

## **DISCLAIMER OF CLAIMS ADMINISTRATOR**

We have prepared this document for your review and consideration; however, we are not legal counsel, nor are we in the business of practicing law. As your plan's fiduciaries and/or trustees, you are fully responsible for all legal issues that concern the plan. If you are not an expert in this area, we urge you to hire an attorney to help you review this plan.

BY THIS AGREEMENT, City of Manitowoc Enhanced Dental Care Plan is hereby adopted as shown.

IN WITNESS WHEREOF, this instrument is executed for City of Manitowoc on or as of the day and year first below written.

By \_\_\_\_\_  
City of Manitowoc

Date \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_

**SUMMARY PLAN DESCRIPTION  
CITY OF MANITOWOC  
ENHANCED DENTAL CARE PLAN**

This booklet is the Summary Plan Description. Its purpose is to summarize the provisions of the Plan that provide and/or affect payment or reimbursement. The Summary Plan Description supersedes any and all Summary Plan Descriptions issued to the Covered Person by City of Manitowoc.

The Plan is funded by City of Manitowoc and employee contributions, if required. The benefits and principal provisions of the group plan are described in this booklet. They are effective only if the Covered Person(s) are eligible for the coverage, become covered, and remain covered in accordance with the provisions of the group plan.

All dental benefits described herein are being provided and maintained for the Covered Persons and the covered dependents by City of Manitowoc, hereinafter referred to as the "Company." Auxiant will process all benefit payments.

- **Please refer to the address on the ID card to determine where to send claims.**

## TABLE OF CONTENTS

<b>SECTION</b>	<b>PAGE</b>
PLAN DESCRIPTION	3
BENEFIT OVERVIEW	6
SCHEDULE OF BENEFITS	7
Dental Schedule of Benefits	7
ELIGIBILITY FOR COVERAGE	8
Employee Eligibility	8
Employee Effective Date	8
Dependent Eligibility	8
Dependent Effective Date	10
Timely Enrollment	10
Late Enrollment	10
Special Enrollment	11
Open Enrollment	12
Reinstatement	13
DENTAL EXPENSE BENEFITS	14
The Deductible	14
Usual and Customary Charges	14
Dental Eligible Expenses	15
Class I – Diagnostic & Preventive Services	15
Class II – Basic Restorative Services	16
Class III – Major Restorative Services	17
Class IV – Orthodontics	18
Limitations	18
TERMINATION OF COVERAGE	22
Employee Termination	22
Dependent Termination	22
EXTENSION OF BENEFITS	23
Sick Leave	23
Extension of Benefits for Total Disability	23
Family and Medical Leave Act Provision	23
Uniformed Services Employment and Reemployment Rights Act (USERRA)	24
COBRA Extension of Benefits	24
COORDINATION OF BENEFITS	32
SUBROGATION	36
DEFINITIONS	40
CLAIM PROCEDURES	49
GENERAL PROVISIONS	63

## PLAN DESCRIPTION

### Purpose

The Plan Document details the benefits, rights, and privileges of Covered Persons (as later defined), in a fund established by City of Manitowoc and referred to as the "Plan." The Plan Document explains the times when the Plan will pay or reimburse all or a portion of Covered Expenses.

<b>Effective Date</b>	The effective date of the Plan is January 1, 2014.
<b>Claims Administrator</b>	The Claims Administrator of the Plan is Auxiant.
<b>Name of Plan</b>	City of Manitowoc Enhanced Dental Care Plan
<b>Name and Address of Plan Administrator</b>	City of Manitowoc City Hall 900 Quay Street Manitowoc, WI 54220 Phone: (920) 686-6990 Fax: (920) 686-6999
<b>Name and Address of Claims Administrator</b>	Auxiant 2450 Rimrock Road, Suite 301 Madison, WI 53713 Phone: (800) 279-6772 Fax: (608) 273-4554 Website: <a href="http://www.auxiant.com">www.auxiant.com</a>
<b>Employer I.D. Number</b>	39-6005511
<b>Plan Number</b>	501
<b>Type of Benefit Provided</b>	Dental Expense Coverage
<b>Agent for Legal Service</b>	City of Manitowoc
<b>Funding of the Plan</b>	City of Manitowoc and Employee Contributions
<b>Medium for Providing Benefits</b>	The benefits are administered in accordance with the Plan Document by the Claims Administrator.
<b>Fiscal Year of the Plan</b>	Begins January 1 <sup>st</sup> and ends December 31 <sup>st</sup>

### **Named Fiduciary and Plan Administrator**

The Named Fiduciary and Plan Administrator is City of Manitowoc, who will have the authority to control and manage the operation and administration of the Plan. The Plan Administrator (or similar decision-making body) has the sole authority and discretion to: establish the terms of the Plan; determine any and all questions in relation to the administration, interpretation or operation of the Plan, including, but not limited to, eligibility under the Plan, the terms and provisions of the Plan, and the meaning of any alleged vague or ambiguous term or provision; determine payment of benefits or claims under the Plan; and to decide any and all other matters arising under the Plan. The Plan Administrator has the final and discretionary authority to determine the Usual & Customary Fee.

### **Contributions to the Plan**

The amount of contributions to the Plan is to be made on the following basis:

Contributions to the Plan are made by the Employer, which include Employee and Dependent contributions. The Employer reserves the right to increase or decrease Employee or Dependent contributions requirements from time to time. Notwithstanding any other provision of the Plan, the Employer's obligation to pay claims under the terms of the Plan will be limited to its obligation to make contributions to the Plan. Payment of claims in accordance with these procedures will discharge completely the Employer's obligation with respect to such payments. In the event that the Employer terminates the Plan, the Employer and Covered Employees will have no further obligation to make additional contributions to the Plan as of the effective date of termination of the Plan.

### **Plan Modification and Amendments**

Subject to any negotiated agreements, the Employer may modify, amend, or discontinue the Plan without the consent of or notice to Employees. Any changes made shall be binding on each Employee and on any other Covered Persons. This right to make amendments shall extend to amending the coverage (if any) granted to retirees covered under the Plan, including the right to terminate such coverage (if any) entirely.

### **Termination of Plan**

The Employer reserves the right at any time to terminate the Plan. The termination must be in writing. All previous contributions by the Employer will be used to pay benefits under the provisions of this Plan for claims arising before termination, or will be used to provide similar health benefits to Covered Employees, until all contributions are exhausted.

### **Plan is not a Contract**

The Plan Document constitutes the entire Plan. The Plan will not be deemed to constitute a contract of employment, to give any Employee of the Employer the right to be retained in the service of the Employer, or to interfere with the right of the Employer to discharge or otherwise terminate the employment of any Employee.

### **Claim Procedure**

The Employer will provide adequate notice in writing to any Covered Employees whose claim for benefits under this Plan has been denied, setting forth the specific reasons for such denial and written in a manner calculated to be understood by the Employee. Further, the Employer will afford a reasonable opportunity to any Employee, whose claim for benefits has been denied, for a full and fair review of the

decision denying the claim by the person designated by the Employer for that purpose.

**Protection against Creditors**

Benefit payments under this Plan are not subject in any way to alienation, sale, transfer, pledge, attachment, garnishment, execution, or encumbrance of any kind. Any attempt to sell, transfer, garnish, or otherwise attach benefit payments under the plan in violation of this restriction will be void. If the Employer discovers an attempt has been made to attach, garnish, or otherwise improperly assign or sell a benefit payment in violation of this section that would be due to a current or former Covered Employee, the Employer reserves the right to terminate the interest of that individual in the payment, and instead apply that payment to or for the benefit of the Covered Employee, dependents or spouse as the Employer may otherwise decide. The application of the benefit payment in this manner will completely discharge all liability for such benefit payment.

**Indemnification of Employees**

No director, officer, or Employee of the Employer or of the Claims Administrator will incur any personal liability for the breach of any responsibility, obligation, or duty in connection with any act or omission done in good faith in the administration or management of the Plan, and will be indemnified and held harmless by the Employer from and against any such personal liability, including all expenses reasonably incurred in his defense if the Employer fails to provide such defense. The Employer and the Plan may individually obtain fiduciary liability coverage consistent with applicable law.

**National Correct Coding Initiative**

Where not otherwise specified, this Plan follows National Correct Coding Initiative (NCCI) for coding, modifiers, bundling/unbundling, and payment parameters. Other guidelines may be applicable where NCCI is silent. The Plan Administrator has full discretionary authority to select guidelines and/or vendors to assist in determinations.

*Note: The following section is an overview of the Plan.*

**BENEFIT OVERVIEW**  
**FOR**  
**CITY OF MANITOWOC**

**Eligibility Provisions**

*The Employee should notify the employer of eligibility changes (i.e., total disability, retirement, Medicare eligibility, change in Dependent status – birth, marriage, divorce, etc.) as soon as possible.*

**EFFECTIVE DATE OF PLAN**

April 1, 2012, and rewritten January 1, 2014.

**ELIGIBLE CLASS**

All individuals who work for the Employer for at least 40 hours per two (2) week pay period on a regular basis. Other part-time, seasonal and temporary Employees and independent contractors are not eligible under the Plan except as specifically covered by labor agreement or resolution of the Common Council. Eligible Retirees as defined in the Plan are also eligible.

**EMPLOYEE EFFECTIVE DATE**

An individual will be eligible on the first of the month coincident with or next following 30 days of continuous Active Work. Non-eligible Employees who become eligible Employees are subject to the Waiting Period.

**CONTRIBUTION**

The Plan may be evaluated from time to time to determine the amount of Employee contribution (if any) required.

*\* Please see the **Eligibility for Coverage** section for further details.*



## DENTAL EXPENSE BENEFITS

<b>PAYMENTS</b>	
<b>Benefit Classes</b>	
Class I (Diagnostic & Preventive Services) Pediatric dental covered for Dependents thru 18.	100%
Class II (Basic Restorative Services)	80%
Class III (Major Restoration Services)	80%
Class IV (Orthodontia)	50% Limited to Dependent children up to age 19.
<b>Maximum Benefits</b>	
Maximum Calendar Year benefit per Person for Classes I, II and III combined Class I Calendar Year maximum does not apply to Dependents thru age 18	\$1,500
Maximum Lifetime Benefit per Person for Class IV	\$3,000

\* Please see the coverage limitations for Late Entrants within the Eligibility section of this document to determine if these benefits are available to you if you are a Late Entrant to the Plan.

Note: There is a one (1) year waiting period for new hires for Class III and Class IV dental services. If an Employee terminates or declines the Enhanced Dental services, they will no longer be eligible for Enhanced Dental coverage during their employment. If the Employee has involuntarily lost coverage through his or her spouse's employer coverage, the Employee will have 30 days from the date they lost coverage to enroll in this Dental plan.

## **ELIGIBILITY**

**EMPLOYEE ELIGIBILITY:** Employees who belong to an **Eligible Class** of employees are eligible for coverage under this Plan following the waiting period.

### **ELIGIBLE CLASS:**

- Active Employees who work for The Company at least 40 hours per two week pay period on a regular basis. Regular basis means an Employee is regularly at work for a period of four weeks in a row and is not classified as seasonal; such work may occur either at the usual place of business of the Company or at a location to which the business of the company requires the Employee to travel and for which he or she receives regular earnings from the company.
- As otherwise specified in a collective bargaining agreement with the City of Manitowoc and/or as enacted by a resolution of the Common Council.

**WAITING PERIOD:** An employee is eligible the first day of the month following coincident with a waiting period of 30 days of continuous employment with the Employer.

A “waiting period” is the time between the first day of employment and the first day of coverage under the plan.

A group health plan may not base rules for eligibility for coverage upon an individual being “actively at work,” if a health factor is present. If a plan participant is absent from work due to a health factor, for purposes of plan eligibility, the individual is to be considered actively at work.

### **EMPLOYEE EFFECTIVE DATE**

Employee coverage under the Plan shall become effective on the date of the Employee’s eligibility provided he/she has made written application for such coverage on or before such date and any required contribution is paid. The Employee must apply for coverage within 31 days of eligibility for coverage to be effective on the date of eligibility. Please see the Enrollment section for all requirements of Timely, Special and Late Enrollees. For persons validly covered under a prior group plan of this Plan Administrator on the date that coverage was replaced by this Plan, the effective date will be the date of this Plan or the date of the conversion to this Plan.

### **DEPENDENT ELIGIBILITY**

The following persons are eligible for dependent coverage under this plan:

1. **LAWFUL SPOUSE** – An Employee’s or Retiree’s lawful spouse in the state of residence, living in the same country, if not legally separated or divorced. An Employee’s registered domestic partner will also be eligible for coverage. The Plan Administrator may require documentation proving a legal marital relationship or registered domestic partnership.

**Registered Domestic Partners.** For purposes of all benefits granted to City of Manitowoc employees arising from their employment by the City of Manitowoc, the State-registered domestic partner of an employee shall be treated identically to the spouse of an employee, except where prohibited by law.

Not considered eligible for spousal coverage:

- a) Common Law Spouses; and

b) Same sex marriages (note: benefits to the spouse are not tax Deductible for the Employer and benefits would be taxable to the Employee).

Both a and b above require that you register with the state for the appropriate tax classifications.

If a divorce is pending, a Spouse cannot be dropped from coverage until the divorce is finalized. A finalized divorce decree must be submitted in order to drop Spouse's coverage from this Plan.

2. CHILDREN TO AGE 26 - An Employee's child up to age 26 is eligible for coverage through this plan regardless of marital status, employment status, or existence of other coverage. However, if the child has coverage through their own employer or through their own spouse, then this coverage will pay all benefits as secondary to that coverage as outlined in the Coordination of Benefits section in this plan document. When the child reaches limiting age, coverage will end on the last day of the child's birthday month.

