SUMMARY of MATERIAL MODIFICATION

AMENDMENT # 1
to the

UNIVERSITY OF MAINE SYSTEM

FLEXIBLE SPENDING ACCOUNTS PLAN

The University of Maine System Flexible Spending Accounts Plan is hereby amended, effective 02/01/08. This amendment affects all claims for services incurred on or after the effective date of this amendment. The terms of this amendment are as follows:

I. Under the “Health Care FSA Component” section, the following item will be added in its entirety:

Debit Card Use. In addition, a Participant in the Health Care FSA Component may use the Flex debit card. As explained more fully in the employee enrollment agreement, this card permits Participants to pay for Medical Care Expenses at qualified merchants or health care providers with the Flex debit card instead of paying out-of-pocket money for such expenses and submitting an application to be reimbursed for such amounts as described above. Each Participant in the Health Care FSA Component will be issued a Flex debit card and will certify upon enrollment in the Health Care FSA Component and each Plan Year thereafter that the card will be only used for Medical Care Expenses. Participant-cardholders will also certify that any expense paid with the card has not been reimbursed and that the Participant will not seek reimbursement under any other plan covering health benefits. Participant-cardholders must acquire and retain sufficient documentation for any expense paid with the Flex debit card, including invoices and receipts where appropriate. The Participant’s use of the Flex debit card is limited to the maximum dollar amount of coverage in the Health Care FSA Component. Upon the Participant’s termination of employment, the Flex debit card will be automatically cancelled.

The following requirements relate to the use of the Flex debit card:

• If the dollar amount of the transaction at a health care provider equals the dollar amount of the copayment for that service under the major medical plan of the Participant, the charge is fully substantiated without the need for submission of a receipt or further review. For example, Employee A is enrolled in a major medical plan with a $15 physician’s office visit copayment. When Employee A uses the card to satisfy the copayment requirement, the system matches the amount of the transaction, $15, with the copayment under Employee A’s coverage and the fact that the transaction is at a physician’s office.

• There will be automatic reimbursement, without further review, of recurring expenses that match expenses previously approved as to amount, provider, and time period (e.g., for a participant who refills a prescription drug on a regular basis at the same provider for the same amount).
• If the merchant, service provider, or other independent third-party (e.g., Pharmacy Benefit Manager), at the time and point of sale, provides information to verify to University of Maine System (including electronically by e-mail, the internet, intranet, or telephone) that the charge is for a medical expense, the charge is fully substantiated without the need for submission of a receipt or further review (i.e., “real-time substantiation”). For example, Employee A fills a prescription at a pharmacy. The Pharmacy Benefit Manager under Employee A’s major medical coverage provides information that $37.85 of the cost of the prescription is a medical expense that is not covered by the major medical coverage. Because the information about the medical expense, $37.85, matches the amount of the transaction, the transaction is substantiated. The transaction would also be fully substantiated where, for example, treatment at a physician’s office results in charges in addition to the copayment and, after obtaining authorization for the card, the provider is prompted to enter treatment codes and charges. The additional third-party information regarding the type of care, date of service, and amount provides substantiation of the expense without the need for further review.

• All charges to the Flex card, other than copayments, recurring expenses, and real-time substantiation as described above, are treated as conditional pending confirmation of the charge. Additional third-party information, such as merchant or service provider receipts, describing (1) the service or product, (2) the date of the service or sale and, (3) the amount, must be submitted for review and substantiation.

• If a claim that has been reimbursed is subsequently identified as not qualifying for reimbursement, the following procedures will apply.
  
  o **Step 1**: Upon identification by the Contract Administrator of an improper payment, the Participant will be notified by the Contract Administrator of the improper payment. The Participant, in accordance with the instructions provided by the Contract Administrator, must pay back to the Plan an amount equal to the improper payment.

  o **Step 2**: If payment is not made by the Participant in accordance with the instructions provided by the Contract Administrator, the amount of the improper payment will be withheld from the Participant’s wages or other compensation to the extent consistent with applicable law.

  o **Step 3**: If the improper payment still remains outstanding, the Contract Administrator will use a claims substitution or offset approach to resolve improper claims. For example, if Employee A has received an improper reimbursement of $200 and subsequently submits a substantiated claim incurred during the same coverage period, no reimbursement is made until the improper payment is fully recouped.

  o In addition to the above, while the improper payment remains outstanding, the Contract Administrator may take other actions to ensure that further violations of the terms of the Flex card do not occur, including denial of access to the card until the indebtedness is repaid by the Participant.

  o If these correction efforts prove unsuccessful, or are otherwise unavailable, the Participant remains indebted to University of Maine System for the amount of the improper payment. In that event and consistent with its business practices, University of Maine System will treat the payment as it would any other business indebtedness.
II. Under the “Dependent Day Care FSA Component” section, the following item will be added in its entirety:

Debit Card Use. A Participant in the Dependent Day Care FSA Component may use the Flex debit card. Each Participant in the Dependent Day Care FSA Component will be issued a Flex debit card and will certify upon enrollment in the Dependent Day Care FSA Component and each Plan Year thereafter that the card will be only used for Dependent Day Care Expenses. Participant-cardholders will also certify that any expense paid with the card has not been reimbursed and that the Participant will not seek reimbursement under any other plan covering dependent day care benefits. Participant-cardholders must acquire and retain sufficient documentation for any expense paid with the Flex debit card, including invoices and receipts where appropriate. The Participant’s use of the Flex debit card is limited to the maximum dollar amount of coverage in the Dependent Day Care FSA Component. Upon the Participant’s termination of employment, the Flex debit card will be automatically cancelled.

The following requirements relate to the use of the Flex debit card for dependent day care expenses:

- Cards may not be used to pay for dependent day care expenses before the expenses are incurred. For this purpose, expenses are incurred when the dependent day care services are provided, not when the Dependent Day Care participant pays or is billed for them. For example, if an employee pays for dependent day care on a monthly basis, the charge for each month is not considered to be incurred until the last day of that month, when all of the services giving rise to the charge have been provided. IRS guidance specifically provides that “if a dependent day care provider requires payment before the dependent day care services are provided, those expenses cannot be reimbursed at the time of payment, even through the use of a payment card program.”

- All charges to the Flex card, other than recurring expenses, are treated as conditional pending confirmation of the charge. Additional third-party information, such as service provider receipts, describing (1) person or persons on whose behalf Dependent Day Care Expenses have been incurred, (2) the nature and date of the Expenses so incurred, (3) the amount of the requested reimbursement; (4) the name of the person, organization or entity to whom the Expense was or is to be paid, and taxpayer identification number (Social Security number, if an individual); and (5) a statement that such Expenses have not otherwise been paid and are not expected to be paid through any other source, must be submitted for review and substantiation.

- There will be automatic reimbursement, without further review, of recurring expenses that match expenses previously approved as to provider and time period so long as the amount is equal to or less than the previously substantiated amount. In contrast, if a transaction exceeds the previously substantiated amount or is with a different provider, then the participant must submit a statement from the provider to substantiate the expense before amounts relating to the increased amount or new provider can be added to the card.

- If a claim that has been reimbursed is subsequently identified as not qualifying for reimbursement, the same Steps noted above under the Health Care FSA Component will apply.

Electronic payment cards will not be practical for Dependent Day Care participants who obtain dependent day care services from nannies, babysitters, home day-care providers, or small child-care centers, as these dependent day care providers generally do not use electronic payment mechanisms.