

Summary Plan Description (SPD) for the New York City Medical Spending Conversion (MSC) Program



MSC Health Benefits
Buy-Out Waiver Program

MSC
Premium
Conversion
Program

Plan Year 2010

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This SPD briefly reviews and broadly describes the highlights of the Flexible Spending Accounts (FSA) Program which falls under Internal Revenue Code (IRC) Section 125. The material contained in this SPD is provided for informational purposes only and does not constitute a representation by the City of New York as to results and benefits which might actually be received by any individual. All actions are wholly governed by applicable law and regulations. The IRC and regulations are subject to change and may affect determinations made with respect to the Program.

Medical Spending Conversion (MSC) Summary Plan Description (SPD)

Introduction

The City of New York is pleased to offer the Medical Spending Conversion (MSC) Health Benefits Buy-Out Waiver Program and the Premium Conversion Program, which are components of the City's Flexible Spending Accounts Program.

The MSC Health Benefits Buy-Out Waiver Program and the Premium Conversion Program are intended to qualify as "cafeteria plans" providing cash incentive payments and medical premium conversion, respectively, under Internal Revenue Code (IRC) Section 125. These programs must meet the requirements of all other applicable provisions of the law including, without limitation, the Employee Retirement Income Security Act (ERISA) of 1974 and the Consolidated Omnibus Budget Reconciliation Act (COBRA).

The MSC Program consists of two distinct programs:

- 1. The Health Benefits Buy-Out Waiver Program** enables eligible employees who can obtain non-City group health benefits to waive their City health benefits in return for an annual cash incentive payment. This incentive payment is taxable to the recipient.
- 2. The Premium Conversion Program** enables eligible employees to pay for health benefit premiums on a before-tax basis.

The money used to pay premiums for health plan coverage through the Plan is never subject to federal income taxes or Federal Insurance Contributions Act (FICA) taxes. These taxes are not merely deferred; rather, they are eliminated entirely.

Questions and Answers about the Health Benefits Buy-Out Waiver Program

How does the Health Benefits Buy-Out Waiver Program work?

Any active employee who is covered by a non-City group health benefit program may elect to waive City health coverage in exchange for an incentive payment.

To make your election, you must complete and submit a Health Benefits Application to waive your City health benefits, and an MSC Form to receive the annual incentive payment. Your application will not be processed unless both forms are submitted to your agency Human Resources Department and approved by your agency benefits representative.

What is the amount of the annual incentive payment and when is it issued?

The incentive payment is \$1,000 for waiving family health coverage and \$500 for waiving individual/domestic partner health coverage.

These payments will be made semi-annually in June and December. However, if you waive your health coverage mid-year due to a Qualifying Event (See Page 4), payment will be prorated accordingly.

How do I know if I am eligible for participation in the Health Benefits Buy-Out Waiver Program?

First, you must be eligible for City health benefits. In addition, you must be covered under a non-City group health benefit program, such as:

1. a spouse's/domestic partner's or parent(s)' employer-provided group health plan; or
2. a group health plan available through other employment.

You will be required to provide documentation showing that you are covered by another group health plan.

You may not waive City health coverage in order to be covered by a spouse/domestic partner who works for the City or a City-related agency.

Who is excluded from the Health Benefits Buy-Out Waiver Program?

You are ineligible for participation in the Health Benefits Buy-Out Waiver Program if you are:

- waiving health coverage in order to be covered by a spouse or parent(s) who works for the City (or a City-related agency) and is covered through the City's Health Benefits Program;
- retired from the City of New York and covered by an individual direct payment plan; or
- covered by Medicaid or Medicare, or on Workers' Compensation leave.

When must I enroll?

- Current employees may enroll during the annual Open Enrollment Period in the fall.
- New employees must enroll within thirty (30) days after becoming eligible for City health benefits.

When is my effective date if I submit the MSC Form in June and/or December for enrollment in the Health Benefits Buy-Out Waiver Program?

An MSC Form that we receive from you in June will have an effective date of July 1st of that Plan Year if you are eligible to apply for City health benefits and you have a Qualifying Event in May or June of that Plan Year (must be received within 30 days).

An MSC Form that we receive from you in December will have an effective date of January 1st of the following Plan Year if you are eligible to apply for City health benefits and you have a Qualifying Event in November or December of the previous Plan Year (must be received within 30 days).

Please note that if your effective date is later than July 1st or January 1st, your effective date will be the date you are eligible to participate in the program.

Must I enroll each year in order to continue the Health Benefits Buy-Out Waiver Program?

No. Once enrolled, you are in the program until you reinstate your City health benefits by submitting the Health Benefits Application and MSC Form during the annual Flexible Spending Accounts (FSA) Program Open Enrollment Period. Beginning each Plan Year, the MSC Administrative Office will generate a confirmation letter to all participants for that Plan Year.