**MILITARY SERVICE EXTENSION (WISCONSIN STATE MANDATE):** A child enrolled in this plan under this eligibility section who is under age 27 and who is called to federal active military service duty in the National Guard or a reserve component of the U.S. armed forces while the child was attending, on a full time basis, an institution of higher education, and such full time service call interrupts their eligibility for coverage under this plan past the date the child reaches age 26, will be eligible for coverage under this Plan for up to twelve months of coverage if over the limiting age, upon release/return from active service duty provided the child returns to school as a full-time student within 12 months of fulfilling the active duty obligation.

2. DEVELOPMENTALLY DISABLED OR PHYSICALLY HANDICAPPED CHILDREN – An Employee's unmarried Dependent child who is incapable of self-sustaining employment by reason of Developmental Disability or physical handicap, primarily dependent upon the participant for support and maintenance and covered under this Plan when the child reaches the limiting age. Proof of physical or mental handicap must be submitted to the Plan Administrator within 31 days of the covered Dependent reaching the limiting age. Thereafter, proof may be required annually.
3. CHILDREN ENTITLED TO COVERAGE – as the result of one of the following:
  - a) Qualified Medical Child Support Order (QMCSO);
  - b) A National Medical Support Order;
  - c) Divorce Decree; and
  - d) Court Order.

The term "child" or "children" as referenced in the above sections includes:

- a) An Employee's natural child;
- b) An Employee's adopted child (from the date of placement);
- c) An Employee's stepchild;
- d) An Employee's grandchild or until the Dependent child's parent is age 18;
- e) Any other child for whom the Employee has legal guardianship or for a child for whom the Employee had noted legal guardianship on the child's 18<sup>th</sup> birthday (proof is required).

An "adopted child (from the date of placement)" refers to a child whom the Employee has adopted or intends to adopt, whether or not the adoption has become final, who has not attained the age of 18 on the date of such placement for adoption. The term placement means the assumption and retention by such Employee of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have commenced.

At any time, the Plan may require proof that a Spouse or a child qualifies or continues to qualify as a Dependent as defined by the Plan.

If both husband and wife are employed by the Employer and both are eligible for Dependent Coverage, either the husband or wife, but not both, may elect Dependent Coverage for their eligible Dependents.

Excluded Dependents include: other individuals living in the covered Employee's home, but who are not eligible as defined; the legally separated or divorced former spouse of the Employee; any person who is on active duty in any military service of any country; or any person who is eligible for coverage under this Plan as an Employee.

### **DEPENDENT EFFECTIVE DATE**

A Dependent will be considered eligible for coverage on the date the Employee becomes eligible for Dependent Coverage, subject to all limitations and requirements of this Plan. Each Employee who makes such written request for Dependent Coverage on a form approved by the Employer shall, become covered for Dependent Coverage as follows:

1. If the Employee makes such written request on or before the date he or she becomes eligible for Dependent Coverage, or within the time frame listed in "Employee Eligibility" to enroll, the Employee shall become covered, with respect to those persons who are then his or her Dependents, on the date he or she becomes covered for participant coverage.
2. If the Dependent is a **Newborn** child or newly **adopted** child, then the Dependent is eligible for coverage from the date of the event (i.e., birth or date of placement). The newly-acquired Dependent, if family coverage is not in force, must be enrolled and the Claims Administrator notified **within 60 days** of the date of the event. Benefits will not be paid until the Dependent is enrolled.
3. If a Dependent is acquired other than at the time of his birth due to a court order, decree, or marriage, coverage for this new Dependent will be effective on the date of such court order, decree, or marriage if Dependent Coverage is in effect under the Plan at that time and proper enrollment is completed within 31 days of the event. If the Employee does not have Dependent Coverage in effect under the Plan at the time of the court order, decree, or marriage and requests such coverage and properly enrolls this new Dependent within the 31 day period immediately following the date of the court order, decree, or marriage, then Dependent Coverage will be retroactive to the date of the court order, decree, or marriage.

### **TIMELY ENROLLMENT**

The enrollment will be "timely" if the enrollment form is completed no later than 31-days after the person becomes eligible for the coverage, either initially or under a Special Enrollment Period.

### **LATE ENROLLMENT**

Enrollment for coverage is required within 31 days of the date an individual would otherwise be eligible (60 days for newborn or adopted dependents). If enrollment is not completed within that time, or if a covered Employee's and/or Dependent's coverage terminates because of failure to make a contribution when due, such person will be considered a Late Enrollee. Some late enrollments may be made under the following Special Enrollment provision; however, if the Special Enrollment provisions do not apply, a

Late Enrollee will only be eligible to enroll during the Open Enrollment period designated by the Company and will be effective the first of the month following application.

Benefits for Orthodontic Services do not apply to Late Enrollees until the Late Enrollee has been covered under this Plan for Dental benefits for 24 consecutive months.

## **SPECIAL ENROLLMENT PERIODS**

The enrollment date for anyone who enrolls under a Special Enrollment Period is the first date of coverage. Thus, the time between the date a Special Enrollee first becomes eligible for enrollment under the Plan and the first day of coverage is not treated as a Waiting Period.

**Individuals losing other coverage (proof is required).** An Employee or Dependent, who is eligible, but not enrolled in this Plan, may enroll if each of the following conditions is met:

1. The Employee or Dependent was covered under a group health plan or had health insurance coverage or coverage through a state Medicaid or Children's Health Insurance Program (CHIP) program, at the time coverage under this Plan was previously offered to the individual.
2. If required by the Plan Administrator, the Employee stated in writing at the time that coverage was offered that the other health coverage was the reason for declining enrollment.
3. The coverage of the Employee or Dependent who had lost the coverage was under COBRA and the COBRA coverage was exhausted, or was not under COBRA and:
  - a. the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment or reduction in the number of hours of employment or other cancellation by the Medicaid or CHIP program providing coverage); or
  - b. employer contributions towards the coverage were terminated; or
  - c. the Covered Person reaches or exceeds the Plan Year maximum benefit within the plan.
4. The Employee or Dependent requests enrollment in this Plan no later than 31-days after the date of exhaustion of COBRA coverage or the termination of coverage or Employer contributions, described above. Coverage will begin no later than the first day of the first calendar month following the date the completed enrollment form is received.
5. If the loss of coverage was through a Medicaid or CHIP program, the Employee or Dependent requests enrollment in this Plan no later than 60-days after the date of exhaustion or cancellation by the Medicaid or CHIP program. Coverage will begin no later than the first day of the first calendar month following the date the completed enrollment form is received.

If the Employee or Dependent lost the other coverage as a result of the individual's failure to pay premiums or required contributions or for cause (such as making a fraudulent claim), that individual does not have a Special Enrollment right.

**Dependent beneficiaries if:**

1. The Employee is a participant under this Plan (or has met the Waiting Period applicable to becoming a participant under this Plan and is eligible to be enrolled under this Plan but for a failure to enroll during a previous enrollment period), and
2. A person becomes a Dependent of the Employee through marriage, birth, adoption or placement for adoption: or
3. The Dependent was previously covered through a Medicaid or CHIP program, and has lost eligibility for coverage through said program,

then the Dependent (and if not otherwise enrolled, the Employee) may be enrolled under this Plan as a covered Dependent of the covered Employee. In the case of the birth or adoption of a child, the spouse of the covered Employee may be enrolled as a Dependent of the covered Employee if the spouse is otherwise eligible for coverage.

The Dependent Special Enrollment Period is a period of 31-days and begins on the date of the marriage, birth, adoption or placement for adoption. If the reason for enrollment is loss of coverage through a Medicaid or CHIP program, the Special Enrollment Period is a period of 60-days and begins on the date of loss of coverage through that plan.

The coverage of the Dependent enrolled in the Special Enrollment Period will be effective:

1. in the case of marriage, the first day of the month following the date of marriage;
2. in the case of a Dependent's birth, as of the date of birth; or
3. in the case of a Dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.
4. in the case of a loss of coverage through Medicaid or CHIP, the date of the loss of said coverage.

**OPEN ENROLLMENT**

During the annual open enrollment period, Employees and Dependents who are Late Enrollees will be able to enroll in the Plan.

During the annual open enrollment established by the Employer, an eligible Employee currently enrolled in the Plan may elect to change coverage for himself and his eligible Dependents. An Employee will not be permitted to change any benefit election for a Plan Year after the deadline established by the Plan Administrator for the timely filing of such elections, unless the Employee experiences a Special Enrollment event. If an Employee experiences a Special Enrollment Event, the Employee will be allowed to change plans for himself and his eligible Dependents.

Plan Participants will receive detailed information regarding open enrollment from their Employer.

## **REINSTATEMENT**

If coverage is terminated due to an Employee's layoff, leave of absence or termination of employment, and such Employee returns to work within 12 months following the beginning of the layoff or leave of absence or within 90 days following the termination of employment, coverage under this Plan will become effective on the day of return to active fulltime employment, provided all eligibility provisions of the Plan are satisfied. In such instances, the Waiting Period will not apply. Written application for coverage must be made no later than 31 days following the date of return to work. Enrollment occurring after this date is considered Late Enrollment, and all of the Late Enrollment provisions will apply.

## **DENTAL EXPENSE BENEFITS**

Subject to the General Limitations and Exclusions of this Plan, Reasonable charges Incurred for the following dental expenses will be covered in accordance with the percentage of coverage, Deductible amounts and maximums listed or shown in the Schedule of Benefits.

A pre-treatment review is recommended on all charges that will result in a payment of \$200 or more unless it can be shown that treatment was made on an Emergency basis.

If an individual is covered by both the Medical and Dental Plan of the Employer, Medical benefits will be paid prior to Dental and benefits will not be coordinated between the two Plans.

**Note:** There is a one (1) year waiting period for new hires for Class III and Class IV dental services. If an Employee terminates or declines the Enhanced Dental services, they will no longer be eligible for Enhanced Dental coverage during their employment. If the Employee has involuntarily lost coverage through his or her spouse's employer coverage, the Employee will have 30 days from the date they lost coverage to enroll in this Dental plan.

### **Late Enrollment**

Enrollment for coverage is required within 31 days of the date an individual would otherwise be eligible (60 days for newborn or adopted dependents). If enrollment is not completed within that time, or if a covered Employee's and/or Dependent's coverage terminates because of failure to make a contribution when due, such person will be considered a late enrollee. Some late enrollments may be made under the following Special Enrollment provision; however, if the Special Enrollment provisions do not apply, a Late Enrollee will only be eligible to enroll during the Open Enrollment period designated by the Company and will be effective the first of the month following application.

For the first 12 months that a Late Entrant is insured for these Dental Expense Benefits, the benefits will be limited as follows:

1. Benefits for the first twelve months will be limited to Class I, Diagnostic & Preventive Services.
2. Benefits for the second twelve months will be limited to Class I, Diagnostic & Preventive Services and Class II, Basic Restorative Services.

If reinstatement of insurance that was terminated while the Employee or Dependents remained eligible for such insurance under the policy, the above limitations will apply from the date on which such insurance is reinstated. Any time period for which such insurance was effective prior to such date cannot be used to satisfy the time limitation stated above.

### **The Deductible**

The Deductible is the amount of covered dental expenses which must be paid before Dental Expense Benefits are payable. The amount of the Deductible is shown in the Schedule of Benefits. Each Family member is subject to the Deductible up to the Family maximum as shown in the Schedule of Benefits.

### **Usual and Customary Charges**

Subject to the Plan Administrator's exercise of discretion, the Plan shall pay no more than the Usual and Customary Charge for covered services and/or supplies, after a deduction of all amounts payable by coinsurance or deductibles. All charges must be billed in accordance with generally accepted industry



standards.

The Usual and Customary Charge shall be the average payment actually made for reasonably comparable services and/or supplies to all providers of the same services and/or supplies by all types of plans in the same market area during the preceding Calendar Year, adjusted by the national Consumer Price Index medical care rate of inflation. The Plan Administrator shall determine the average plan payment made and applicable market area using reasonably available information.

The Plan Administrator may increase or decrease the amount payable based upon discretionary consideration of factors including the nature and severity of the condition being treated, the quality of the goods and/or services provided, and competitive factors affecting the reasonable availability of alternative sources for the services and/or supplies in the relevant geographic market during the relevant time period. In making such determinations the Plan Administrator may exercise discretion to the full extent permitted by law.

### **Dental Eligible Expenses**

The term "Covered Dental Expenses" means the expenses incurred by or on behalf of a Covered Person for charges made by a Dentist for the performance of a dental service provided for in the Schedule of Benefits when the dental service is performed by or under the direction of a Dentist, is essential for the necessary care of the teeth, and begins while the Covered Person is covered for Dental Benefits. If the actual performance of a dental service begins on a date other than the date the service was recommended or determined to be necessary, the dental service will be considered to begin on the date the actual performance of the service begins. For an appliance or modification of an appliance, an expense is considered incurred at the time the impression is made. For a crown, bridge, or gold restoration, an expense is considered incurred at the time the tooth or teeth are prepared. For root canal therapy, an expense is considered incurred at the time the pulp chamber is opened. All other expenses are considered incurred at the time a service is rendered or a supply furnished. Covered dental expenses do not include any expenses that are in excess of the Usual and Customary amount.

