employers will realize an increase in tax savings.

Sincerely,

FLEXBEN CORPORATION

  
Karla R. Hartay  
Compliance Manager

Cc: Broker

Enclosures