ADOPTED - JANUARY 25, 2011
Agenda Item No. 17

Introduced by the County Services and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION TO APPROVE AN AMENDMENT AND RESTATEMENT OF INGHAM COUNTY'S SECTION 125 FLEXIBLE BENEFIT PLAN

RESOLUTION #11-011

WHEREAS, the County Administration has determined that the County's Section 125 Flexible Benefit Plans needs to be amended.

THEREFORE BE IT RESOLVED, the Ingham County Board of Commissioners hereby adopts the Ingham County Section 125 Amended and Restated Flexible Benefit Plan (Plan) effective January 1, 2011.

BE IT FURTHER RESOLVED, that Ingham County's adoption of Amendment No 1 to the Ingham County Section 125 Amended and Restated Flexible Benefit Plan effective January 1, 2011 is affirmed and ratified.

BE IT FURTHER RESOLVED, that the action of the Controller/Administrator necessary to adopt the Plan and Amendment on behalf of Ingham County are hereby affirmed and ratified.

BE IT FURTHER RESOLVED, that the Controller/Administrator is authorized to take further action on behalf of Ingham County that are necessary to execute any future amendments to or restatement of the Plan and that such amendment or restatement will be adopted by Ingham County without need for further Resolution or Board of Commissioners approval.

COUNTY SERVICES: Yeas: De Leon, Copedge, Celentino, Schor, Vickers, Dragonetti
Nays: None **Absent**: None **Approved 1/18/11**

FINANCE: Yeas: Schor, Tsernoglou, Nolan, Bahar-Cook, McGrain, Dougan
Nays: None **Absent**: None **Approved 1/19/11**

AMENDMENT NO. 1 TO THE INGHAM COUNTY
SECTION 125 AMENDED AND RESTATED FLEXIBLE BENEFIT PLAN

Amendment No. 1 to the Ingham County Section 125 Amended and Restated Flexible Benefit Plan (the "Plan") is made this __25th_____ day of ____January_____, 2011

1. Section 1.9 of the Plan is amended in its entirety, effective January 1, 2011, to read as follows:

1.9 "Dependent" generally means a Participant's Spouse and any person who is a dependent of the Participant within the meaning of Code section 152, as modified by Code section 105(b) and section 106 and the regulations and other authority thereunder. Effective January 1, 2011, the definition of "Dependent" for purposes of Section 1.45 and Article 7 is expanded to include an adult child until the end of the month in which the child turns 26 years of age. However, for plan years beginning before January 1, 2014, coverage for Dependent children shall not be made available to an adult child who is eligible to enroll in an eligible employer-sponsored health plan (as defined in Code section 5000A(f)(2)) other than a group health plan of a parent for as long as this Plan is deemed a Grandfathered Plan. A "child" for this purpose is defined as a son, daughter, stepson, stepdaughter, or eligible foster child of the Participant as defined in Code section 152(f)(1). The definition of "child" for this purpose shall not include a child of the Participant's child. For purposes of Sections 1.11 and 1.12 and Article 6, "Dependent" means any individual who is either a dependent of the Participant (who is a qualifying child within the meaning of Code section 152) who is under the age of 13, or a Participant's spouse or dependent (as defined in Code section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B)) who is physically or mentally incapable of caring for himself or herself and has the same principal place of abode as the Participant for more than one-half of such taxable year. In circumstances of divorced or legally separated parents (or parents who live apart at all times during the last six months of the calendar year), a child as provided above and in Code section 152(e) and section 21(e)(5) will be the "Dependent" of the parent having custody for the greater portion of the calendar year. It is the intent of this provision to comply with the provisions of ERISA Section 609(c). Notwithstanding the foregoing, the Plan will provide benefits in accordance with the applicable requirements of any QMCSO, even if the child does not meet the definition of "Dependent."

2. Section 1.21A of the Plan is added in its entirety, effective immediately, to read as follows:

1.21A "Grandfathered Plan" means a group health plan or health insurance coverage which had an individual enrolled in it on March 23, 2010 (and for as long as it maintains that status under the PPACA and its implementing regulations).

3. Section 1.38A of the Plan is added in its entirety, effective immediately, to read as follows:

1.38A "PPACA" means the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, and as may be further amended from time to time. References in the Plan to any PPACA section shall include any comparable or succeeding provisions of any legislation which amends, supplements, or replaces the section.