### **CLASS I – Diagnostic & Preventive Services**

1. **Oral Examination.** Limited to one (1) time in any six (6) consecutive month period. Benefits will be based on the covered amount for a periodic oral evaluation.
2. **Complete Series or Panorex X-rays.** Limited to one (1) time in any 36 consecutive month period. 10 or more individual periapical x-rays and/or bitewing films will be considered as a complete series for benefit purposes.
3. **Individual Periapical X-rays.** Limited to four (4) films in any 12 consecutive month period.
4. **Occlusal X-rays.**
5. **Arthrogram and other TMJ Films.** Limited to one (1) film in any 36 consecutive month period.
6. **Bite-Wing X-rays.** Limited to one (1) time in any 12 consecutive month period.
7. **Dental Prophylaxis.** Limited to one (1) time in any six (6) consecutive month period and to Covered Persons age 13 and older for adult prophylaxis and to Covered Persons under age 13 for child prophylaxis.

8. **Palliative Treatment.** Paid as a separate benefit only if no other service, except x-rays when rendered during the visit.
9. **General Anesthesia.** Will be paid for as a separate procedure only when required for extraction of impacted teeth, if such extraction is a Covered Expense.
10. **Individual Periapical X-rays.** Limited to four (4) films in any 12 consecutive month period.
11. **Arthrogram and other TMJ Films.** Limited to one (1) film in any 36 consecutive month period.
12. **Fluoride Treatments.** Limited to one (1) time in any 12 consecutive month period and to Covered Persons under the age of 19.
13. **Space Maintainers.** Limited to Covered Persons under the age of 15. Benefits include all adjustments within 6 consecutive months of installation.
14. **Emergency Repairs and Adjustments.**

#### **CLASS II - Basic Restorative Services**

1. **Occlusal Guard.** Covered only for the treatment of bruxism or grinding. Not covered for the treatment of myofascial pain or TMJ. Limited to one (1) appliance in any 36 consecutive month period. Benefits include all repairs and adjustments within 12 consecutive months of installation and then not more than one (1) time in any 12 consecutive month period.
2. **Extraoral X-rays.** Limited to one (1) film in any 12 consecutive month period.
3. **Diagnostic Casts.** Limited to one (1) time in any 12 consecutive month period.
4. **Simple Extraction.**
5. **Amalgam Restorations.** Limited to one (1) time per tooth in any 12 consecutive month period. Restorations involving multiple surfaces will be combined for benefit purposes and paid according to the number of discrete surfaces treated.
6. **Pin Retention.** Limited to one (1) time per restoration; not covered in additional cast restorations.
7. **Silicate, Plastic and Composite Restorations.** Limited to one (1) time per tooth in any 12 consecutive month period; not covered for posterior teeth.
8. **Stainless Steel Crowns.** Limited to one (1) time per tooth for deciduous teeth only.
9. **Re-cement Inlays.**
10. **Re-cement Crowns.**
11. **Re-cement Bridges.**
12. **Repairs to Full Dentures, Partial Dentures, Bridges.** Limited to repairs or adjustments of that appliance done more than 12 months after the initial insertion.

13. **Biopsy.**
14. **Hemisection.**
15. **Pulpotomy.** Limited to deciduous teeth only.
16. **Root Canal Therapy.** Limited to one (1) time per tooth in any 24 consecutive month period.
17. **Apicoectomy and Retrograde Filling.**
18. **Scaling and Root Planing.** Limited to one (1) time per quadrant of the mouth in any 36 month consecutive month period.
19. **Provisional Splinting.** Limited to one (1) time per area of the mouth in any 24 consecutive month period. Benefits include all repairs within that 24 month period.
20. **Aveoplasty.** Not covered as a separate expense when rendered with a single extraction.
21. **Incision and Drainage.**
22. **Removal of a Cyst.** Not payable in addition to extraction performed in the same site on the same date.
23. **Surgical Extraction of Erupted and Impacted Teeth.**
24. **Gingivectomy, Gingival Curettage, Osseous Surgery.** Only one of these procedures is covered per area of the mouth, in any 36 consecutive months.
25. **Osseous Graft.**
26. **Occlusal Adjustment.** Covered when performed within three (3) months following periodontal surgery. Limited to one (1) time per area of the mouth in any 36 consecutive month period.

### **CLASS III - Major Restorative Services**

1. **Initial Inlays and Onlays.** Covered only when the tooth cannot be restored by silver fillings.
2. **Replacement of Inlays and Onlays.** See item 25 of LIMITATIONS.
3. **Porcelain Restorations.** Covered only if the tooth cannot be restored by a filling or by other means.
4. **Initial Crowns.** Covered only if the tooth cannot be restored by a filling or by other means. Crowns are not covered if placed for the purpose of periodontal splinting.
5. **Replacement Crowns.** See item 25 of LIMITATIONS.
6. **Cast Post and Core.** Covered only for teeth that have had root canal therapy.
7. **Initial Full or Partial Dentures.** Installation of partial and complete dentures, including six (6) month post installation care.

8. **Relining of Dentures.** Limited to relining done more than 12 months after the initial insertion and then not more than one (1) time in any 24 consecutive month period.
9. **Replacement of Full or Partial Dentures.** See item 25 of LIMITATIONS.
10. **Initial Fixed Bridges.** See item 14 of LIMITATIONS.
11. **Replacement of Fixed Bridges.** See item 25 of LIMITATIONS.
12. **Root Recovery.**
13. **Frenectomy.**

#### **CLASS IV - Orthodontics**

This is treatment to move teeth by means of appliances to correct a handicapping malocclusion of the mouth.

1. **Cephalometric X-ray.** Limited to one (1) time in any two (2) year period.
2. **Orthodontic Treatment.** Limited to malocclusions as determined by us.
3. **Study Models.** Limited to one (1) set of Study Models per Covered Person.

Payments for comprehensive full-banded orthodontic treatments are made in installments.

#### **Limitations**

No benefits will be payable for:

1. **Appearance of the teeth.** Charges for services or supplies which have the primary purpose of improving the appearance of the teeth, rather than restoring or improving dental form or function. Some examples include: laminate and veneers.
2. **Close Relative.** Charges for services or supplies provided by a Dentist who is a Close Relative.
3. **Congenital deformities.** Charges for services or supplies to correct congenital deformities, such as a cleft palate.
4. **Covered dental expenses.** Covered dental expenses incurred while insurance is not in force.
5. **Crowns.** Charges for services or supplies for crowns placed for the primary purpose of periodontal splinting, altering vertical dimension, or restoring the closing of the upper and lower teeth (occlusion).
6. **Experimental.** Dental care which is not customarily performed or which is experimental in nature, or for Implantology.
7. **Failure to keep appointments.**
8. **Failure to make a contribution.** Enrollment for coverage is required within 31 days of the date

an individual would otherwise be eligible. If enrollment is sought after that time, or after a previous termination of coverage, or because of failure to make a contribution when due, the individual will be considered a Late Enrollee. A Late Enrollee will only be eligible for Class I and Class II services for the first 12 continuous months of coverage. This limitation will not apply to charges as a result of Accidental Injury.

9. **Government program.** Charges for services or supplies that Covered Persons are entitled to claim from any governmental program even if Covered Person waived or failed to claim rights to such services, benefits, or damages.
10. **Illegal act.** Expenses for Injuries or Sicknesses incurred as a result of illegal acts involving violence or the threat of violence to another person, or in which the Covered Person illegally uses a firearm, explosive or other weapon likely to cause physical harm or death.
11. **Implants.** Charges for dental implants.
12. **Infection control procedures.** Charges for infection control procedures (sepsis control - rubber gloves, gowns, etc.) when billed separately from actual dental treatment.
13. **Initial Placement.** Charges for the initial placement of:
  - a. Partial or full dentures, if the prosthesis includes only the replacement of teeth missing prior to the effective date of the Covered Person's coverage including congenitally missing teeth; or
  - b. Bridges, if the prosthesis includes the replacement of teeth missing:
    - (1) Prior to the effective date of the Covered Person's coverage, including congenitally missing teeth; or
    - (2) That are not adjacent to a Functioning Natural Tooth
14. **Not legally obligated to pay.** Charges for services or supplies Covered Persons are not legally obligated to pay for and for which Covered Person would not be charged in the absence of this certificate.
15. **Not specifically listed covered.** Charges for services or supplies not specifically listed as a covered expense.
16. **Occupational.** Expenses for Injuries or Sicknesses arising out of, or in the course of, any occupation or employment for wage or profit, or for which the Covered Person is entitled to benefits under any Workers' compensation or Occupational Disease Law, whether or not any coverage for such benefits is actually in force.
17. **Orthognathic surgery.** Charges for orthognathic surgery or any other procedure, service or supply required directly or indirectly to treat a muscular, skeletal, orthopedic, or neural disorder, dysfunction or disease of the temporomandibular joint and its associated structures including myofascial pain dysfunction syndrome but not limited to:
  - a. Orthodontics such as braces;
  - b. Prosthodontics such as:
    - i. Crowns; or
    - ii. Bridgework;
  - c. Periodontics and related procedures;

- d. Endodontics;
  - e. Occlusal adjustments; and
  - f. Surgical procedures required for the placement of:
    - i. Dentures; or
    - ii. Other prosthetic devices.
18. **Oral hygiene.** Charges for oral hygiene, dietary instruction or plaque control programs.
19. **Prescription Drugs.** Charges for Prescription Drugs.
20. **Prior to the effective date.** Charges for services or supplies related to a service that began prior to the effective date of coverage.
21. **Professional endorsement.** Procedures which we determine do not have uniform professional endorsement.
22. **Pulp Caps.** Charges for crown buildups and pulp caps.
23. **Repair.** Charges for repair or replacement of any orthodontic appliance.
24. **Replacement.** Charges for the replacement of bridges, partial or full dentures, inlays, onlays or crowns and other laboratory prepared restorations:
- a. If they are lost or stolen
  - b. If they can, as determined by us, be satisfactorily repaired and restored to function
  - c. If within 60 consecutive months of the date of insertion.

Exceptions to Limitation 24c will be made if the replacement is made necessary by:

- (1) The extraction of a Functioning Natural Tooth. Such extraction must be performed by a Dentist while the Covered Person is insured under the policy; or
- (2) Accidental Bodily Injury. Such Injury must occur while the Covered Person is insured under the policy. Chewing Injuries are not considered Accidental Bodily Injuries.

25. **Riot.** Dental care resulting from active participation in a riot.

The words “participation” and “riot” in the phrase “participation in a riot” will be defined as follows:

Participation – included promoting, inciting, conspiring to promote or incite, aiding, abetting, and all forms of taking part in, but will not include actions taken in defense of public or private property, or actions taken in defense of the person of the insured, if such actions of defense are not taken against persons seeking to maintain or restore law and order including but not limited to police officers and firemen.

Riot – includes all forms of public violence, disorder, or disturbance of the public peace, by three or more persons assembled together whether or not acting with common intent and whether or not damage to person or property or unlawful acts or acts is the intent or the consequences of such disorder.

26. **Sedative fillings.** Charges for sedative fillings.

27. **Self inflicted Injury.** Dental care resulting from any injury which is self-inflicted or not caused by an accident.
28. **Termination.** Charges for services or supplies for any treatment plan when a Covered Person receives the services or supplies after the date of termination of coverage under this Plan.
29. **Unnecessary.** Procedures which we determine to be unnecessary.
30. **War.** Charges as a result of active participation in war or any act of war, whether declared or undeclared, or caused during service in the armed forces of any country.

## **TERMINATION OF COVERAGE**

### **Employee Termination**

Employee Coverage will automatically terminate immediately upon the earliest of the following dates, except as provided in any Extension of Benefits provision:

1. The end of the month the Employee terminates employment.
2. The end of the month the Employee ceases to be in a class of participants eligible for coverage.
3. The date ending the period for which the last contribution is made if the Employee fails to make any required contributions when due.
4. The date the Plan is terminated; or with respect to any participant benefit of the Plan, the date of termination of such benefit.
5. The date the Employee enters military duty.
6. The end of the month of the Employee's death.
7. The date the Employee knowingly misrepresents/falsifies information to the Plan.

### **Dependent Termination**

Dependent Coverage will automatically terminate immediately upon the earliest of the following dates, except as provided in any Extension of Benefits provision:

1. The end of the month the Dependent ceases to be an eligible Dependent as defined in the Plan.
2. The end of the month of termination of the Employee's coverage under the Plan.
3. The date the Employee ceases to be in a class of participants eligible for Dependent Coverage.
4. The date for which the last contribution is made if the Employee fails to make any required contributions when due.
5. The date the Plan is terminated; or with respect to any Dependent's benefit of the Plan, the date of termination of such benefit.
6. The date the Dependent enters military duty.
7. The date the Dependent becomes covered under this Plan as an individual participant.
8. The end of the month the Employee's death occurs.
9. The date the Dependent knowingly misrepresents/falsifies information to the Plan.
10. In the event of a divorce, the Spouse will be terminated the date the divorce decree is finalized.



## **EXTENSION OF BENEFITS**

### **Sick Leave**

If a covered person is hospital confined as a result of a non-occupational Illness or Injury on the date coverage under this Plan terminates, benefits are available for covered Medical Expenses incurred for that confinement until thirty (30) days after the date coverage terminates. Benefits are not available after the date the confinement ends, or the payment of any maximum benefit, whichever comes first.

### **Extension of Benefits for Total Disability**

If a covered Employee is totally disabled or a covered Dependent is hospital confined as a result of a non-occupational Illness or Injury on the date of a change in the Plan Administrator or Insurance carrier and is no longer eligible for coverage under this Plan due to the total disability or hospital confinement benefits for covered medical expenses directly related to the disabling condition will be extended until the earliest of:

- (a) The covered person becomes covered under a replacement contract or policy without limit as to the total disability
- (b) The payment of any maximum benefits under the Plan
- (c) The end of 12 consecutive months.

