

**SAMPLE FLEXIBLE BENEFITS PLAN AMENDMENT
AND SUMMARY OF MATERIAL MODIFICATIONS
FOR 2009 PLAN YEAR**

Caution: The attached sample Summary of Material Modifications provides sample language to allow, in accordance with the Children's Health Insurance Program Reauthorization Act of 2009 (the "Act"), special enrollment rights for employees and dependents who lose coverage under a Medicaid or State Children's Health Insurance Program or gain premium assistance from the State for employer sponsored group health plan coverage. The special enrollment right is effective April 1, 2009. Excise taxes and penalties (up to \$100 a day) may be imposed if a group health plan fails to comply with the special enrollment rights.

The amendment package is provided solely for illustrative purposes and may not apply to your particular factual situation. It should not be used "as is". Consult with your legal advisor to adapt this approach to your specific plan and factual situation.

CAUTION: Certain aspects of the Act are currently unclear and subject to interpretation. For example, the Act is not clear on whether an employee may change his or pre-tax election if the employee or dependent child drops the employer sponsored coverage and enrolls in a state sponsored health plan. The Act is also unclear as to whether a previously eligible but unenrolled Spouse and unaffected dependents are eligible to enroll upon the occurrence of an event. The Plan sponsor should discuss this SMM, as well as any other potential alternative interpretations, with qualified legal counsel and make any necessary revisions before distributing the SMM.

**ACTIONS TAKEN AND RESOLUTIONS ADOPTED BY CONSENT
OF THE BOARD OF DIRECTORS OF
[Employer's Name]**

The undersigned, being all of the members of the Board of Directors of [Employer's Name] (the "Employer"), hereby adopt the following Resolution by unanimous consent and direct that this Consent Resolution be entered in the minute books of the Employer.

WHEREAS, the Employer previously adopted a Code Section 125 plan, referred to as the Flexible Benefits Plan (the "Plan");

WHEREAS, effective April 1, 2009, the Children's Health Insurance Program Reauthorization Act of 2009 (the "Act") permits an a Plan to allow special enrollment for eligible but not enrolled employees or dependent child who either (1) lose coverage under a Medicaid or a State Children's Health Insurance Plan (SCHIP) under titles XIX and XXI of the Social Security Act, respectively, or (2) become eligible for group health plan premium assistance under Medicaid or SCHIP("Special Enrollment Right"); and

WHEREAS, effective [effective date of amendment] the Employer desires to amend the Plan as set forth in the attached Summary of Material of Modifications to allow for a Special Enrollment Right that is consistent with the requirements set forth in the Act; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors has hereby reviewed the attached Summary of Material Modifications and does hereby approve the adoption of the Special Enrollment Right as set forth therein;

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

By _____ Date _____

By _____ Date _____

By _____ Date _____

**SUMMARY OF MATERIAL MODIFICATIONS TO THE FLEXIBLE
BENEFITS PLAN (the “Plan”)**

This document summarizes important changes to your Flexible Benefits Plan. If you have any questions regarding the changes summarized in this Summary of Material Modifications (“SMM”), you should contact [insert appropriate contact]. You should keep a copy of this SMM with your Summary Plan Description for future reference.

Effective April 1, 2009, eligible employees and participants will have a “Special Enrollment Right” under the Flexible Benefits Plan that allows certain eligible but unenrolled employees and Participants to enroll in a Benefit Plan Option that is group health plan if the dependent child or employee: (1) loses coverage under a Medicaid Plan under Title XIX of the Social Security Act; (2) loses coverage under State Children’s Health Insurance Program (SCHIP) under Title XXI of the Social Security Act; or (3) becomes eligible for group health plan premium assistance under Medicaid or SCHIP. The eligible employee or participant must request an election change to enroll in group health plan coverage within 60 days from the date (1) the coverage terminates under the Medicaid or SCHIP plan or (2) the employee or dependent child is determined eligible for state premium assistance.

If you believe you are eligible for a Special Enrollment, you must contact the Administrator to request an election form as soon as possible. A request for enrollment must be made in writing on the form provided by the Administrator. Requests for a Special Enrollment right must be made within 60 days of an event described above that occurs on or after April 1, 2009.