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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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## IN THIS ISSUE:

### EMERGENCY RULES

**Office of Administration**  
 Commissioner of Administration . . . . .5  
**Department of Agriculture**  
 Animal Health . . . . .5

### PROPOSED RULES

**Office of Administration**  
 Commissioner of Administration . . . . .7  
**Department of Agriculture**  
 Animal Health . . . . .82  
**Department of Economic Development**  
 Public Service Commission . . . . .82  
**Department of Elementary and Secondary Education**  
 Division of Learning Services . . . . .99

### ORDERS OF RULEMAKING

**Department of Natural Resources**  
 Air Conservation Commission . . . . .106  
**Department of Social Services**  
 Family Support Division . . . . .123  
**Department of Insurance, Financial Institutions and Professional Registration**  
 Missouri State Board of Accountancy . . . . .142  
 Missouri Dental Board . . . . .143

### IN ADDITIONS

**Department of Insurance, Financial Institutions and Professional Registration**  
 Construction Claims Binding Arbitration Cap . . . . .147  
 Sovereign Immunity Limits . . . . .147  
 State Legal Expense Fund Cap . . . . .147

**CONTRACTOR DEBARMENT LIST** . . . . .148

**DISSOLUTIONS** . . . . .149

### SOURCE GUIDES

**RULE CHANGES SINCE UPDATE** . . . . .152  
**EMERGENCY RULES IN EFFECT** . . . . .157  
**EXECUTIVE ORDERS** . . . . .159  
**REGISTER INDEX** . . . . .160

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
September 4, 2012 September 17, 2012	<b>October 1, 2012</b> <b>October 15, 2012</b>	October 31, 2012 October 31, 2012	November 30, 2012 November 30, 2012
October 1, 2012 October 15, 2012	<b>November 1, 2012</b> <b>November 15, 2012</b>	November 30, 2012 November 30, 2012	December 30, 2012 December 30, 2012
November 1, 2012 November 15, 2012	<b>December 3, 2012</b> <b>December 17, 2012</b>	December 31, 2012 December 31, 2012	January 30, 2013 January 30, 2013
December 3, 2012 December 17, 2012	<b>January 2, 2013</b> <b>January 15, 2013</b>	January 29, 2013 January 29, 2013	February 28, 2013 February 28, 2013
January 2, 2013 January 15, 2013	<b>February 1, 2013</b> <b>February 15, 2013</b>	February 28, 2013 February 28, 2013	March 30, 2013 March 30, 2013
February 1, 2013 February 15, 2013	<b>March 1, 2013</b> <b>March 15, 2013</b>	March 31, 2013 March 31, 2013	April 30, 2013 April 30, 2013
March 1, 2013 March 15, 2013	<b>April 1, 2013</b> <b>April 15, 2013</b>	April 30, 2013 April 30, 2013	May 30, 2013 May 30, 2013
April 1, 2013 April 15, 2013	<b>May 1, 2013</b> <b>May 15, 2013</b>	May 31, 2013 May 31, 2013	June 30, 2013 June 30, 2013
May 1, 2013 May 15, 2013	<b>June 3, 2013</b> <b>June 17, 2013</b>	June 30, 2013 June 30, 2013	July 30, 2013 July 30, 2013
June 3, 2013 June 17, 2013	<b>July 1, 2013</b> <b>July 15, 2013</b>	July 31, 2013 July 31, 2013	August 30, 2013 August 30, 2013

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 1—OFFICE OF ADMINISTRATION  
Division 10—Commissioner of Administration  
Chapter 15—Cafeteria Plan**

**EMERGENCY AMENDMENT**

**1 CSR 10-15.010 Cafeteria Plan.** The commissioner is amending section (2) and deleting the current plan document and replacing it with an updated version.

*PURPOSE:* This amendment makes changes to the benefits available to state and other public entity employees under the state of Missouri's cafeteria plan (the plan).