### **Medical Conversion**

The City shall provide participants no longer eligible for medical coverage under the Plan the facility for converting coverage to an individual medical insurance policy offered in conjunction with this Plan by the Plan Administrator, an insurance company, or service plan. The benefits provided and applicable cost for the conversion policy will be those in effect at the time of conversion.

### **Family and Medical Leave Act Provision**

Regardless of the established leave policies mentioned elsewhere in this document, this Plan shall at all times comply with the Family and Medical Leave Act of 1993 as promulgated in regulations issued by the Department of Labor.

During any leave taken under the Family and Medical Leave Act, the Employer will maintain coverage under this Plan on the same conditions as coverage would have been provided if the covered Employee had been continuously employed during the entire leave period.

If Plan coverage terminates during the FMLA leave, coverage will be reinstated for the Employee and his or her covered Dependents if the Employee returns to work in accordance with the terms of the FMLA leave. Coverage will be reinstated only if the person(s) had coverage under this Plan when the FMLA leave started, and will be reinstated to the same extent that it was in force when that coverage terminated. For example, Pre-Existing Condition limitations and other Waiting Periods will not be imposed unless they were in effect for the Employee and/or his or her Dependents when Plan coverage terminated.

Employee eligibility requirements, the obligations of the Employer and Employee concerning conditions of leave, and notification and reporting requirements are specified in the FMLA. Any plan provisions which conflict with the FMLA are superseded by the FMLA to the extent such provisions conflict with the FMLA. A Participant with questions concerning any rights and/or obligations should contact the Plan Administrator or his Employer.

The FMLA Act generally provides for 12 weeks of leave for personal illness or injury or that of a family member. However, there are special time restrictions for the family of Military employees who were injured during active duty in the armed forces:

1. **Leave During Family Member's Active Duty** -- Employees who have a spouse, parent, or child who is on or has been called to active duty in the Armed Forces may take up to 12 weeks of FMLA leave yearly when they experience a "qualifying exigency."
2. **Injured Service member Family Leave** -- Employees who are the spouse, parent, child, or next of kin of a service member who incurred a serious injury or illness on active duty in the Armed Forces may take up to 26 weeks of leave to care for the injured service member in a 12-month period (in combination with regular FMLA leave).

### **Uniformed Services Employment and Reemployment Rights Act (USERRA)**

#### **Employees on Military Leave**

Employees going into or returning from military service may elect to continue Plan coverage as mandated by the Uniformed Services Employment and Reemployment Rights Act under the following circumstances. These rights apply only to Employees and their Dependents covered under the Plan before leaving for military service.

1. The maximum period of coverage of a person under such an election shall be the lesser of:
  - The 24-month period beginning on the date on which the person's absence begins; or
  - The day after the date on which the person was required to apply for or return to a position or employment and fails to do so.
2. A person who elects to continue health plan coverage may be required to pay up to 102% of the full contribution under the Plan, except that a person on active duty for 30 days or less cannot be required to pay more than the Employee's share, if any, for the coverage.
3. An exclusion or Waiting Period may not be imposed in connection with the reinstatement of coverage upon reemployment if one would not have been imposed had coverage not been terminated because of service. However, an exclusion or Waiting Period may be imposed for coverage of any Illness or Injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, the performance of uniformed service.

#### **COBRA Extension of Benefits**

Under Federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), certain Employees and their families covered under City of Manitowoc Plan Document (the Plan) will be entitled to the opportunity to elect a temporary extension of health coverage (called "COBRA continuation coverage") where coverage under the Plan would otherwise end. This notice is intended to inform Plan Participants and beneficiaries, in summary fashion, of their rights and obligations under the continuation coverage provisions of COBRA, as amended and reflected in final and proposed regulations published by the Department of the Treasury. This notice is intended to reflect the law and does not grant or take away any rights under the law.

The Plan Administrator is City of Manitowoc, City Hall, 900 Quay Street, Manitowoc, WI 54220, (920) 686-6990. COBRA continuation coverage for the Plan is administered by City of Manitowoc, City Hall,

900 Quay Street, Manitowoc, WI 54220, (920) 686-6990. Complete instructions on COBRA, as well as election forms and other information, will be provided by the Plan Administrator to Plan Participants who become Qualified Beneficiaries under COBRA.

**COBRA Continuation Coverage In General** COBRA continuation coverage is the temporary extension of group health plan coverage that must be offered to certain Plan Participants and their eligible family members (called "Qualified Beneficiaries") at group rates. The right to COBRA continuation coverage is triggered by the occurrence of a life event that results in the loss of coverage under the terms of the Plan (the "Qualifying Event"). The coverage must be identical to the Plan coverage that the Qualified Beneficiary had immediately before the Qualifying Event, or if the coverage has been changed, the coverage must be identical to the coverage provided to similarly situated active employees who have not experienced a Qualifying Event (in other words, similarly situated non-COBRA beneficiaries).

**Qualified Beneficiary Defined** In general, a Qualified Beneficiary can be:

1. Any individual who, on the day before a Qualifying Event, is covered under a Plan by virtue of being on that day either a covered Employee, the Spouse of a covered Employee, or a Dependent child of a covered Employee. If, however, an individual is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the Plan coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.
2. Any child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, and any individual who is covered by the Plan as an alternate recipient under a qualified medical support order. If, however, an individual is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the Plan coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.

The term "covered Employee" includes not only common-law employees (whether part-time or full-time) but also any individual who is provided coverage under the Plan due to his or her performance of services for the Employer sponsoring the Plan (e.g., self-employed individuals, independent contractor, or corporate director).

An individual is not a Qualified Beneficiary if the individual's status as a covered Employee is attributable to a period in which the individual was a nonresident alien who received from the individual's Employer no earned income that constituted income from sources within the United States. If, on account of the preceding reason, an individual is not a Qualified Beneficiary, then a Spouse or Dependent child of the individual will also not be considered a Qualified Beneficiary by virtue of the relationship to the individual. A domestic partner is not a Qualified Beneficiary.

Each Qualified Beneficiary (including a child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage) must be offered the opportunity to make an independent election to receive COBRA continuation coverage.

**Qualifying Events Explained** A Qualifying Event is any of the following if the Plan provided that the Plan participant would lose coverage (i.e., cease to be covered under the same terms and conditions as in effect immediately before the Qualifying Event) in the absence of COBRA continuation coverage:

1. The death of a covered Employee.
2. The termination (other than by reason of the Employee's gross misconduct), or reduction of hours, of a covered Employee's employment.
3. The divorce or legal separation of a covered Employee from the Employee's Spouse.
4. A covered Employee's enrollment in any part of the Medicare program.
5. A Dependent child's ceasing to satisfy the Plan's requirements for a Dependent child (for example, attainment of the maximum age for dependency under the Plan).

If the Qualifying Event causes the covered Employee, or the covered Spouse or a Dependent child of the covered Employee, to cease to be covered under the Plan under the same terms and conditions as in effect immediately before the Qualifying Event (or in the case of the bankruptcy of the Employer, any substantial elimination of coverage under the Plan occurring within 12 months before or after the date the bankruptcy proceeding commences), the persons losing such coverage become Qualified Beneficiaries under COBRA if all the other conditions of the COBRA are also met. For example, any increase in contribution that must be paid by a covered Employee, or the Spouse, or a Dependent child of the covered Employee, for coverage under the Plan that results from the occurrence of one of the events listed above is a loss of coverage.

The taking of leave under the Family and Medical Leave Act of 1993 ("FMLA") does not constitute a Qualifying Event. A Qualifying Event will occur, however, if an Employee does not return to employment at the end of the FMLA leave and all other COBRA continuation coverage conditions are present. If a Qualifying Event occurs, it occurs on the last day of FMLA leave and the applicable maximum coverage period is measured from this date (unless coverage is lost at a later date and the Plan provides for the extension of the required periods, in which case the maximum coverage date is measured from the date when the coverage is lost). Note that the covered Employee and family members will be entitled to COBRA continuation coverage even if they failed to pay the Employee portion of premiums for coverage under the Plan during the FMLA leave.

**Procedure for obtaining COBRA continuation coverage** The Plan has conditioned the availability of COBRA continuation coverage upon the timely election of such coverage. An election is timely if it is made during the election period.

**Election of COBRA and Length of Election period** The election period is the time period within which the Qualified Beneficiary can elect COBRA continuation coverage under the Plan. The election period must begin not later than the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event, and must not end before the date that is 60 days after the later of the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event or the date notice is provided to the Qualified Beneficiary of her or his right to elect COBRA continuation coverage.

Note: If a covered Employee who has been terminated or experienced a reduction of hours qualifies for a trade readjustment allowance or alternative trade adjustment assistance under a Federal law called the Trade Act of 2002, and the Employee and his or her covered Dependents have not elected COBRA coverage within the normal election period, a second opportunity to elect COBRA coverage will be made available for themselves and certain family members, but only within a limited period of 60 days or less and only during the six months immediately after their group health plan coverage ended. Any person who qualifies or thinks that he and/or his family members may qualify for assistance under this special provision should contact the Plan Administrator for further information.

**Notifying the Plan Administrator of the occurrence of a Qualifying Event.** The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator or its designee has been timely notified that a Qualifying Event has occurred. The Employer (if the Employer is not the Plan Administrator) will notify the Plan Administrator of the Qualifying Event within 30 days following the date coverage ends when the Qualifying Event is:

1. the end of employment or reduction of hours of employment,
2. death of the Employee,
3. commencement of a proceeding in bankruptcy with respect to the Employer, or
4. enrollment of the Employee in any part of Medicare.

**IMPORTANT:**

**For the other Qualifying Events (divorce or legal separation of the Employee and spouse or a Dependent child's losing eligibility for coverage as a Dependent child), you or someone on your behalf must notify the Plan Administrator or its designee in writing within 60 days after the Qualifying Event occurs, using the procedures specified below. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or its designee during the 60-day notice period, any spouse or Dependent child who loses coverage will not be offered the option to elect continuation coverage. You must send this notice to the COBRA Administrator.**

***NOTICE PROCEDURES:***

Any notice that you provide must be *in writing*. Oral notice, including notice by telephone, is not acceptable. You must mail, fax or hand-deliver your notice to the person, department or firm listed below, at the following address:

Human Resources  
City of Manitowoc  
City Hall, 900 Quay Street  
Manitowoc, WI 54220  
(920) 686-6990

If mailed, your notice must be postmarked no later than the last day of the required notice period. Any notice you provide must state:

- the **name of the plan or plans** under which you lost or are losing coverage;
- the **name and address of the employee** covered under the plan;
- the **name(s) and address(es) of the Qualified Beneficiary(ies)**; and
- the **Qualifying Event** and the **date** it happened.

If the Qualifying Event is a **divorce or legal separation**, your notice must include **a copy of the divorce decree or the legal separation agreement**.

Be aware that there are other notice requirements in other contexts, such as in order to qualify for a disability extension.

Once the Plan Administrator or its designee receives *timely notice* that a Qualifying Event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each Qualified Beneficiary will have an independent right to elect COBRA continuation coverage. Covered Employees may elect COBRA continuation coverage for their spouses, and parents may elect COBRA continuation coverage on behalf of their children. For each Qualified Beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin on the date that plan coverage would otherwise have been lost (if, under your plan, the COBRA period begins on the date of the Qualifying Event, even though coverage actually ends later. If the Employee or their spouse or Dependent children do not elect continuation coverage within the 60-day election period described above, the right to elect continuation coverage will be lost.

**Waiver of a Qualified Beneficiary's election rights before end of period** If, during the election period, a Qualified Beneficiary waives COBRA continuation coverage, the waiver can be revoked at any time before the end of the election period. Revocation of the waiver is an election of COBRA continuation coverage. However, if a waiver is later revoked, coverage need not be provided retroactively (that is, from

the date of the loss of coverage until the waiver is revoked). Waivers and revocations of waivers are considered made on the date they are sent to the Plan Administrator or its designee, as applicable.

**Termination of a Qualified Beneficiary's COBRA continuation coverage.** During the election period, a Qualified Beneficiary may waive COBRA continuation coverage. Except for an interruption of coverage in connection with a waiver, COBRA continuation coverage that has been elected for a Qualified Beneficiary must extend for at least the period beginning on the date of the Qualifying Event and ending not before the earliest of the following dates:

1. The last day of the applicable maximum coverage period.
2. The first day for which Timely Payment is not made to the Plan with respect to the Qualified Beneficiary.
3. The date upon which the Employer ceases to provide any group health plan (including a successor plan) to any Employee.
4. The date, after the date of the election, that the Qualified Beneficiary first becomes covered under any other Plan that does not contain any exclusion or limitation with respect to any Pre-Existing condition, other than such an exclusion or limitation that does not apply to, or is satisfied by, the Qualified Beneficiary.
5. The date, after the date of the election that the Qualified Beneficiary first enrolls in the Medicare program (either part A or part B, whichever occurs earlier).
6. In the case of a Qualified Beneficiary entitled to a disability extension, the later of:
  - a. (i) 29 months after the date of the Qualifying Event, or (ii) the first day of the month that is more than 30 days after the date of a final determination under Title II or XVI of the Social Security Act that the disabled Qualified Beneficiary whose disability resulted in the Qualified Beneficiary's entitlement to the disability extension is no longer disabled, whichever is earlier; or
  - b. the end of the maximum coverage period that applies to the Qualified Beneficiary without regard to the disability extension.

