COUNTY DEPARTMENT AGENDA REQUEST

Department:	Human Resources	Presenter(s):	Connie Boehnke
Meeting Date:	Thursday, April 28, 2011	Type of Request:	New Business

Wording for the Agenda:

Consideration of proposed Amendment to the County's Flexible Benefits Plan as required by the Patient Protection and Affordable Care Act of 2010.

Background/History/Details:

The (national) Patient Protection and Affordable Care Act (PPACA) was signed into law in March of 2010. One of the major components of PPACA that will directly affect the County's overall health care plan is the provision that dependents (children) be permitted to remain on their parents' insurance plan until their 26th birthday. The regulations that were implemented under the Act state that this will include dependents who no longer live with their parents, who are not a dependent on a parent's tax return, who are no longer a student, or who are married. Approval of the amendment as proposed is necessary in order for the County's Flexible Benefits Plan to be in compliance with federal law.

Two additional items were added to this Amendment that cover reimbursement for non-prescription medicines or drugs and the address for submitting internal appeals. The Internal Revenue Service regulates what items flexible benefits plans will cover since premiums for these plans are pre-tax contributions. The IRS now requires that over-the-counter medicines like acetaminophen and ibuprofen require a prescription in order to be eligible for reimbursement. Over the counter items that are not drugs or medicines, such as bandages, will still be eligible for reimbursement without a prescription.

What action are you seeking from the Board of Commissioners?

Motion to approve the Amendment to the County Employee Flexible Benefits Plan and authorization for the Chairman to sign any and all necessary documentation pending the County Attorney's review.

If this item requires funding, please describe:

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

SUMMARY OF MATERIAL MODIFICATION
AND
AMENDMENT # 1
TO THE
FAYETTE COUNTY, GEORGIA
FLEXIBLE BENEFITS PLAN
FOR THE
PATIENT PROTECTION AND AFFORDABLE CARE ACT
GROUP NO. 12469

This Summary of Material Modification and Amendment to the Fayette County, Georgia Flexible Benefits Plan (the "Plan") is adopted to comply with certain provisions of the Patient Protection and Affordable Care Act (the "Affordable Care Act"). This Summary of Material Modification and Amendment shall be effective as of the first day of the first Plan Year beginning on or after September 23, 2010 (the "Effective Date"), unless otherwise stated. For purposes of this Plan, the Effective Date is **June 1, 2011,** unless otherwise stated.

In accordance with the Affordable Care Act as of the Effective Date of this Summary of Material Modification and Amendment, the Plan is amended as described in Exhibit A, attached hereto and made a part hereof.

This Summary of Material Modification and Amendment should be kept with your copy of the Plan Document and Summary Plan Description. It is an important part of the Plan. If you have any questions with respect to this Summary of Material Modification and Amendment, please contact the Plan Administrator.

All other provisions of the Plan will remain unchanged.

Authorized Signature	Date	Title
Witness	Date	Title

SUMMARY OF MATERIAL MODIFICATION
AND
AMENDMENT # 1
TO THE
FAYETTE COUNTY, GEORGIA
FLEXIBLE BENEFITS PLAN
FOR THE
PATIENT PROTECTION AND AFFORDABLE CARE ACT
GROUP NO. 12469

EXHIBIT A

1: Extension of Dependent Coverage to Age 26

Definition of Child

A dependent for purposes of pre-tax benefits under the Plan means any individual who is a tax dependent of the Participant as defined generally in Code Section 152(a); however, in the case of health benefits, a dependent is defined as set forth in Code Section 105(b) and the regulations issued under Code Section 106. Contributions for coverage of individuals not meeting these requirements can also be made for benefits offered through the premium only component of the Plan to the extent the individual is otherwise eligible for such benefit coverage; however the fair market value of the portion of coverage attributable to such individual is a taxable benefit to the Participant and will be included in the Participant's taxable income by the Employer.

Due to recent changes in Federal law under Code Section 105(b), the provision of the Plan that defines which dependents are eligible for pre-tax premium benefits for health coverage as well as coverage under the health flexible spending account, is amended to include all Dependent children until the child's 26th birthday (the "limiting age"). The covered employee's son, daughter, stepchild, legally adopted child and/or eligible foster child regardless of such child's financial dependency on the covered employee; tax dependency; marital status; residency with the covered employee or any other person; student status; or employment status. To the extent that the Plan defines a Dependent child to include coverage for any child not listed in the previous sentence, all other existing eligibility requirements other than the limiting age continue to apply. Health coverage for dependents that fall outside of Code Section 105(b) will not be eligible for the exclusion from federal tax.