*EMERGENCY STATEMENT:* This emergency amendment must be effective January 1, 2013, when the new plan year begins. If this amendment were not enacted as an emergency, employees would be denied the benefits of the amendment for the entire plan year because the amendment cannot be implemented midway through the plan year. This amendment provides for three (3) changes to the plan that, if not made, could result in significant adverse consequences. One change reduces the annual maximum that each employee can contribute to a health flexible spending account from five thousand dollars (\$5,000) to two thousand five hundred dollars (\$2,500). This change is required by federal law that passed in 2010. The Internal Revenue Service (IRS) did not issue interpretive guidance (Notice 2012-40) on the maximum contribution set forth in the law until May 30, 2012, and a legal challenge to the law was not complete until

June 28, 2012. It was in the best interest of employees and the state not to reduce the maximum contribution until these issues were resolved. This emergency amendment will serve the compelling governmental interest of ensuring that the plan remains compliant with IRS requirements. Remaining compliant is critical because the plan currently serves more than sixty-four thousand (64,000) state of Missouri and other public employees and results in employee tax savings of approximately twenty-five percent (25%), as well as state Federal Insurance Contribution Act (FICA) tax savings of approximately 7.625%. Another change extends the time period during which employees participating in the health flexible spending account and dependent care assistance program can incur expenses for which they can obtain reimbursement. This extension of time, or grace period, will serve the compelling governmental interest of providing employees additional time to use funds in their accounts, rather than forfeit the funds. The grace period may also encourage more employees to participate in these benefits, thereby providing tax savings to them and the state at a time when budgets are extremely tight. The final change creates a limited scope health flexible spending account that allows employees who choose the high deductible health plan, and are therefore ineligible to participate in a health flexible spending account, to at least recognize tax savings on dental and vision expenses. This emergency amendment will also serve the compelling governmental interest of providing savings to employees and the state at a time when budgets are tight and opportunities for recognizing savings are therefore particularly critical.

A proposed amendment which covers this same material is published in this issue of the *Missouri Register*. This emergency amendment complies with the protections extended by the *Missouri* and *United States Constitutions* and limits its scope to the circumstances creating the emergency. The Office of Administration follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. This emergency amendment was filed December 3, 2012, becomes effective January 1, 2013, and expires June 29, 2013.

(2) The commissioner of administration shall maintain the cafeteria plan, the dependent care assistance plan, and the flexible medical benefits plan, in written form, denominated as the *[Missouri State Employees' Cafeteria Plan Document attached as Appendix A] Cafeteria Plan for the Employees of the State of Missouri* included herein.

See *Cafeteria Plan for the Employees of the State of Missouri* printed with the proposed amendment on pages 8-79 of this issue of the *Missouri Register*.

*AUTHORITY:* section 33.103, RSMo Supp. [2010] 2012. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Dec. 3, 2012, effective Jan. 1, 2013, expires June 29, 2013. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 10—Food Safety and Meat Inspection**

**EMERGENCY AMENDMENT**

**2 CSR 30-10.010 Inspection of Meat and Poultry.** The department is amending section (2).

*PURPOSE:* This amendment ensures that the current rule language clearly includes the most recent publication date of Title 9, the *Code*

*of Federal Regulations published January 1 of each calendar year for the Missouri Meat and Poultry Inspection Program to be in compliance with federal regulations and maintain "equal to" status as determined by the United States Department of Agriculture/Food Safety and Inspection Service.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to serve the compelling governmental interest to inform state agencies and the public of the actual year that the adoption of Title 9 Code of Federal Regulations Parts 300 to end is being incorporated into state regulation. The United States Department of Agriculture/Food Safety and Inspection Service (USDA/FSIS) on November 1, 2012, asked for this clarification of the current rule language to ensure that it clearly includes the most recent date of publication of the federal regulations. USDA wants confirmation that the Missouri Meat and Poultry Inspection Program (MMPIP) has the authority to enforce all new requirements such as nutritional labeling of single ingredient products and ground or chopped meat and poultry products. The state Meat and Poultry Inspection (MPI) programs are required to operate in a manner and with authorities that are "at least equal to" the antemortem and postmortem inspection, re-inspection, sanitation, recordkeeping, and enforcement provisions as provided for in the Federal Meat Inspection Act and the Poultry Products Inspection Act. State MPI programs must stay current with and be able to explain how their programs are equal to FSIS regulations to ensure their rules are "at least equal to" USDA/FSIS and in compliance with federal regulations. The inclusion of the year (January 2013) in the rule clarifies the exact year the most current federal meat and poultry inspection regulations are being incorporated by reference and that the most current regulations are enforced at the state level. This regulation applies to approximately thirty-six (36) state inspected meat and poultry establishments in Missouri and problems with clarity in the regulation could cause confusion in an industry, which as a whole, produce approximately \$28,408,855,706 in Missouri economy. This emergency amendment is also necessary to protect the public health, safety, and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protection extended in the **Missouri and United States Constitutions**. The Department of Agriculture believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on December 3, 2012, becomes effective January 1, 2013, and expires June 29, 2013.*