The Plan can terminate for cause the coverage of a Qualified Beneficiary on the same basis that the Plan terminates for cause the coverage of similarly situated non-COBRA beneficiaries, such as for the submission of a fraudulent claim.

In the case of an individual who is not a Qualified Beneficiary and who is receiving coverage under the Plan solely because of the individual's relationship to a Qualified Beneficiary, if the Plan's obligation to make COBRA continuation coverage available to the Qualified Beneficiary ceases, the Plan is not obligated to make coverage available to the individual who is not a Qualified Beneficiary.

**Maximum coverage periods for COBRA continuation coverage.** The maximum coverage periods are based on the type of the Qualifying Event and the status of the Qualified Beneficiary, as shown below.

1. In the case of a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period ends 18 months after the Qualifying Event if there is not a disability extension and 29 months after the Qualifying Event if there is a disability extension.

2. In the case of a covered Employee's enrollment in the Medicare program before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries other than the covered Employee ends on the later of:
  - a. 36 months after the date the covered Employee becomes enrolled in the Medicare program; or
  - b. 18 months (or 29 months, if there is a disability extension) after the date of the covered Employee's termination of employment or reduction of hours of employment.
3. In the case of a Qualified Beneficiary who is a child born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, the maximum coverage period is the maximum coverage period applicable to the Qualifying Event giving rise to the period of COBRA continuation coverage during which the child was born or placed for adoption.
4. In the case of any other Qualifying Event than that described above, the maximum coverage period ends 36 months after the Qualifying Event.

**Circumstances when the maximum coverage period be expanded.** If a Qualifying Event that gives rise to an 18-month or 29-month maximum coverage period is followed, within that 18- or 29-month period, by a second Qualifying Event that gives rise to a 36-month maximum coverage period, the original period is expanded to 36 months, but only for individuals who are Qualified Beneficiaries at the time of both Qualifying Events. In no circumstance can the COBRA maximum coverage period be expanded to more than 36 months after the date of the first Qualifying Event. The Plan Administrator must be notified of the second Qualifying Event within 60 days of the second Qualifying Event. This notice must be sent to the COBRA Administrator.

**Disability extension.** A disability extension will be granted if an individual (whether or not the covered Employee) who is a Qualified Beneficiary in connection with the Qualifying Event that is a termination or reduction of hours of a covered Employee's employment, is determined under Title II or XVI of the Social Security Act to have been disabled at any time during the first 60 days of COBRA continuation coverage. To qualify for the disability extension, the Qualified Beneficiary must also provide the Plan Administrator with notice of the disability determination on a date that is both within 60 days after the date of the determination and before the end of the original 18-month maximum coverage. This notice should be sent to the COBRA Administrator.

**Payment for COBRA continuation coverage.** For any period of COBRA continuation coverage under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage. Qualified beneficiaries will pay up to 102% of the applicable premium and up to 150% of the applicable premium for any expanded period of COBRA continuation coverage covering a disabled Qualified Beneficiary due to a disability extension. The Plan will terminate a Qualified Beneficiary's COBRA continuation coverage as of the first day of any period for which timely payment is not made.

**Payment for COBRA continuation coverage in monthly installments.** The Plan is also permitted to allow for payment at other intervals.



**Timely Payment for COBRA continuation coverage.** Timely Payment means a payment made no later than 30 days after the first day of the coverage period. Payment that is made to the Plan by a later date is also considered Timely Payment if either under the terms of the Plan, covered Employees or Qualified Beneficiaries are allowed until that later date to pay for their coverage for the period or under the terms of an arrangement between the Employer and the entity that provides Plan benefits on the Employer's behalf, the Employer is allowed until that later date to pay for coverage of similarly situated non-COBRA beneficiaries for the period.

Notwithstanding the above paragraph, the Plan does not require payment for any period of COBRA continuation coverage for a Qualified Beneficiary earlier than 45 days after the date on which the election of COBRA continuation coverage is made for that Qualified Beneficiary. Payment is considered made on the date on which it is postmarked to the Plan.

If Timely Payment is made to the Plan in an amount that is not significantly less than the amount the Plan requires to be paid for a period of coverage, then the amount paid will be deemed to satisfy the Plan's requirement for the amount to be paid, unless the Plan notifies the Qualified Beneficiary of the amount of the deficiency and grants a reasonable period of time for payment of the deficiency to be made. A "reasonable period of time" is 30 days after the notice is provided. A shortfall in a Timely Payment is not significant if it is no greater than the lesser of \$50 or 10% of the required amount.

**Right to enroll in a conversion health plan at the end of the maximum coverage period for COBRA continuation coverage if one is offered by employer.** If a Qualified Beneficiary's COBRA continuation coverage under a group health plan ends as a result of the expiration of the applicable maximum coverage period, the Plan will, during the 180-day period that ends on that expiration date, provide the Qualified Beneficiary with the option of enrolling under a conversion health plan if such an option is otherwise generally available to similarly situated non-COBRA beneficiaries under the Plan. If such a conversion option is not otherwise generally available, it need not be made available to Qualified Beneficiaries.

#### **Questions.**

If a Covered Person has questions about COBRA continuation coverage, they should contact the COBRA Administrator or may contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

#### **Keep the Plan Administrator informed of address changes.**

In order to protect a Covered Person's family's rights, a Covered Person should keep the Plan Administrator informed of any changes in the addresses of family members. The Covered Person should also keep a copy, for their records, of any notices they send to the Plan Administrator.

## **COORDINATION OF BENEFITS**

The Coordination of Benefits provision is intended to prevent the payment of benefits that exceed expenses. It applies when the Employee or any eligible Dependent who is covered by this Plan is also covered by any other plan or plans. When more than one coverage exists, one plan normally pays its benefits in full and the other plans pay a reduced benefit. This Plan will always pay either its benefits in full, or a reduced amount which when added to the benefits payable by the other plan or plans will not exceed 100% of allowable expenses. Only the amount paid by the Plan will be charged against the Plan maximums.

The Coordination of Benefits provision applies whether or not a claim is filed under the other plan or plans. If needed, authorization must be given this Plan to obtain information as to benefits or services available from the other plan or plans, or to recover overpayment.

All benefits contained in the Plan are subject to this provision.

### **Definitions**

The term "plan" as used herein will mean any plan providing benefits or services for or by reason of medical, vision, or dental treatment, and such benefits or services are provided by:

1. Group insurance or any other arrangement for coverage for Covered Persons in a group whether on an insured or uninsured basis, including but not limited to:
  - a. Hospital indemnity benefits.
  - b. Hospital reimbursement-type plans which permit the Covered Person to elect indemnity at the time of claims.
2. Hospital or medical service organizations on a group basis, group practice, and other group pre-payment plans.
3. Hospital or medical service organizations on an individual basis having a provision similar in effect to this provision.
4. A licensed Health Maintenance Organization (H.M.O.).
5. Any coverage for students which is sponsored by or provided through a school or other educational institution.
6. Any coverage under a governmental program and any coverage required or provided by any statute.
7. Group automobile insurance.
8. Individual automobile insurance coverage on an automobile leased or owned by the Company.
9. Individual automobile insurance coverage based upon the principles of "No-Fault" and/or Personal Injury Protection coverage.
10. Medical payment coverage under any group or individual automobile policy.

The term "plan" will be construed separately with respect to each policy, contract, or other arrangement for benefits or services, and separately with respect to that portion of any such policy, contract, or other arrangement that reserves the right to take the benefits or services of other plans into consideration in determining its benefits and to that portion that does not.

The term "allowable expenses" means any necessary item of expense, the charge for which is reasonable, regular, and customary, at least a portion of which is covered under at least one of the plans covering the person for whom claim is made. When a plan provides benefits in the form of services rather than cash payments, then the reasonable cash value of each service rendered will be deemed to be both an allowable expense and a benefit paid.

In the case of HMO (Health Maintenance Organization) or other in-network-only plans, this Plan will not consider any charges in excess of what an HMO or network provider has agreed to accept as payment in full. Also, when an HMO or network plan is primary and the Covered Person does not use an HMO or network provider, this Plan will not consider as an allowable charge any charge that would have been covered by the HMO or network plan had the Covered Person used the services of an HMO or network provider.

The term "claim determination period" means a Calendar Year or that portion of a Calendar Year during which the Covered Person for whom claim is made has been covered under this Plan.

### **Coordination Procedures**

Notwithstanding the other provisions of this Plan, benefits that would be payable under this Plan will be reduced so that the sum of benefits and all benefits payable under all other plans will not exceed the total of allowable expenses incurred during any claim determination period with respect to a Covered Person eligible for:

1. Benefits either as an insured person or participant or as a Dependent under any other plan which has no provision similar in effect to this provision, or
2. Dependent benefits under this Plan for a Covered Person who is also eligible for benefits:
  - a. As an insured person or participant under any other plan, or
  - b. As a dependent covered under another group plan.
3. Employee benefits under this Plan for an Employee who is also eligible for benefits as an insured person or participant under any other plan and has been covered continuously for a longer period of time under such other plan.

### **Order of Benefit Determination**

Each plan makes its claim payment according to where it falls in this order, if Medicare is not involved:

1. If a plan contains no provision for coordination of benefits, then it pays before all other plans.
2. This Plan shall be "secondary" in coverage to any no fault automobile insurance policy, regardless of any election made to the contrary by a covered Plan Participant. Any available no-fault insurance shall be the "primary" coverage for any health care bills incurred as a result of any auto accident.

3. The plan which covers the claimant as an Employee or named insured pays as though no other plan existed; remaining recognized charges are paid under a plan which covers the claimant as a Dependent.
4. If the claimant is a Dependent child, the plan of the parent whose birthday occurs first in the Calendar Year shall pay first. However, if his parents are divorced, then:
  - a. The plan of the parent with custody pays first, unless a court order or decree specifies the other parent to have financial responsibility; in which case, that parent's plan would pay first.
  - b. The plan of a stepparent with whom he lives pays second (if applicable).
  - c. The plan of the parent without custody pays third.
5. The Plan covering this individual as an active Employee or a Dependent of an active Employee shall be primary.
6. The benefits of a plan which covers a person as an employee, who is neither laid off nor retired, are determined before those of a plan which covers that person as a laid off or retired employee. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule will not apply.
7. If the order set out above does not apply in a particular case, then the plan which has covered the claimant for the longest period of time will pay first.
8. If a Dependent, as defined by the Plan, has other coverage, then the other coverage shall be primary and this coverage will be secondary.

**The Company has the right:**

1. To obtain or share information with an insurance company or other organization regarding Coordination of Benefits without the claimant's consent.
2. To require that the claimant provide the Company with information on such other plans so that this provision may be implemented.
3. To pay the amount due under this Plan to an insurer or other organization if this is necessary, in the Company's opinion, to satisfy the terms of this provision.

**Facility of Payment**

Whenever payments which should have been made under this Plan in accordance with this provision have been made under any other plan or plans, the Company will have the right, exercisable alone and in its sole discretion, to pay to any insurance company or other organization or person making such other payments any amounts it will determine in order to satisfy the intent of this provision, and amounts so paid will be deemed to be benefits paid under this Plan and to the extent of such payments, the Company will be fully discharged from liability under this Plan.

The benefits that are payable will be charged against any applicable maximum payment or benefit of this

Plan, rather than the amount payable in the absence of this provision.

### **Right to Receive and Release Necessary Information**

For the purposes of determining the applicability of and implementing the terms of this provision of the Plan or any similar provision of any other plans, the Company may, without the consent of or notice to any person, release to or obtain from any insurance company or other organization or person any information, with respect to any person, which the Company deems to be necessary for such purposes. Any person claiming benefits under this Plan shall furnish to the Company such information as may be necessary to implement this provision.

### **Effect of Medicare**

It is the intent of the Plan to adhere to the laws of DEFRA, TEFRA, and COBRA as currently constituted and as amended from time to time. Any Employee or Dependent eligible for Medicare should contact the Claims Administrator for current rulings.

If any Covered Person eligible for Medicare fails to enroll therefore, benefits will be paid by the Plan as though the person had enrolled.

## **SUBROGATION, REIMBURSEMENT, AND/OR THIRD PARTY RESPONSIBILITY**

### **A. Payment Condition**

1. The Plan, in its sole discretion, may elect to conditionally advance payment of benefits in those situations where an injury, sickness, disease or disability is caused in whole or in part by, or results from the acts or omissions of Covered Persons, Plan Beneficiaries, and/or their dependants, beneficiaries, estate, heirs, guardian, personal representative, or assigns (collectively referred to hereinafter in this section as “Covered Person(s)”) or a third party, where another party may be responsible for expenses arising from an incident, and/or other funds are available, including but not limited to no-fault, uninsured motorist, underinsured motorist, medical payment provisions, third party assets, third party insurance, and/or grantor(s) of a third party (collectively “Coverage”).
2. Covered Person(s), his or her attorney, and/or legal guardian of a minor or incapacitated individual agrees that acceptance of the Plan’s conditional payment of medical benefits is constructive notice of these provisions in their entirety and agrees to maintain one hundred percent (100%) of the Plan’s conditional payment of benefits or the full extent of payment from any one or combination of first and third party sources in trust, without disruption except for reimbursement to the Plan or the Plan’s assignee. By accepting benefits the Covered Person(s) agrees the Plan shall have an equitable lien on any funds received by the Covered Person(s) and/or their attorney from any source and said funds shall be held in trust until such time as the obligations under this provision are fully satisfied. The Covered Person(s) agrees to include the Plan’s name as a co-payee on any and all settlement drafts.
3. In the event a Covered Person(s) settles, recovers, or is reimbursed by any Coverage, the Covered Person(s) agrees to reimburse the Plan for all benefits paid or that will be paid by the Plan on behalf of the Covered Person(s). If the Covered Person(s) fails to reimburse the Plan out of any judgment or settlement received, the Covered Person(s) will be responsible for any and all expenses (fees and costs) associated with the Plan’s attempt to recover such money.

