

## MINUTES

### METROPOLITAN EMPLOYEE BENEFIT BOARD

#### MEDICAL & LIFE COMMITTEE

**August 16, 2016**

The Metropolitan Employee Benefit Board's Medical & Life Committee met on Tuesday, August 16, 2016 in the Sonny West Conference Room, Howard Office Building, 700 2<sup>nd</sup> Avenue North, Nashville, Tennessee at approximately 10:02 a.m.

Committee Members present: Committee Chair Jerry Hall; Vice-Chair Veronica T. Frazier;  
Members: Christine Bradley, Charles D. Clariday and B.R. Hall, Sr.

Member Stephanie Bailey was unable to be present.

Others present: Board Chair Edna Jones, Christina Hickey, Metro Human Resources and Nicki Eke, Attorney, Metro Legal Department.

#### **BENEFIT BOARD ITEMS**

The Human Resources staff submitted the following for the Committee's consideration and appropriate action:

1. Cafeteria plan appeal – Flexible spending account (FSA) claim appeal.

The employee was present.

Christina Hickey stated that an employee who participated in the flexible spending account (FSA) plan for part of the calendar year 2015 is appealing the denial for reimbursement for dependent child care. WageWorks, the plan's administrator, has denied this claim because it was received after the claims submission deadline. She stated that in accordance with Metro's cafeteria plan guidelines, "A request for reimbursement for Dependent Care Expenses incurred during a Plan Year must be received by the Administrator either during the Period of Coverage or on or before **90** days following the Period of Coverage." In this case, the employee still had \$2,083.40 remaining in the FSA from the 2015 plan year. The employee separated from service in June 2015 and had until September 2015 to submit her claim. The claim for \$2,080.00 was originally received on April 14, 2016; therefore it was outside the allotted reimbursement period.

The Internal Revenue Service (IRS) governs the rules regarding FSA as provided in Metro's cafeteria plan as well as eligible expenses under the plan.

Ms. Hickey stated that the Committee and Board will need to determine whether this claim is eligible for reimbursement under the plan even though this claim did not meet the claims submission deadline. She also noted that the Board has considered two FSA appeals within the past ten years and both claims were denied by the Board.

Ms. Hickey also stated that information regarding this claim has been submitted by the member and Human Resources (including the separation of service letter given to the employee by her department which outlines the guidelines).

There was some discussion whether or not the IRS will allow the board to make a determination of something different and where those funds would come from.

Nickie Eke, Legal Department, stated that the Board has no discretion and under IRS regulations a cafeteria plan must be operated according to its written plan in accordance with IRS regulations. She stated that if it is not followed, it fails to be a cafeteria plan and subjects those monies to income and payroll taxes. She also noted that the deadlines of the plan have to be followed.

There was some discussion of where the 90 day rule came from, when the Board voted on the plan, and what happens to the money when you don't use it and forfeit the funds.

There was some discussion regarding what happens to forfeited funds.

Nicki Eke stated that in accordance with the plan the balance of the FSA account is transferred to the self-insured portion of the employee medical benefit trust fund.

There was some discussion regarding what the contract with WageWorks states and that it is administered according to Metro's Cafeteria plan.

There was some discussion of the savings in tax dollars and the IRS monitoring these types of plans.

The Committee discussed that if they vote to grant the appeal they would be in violation of IRS guidelines.

Nicki Eke stated that the Committee can only overrule this if an action that was taken was inconsistent with the plan. She also stated that the Board does not have any discretion to change the rules on how the plan operates.

The Committee discussed how this item got before them considering that the Board has no jurisdiction over what the plan states and that all appeals are under the Board.

There was discussion of the flexible benefit plan reserve savings account, which is where all the employee contributions and tax savings are transferred to for use to administer the FSA program.

Nicki Eke stated that any excess then ultimately goes into the medical trust.

The employee admitted that she did not follow the rules and stated that she did not have notice of anything regarding the FSA and asked if the Board would be able to grant the reimbursement outside of the specific path of the plan.

The Committee discussed when the employee signed up for the plan and for what amount.

Nicki Eke stated that once someone signs up for the plan it is irrevocable except for under certain circumstances, which are under IRS guidelines.

The employee reiterated that she never had any notification regarding her FSA.

The Committee was in agreement that the plan should be reviewed and requested information on what money has been received, paid out and forfeited under the plan.

The Committee also discussed getting information on a legal way to even consider doing a reimbursement.

Nicki Eke reiterated that reimbursement under the cafeteria plan has to comply with IRS rules.

B.R. Hall moved that the Committee recommend to the Board to review this plan and get financial reports on the money. Jerry Hall seconded and the Committee approved without objection.

The Committee was in agreement that there is no leeway to grant the request to reimburse the funds through the cafeteria plan and if a reimbursement was granted outside of the plan, the plan as a whole is jeopardized.

It was noted that this item will go to the Board without a recommendation.

With nothing further presented, the meeting adjourned at 10:36 a.m.

ATTEST:

APPROVED:

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***Veronica T. Frazier, Director  
Human Resources***

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***Jerry Hall, Chair  
Medical & Life Committee***