

CITY OF CLARKSTON

CLARKSTON CITY COUNCIL MEETING

ITEM NO: F2

HEARING TYPE:  
Council Meeting

BUSINESS AGENDA / MINUTES

ACTION TYPE:  
Resolution

MEETING DATE: October 7, 2014

**SUBJECT:** Adopt Revised GMA Health Plan Agreement for ACA compliance

DEPARTMENT: Administration

PUBLIC HEARING:  YES  NO

ATTACHMENT: YES  NO   
Pages: 4

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PURPOSE: To consider adopting the Revised GMA Health Plan Agreement Plan documents

NEED/ IMPACT: A number of final regulations implementing the Patient Protection and Affordable Care Act ("ACA") have been released this year. The Georgia Municipal Association (GMA) has revised the GMEBS Health Plan Employer Declaration Page form, Participation Agreement, and Trust Agreement to address the final waiting period regulations issued on February 24, 2014, the final regulations on Employer Shared Responsibility (the "Pay or Play Rules" that apply to "Applicable Large Employers" under the ACA) issued on February 12, 2014, and the final regulations on ACA reporting requirements issued on March 10, 2014, which apply to the GMEBS Health Plan and Applicable Large Employers. In addition, they have revised the Participation Agreement to support compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and to improve administration.

A summary of the revisions to each document is as follows:

**Revisions to the Declaration Page**

- Revised the template Declaration Page to reflect that the Program Administrator checks the boxes and otherwise completes the form based on requests made by the Participating Employer, and the Employer makes elections by approving the Declaration.
- Added a warning that elections in the Declaration Page may or may not result in penalties under the ACA, and that the Participating Employer should consult with an attorney when determining whether it is an Applicable Large Employer under the ACA, and determining its exposure to ACA penalties.
- Added a certification that the Employer will not impose additional eligibility conditions or longer waiting periods.

- Revised the descriptions of eligible positions to more clearly explain the requirements for eligibility as a Regular Employee.
- Added a provision that allows Participating Employers who are Applicable Large Employers to enroll individuals who do not meet the definition of a “Regular Employee,” but who meet the ACA’s definition of a “Full-Time Employee.” This places sole responsibility on the Applicable Large Employer for identifying such individuals and determining whether or not to offer them coverage.
- Revised the waiting period options to list only 0, 30 and 60 days.
- Clarified when rehired employees may be treated as new hires subject to the waiting period.
- Added a special rule for Applicable Large Employers that use the look-back method for determining whether an individual is a “Full-Time Employee” under the ACA.
- Revised to reflect four tiers of coverage: employee only, employee + spouse, employee + children, family.

#### **Revisions to the Participation Agreement**

- Added a definition of “employee” to clarify that it includes all individuals eligible for coverage due to their current or former employment. (This broad definition includes elected and appointed members of the governing authority, retirees, COBRA participants.)
- Clarified Participating Employer responsibilities when offering coverage and specified that GMEBS, Trustees, Trust Fund, and Program Administrator are not liable for consequences of a Participating Employer’s failure to comply with applicable law, or its decision to limit coverage or its failure to sufficiently subsidize coverage in a manner that results in penalties under the ACA.
- Clarified that the Participating Employer must offer coverage to anyone eligible under the terms of the Declaration Page, and may not impose probationary periods or waiting periods for coverage except as stated in the Declaration Page.
- Clarified that the GMEBS, Trustees, Trust Fund, and Program Administrator are not liable for consequences of a Participating Employer’s imposition of eligibility conditions or waiting periods that are not stated on the Declaration Page, and that any penalties assessed against GMEBS will be recouped from the Participating Employer.
- Added Summaries of Benefits & Coverage documents to the list of documents a Participating Employer must provide to employees in accordance with instructions of the Program Administrator (upon request), and clarified that GMEBS, the Trust Fund, the Trustees, and the Program Administrator shall not be liable for consequences of the Participating Employer’s failure to do so.
- Added a requirement that the Participating Employer provide a certification of distribution of materials upon request.
- Clarified that cooperating in administration includes secure transmission of any information about eligible employees and dependents that the Program Administrator deems necessary for administration.
- Clarified that a change in applicable law might necessitate a change to the Participating Employer’s Declaration, and a Participating Employer who fails to properly amend the

declaration is solely liable for failure to act in accordance with the Declaration that was revised by the Trustees or Program Administrator.

- Added a new paragraph requiring that the Participating Employer identify (by position) designated contacts for receipt of enrollment and billing information and ensures that these contacts properly secure the information and use it only for permitted purposes.
- Revised language about electronic transmission of sensitive and confidential information to require secure electronic transmission.
- Clarified that the Participating Employer is acting on behalf of employees (and not on behalf of GMEBS) when forwarding information.
- Clarified that the Participating Employer is solely responsible for securing sensitive enrollment information during transmission to the Program Administrator.
- Revised a footnote to clarify that GMEBS makes final decisions about whether an employee has complied with enrollment requirements, and makes final decisions regarding any disputes about whether an enrolled employee or dependent is actually eligible under the terms of any self-insured plan documents.
- Clarified that initial enrollment of an individual is contingent on inclusion of the individual in any required underwriting.

#### **Revisions to the Trust Agreement**

- Expanded the types of payments that may be made by the Trust to reflect payments and fees imposed by law and reasonable indemnification of contracted service providers to the Plan (to the extent permitted by law).
- Clarified that the Trust may not pay penalties assessed against Participating Employers.
- Clarified that the Program Administrator may approve participation documents submitted by a Participating Employer.
- Clarified that the Board of Trustees may delegate responsibilities to an agent and ratify the actions of an agent in accordance with the common law of agency.
- Clarified that the Board may hire independent contractors that are not agents to provide administrative services to the Plans.
- Clarified that the members of the Board shall have no liability for the acts or omissions of any Participating Employer.
- Clarified that the Program Administrator is authorized to approve participation documents submitted by Participating Employers.
- Clarified that the participation documents include eligibility provisions and responsibilities of Participating Employers.

**RECOMMENDATIONS:** Staff recommends the City Council vote to approve the revised GMEBS Health Plan Employer Declaration Page form, Participation Agreement, and Trust Agreement to comply with updated ACA requirements.