If you transfer from one City agency to another, you must notify the MSC Administrative Office at least thirty (30) days prior to the transfer.

Can I change my mind in the middle of the Plan Year?

Your waiver, or election to continue City health coverage, will remain in effect throughout the Plan Year, unless you experience a Qualifying Event. Qualifying Events are:

- a change in family status such as marriage, divorce, annulment or legal separation between participant and spouse;
- the death of a participant, spouse, domestic partner, or dependent;
- the birth or adoption of a child who will be the participant's dependent;
- the participant becomes divorced and is required under court order to provide health insurance coverage for eligible dependent children;
- the termination of the participant's employment for any reason including retirement;
- a change in spouse's/domestic partner's coverage which is significant and outside the spouse's/domestic partner's control (e.g., benefit reduction);
- a spouse's/domestic partner's employment status change, such as termination or commencement of employment, resulting in a health insurance coverage change (either acquiring or losing eligibility for coverage);
- a change in employment status from part-time to full-time, or vice versa, by the participant or the spouse/domestic partner;
- the taking of, or returning from, an approved unpaid leave of absence by the participant or the spouse/domestic partner;

- moving out of an HMO service area; or
- ineligibility of dependent.

City health benefits may be reinstated, as long as you provide proof of loss of other health benefits coverage, within thirty (30) days after the Qualifying Event. You must notify the MSC Administrative Office within thirty (30) days after a Qualifying Event, otherwise, no changes or enrollment will be allowed and you will have to wait until the next annual FSA Program Open Enrollment Period or the occurrence of another Qualifying Event in order to enroll or change enrollment in the Program.

Any change in coverage status must be consistent with, and on account of, a Qualifying Event as described above.

Questions and Answers about the Premium Conversion Program

How does the Premium Conversion Program work?

The City pays the costs of most basic coverage health insurance plans and you may pay a premium for optional riders. As a participant in the Premium Conversion Program, the necessary premiums will be automatically deducted from your paycheck on a pre-tax basis, resulting in savings of federal and Social Security taxes.

Who is eligible to participate in this program?

All active employees who are covered by City health benefits are eligible to participate. If you are a new hire during the Plan Year, you will be eligible for participation upon appointment, or upon eligibility to receive City health benefits.

How do I participate?

You will be enrolled automatically in the Premium Conversion Program unless you decline.

What if I am a new employee?

For newly hired employees, coverage will commence on the benefit effective date. During the period between the employee's date of hire and the benefit effective date, the employee will be unable to participate in the Premium Conversion Program.

How do I decline coverage?

In order to decline participation, you must complete and submit an MSC Premium Conversion Program Form, indicating such declination, within thirty (30) days after your eligibility to participate, or during the annual FSA Program Open Enrollment Period.

Your election is irrevocable for the Plan Year for which the election has been made and you will not be permitted to change your status unless you incur a Qualifying Event, as described in the section below entitled "How do I change my election?"

If you change agencies or title, you must contact the MSC Administrative Office in order to maintain your post-tax status.

How do I change my election?

Because of federal regulations, you may only change your election once a year, during the annual FSA Program Open Enrollment Period, unless you incur a mid-year Qualifying Event, which is a change in family or employment status. You may change your election mid-year within thirty (30) days after a Qualifying Event listed below:

- a change in family status such as marriage, divorce, annulment, or legal separation between participant and spouse;
- the death of a participant, spouse/domestic partner, or dependent;

- the birth or adoption of a child who will be the participant's dependent;
- the attainment of the maximum age for coverage of a dependent child;
- the participant becomes divorced and is required under court order to provide health insurance coverage for eligible dependent children;
- moving out of an HMO service area;
- a participant has a change in title which necessitates a change in health plan (e.g., Med-Team participants must be DC-37 members; Med-Plan and Metropolitan participants must be HHC employees);
- the termination of participant's employment for any reason including retirement;
- a change in spouse's/domestic partner's coverage which is significant and outside the spouse's/domestic partner's control (e.g., benefit reduction);
- a spouse's/domestic partner's employment status change such as the termination or commencement of employment resulting in a health insurance coverage change (either acquiring or losing eligibility for coverage);
- a change in employment status from part-time to full-time, or vice versa, by the participant or the spouse/domestic partner;
- the taking of, or returning from, an approved unpaid leave of absence by the participant or the spouse/domestic partner; or
- an increase in the employee's health insurance premium by more than 20%.

What if my required premiums change?

Although you cannot change your election, should the required premiums for your health plan change during the Plan Year by not more than 20%, your authorized premium will be increased or decreased to reflect the necessary change.

If the required premium should change by more than 20%, you will be permitted to revoke your election and participate on an after-tax basis.