4. Section 1.45 of the Plan is amended in its entirety, effective January 1, 2011, to read as follows:

1.45 "Qualifying Medical Care Expenses" for:

(a) General-Purpose Medical Expense Reimbursement benefits, means expenses incurred by a Participant, or by the Spouse or Dependent of the Participant, for medical care as defined in Code section 213(d), but only to the extent that the Participant or other persons incurring the expense are not reimbursed for the expense through insurance or otherwise. If only a portion of the Medical Care Expense has been reimbursed elsewhere, the Plan may reimburse the remaining portion of the expense if it otherwise meets this definition. Furthermore, a Participant may not be reimbursed for "qualified long-term care services" as defined in Code section 7702B(c). With the exception of advance payments for orthodontia, Qualifying Medical Care Expenses are incurred at the time the services to which the expense relates are rendered, regardless of when the Participant is charged for the services. Effective for taxable years beginning on or after January 1, 2011, Qualifying Medical Care Expenses shall include expenses incurred for a medicine or a drug only if such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin;

(b) Limited-Purpose Medical Expense Reimbursement benefits, means the expenses described in Section 1.45(a), but are limited to coverage expenses for vision care, dental care, or preventive care (as defined in Code section 223(c)) only;

(c) Post-Deductible Medical Expense Reimbursement benefits, means the expenses described in Section 1.45(a), but are limited to expenses for services incurred after the Medical Expense Reimbursement Plan deductible has been met.

5. Section 9.4A of the Plan is added in its entirety, effective January 1, 2011, to read as follows:

9.4A PPACA Special Enrollment. Currently, under Treas. Reg. §1.125-4(c), a cafeteria plan may only permit an employee to revoke an election during a period of coverage and to make a new election in limited circumstances. This regulation currently does not permit election changes for adult children who become eligible for a group health plan or group health insurance coverage under the PPACA or individuals who become eligible for benefits not subject to a lifetime limit on the dollar value of all benefits under the PPACA. However, it is the intent of the IRS and the Treasury to amend Treas. Reg. §1.125-4(c) to include the change in status events described in the PPACA and this Section. Once the IRS and/or Treasury make this change, this Plan will allow a mid-year election to conform with the following PPACA special enrollment rights:

> Effective the first day of the first plan year beginning on or after September 23, 2010, the PPACA and its implementing regulations provide a 30-day special enrollment right for (1) any child (i) whose coverage ended, or who was denied coverage (or was not eligible for coverage) under a group health plan or group health insurance coverage because, under the terms of the plan or coverage, the availability of dependent coverage of children ended before the attainment of age 26; and (ii) who becomes eligible (or is required to become eligible) for coverage under a group health plan or group health insurance coverage on the first day of the first plan year beginning on or after September 23, 2010; and (2) any individual (i) whose coverage or benefits under a group health plan or group health insurance coverage ended by reason of reaching a lifetime limit on the dollar value of all benefits for any individual; and (ii) who becomes eligible (or is required to become eligible) for benefits not subject to a lifetime limit on the dollar value

of all benefits under the group health plan or group health insurance coverage on the first day of the first plan year beginning on or after September 23, 2010. This Section only applies to group health plan coverage covering two or more Employees within the Component Benefit Programs. This Section does not apply to retiree-only plans, limited-scope vision or limited-scope dental plans, accident or disability plans, life insurance, health flexible spending accounts, or other Component Benefit Programs that qualify as "excepted benefits," as defined in Treasury Regulation section 54.9831-1(c).

6. Section 14.21A of the Plan is added in its entirety, effective immediately, to read as follows:

14.21A Patient Protection and Affordable Care Act of 2010 (PPACA). Notwithstanding any provision of this Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of PPACA, this Plan shall be operated in accordance with PPACA and any regulations thereunder.

Executed on the date first written above.

INGHAM COUNTY

By:_____
Mary Lannoye, Controller - Administrator

Amendment No. 1 to the
Ingham County
Section 125 Amended and Restated Flexible Benefit Plan
Drafted By:

Elizabeth H. Latchana, Esq.
Fraser Trebilcock Davis & Dunlap, P.C.
124 West Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800