Any provision of the Plan that indicates a natural born child, step child, legally adopted child or eligible foster child's eligibility for pre-tax premium benefits for health coverage or coverage under the health flexible spending account is based on any factor other than the relationship between the child and a covered employee is hereby deleted.

Termination of Coverage

The pre-tax premium benefit for health coverage and health flexible spending account coverage of a covered child will terminate on the earlier of (1) the date health coverage ends or (2) when the child no longer meets the IRS requirements for pre-tax premium coverage or health flexible spending account coverage as applicable. Any provision of the Plan that indicates that a natural born child, step child, legally adopted child or eligible foster child's coverage under the health flexible spending account will terminate when the child marries, ceases to be financially dependent on an employee covered under the Plan, ceases to share a residence with an employee covered under the Plan, ceases to be a full-time or part-time student, becomes employed full-time or part-time, ceases to be a tax dependent, or reaches a limiting age prior to the limiting age is hereby deleted.

Special Enrollment

The Plan is further amended to provide that if a child was terminated from health coverage under the Plan prior to the Effective Date of this Summary of Material Modification and Amendment due to failure to satisfy the dependent eligibility requirements for health coverage under the Plan; or was denied or was not eligible for enrollment in health coverage under the Plan due to failure to meet such eligibility requirements; then such child and his/her parent-employee (if not

already enrolled) will have an opportunity to enroll in the Plan during a special enrollment period applicable to the health coverage. This special enrollment period shall begin no later than the first day of the Plan Year beginning on or after September 23, 2010 and shall last for at least 30 days.

2: Over-the-Counter Medicines or Drugs

Effective as of January 1, 2011, the Plan is amended to exclude from the category of eligible expenses any nonprescription medicine or drug (other than insulin). This means that over-the-counter medicines like acetaminophen and ibuprofen will require a prescription in order to be eligible for reimbursement from the health flexible spending account. Over-the-counter items for medical care that are not drugs or medicines, such as bandages, will still be eligible for reimbursement from the health flexible spending account without a prescription.

Effective January 15, 2011, if you have an electronic debit card for your health flexible spending account, you will be able to use the card to pay for over-the-counter drugs or medicines at drug stores and pharmacies (and at non-health care merchants that have pharmacies, and at mail order and web-based vendors that sell prescription drugs) only if the following requirements are met:

(1) prior to purchase, (i) the prescription for the over-the-counter medicine or drug is presented to the pharmacist; (ii) the over-the-counter medicine or drug is dispensed by the pharmacist in accordance with applicable law; and (iii) an Rx number is assigned;

(2) the pharmacy or other vendor retains, in a manner that meets IRS's recordkeeping requirements: (i) the Rx number; (ii) the name of the purchaser or person for whom the prescription applies; and (iii) the date and amount of the purchase;

(3) all of these records are available to the employer upon request;

(4) the debit card system will not accept a charge for an over-the-counter medicine or drug unless an Rx number has been assigned; and

(5) the use of the debit card complies with all applicable regulations and other authoritative guidance regarding the use of debit cards for Health FSA reimbursements, including substantiation requirements.

In addition, the electronic debit card may also continue to be used to purchase over-the-counter medicines or drugs from vendors other than those described above that have health care-related "Merchant Codes" as described in Rev. Rul. 2003-43, including physicians, pharmacies, dentists, vision care offices, hospitals, and other medical care providers. If all other requirements in the preceding paragraph are satisfied, then these debit card transactions will be considered fully substantiated.

Electronic debit cards may also continue be used to purchase over-the-counter medicines and drugs at "90% pharmacies" with at least 90% of the store's gross receipts during the prior tax year consisting of qualified medical care expenses under Code Sec. 213(d).

For all other providers and merchants, you will have to file a paper claim reimbursement form.

3: Internal Appeals

Effective as of January 1, 2011, the Plan is amended to require all claimants to submit all internal appeals to the following address:

Meritain Health, Inc.
Appeals Department
P. O. Box 1380
Amherst, NY 14226-1380