

INTER OFFICE MEMO

To: Board of Directors

Date: 12/7/16

Agenda Item 4.c.

From: Lisa Rettig, Senior Manager of Human Resources

Reviewed by: Rick Ramacier

SUBJECT: Amendment to Cafeteria Plan for Affordable Care Act Compliance

SUMMARY OF ISSUES:

1. CCCTA makes contributions under its Cafeteria Plan for all eligible employees, in varying amounts depending on: 1) whether the employee elects to enroll in CCCTA's health coverage, and 2) if so, which benefit package and coverage tier is elected. For employees who do not elect to enroll in CCCTA's health coverage, the amount of CCCTA's contribution is \$50-\$200 per month, depending on employee group, and may be applied toward the cost of CCCTA's vision coverage (which is 100% employee-paid), used to purchase additional vacation days, or cashed out at the end of the year. In the past, CCCTA has not required that employees have other health coverage in order to elect not to enroll in CCCTA's health coverage.
2. Under the Affordable Care Act ("ACA"), CCCTA could be liable for a tax penalty, unless 95% of full-time employees are offered health coverage that provides "minimum value" and is "affordable" within the meaning of the ACA. Under recent IRS guidance, contributions made by CCCTA under its Cafeteria Plan to employees who elect not to enroll in CCCTA's health coverage could affect whether CCCTA's coverage is "affordable" for purposes of the ACA employer penalty rules. Further, there is some risk that CCCTA's contributions under the Cafeteria Plan for employees who waive coverage could expose CCCTA to a non-compliance penalty under the ACA. These risks may be avoided by amending the Cafeteria Plan (and coverage waiver procedures) to provide that an employee who elects not to enroll in CCCTA's coverage will only be eligible to receive contributions made by CCCTA under the Cafeteria Plan, if the employee attests that he or she, and all of his or her tax dependents, have other group health coverage that provides "minimum value" within the meaning of the ACA. The attached amendment to the Cafeteria Plan will revise the written Plan document to reflect this new procedure, which was implemented during the 2017 plan year open enrollment process. (The amendment reflects the language used in the regulatory requirement that employees "attest" to having other qualifying coverage, while open enrollment materials and election forms sent to employees used the term "certify" instead of "attest" for clarity.)
3. The amendment clarifies that coverage under CCCTA's vision plan is a Cafeteria Plan benefit option for all employee groups, which is consistent with current Cafeteria Plan operations.
4. The amendment clarifies that an employee who previously consented to full compensation reductions to the extent necessary to pay for the cost of elected benefits that exceeds CCCTA's contributions under the Cafeteria Plan for the employee may be deemed to have continued such consent in accordance with Section 4.7 of the Cafeteria Plan, which is consistent with current Cafeteria Plan operations.

FINANCIAL IMPLICATIONS:

Currently, approximately 45 employees have elected to waive CCCTA's health coverage. If any of those employees does not make the required certification, but continues to elect not to enroll in CCCTA's health coverage, CCCTA would not expend the Cafeteria Plan contribution that would otherwise be made for that employee. If any of those employees elects to enroll in CCCTA's health coverage as a result of the change, CCCTA's contributions under the Cafeteria Plan would increase from the amount paid for employees who waive coverage (\$50-\$200 per month, depending on employee group) to the amount paid for employees who elect CCCTA's health coverage (\$ 707.67 to \$2175.44 per month, depending on employee group and coverage tier).

RECOMMENDATION:

A&F Committee recommends approval of Resolution 2017-007

ATTACHMENT:

Amendment to Cafeteria Plan in the form of revised Appendix A, effective January 1, 2017.

APPENDIX A

Benefit Options Under the Central Contra Costa Transit Authority Cafeteria Plan

Effective January 1, 2017

The provisions set out under Sections A - D below will apply for the Year beginning January 1, 2017. Such provisions will remain in effect for subsequent Years unless and until modified by the Authority or, if earlier, the termination of the Plan.

A. ATU Participants

1. This Section A applies to each Participant who is a member of the ATU bargaining group ("ATU Participant").
2. Each ATU Participant may elect under the Plan ~~to receive either~~ coverage under the health plan maintained by the Authority, namely the Public Employees' Medical and Hospital Care Act (PEMHCA), ~~or paid vacation days, and may be eligible to receive an Authority Contribution,~~ as follows:

- *PEMHCA coverage:* If the ATU Participant elects PEMHCA coverage, the Authority will make monthly contributions under the Plan for such coverage, in the following amounts:

<u>Coverage Election</u>	<u>Authority Contributions per Calendar Month</u>
Employee only	\$501.25
Employee plus one	\$809.92
Employee plus two or more dependents	\$1078.57

- ~~*Paid vacation days*~~*No PEMHCA coverage:* If the ATU Participant elects not to enroll in PEMHCA and makes the required attestation described in Section D, below, paid vacation days, he or she will receive ~~vacation days equivalent to~~ an Authority Contribution under the Plan in the amount of \$150 per month, which may be applied toward the cost of coverage under the Authority's vision plan, or for paid vacation days in accordance with Section 4.3 of the Plan, or both, under the Authority's vacation policy.
3. Each ATU Participant may elect to receive coverage for the Year under the ~~District's~~ Authority's vision plan. If the Participant so elects, the coverage premium will be deducted on a pre-tax basis from the Participant's Authority compensation, unless the Authority Contribution for a Participant who elects not to enroll in PEMHCA is applied toward the cost of the coverage.