(2) The standards used to inspect Missouri meat and poultry slaughter and processing shall be those shown in Part 300 to end of Title 9, the *Code of Federal Regulations [published annually in January] (January 2013)*, herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, DC 20402-0001, phone: toll-free (866) 512-1800[;], DC area (202) 512-1800, website <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: section 265.020, RSMo 2000. Original rule filed Sept. 14, 2000, effective March 30, 2001. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 3, 2012, effective Jan. 1, 2013, expires June 29, 2013. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

*Employees' Cafeteria Plan Document attached as Appendix A) Cafeteria Plan for the Employees of the State of Missouri included herein.*

[APPENDIX A  
MISSOURI STATE EMPLOYEES' CAFETERIA PLAN  
DOCUMENT]

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION  
Division 10—Commissioner of Administration  
Chapter 15—Cafeteria Plan**

**PROPOSED AMENDMENT**

**1 CSR 10-15.010 Cafeteria Plan.** The commissioner is amending section (2) and deleting the current plan document and replacing it with an updated version.

*PURPOSE: This amendment makes changes to the benefits available to state and other public entity employees under the state of Missouri's cafeteria plan (the plan).*

(2) The commissioner of administration shall maintain the cafeteria plan, the dependent care assistance plan, and the flexible medical benefits plan, in written form, denominated as the *[Missouri State*

**Cafeteria Plan  
for the Employees of  
the State of Missouri**

**Plan Document**

**Effective January 1, 2013  
(with an original effective date of January 1, 1992)**



**Cafeteria Plan  
for the Employees of  
the State of Missouri  
Plan Document  
Table of Contents**

1

<b>Section</b>	<b>Title</b>	<b>Page</b>
Section 1	Introduction .....	3
Section 2	General Information .....	5
Section 3	Benefit Options and Method of Funding .....	7
Section 4	Eligibility and Participation .....	10
Section 5	Method of Timing and Elections .....	14
Section 6	Irrevocability of Elections and Exceptions .....	16
Section 7	Claims and Appeals .....	25
Section 8	Plan Administration .....	29
Section 9	Amendment or Termination of the Plan.....	32
Section 10	General Provisions .....	33
Section 11	HIPAA Privacy and Security.....	35
Glossary	.....	38
Appendix A	Exclusions—Medical Expenses That Are Not Reimbursable From the Health FSA.....	43
Appendix B	Related Employers That Have Adopted This Plan.....	45
Schedule A	Premium Payment Plan .....	46
Schedule B	Health Flexible Spending Account .....	48
Schedule C	HSA Contribution Benefit.....	55
Schedule D	Dependent Care Assistance Program .....	58
Schedule E	Limited Scope Health Flexible Spending Account.....	64

**Section 1  
Introduction****1.1 Establishment of the Plan**

The State of Missouri (the "Employer") hereby amends the State of Missouri Cafeteria Plan (the "Plan") effective January 1, 2013 (the "Effective Date"). The original Plan was effective January 1, 1992.

**1.2 Purpose of the Plan**

This Plan allows an Employee to participate in the following Benefit Options:

- **Premium Payment Plan (PPP)** to make pre-tax Salary Reduction Contributions to pay the Employee's share of the premium or contribution for the Health Plan.
- **Health Flexible Spending Account (Health FSA)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of certain Health Care Expenses.
- **Limited Scope Health Flexible Spending Account (Limited Scope Health FSA)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of Dental and Vision Expenses.
- **Dependent Care Assistance Program (DCAP)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of certain Dependent Care Expenses.
- **Health Savings Account Contribution Benefit (HSA Contribution Benefit)** to make pre-tax Salary Reduction Contributions to a Health Savings Account.