Who is considered a "spouse" in the Premium Conversion Program?

The participant's husband or wife is considered a "spouse." For domestic partner purposes, an employee cannot use pre-tax contributions unless the domestic partner is a dependent of the employee for tax purposes.

Does this program affect state or local taxes?

No, only federal and Social Security taxes are reduced by this program. Premiums are subject to New York State and City taxes and, therefore, must be added back to New York State and City income tax returns at the end of the year.

Will participation in the Premium Conversion Program affect any of my other benefits?

Program participation will reduce your Social Security taxes and thereby reduce future Social Security benefits. The tax benefits of using this type of program, however, usually outweigh the slight reduction in Social Security benefits.

Will this program affect my pension?

No. Your contributions to the Premium Conversion Program will have no effect on your pension contributions or benefits.

Will this program affect my Deferred Compensation Plan if I am enrolled in the program in lieu of FICA?

An employee participating in the City's Deferred Compensation Plan (DCP) in lieu of FICA and participating in the Health Benefits Buy-Out Waiver Program (taxable income), may need to increase his/her salary deferral percentage to an amount higher than 7.5% of annual salary in order to account for the increase in income due to the "Buy-Out Waiver Incentive Payment." If the 7.5% of total salary income requirement is not met, the participant who is enrolled in the DCP may have to continue to pay FICA taxes until that requirement is met.

Contact Information

If you have additional questions regarding MSC, please contact the MSC Administrative Office at (212) 306-7760. The FSA Program Brochure is available on the Web site at nyc.gov/olr. Counselors are available to answer your questions Monday through Friday from 9:00 a.m. to 4:00 p.m. In-house counseling is available by appointment only.

ADMINISTRATIVE INFORMATION

Plan Name: New York City, Medical Spending Conversion

Plan Type: The Medical Spending Conversion is a "cafeteria plan" intended to qualify under the IRC Section 125. The Plan is self-administered.

Effective Date: October 1, 1991, amended January 1, 1995

Plan Year: January 1, 2010 through December 31, 2010

Enrollment Period: September 21, 2009 through November 13, 2009

Plan Administrator: The City of New York
Office of Labor Relations
Tax-Favored Benefits Program
40 Rector Street, 3rd Floor
New York, NY 10006-1705
(212) 306-7760

Plan Number: 501

Employer ID Number: 13-6400434

Future of the Plan: The City of New York intends to continue this Plan indefinitely, but reserves the right to modify, suspend, or terminate this Plan at any time and for any reason.

Employment Rights: This Plan is not an employment contract. The City of New York reserves the right to hire, promote and/or terminate the employment of any person based on business needs which are determined at the sole discretion of the City.

Summary Plan Description: This SPD is intended to outline the terms of coverage available to you. The complete terms of this Plan are set forth in the Plan Document. Every effort has been made to make this Summary Plan as accurate as possible. However, in the event that anything described in this SPD is in conflict with the Plan Document, the Plan Document will prevail.

Participating Employers: The City of New York, The City University of New York, The New York City Health and Hospitals Corporation, The New York City Housing Authority, The New York City Off-Track Betting Corporation, The New York City Department of Education, The New York City School Construction Authority, Queensborough Public Library, The New York Public Library, Waive Hill Center for Environment*, Renaissance Charter School*, The Wildcat Charter School*, Beginning with Children Charter School* and the Zoological Society (Bronx Zoo)*.

Agents for
Service of Legal Process: The Plan Administrator

ERISA RIGHTS

Any legal process should be served on the Plan Administrator for MSC located at:

The City of New York
Office of Labor Relations
Tax-Favored Benefits Program
40 Rector Street, 3rd Floor
New York, NY 10006-1705

As a participant in the City of New York Medical Spending Conversion, you may be entitled to certain rights and protection under the Employee Retirement Income Security Act of 1974 (ERISA).

ERISA provides that all Plan participants shall be entitled to:

- Examine without charge, at the Plan Administrator's Office and the Human Resources Department, all Plan documents and copies of all other documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and Plan descriptions.
- Obtain copies of all Plan Documents and other Plan information upon written request to the Plan Administrator who may make a reasonable charge for the copies.
- Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of employee benefit plans.

The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries.

No one may fire you or otherwise discriminate against you in any way to prevent you from obtaining Plan benefits or exercising your rights under ERISA.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may require the Plan Administrator to provide the materials and pay you up to \$100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court.

The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

If you have any questions about your benefits that are not handled satisfactorily by your Human Resources Department or NYCAPS (if applicable), you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest area office of the U.S. Labor-Management Services Administration, Department of Labor.

*The City of New York
Office of Labor Relations
Employee Benefits Program - Tax-Favored Benefits
40 Rector Street, 3rd Floor, New York, NY 10006
212-306-7760
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