### **B. Subrogation**

1. As a condition to participating in and receiving benefits under this Plan, the Covered Person(s) agrees to assign to the Plan the right to subrogate and pursue any and all claims, causes of action or rights that may arise against any person, corporation and/or entity and to any Coverage to which the Covered Person(s) is entitled, regardless of how classified or characterized.
2. If a Covered Person(s) receives or becomes entitled to receive benefits, an automatic equitable lien attaches in favor of the Plan to any claim, which any Covered Person(s) may have against any Coverage and/or party causing the sickness or injury to the extent of such conditional payment by the Plan plus reasonable costs of collection.
3. The Plan may in its own name or in the name of the Covered Person(s) commence a proceeding or pursue a claim against any party or Coverage for the recovery of all damages to the full extent of the value of any such benefits or conditional payments advanced by the Plan.
4. If the Covered Person(s) fails to file a claim or pursue damages against:
  - a. the responsible party, its insurer, or any other source on behalf of that party;

- b. any first party insurance through medical payment coverage, personal injury protection, no-fault coverage, uninsured or underinsured motorist coverage;
- c. any policy of insurance from any insurance company or guarantor of a third party;
- d. worker's compensation or other liability insurance company; or,
- e. any other source, including but not limited to crime victim restitution funds, any medical, disability or other benefit payments, and school insurance coverage;

the Covered Person(s) authorizes the Plan to pursue, sue, compromise and/or settle any such claims in the Covered Person(s)' and/or the Plan's name and agrees to fully cooperate with the Plan in the prosecution of any such claims. The Covered Person(s) assigns all rights to the Plan or its assignee to pursue a claim and the recovery of all expenses from any and all sources listed above.

### **C. Right of Reimbursement**

1. The Plan shall be entitled to recover 100% of the benefits paid, without deduction for attorneys' fees and costs or application of the common fund doctrine, make whole doctrine, or any other similar legal theory, without regard to whether the Covered Person(s) is fully compensated by his/her recovery from all sources. The Plan shall have an equitable lien which supersedes all common law or statutory rules, doctrines, and laws of any state prohibiting assignment of rights which interferes with or compromises in any way the Plan's equitable lien and right to reimbursement. The obligation to reimburse the Plan in full exists regardless of how the judgment or settlement is classified and whether or not the judgment or settlement specifically designates the recovery or a portion of it as including medical, disability, or other expenses. If the Covered Person(s)' recovery is less than the benefits paid, then the Plan is entitled to be paid all of the recovery achieved.
2. No court costs, experts' fees, attorneys' fees, filing fees, or other costs or expenses of litigation may be deducted from the Plan's recovery without the prior, expressed written consent of the Plan.
3. The Plan's right of subrogation and reimbursement will not be reduced or affected as a result of any fault or claim on the part of the Covered Person(s), whether under the doctrines of causation, comparative fault or contributory negligence, or other similar doctrine in law. Accordingly, any lien reduction statutes, which attempt to apply such laws and reduce a subrogating Plan's recovery will not be applicable to the Plan and will not reduce the Plan's reimbursement rights.
4. These rights of subrogation and reimbursement shall apply without regard to whether any separate written acknowledgment of these rights is required by the Plan and signed by the Covered Person(s).
5. This provision shall not limit any other remedies of the Plan provided by law. These rights of subrogation and reimbursement shall apply without regard to the location of the event that led to or caused the applicable sickness, injury, disease or disability.

### **D. Excess Insurance**

If at the time of injury, sickness, disease or disability there is available, or potentially available any Coverage (including but not limited to Coverage resulting from a judgment at law or settlements), the benefits under this Plan shall apply only as an excess over such other sources of Coverage, except as otherwise provided for under the Plan's Coordination of Benefits section.

The Plan's benefits shall be excess to:

- a. the responsible party, its insurer, or any other source on behalf of that party;
- b. any first party insurance through medical payment coverage, personal injury protection, no-fault coverage, uninsured or underinsured motorist coverage;
- c. any policy of insurance from any insurance company or guarantor of a third party;
- d. worker's compensation or other liability insurance company or
- e. any other source, including but not limited to crime victim restitution funds, any medical, disability or other benefit payments, and school insurance coverage;

**E. Separation of Funds**

Benefits paid by the Plan, funds recovered by the Covered Person(s), and funds held in trust over which the Plan has an equitable lien exist separately from the property and estate of the Covered Person(s), such that the death of the Covered Person(s), or filing of bankruptcy by the Covered Person(s), will not affect the Plan's equitable lien, the funds over which the Plan has a lien, or the Plan's right to subrogation and reimbursement.

**F. Wrongful Death**

In the event that the Covered Person(s) dies as a result of his or her injuries and a wrongful death or survivor claim is asserted against a third party or any Coverage, the Plan's subrogation and reimbursement rights shall still apply.

**G. Obligations**

1. It is the Covered Person(s)' obligation at all times, both prior to and after payment of medical benefits by the Plan:
  - a. to cooperate with the Plan, or any representatives of the Plan, in protecting its rights, including discovery, attending depositions, and/or cooperating in trial to preserve the Plan's rights;
  - b. to provide the Plan with pertinent information regarding the sickness, disease, disability, or injury, including accident reports, settlement information and any other requested additional information;
  - c. to take such action and execute such documents as the Plan may require to facilitate enforcement of its subrogation and reimbursement rights;
  - d. to do nothing to prejudice the Plan's rights of subrogation and reimbursement;
  - e. to promptly reimburse the Plan when a recovery through settlement, judgment, award or other payment is received; and
  - f. to not settle or release, without the prior consent of the Plan, any claim to the extent that the Plan Beneficiary may have against any responsible party or Coverage.
2. If the Covered Person(s) and/or his or her attorney fails to reimburse the Plan for all benefits paid or to be paid, as a result of said injury or condition, out of any proceeds, judgment or settlement received, the Covered Person(s) will be responsible for any and all expenses (whether fees or costs) associated with the Plan's attempt to recover such money from the Covered Person(s).
3. The Plan's rights to reimbursement and/or subrogation are in no way dependant upon the Covered Person(s)' cooperation or adherence to these terms.



**H. Offset**

Failure by the Covered Person(s) and/or his or her attorney to comply with any of these requirements may, at the Plan's discretion, result in a forfeiture of payment by the Plan of medical benefits and any funds or payments due under this Plan on behalf of the Covered Person(s) may be withheld until the Covered Person(s) satisfies his or her obligation.

**I. Minor Status**

1. In the event the Covered Person(s) is a minor as that term is defined by applicable law, the minor's parents or court-appointed guardian shall cooperate in any and all actions by the Plan to seek and obtain requisite court approval to bind the minor and his or her estate insofar as these subrogation and reimbursement provisions are concerned.
2. If the minor's parents or court-appointed guardian fail to take such action, the Plan shall have no obligation to advance payment of medical benefits on behalf of the minor. Any court costs or legal fees associated with obtaining such approval shall be paid by the minor's parents or court-appointed guardian.

**J. Language Interpretation**

The Plan Administrator retains sole, full and final discretionary authority to construe and interpret the language of this provision, to determine all questions of fact and law arising under this provision, and to administer the Plan's subrogation and reimbursement rights. The Plan Administrator may amend the Plan at any time without notice.

**K. Severability**

In the event that any section of this provision is considered invalid or illegal for any reason, said invalidity or illegality shall not affect the remaining sections of this provision and Plan. The section shall be fully severable. The Plan shall be construed and enforced as if such invalid or illegal sections had never been inserted in the Plan.

## **DEFINITIONS**

### **ACCIDENTAL INJURY**

A condition which is the result of bodily Injury caused by an external force; or a condition caused as the result of an incident which is precipitated by an act of unusual circumstances likely to result in unexpected consequences. This incident must be a sufficient departure from the claimant's normal and ordinary lifestyle or routine. The condition must be an instantaneous one, rather than one which continues, progresses or develops.

### **ACTIVELY AT WORK**

An Employee is considered to be actively at work when performing, in the customary manner, all of the regular duties of their occupation with the Company. An Employee shall be deemed actively at work on each day of a regular paid vacation; on a regular non-working day, provided they were actively at work on the last preceding regular working day; or as otherwise noted in the Eligibility section.

### **ADVERSE BENEFIT DETERMINATION**

Adverse Benefit Determination means any of the following:

1. A denial in benefits;
2. A reduction in benefits;
3. A rescission of coverage;
4. A termination of benefits; or
5. A failure to provide or make payment (in whole or in part) for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on a determination of a Claimant's eligibility to participate in the Plan.

### **ALLOWABLE EXPENSES**

Any Medically Necessary, Usual & Customary expense, incurred while the Covered Person is eligible for benefits under this Plan.

### **AMENDMENT**

A formal document that changes the provisions of the Plan Document, duly signed by the authorized person or persons as designated by the Plan Administrator.

### **ASSIGNMENT OF BENEFITS**

An arrangement whereby the Plan Participant assigns their right to seek and receive payment of eligible Plan benefits, in strict accordance with the terms of this Plan Document, to a Provider. If a provider accepts said arrangement, Providers' rights to receive Plan benefits are equal to those of a Plan Participant, and are limited by the terms of this Plan Document. A Provider that accepts this arrangement indicates acceptance of an "Assignment of Benefits" as consideration in full for services, supplies, and/or treatment rendered.

### **BENEFIT PERCENTAGE**

That portion of Eligible Expenses to be paid by the Plan in accordance with the coverage provisions as stated in the Plan. It is the basis used to determine any out-of-pocket expenses in excess of the annual Deductible which are to be paid by the Employee.

### **BENEFIT PERIOD**

A time period of one Calendar Year. Such benefit period will terminate on the earliest of the following dates:

1. The last day of the one-year period so established;
2. The day the Maximum Benefit applicable to the Covered Person becomes payable.

**CALENDAR YEAR**

A period of time commencing on January 1 and ending on December 31 of the same given year.

**CHILD**

Child means, in addition to the Employee's own blood descendant of the first degree or lawfully adopted Child, a Child placed with a covered Employee in anticipation of adoption, a covered Employee's Child who is an alternate recipient under a Qualified Medical Child Support Order as required by the Federal Omnibus Budget Reconciliation Act of 1993, any stepchild, an "eligible foster Child," which is defined as an individual placed with the Employee by an authorized placement agency or by judgment, decree or other order of a court of competent jurisdiction or any other Child for whom the Employee has obtained Legal Guardianship.

**CLAIM DETERMINATION PERIOD**

A Calendar Year or that portion of a Calendar Year during which the individual for whom claim is made has been covered under this Plan.

**CLAIMS ADMINISTRATOR**

The person or firm employed by the Employer to provide consulting services to the Employer in connection with the operation of the Plan and any other functions, including the processing and payment of claims.

**CLEAN CLAIM**

A claim that can be processed in accordance with the terms of this document without obtaining additional information from the service Provider or a third party. It is a claim which has no defect or impropriety.

A defect or impropriety shall include a lack of required sustaining documentation as set forth and in accordance with this document, or a particular circumstance requiring special treatment which prevents timely payment as set forth in this document, and only as permitted by this document, from being made.

A Clean Claim does not include claims under investigation for fraud and abuse or claims under review for Medical Necessity and Reasonableness, or fees under review for Usual and Customariness, or any other matter that may prevent the charge(s) from being covered expenses in accordance with the terms of this document.

*Filing a Clean Claim.* A Provider submits a Clean Claim by providing the required data elements on the standard claims forms, along with any attachments and additional elements or revisions to data elements, attachments and additional elements, of which the Provider has knowledge. The Plan Administrator may require attachments or other information in addition to these standard forms (as noted elsewhere in this document and at other times prior to claim submittal) to ensure charges constitute covered expenses as defined by and in accordance with the terms of this document. The paper claim form or electronic file record must include all required data elements and must be complete, legible, and accurate. A claim will not be considered to be a Clean Claim if the Plan Participant has failed to submit required forms or additional information to the Plan as well.

**CLOSE RELATIVE**

The spouse, parent, brother, sister, child, or in-law of the Covered Person.

**COBRA**

The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

**COINSURANCE**

That figure shown as a percentage in the Schedule of Benefits used to compute the amount of benefit payable when the Plan states that a percentage is payable.

**COMPANY**

City of Manitowoc

**COSMETIC DENTISTRY**

Services provided by Dentists solely for the purpose of improving appearance when form and function are satisfactory and no pathological condition exists.

**COVERED PERSON**

Any Employee or Dependent of an Employee meeting the eligibility requirements for coverage as specified in this Plan, and properly enrolled in the Plan.

**DEDUCTIBLE**

A specified dollar amount of covered expenses which must be incurred during a benefit period before any other covered expenses can be considered for payment according to the applicable benefit percentage.

**DEFRA**

The Deficit Reduction Act of 1984, as amended.