B. Teamster Participants

1. This Section B applies to each Participant who is a member of the Teamster bargaining group (“Teamster Participant”).
2. Each Teamster Participant may elect under the Plan ~~to receive either~~ PEMHCA coverage ~~or paid vacation days,~~ as follows:

- *PEMHCA coverage:* If the Teamster Participant elects PEMHCA coverage, the Authority will make monthly contributions under the Plan for such coverage, in the following amounts:

<u>Coverage Election</u>	<u>Authority Contributions per Calendar Month</u>
Employee only	\$481.13
Employee plus one	\$769.65
Employee plus two or more dependents	\$1026.23

- ~~*Paid vacation days*~~ *No PEMHCA coverage:* If the Teamster Participant elects ~~not to enroll in PEMHCA and makes the required attestation described in Section D, below~~ ~~paid vacation days,~~ he or she will receive ~~vacation days equivalent to an Authority Contribution under the Plan in the amount of \$50 per month, which may be applied toward the cost of coverage under the Authority’s vision plan, or for paid vacation days in accordance with Section 4.3 of the Plan, or both under the Authority’s vacation policy.~~

3. Each Teamster Participant may elect to receive coverage for the Year under the Authority’s vision plan. If the Participant so elects, the coverage premium will be deducted on a pre-tax basis from the Participant’s Authority compensation, unless the Authority Contribution for a Participant who elects not to enroll in PEMHCA is applied toward the cost of the coverage.

C. Unrepresented Participants

1. This Section C applies to each Participant who is an unrepresented administrative employee (“Unrepresented Participant”).
2. Each Unrepresented Participant may elect under the Plan ~~to receive a contribution towards either (a)~~ PEMHCA coverage, ~~or (b) paid vacation days~~ as follows:

- *PEMHCA coverage:* If the Unrepresented Participant elects PEMHCA coverage, the Authority will make monthly contributions under the Plan for such coverage, in the following amounts:

<u>Coverage Election</u>	<u>Authority Contributions per Calendar Month</u>
Employee only	\$428.26
Employee plus one	\$663.91
Employee plus two or more dependents	\$888.76

- ~~Paid vacation days~~No PEMHCA coverage: If the Unrepresented Participant elects ~~paid vacation days~~not to enroll in PEMHCA coverage, and makes the required attestation described in Section D, below, he or she will receive an Authority Contribution under the Plan in the amount of ~~vacation days~~ equivalent to \$200 per month, which may be applied toward the cost of coverage under the Authority's vision plan, or for paid vacation days in accordance with Section 4.3 of the Plan, or both.~~under the Authority's vacation policy.~~
3. Each Unrepresented Participant may elect to receive coverage for the Year under the ~~District's Authority's~~ vision plan. If the Participant so elects, the coverage premium will be deducted on a pre-tax basis from the Participant's Authority compensation, unless the Authority Contribution for a Participant who elects not to enroll in PEMHCA is applied toward the cost of the coverage.

D. All Participants

1. This Section D applies to all Participants.
- ~~1.2.~~ A Participant who elects not to enroll in PEMHCA coverage will receive an Authority Contribution in the amount listed under Section A, B or C above, as applicable, for the Year only if the Participant attests, in the manner required by the Authority, that the Participant and all of his or her tax dependents have other group health coverage that provides minimum value within the meaning of the Affordable Care Act. No Authority Contribution will be provided to any employee who makes such an attestation, if the Authority knows or has reason to know that the employee, or a tax dependent of the employee, does not have alternative coverage.
- ~~2.3.~~ If a Participant ~~who is not enrolled in PEMHCA coverage~~ fails to elect an option under Sections A - C above (as applicable) by the due date specified by the Administrator for each Year, the Participant will be treated as having elected ~~cash or paid vacation days, as applicable~~not to participate in the Cafeteria Plan.
- ~~3.4.~~ For each calendar month, a Participant will be entitled to benefits under this Appendix A only if he or she either completes the minimum number of hours required by the Authority's benefits policy for the month, or qualifies for coverage under the Family and Medical Leave Act for the month.
- ~~4.5.~~ Contributions made by the Authority under this Appendix for a Participant's PEMHCA coverage will be in addition to any other contributions made by the Authority directly to PEMHCA (outside the Plan) for such coverage. To the extent the required premiums for the Participant's PEMHCA coverage exceed the aggregate Authority ~~C~~ contributions for the Participant's PEMHCA coverage, the excess premiums will be deducted on a pre-tax basis from the Participant's Authority compensation, but only if the Participant provides written consent to those deductions in the time and manner required by the Administrator. If the Participant does not provide such consent, he or she will be solely responsible for paying the premiums owed on an after-tax basis. Notwithstanding this Section

D.5, a Participant who made an initial election to enroll in PEMHCA coverage in accordance with Section 4.5 of the Plan and consented to deductions associated with such election may be deemed to have consented to continue such election for subsequent Years, in accordance with Section 4.7 of the Plan.