**1.3 Legal Status**

This Plan is intended to qualify as a "cafeteria plan" under the Code §125, and regulations issued thereunder and shall be interpreted to accomplish that objective.

The **Health FSA** and the **Limited Scope Health FSA** are intended to qualify as self-insured health reimbursement plans under Code §105, and the Health Care Expenses reimbursed are intended to be eligible for exclusion from participating Employees' gross income under Code §105(b).

The **DCAP** is intended to qualify as a dependent care assistance program under Code §129, and the Dependent Care Expenses reimbursed are intended to be eligible for exclusion from participating Employees' gross income under Code §129(a).

The **HSA Contribution Benefit** is intended to meet all requirements of §223 of the Code.

Although reprinted within this document, the **Health FSA**, the **Limited Scope Health FSA**, the **DCAP** and the **HSA Contribution Benefit** are separate plans for purposes of administration and all reporting and nondiscrimination requirements imposed by Code §§105 and 129. The **Health FSA** and the **Limited Scope Health FSA** are also separate plans for purposes of applicable provisions of COBRA and HIPAA.

#### **1.4 Capitalized Terms**

Many of the terms used in this document begin with a capital letter. These terms have special meaning under the Plan and are defined in the Glossary at the end of this document or in other relevant Sections. When reading the provisions of the Plan, please refer to the Glossary at the end of this document. Becoming familiar with the terms defined there will provide a better understanding of the procedures and Benefits described.

**Section 2  
General Information**

<b>Name of the Cafeteria Plan</b>	State of Missouri Cafeteria Plan
<b>Name of Employer</b>	State of Missouri
<b>Address of Plan</b>	Office of Administration, P.O. Box 809, Jefferson City, MO 65102-0809
<b>Plan Administrator</b>	State of Missouri/Office of Administration
<b>Plan Sponsor and its IRS</b>	State of Missouri/Office of Administration
<b>Employer Identification Number</b>	44-6000987
<b>Named Fiduciary &amp; Agent for Service of Legal Process</b>	State of Missouri
<b>Type of Administration</b>	The Plan is administered by the Plan Administrator with Benefits provided in accordance with the provisions of the State of Missouri Cafeteria Plan. It is not financed by an insurance company and Benefits are not guaranteed by a contract of insurance. State of Missouri may hire a third party to perform some of its administrative duties such as claim payments and enrollment.
<b>Plan Number</b>	501
<b>Benefit Option Year</b>	The twelve-month period ending December 31.
<b>Plan Effective Date</b>	January 1, 2013, with an original effective date of January 1, 1992
<b>Claims Administrator</b>	Application Software, Inc., dba ASI, dba ASIFlex
<b>Plan Renewal Date</b>	January 1
<b>Internal Revenue Code and Other Federal Compliance</b>	It is intended that this Plan meet all applicable requirements of the Internal Revenue Code of 1986 (the "Code") and other federal regulations. In the event of any conflict between this Plan and the Code or other federal regulations, the provisions of the Code and the federal regulations shall be deemed controlling, and any conflicting part of this Plan shall be deemed superseded to the extent of the conflict.
<b>Discretionary Authority</b>	The Plan Administrator shall perform its duties as the Plan Administrator and in its sole discretion, shall determine the appropriate courses of action in light of the reason and purpose for which this Plan is established and maintained.

In particular, the Plan Administrator shall have full and sole

discretionary authority to interpret all Plan documents, and make all interpretive and factual determinations as to whether any individual is entitled to receive any Benefit under the terms of this Plan. Any construction of the terms of any Plan document and any determination of fact adopted by the Plan Administrator shall be final and legally binding on all parties. Any interpretation shall be subject to review only if it is arbitrary, capricious, or otherwise an abuse of discretion.

Any review of a final decision or action of the Plan Administrator shall be based only on such evidence presented to or considered by the Plan Administrator at the time it made the decision that is the subject of review. Accepting any Benefits or making any claim for Benefits under this Plan constitutes agreement with and consent to any decisions that the Plan Administrator makes in its sole discretion and further constitutes agreement to the limited standard and scope of review described by this section -- Section 2.