**DENTAL NECESSITY**

“Dentally Necessary” means services and supplies furnished to the subscriber or member, if covered by this contract, when and to the extent that they satisfy each of the following:

- a. They are dentally required and dentally appropriate for the treatment or maintenance of the teeth and the gums, bone, and other tissues which support the teeth;
- b. They follow professionally recognized standards of dental care;
- c. Their costs are not excessive when compared with other services that would be equally effective for the treatment or maintenance of the teeth and their supporting structures within the parameters of the contract.
- d. The fact that a Dentist may prescribe, order, recommend, or approve certain services for the subscriber or member, if covered by this contract, does not necessarily mean that such services satisfy a, b, and c above.

Services and supplies which are deemed not dentally necessary include, but are not limited to, the following:

- a. The application of laminates, veneers, replacement of amalgam fillings, or any other procedure that is done for reasons of personal appearance or for invalidated health reasons;
- b. A course of treatment that is deemed not to be professionally acceptable;
- c. A course of treatment that chooses a more expensive procedure than that which is necessary to restore the mouth to professionally recognized standard of oral health.

**DENTIST**

An individual who is duly licensed to practice Dentistry or oral surgery in the state where the dental service is performed and who is operating within the scope of his license. For the purpose of this definition, a Physician will be considered to be a Dentist when he or she performs any of the dental services described herein and is operating within the scope of his license.

**DEPENDENT COVERAGE**

Eligibility under the terms of the Plan for benefits payable as a consequence of Eligible Expenses incurred for a Sickness or Injury of a Dependent.

**ELIGIBLE EXPENSE**

Any Medically Necessary treatment, service, or supply that is not specifically excluded from coverage elsewhere in this Plan.

**ELIGIBLE PROVIDER**

Eligible Providers shall include the following legally licensed or duly certified health care providers to the extent that same, within the scope of their license, are permitted to perform services which are considered Eligible Expenses under the Plan:

- Dental Hygienist
- Dentist
- Oral Surgeon

"Eligible Provider" shall not include the Covered Person or any close relative of the Covered Person.

**EMPLOYEE**

An active employee of the Employer receiving compensation from the Employer for services rendered to the Employer. Employee means a person who is in an employer-employee relationship with the Employer and who is classified by the Employer as a regular employee. The term employee does not include any employee covered by a collective bargaining agreement that does not provide for coverage under the Plan, provided that health care benefits were the subject of good faith bargaining between the employee's bargaining representative and the Employer. The term employee does not include an employee classified by the Employer as a temporary employee.

**EMPLOYEE COVERAGE**

Coverage hereunder providing benefits payable as a consequence of an Injury or Sickness of an Employee.

**EMPLOYER**

City of Manitowoc

**ENROLLMENT DATE**

Enrollment Date, within the meaning of HIPAA, as defined by the Department of Labor is the first day of coverage. If there is a Waiting Period, it is the first day of the Waiting Period.

**EXPENSES INCURRED**

The day expenses or services are rendered.

**EXPERIMENTAL**

Services, supplies, care and treatment which do not constitute accepted medical practice properly within the range of appropriate medical practice under the standards of the case and by the standards of a reasonably substantial, qualified, responsible, relevant segment of the medical community or government oversight agencies at the time services were rendered.

The Plan Administrator must make an independent evaluation of the experimental/non-experimental standings of specific technologies. The Plan Administrator shall be guided by a reasonable interpretation of Plan provisions. The decisions shall be made in good faith and rendered following a detailed factual

background investigation of the claim and the proposed treatment. The decision of the Plan Administrator will be final and binding on the Plan. The Plan Administrator will be guided by the following principles:

1. if the drug or device cannot be lawfully marketed without approval of the U.S. Food and Drug Administration and approval for marketing has not been given at the time the drug or device is furnished; or
2. if the drug, device, medical treatment or procedure, or the patient informed consent document utilized with the drug, device, treatment or procedure, was reviewed and approved by the treating facility's Institutional Review Board or other body serving a similar function, or if federal law requires such review or approval; or
3. if Reliable Evidence shows that the drug, device, medical treatment or procedure is the subject of on-going phase I or phase II clinical trials, is the research, experimental, study or Investigational arm of on-going phase III clinical trials, or is otherwise under study to determine its maximum tolerated dose, its toxicity, its safety, its efficacy or its efficacy as compared with a standard means of treatment or diagnosis; or
4. if Reliable Evidence shows that the prevailing opinion among experts regarding the drug, device, medical treatment or procedure is that further studies or clinical trials are necessary to determine its maximum tolerated dose, its toxicity, its safety, its efficacy or its efficacy as compared with a standard means of treatment or diagnosis.

Reliable Evidence shall mean only published reports and articles in the authoritative medical and scientific literature; the written protocol or protocols used by the treating facility or the protocol(s) of another facility studying substantially the same drug, service, medical treatment or procedure; or the written informed consent used by the treating facility or by another facility studying substantially the same drug, device, medical treatment or procedure.

Drugs are considered Experimental if they are not commercially available for purchase and/or they are not approved by the Food and Drug Administration for general use.

#### **FAMILY UNIT**

A Covered Employee and his eligible Dependents.

#### **FAMILY AND MEDICAL LEAVE ACT**

A Federal law, effective August 5, 1993, applying to Employers with fifty (50) or more employees, and applicable State law.

#### **FIDUCIARY**

City of Manitowoc, which has the authority to control and manage the operation and administration of this Plan.

#### **FULL-TIME WORK**

A basis whereby an Employee works for the Employer for an average of at least 40 hours per week on a regular basis. Such work may occur either at the usual place of business of the Employer or at a location to which the business of the Employer requires the Employee to travel and for which he receives regular earnings from the Employer.

#### **GENETIC INFORMATION**

Information about genes, gene products and inherited characteristics that may derive from an individual

or a family member. This includes information regarding carrier status and information derived from laboratory tests that identify mutations in specific genes or chromosomes, physical medical examinations, family histories, and direct analysis of genes or chromosomes.

#### **ILLNESS**

A bodily disorder, disease, physical Sickness, mental infirmity, or functional nervous disorder of a Covered Person. A recurrent Sickness will be considered one Sickness. Concurrent Sicknesses will be considered one Sickness unless the concurrent Sicknesses are totally unrelated. All such disorders existing simultaneously which are due to the same or related causes shall be considered one Sickness.

#### **INJURY**

The term "Injury" shall mean only accidental bodily Injury caused by an external force, occurring while the Plan is in effect. All injuries to one person from one accident shall be considered an "Injury."

#### **JAW JOINT DISORDERS**

Treatment of jaw joint problems including conditions of structures linking the jaw bone and skull and the complex of muscles, nerves and other tissues related to the temporomandibular joint.

#### **LATE ENROLLEE**

An individual who is enrolled for coverage after the initial eligibility date described in the section entitled Late Enrollment. Note, however, a Special Enrollment shall not be considered a Late Enrollee hereunder.

#### **LEGAL GUARDIAN**

A person recognized by a court of law as having the duty of taking care of the person and managing the property and rights of a minor child.

#### **MEDICARE**

The medical care benefits provided under Title XVIII of the Social Security Act of 1965, as subsequently amended.

#### **NO-FAULT AUTO INSURANCE**

The basic reparations provision of the law providing for payments without determining fault in connection with automobile accidents.

#### **PLAN ADMINISTRATOR**

The Employer which is responsible for the management of the Plan who will have the authority to control and manage the operation and administration of the Plan. The Plan Administrator (or similar decision making body) has the sole authority and discretion to interpret and construe the terms of the Plan and to determine any and all questions in relation to the administration, interpretation, or operation of the Plan, including, but not limited to, eligibility under the Plan, the terms and provisions of the Plan, including any alleged vague or ambiguous term or provision, and to determine payment of benefits or claims under the Plan and any and all other matters arising under the Plan.

The Plan Administrator may employ persons or firms to process claims and perform other Plan-connected services. The Plan Administrator is the named plan administrator within the meaning of Section 414(g) of the Internal Revenue Code of 1986, as amended. The Plan Administrator has the final and discretionary authority to determine the Usual & Customary Fee.

#### **PLAN PARTICIPANT**

Any Employee or Dependent who is covered under this Plan.

**PLAN YEAR**

The 12-month period beginning on either the effective date of the Plan or on the day following the end of the first Plan Year which is a short Plan Year.

**PRESCRIPTION DRUG**

Any of the following: a Food and Drug Administration-approved drug or medicine which, under Federal Law, is required to bear the legend: "Caution: Federal Law prohibits dispensing without a prescription"; injectable insulin; hypodermic needles or syringes, but only when dispensed upon a written prescription of a licensed Physician. Such drugs must be Medically Necessary in the treatment of a Sickness or Injury.

In regards to drugs and drug therapies newly approved by the U.S. Food and Drug Administration (FDA) and available to the consumer market after the Summary Plan Descriptions have been distributed, the Plan reserves the right to:

- Extend coverage to medications that have recently met the FDA guidelines;
- Assign a unique co-payment or coinsurance to new drugs entering the market;
- Limit quantities of new lifestyle-type drugs entering the market; and
- Add drugs to the exclusion list if the FDA has issued a warning or a recall, voluntary or otherwise, to the consumer market.

Plan participants will receive notices regarding any Plan modifications regarding drugs or therapies at such time that they present a prescription for drugs or drug therapies impacted by modifications to the Plan. Participating pharmacies are charged to communicate any updates or changes to the Plan pharmacy program which impact a participant.

**PRIMARY PLAN**

A plan whose allowable benefits are not reduced by those of another plan.

**PRIOR TO EFFECTIVE DATE OR AFTER TERMINATION DATE**

Prior to Effective Date or After Termination Date are dates occurring before a Participant gains eligibility from the Plan, or dates occurring after a Participant loses eligibility from the Plan, as well as charges Incurred prior to the effective date of coverage under the Plan or after coverage is terminated, unless Extension of Benefits applies.

**PRONOUNS**

Any references to "Covered Person", "He", or "Himself" means the eligible Employee and Covered Dependents

**QUALIFIED MEDICAL CHILD SUPPORT ORDER (QMCSO)**

In order to meet the definition of a Qualified Medical Child Support Order (QMCSO), a court order or divorce decree must contain all of the following information:

1. The Employee's name and last known address.
2. The Dependent's full name and address.
3. A reasonable description of the coverage to be provided or the manner in which coverage will be established, i.e. through the employer.
4. The period for which coverage must be provided.
5. The order or decree must specifically name the Company as a source of coverage.

A National Medical Support notice, issued pursuant to applicable regulations, will also meet the



definition of a QMCSO.

**REGULAR BASIS**

A basis whereby an Employee is regularly at work as shown in the section titled Eligibility for Coverage. Such work may occur either at the usual place of business of the Employer or at a location to which the business of the Employer requires the Employee to travel and for which he or she receives regular earnings from the company.

**REVIEW ORGANIZATION**

The organization contracting with the Company to perform cost containment services.

**SIGNIFICANT BREAK IN COVERAGE**

A period of 63 (or more) consecutive days without Creditable Coverage. Periods of no coverage during an HMO affiliation period or Waiting Period shall not be taken into account for purposes of determining whether a Significant Break in Coverage has occurred. For this purpose, an HMO affiliation period means a period of time that must expire before health insurance coverage provided by an HMO becomes effective and during which the HMO is not required to provide benefits.

**SPECIAL ENROLLEE**

An Employee or Dependent who is entitled to and who requests Special Enrollment within 31 days of losing other health coverage or a newly acquired Dependent for whom coverage is requested within 31 days of the marriage, birth, adoption, or placement for adoption.

**TEFRA**

The Tax Equity and Fiscal Responsibility Act of 1982, as amended from time to time.

**TEMPORMANDIBULAR JOINT SYNDROME**

Treatment of jaw joint disorders including conditions of structures linking the jawbone and skull and the complex of muscles, nerves and other tissues related to the temporomandibular joint. Care and treatment shall include, but are not limited to orthodontics, crowns, inlays, physical therapy and any appliance that is attached to or rests on the teeth.

**TMJ**

"TMJ" means temporomandibular joint syndrome and all related complications or conditions.

**TOTAL DISABILITY (TOTALLY DISABLED)**

A physical state of a Covered Person resulting from a Sickness or Injury which wholly prevents:

1. An Employee from engaging in his regular or customary occupation and from performing any and all work for compensation or profit.
2. A Dependent from performing the normal activities of a person of like age and sex and in good health.

**USUAL AND CUSTOMARY (U&C)**

The term "usual and customary" refers to the designation of a charge as being the usual charge made by a Physician or other provider of services, supplies, medications, or equipment that does not exceed the general level of charges made by other providers rendering or furnishing such care or treatment within the same area. The term "area" in this definition means a county or such other area as is necessary to obtain a representative cross section of such charges. Due consideration will be given to the nature and severity of the condition being treated and any medical complications or unusual circumstances which require additional time, skill, or expertise. The Plan Administrator has the final and discretionary authority to

determine the Usual & Customary Fee.

## CLAIM PROCEDURES; PAYMENT OF CLAIMS

The procedures outlined below must be followed by Participants to obtain payment of health benefits under this Plan.

### Health Claims

All claims and questions regarding health claims should be directed to the Claims Administrator. The Plan Administrator shall be ultimately and finally responsible for adjudicating such claims and for providing full and fair review of the decision on such claims in accordance with the following provisions. Benefits under the Plan will be paid only if the Plan Administrator decides in its discretion that the Participant is entitled to them. The responsibility to process claims in accordance with the Plan Document may be delegated to the Claims Administrator; provided, however, that the Claims Administrator is not a Fiduciary of the Plan and does not have the authority to make decisions involving the use of discretion.