Section 3  
**Benefit Options and Method of Funding**

### 3.1 Benefits Offered

Each Employee may elect to participate in one or more of the following Benefits:

- **Premium Payment Plan (PPP)** as described in Schedule A.
- **Health Flexible Spending Account (Health FSA)** as described in Schedule B.
- **Health Savings Account Contribution Benefit (HSA Contribution Benefit)** as described in Schedule C.
- **Dependent Care Assistance Program (DCAP)** as described in Schedule D.
- **Limited Scope Health Flexible Spending Account (Limited Scope Health FSA)** as described in Schedule E.

Benefits under the Plan shall not be provided in the form of deferred Compensation.

### 3.2 Employer and Participant Contributions

- **Employer Contributions.** The Employer may, but is not required to, contribute to any of the Benefit Options. There are no Employer Contributions for the PPP under this Plan; however, if the Participant elects the PPP as described in Schedule A, the Employer may contribute toward the Health Plan as provided in the respective plan or policy of the Employer.
- **Participant Contributions.** The Employer shall withhold from a Participant's Compensation by Salary Reduction on a pre-tax basis, or with after-tax deductions, an amount equal to the Contributions required for the Benefits elected by the Participant under the Salary Reduction Agreement. The maximum amount of Salary Reductions shall not exceed the aggregate cost of the Benefits elected.

### 3.3 Computing Salary Reduction Contributions

- **Salary Reductions per Pay Period.** The Participant's Salary Reduction is an amount equal to:
  - The annual election for such Benefits payable on a semi-monthly or monthly basis in the Period of Coverage;
  - An amount otherwise agreed upon between the Employer and the Participant; or
  - An amount deemed appropriate by the Plan Administrator. (Example: in the event of a shortage of reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate.)

- **Salary Reductions Following a Change of Elections.** If the Participant changes his or her election under the PPP, Health FSA, Limited Scope Health FSA, or DCAP, as permitted under the Plan, the Salary Reductions will be, for the Benefits affected, calculated as follows:
  - An amount equal to:
    - The new annual amount elected pursuant to the Method of Timing and Elections section below;
    - Less the aggregate Contributions, if any, for the period prior to such election change;
    - Payable over the remaining term of the Period of Coverage commencing with the election change;
  - An amount otherwise agreed upon between the Employer and the Participant; or
  - An amount deemed appropriate by the Plan Administrator. (Example: in the event of a shortage of reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate.)
- **Salary Reductions Considered Employer Contributions for Certain Purposes.** Salary Reductions to pay for the Participant's share of the Contributions for Benefit Options elected for purposes of this Plan and the Code are considered Employer Contributions.
- **Salary Reduction Balance Upon Termination of Coverage.** If, as of the date that coverage under this Plan terminates, a Participant's year-to-date Salary Reductions exceed or are less than the required Contributions necessary for Benefit Options elected up to the date of termination, the Employer will either return the excess to the Participant as additional taxable wages or recoup the amount due through Salary Reduction amounts from any remaining Compensation.
- **After-Tax Contributions for PPP.** After-tax Contributions for the Health Plan will be paid outside of this Plan.

#### 3.4 Funding This Plan

- **Benefits Paid from General Assets.** All of the amounts payable under this Plan shall be paid from the general assets of the Employer. Nothing herein will be construed to require the Employer nor the Plan Administrator to maintain any fund or to segregate any amount for the Participant's benefit. Neither the Participant, nor any other person, shall have any claim against, right to, or security or other interest in any fund, account or asset of the Employer from which any payment under this Plan may be made. There is no trust or other fund from which Benefits are paid. While the Employer has complete responsibility for the payment of Benefits out of its general assets, it may hire a third party administrator to perform some of its administrative duties such as claims payments and enrollment.
- **Participant Bookkeeping Account.** While all Benefits are to be paid from the general assets of the Employer, the Employer will keep a bookkeeping account in the name of each Participant. The bookkeeping account is used to track allocation and payment of Plan Benefits. The Plan

Administrator will establish and maintain under each Participant's bookkeeping account a subaccount for each Benefit Option elected by each Participant.

- **Maximum Contributions.** The maximum Contributions that may be made under this Plan for the Participant are the total of the maximums that may be elected for the PPP as described in Schedule A, **Health FSA** as described in Schedule B, **HSA Contribution Benefit** as described in Schedule C, the **DCAP** as described in Schedule D, and the **Limited Scope Health FSA** as described in Schedule E.