Each Participant claiming benefits under the Plan shall be responsible for supplying, at such times and in such manner as the Plan Administrator in its sole discretion may require, written proof that the expenses were Incurred or that the benefit is covered under the Plan. If the Plan Administrator in its sole discretion shall determine that the Participant has not Incurred a covered expense or that the benefit is not covered under the Plan, if the Participant shall fail to furnish such proof as is requested, or if Participant is not eligible for coverage, no benefits shall be payable under the Plan.

A call from a Provider who wants to know if an individual is covered under the Plan, or if a certain procedure is covered by the Plan, prior to providing treatment is not a "claim," since an actual claim for benefits is not being filed with the Plan. These are simply requests for information, and **any response is not a guarantee of benefits, since payment of benefits is subject to all Plan provisions, limitations and exclusions.** Once treatment is rendered, a Clean Claim must be filed with the Plan (which will be a "Post-service Claim"). At that time, a determination will be made as to what benefits are payable under the Plan.

A Participant has the right to request a review of an Adverse Benefit Determination. If the claim is denied at the end of the appeal process, as described below, the Plan's final decision is known as a final Adverse Benefit Determination. If the Participant receives notice of a final Adverse Benefit Determination, or if the Plan does not follow the claims procedures properly, the Participant then has the right to request an independent external review. The external review procedures are described below.

The claims procedures are intended to provide a full and fair review. This means, among other things, that claims and appeals will be decided in a manner designed to ensure the independence and impartiality of the persons involved in making these decisions.

Benefits will be payable to a Plan Participant, or to a Provider that has accepted an Assignment of Benefits as consideration in full for services rendered.

According to Federal regulations which apply to the Plan, there are four types of claims: Pre-service (Urgent and Non-urgent), Concurrent Care and Post-service.

1. Pre-service Claims. A "pre-service claim" is a claim for a benefit under the Plan where the Plan conditions receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care.

A “pre-service urgent care claim” is any claim for medical care or treatment with respect to which the application of the time periods for making non-urgent care determinations could seriously jeopardize the life or health of the Participant or the Participant’s ability to regain maximum function, or, in the opinion of a Physician with knowledge of the Participant’s medical condition, would subject the Participant to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim.

If the Plan does not require the Participant to obtain approval of a specific medical service prior to getting treatment, then there is no pre-service claim. The Participant simply follows the Plan’s procedures with respect to any notice which may be required after receipt of treatment, and files the claim as a post-service claim.

2. Concurrent Claims. A “Concurrent Claim” arises when the Plan has approved an on-going course of treatment to be provided over a period of time or number of treatments, and either:
  - a. The Plan determines that the course of treatment should be reduced or terminated; or
  - b. The Participant requests extension of the course of treatment beyond that which the Plan has approved.

If the Plan does not require the Participant to obtain approval of a medical service prior to getting treatment, then there is no need to contact the Plan Administrator to request an extension of a course of treatment. The Participant simply follows the Plan’s procedures with respect to any notice which may be required after receipt of treatment, and files the claim as a Post-service Claim.

3. Post-service Claims. A “Post-service Claim” is a claim for a benefit under the Plan after the services have been rendered.

### **When Claims Must Be Filed**

Post-service health claims must be filed with the Claims Administrator within 12 months of the date charges for the service were Incurred. Benefits are based upon the Plan’s provisions at the time the charges were Incurred. **Claims filed later than one (1) year from the date of service shall be denied.**

A pre-service claim (including a concurrent claim that also is a pre-service claim) is considered to be filed when the request for approval of treatment or services is made and received by the Claims Administrator in accordance with the Plan’s procedures.

Upon receipt of the required information, the claim will be deemed to be filed with the Plan. The Claims will determine if enough information has been submitted to enable proper consideration of the claim. If not, more information may be requested as provided herein. This additional information must be received by the Claims Administrator within 45 days from receipt by the Participant of the request for additional information. **Failure to do so may result in claims being denied or reduced.**

### **Timing of Claim Decisions**

The Plan Administrator shall notify the Participant, in accordance with the provisions set forth below, of any Adverse Benefit Determination (and, in the case of pre-service claims and concurrent claims, of decisions that a claim is payable in full) within the following timeframes:

- Pre-service Urgent Care Claims:

- If the Participant has provided all of the necessary information, as soon as possible, taking into account the medical exigencies, but not later than 72 hours after receipt of the claim.
  - If the Participant has not provided all of the information needed to process the claim, then the Participant will be notified as to what specific information is needed as soon as possible, but not later than 72 hours after receipt of the claim.
  - The Participant will be notified of a determination of benefits as soon as possible, but not later than 72 hours, taking into account the medical exigencies, after the earliest of:
    - The Plan's receipt of the specified information; or
    - The end of the period afforded the Participant to provide the information.
  - If there is an Adverse Benefit Determination, a request for an expedited appeal may be submitted orally or in writing by the Participant. All necessary information, including the Plan's benefit determination on review, may be transmitted between the Plan and the Participant by telephone, facsimile, or other similarly expeditious method. Alternatively, the Participant may request an expedited review under the external review process.
- Pre-service Non-urgent Care Claims:
    - If the Participant has provided all of the information needed to process the claim, in a Reasonable period of time appropriate to the medical circumstances, but not later than 15 days after receipt of the claim, unless an extension has been requested, then prior to the end of the 15-day extension period.
    - If the Participant has not provided all of the information needed to process the claim, then the Participant will be notified as to what specific information is needed as soon as possible, but not later than 5 days after receipt of the claim. The Participant will be notified of a determination of benefits in a Reasonable period of time appropriate to the medical circumstances, either prior to the end of the extension period (if additional information was requested during the initial processing period), or by the date agreed to by the Plan Administrator and the Participant (if additional information was requested during the extension period).
- Concurrent Claims:
    - Plan Notice of Reduction or Termination. If the Plan Administrator is notifying the Participant of a reduction or termination of a course of treatment (other than by Plan Amendment or termination), before the end of such period of time or number of treatments. The Participant will be notified sufficiently in advance of the reduction or termination to allow the Participant to appeal and obtain a determination on review of that Adverse Benefit Determination before the benefit is reduced or terminated. This rule does not apply if benefits are reduced or eliminated due to plan Amendment or termination. A similar process applies for claims based on a rescission of coverage for fraud or misrepresentation.
    - Request by Participant Involving Urgent Care. If the Plan Administrator receives a request from a Participant to extend the course of treatment beyond the period of time or number of treatments that is a claim involving urgent care, as soon as possible, taking into account the medical exigencies, but not later than 72 hours after receipt of the claim, as long as the

Participant makes the request at least 72 hours prior to the expiration of the prescribed period of time or number of treatments. If the Participant submits the request with less than 24 hours prior to the expiration of the prescribed period of time or number of treatments, the request will be treated as a claim involving urgent care and decided within the urgent care timeframe.

- Request by Participant Involving Non-urgent Care. If the Plan Administrator receives a request from the Participant to extend the course of treatment beyond the period of time or number of treatments that is a claim not involving urgent care, the request will be treated as a new benefit claim and decided within the timeframe appropriate to the type of claim (either as a pre-service non-urgent claim or a post-service claim).
- Request by Participant Involving Rescission. With respect to rescissions, the following timetable applies:
  - Notification to Participant 30 days
  - Notification of Adverse Benefit Determination on appeal 30 days
- Post-service Claims:
  - If the Participant has provided all of the information needed to process the claim, in a Reasonable period of time, but not later than 30 days after receipt of the claim, unless an extension has been requested, then prior to the end of the 15-day extension period.
  - If the Participant has not provided all of the information needed to process the claim and additional information is requested during the initial processing period, then the Participant will be notified of a determination of benefits prior to the end of the extension period, unless additional information is requested during the extension period, then the Participant will be notified of the determination by a date agreed to by the Plan Administrator and the Participant.
- Extensions – Pre-service Urgent Care Claims. No extensions are available in connection with Pre-service urgent care claims.
- Extensions – Pre-service Non-urgent Care Claims. This period may be extended by the Plan for up to 15 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the Participant, prior to the expiration of the initial 15-day processing period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision.
- Extensions – Post-service Claims. This period may be extended by the Plan for up to 15 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the Participant, prior to the expiration of the initial 30-day processing period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision.
- Calculating Time Periods. The period of time within which a benefit determination is required to be made shall begin at the time a claim is deemed to be filed in accordance with the procedures of the Plan.

### **Notification of an Adverse Benefit Determination**

The Plan Administrator shall provide a Participant with a notice, either in writing or electronically (or, in the case of pre-service urgent care claims, by telephone, facsimile or similar method, with written or electronic notice). The notice will contain the following information:

- Information sufficient to allow the Participant to identify the claim involved (including date of service, the healthcare provider, the claim amount, if applicable, and a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning);
- A reference to the specific portion(s) of the plan provisions upon which a denial is based;
- Specific reason(s) for a denial, including the denial code and its corresponding meaning, and a description of the Plan's standard, if any, that was used in denying the claim;
- A description of any additional information necessary for the Participant to perfect the claim and an explanation of why such information is necessary;
- A description of the Plan's internal appeals and external review processes and the time limits applicable to the processes.
- A statement that the Participant is entitled to receive, upon request and free of charge, Reasonable access to, and copies of, all documents, records and other information relevant to the Participant's claim for benefits;
- The identity of any medical or vocational experts consulted in connection with a claim, even if the Plan did not rely upon their advice (or a statement that the identity of the expert will be provided, upon request);
- Any rule, guideline, protocol or similar criterion that was relied upon, considered, or generated in making the determination will be provided free of charge. If this is not practical, a statement will be included that such a rule, guideline, protocol or similar criterion was relied upon in making the determination and a copy will be provided to the Participant, free of charge, upon request;
- In the case of denials based upon a medical judgment (such as whether the treatment is Medically Necessary or Experimental), either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the Participant's medical circumstances, will be provided. If this is not practical, a statement will be included that such explanation will be provided to the Participant, free of charge, upon request;
- Information about the availability of, and contact information for, an applicable office of health insurance consumer assistance or ombudsman established under applicable federal law to assist individuals with the internal claims and appeals and external review processes; and
- In a claim involving urgent care, a description of the Plan's expedited review process.

## **Appeal of Adverse Benefit Determinations**

### **Full and Fair Review of All Claims**

In cases where a claim for benefits is denied, in whole or in part, and the Participant believes the claim has been denied wrongly, the Participant may appeal the denial and review pertinent documents. The claims procedures of this Plan provide a Participant with a Reasonable opportunity for a full and fair review of a claim and Adverse Benefit Determination. More specifically, the Plan provides:

- Participants at least 180 days following receipt of a notification of an initial Adverse Benefit Determination within which to appeal the determination;
- Participants the opportunity to submit written comments, documents, records, and other information relating to the claim for benefits;
- Participants the opportunity to review the Claim file and to present evidence and testimony as part of the internal claims and appeals process.
- For a review that does not afford deference to the previous Adverse Benefit Determination and that is conducted by an appropriate named Fiduciary of the Plan, who shall be neither the individual who made the Adverse Benefit Determination that is the subject of the appeal, nor the subordinate of such individual;
- For a review that takes into account all comments, documents, records, and other information submitted by the Participant relating to the claim, without regard to whether such information was submitted or considered in any prior benefit determination;
- That, in deciding an appeal of any Adverse Benefit Determination that is based in whole or in part upon a medical judgment, the Plan Fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, who is neither an individual who was consulted in connection with the Adverse Benefit Determination that is the subject of the appeal, nor the subordinate of any such individual;
- For the identification of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claim, even if the Plan did not rely upon their advice;
- That a Participant will be provided, free of charge: (a) Reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim in possession of the Plan Administrator or Claims Administrator; ; (b) information regarding any voluntary appeals procedures offered by the Plan; (c) information regarding the Participant's right to an external review process; (d) any internal rule, guideline, protocol or other similar criterion relied upon, considered or generated in making the adverse determination; and (e) an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the Participant's medical circumstances; and
- That a Participant will be provided, free of charge, and sufficiently in advance of the date that the notice of final internal Adverse Benefit Determination is required, with new or additional evidence considered, relied upon, or generated by the Plan in connection with the Claim, as well as any new or additional rationale for a denial at the internal appeals stage, and a Reasonable opportunity for the Participant to respond to such new evidence or rationale.



**Requirements for Appeal**

The Participant must file the appeal in writing (although oral appeals are permitted for pre-service urgent care claims) within 180 days following receipt of the notice of an Adverse Benefit Determination. For pre-service urgent care claims, if the Participant chooses to orally appeal, the Participant may telephone:

**Auxiant**  
**2450 Rimrock Road**  
**Suite 301**  
**Madison, WI 53713**  
**Phone: (800) 279-6772**  
**Fax: (608) 273-4554**  
**Email/Website: www.auxiant.com**

To file an appeal in writing, the Participant's appeal must be addressed as follows and mailed or faxed as follows:

**Auxiant**  
**2450 Rimrock Road**  
**Suite 301**  
**Madison, WI 53713**  
**Phone: (800) 279-6772**  
**Fax: (608) 273-4554**  
**Email/Website: www.auxiant.com**

It shall be the responsibility of the Participant to submit proof that the claim for benefits is covered and payable under the provisions of the Plan. Any appeal must include:

- The name of the Employee/Participant;
- The Employee/Participant's identification number;
- The group name or identification number;
- All facts and theories supporting the claim for benefits. **Failure to include any theories or facts in the appeal will result in their being deemed waived. In other words, the Participant will lose the right to raise factual arguments and theories which support this claim if the Participant fails to include them in the appeal;**
- A statement in clear and concise terms of the reason or reasons for disagreement with the handling of the claim; and
- Any material or information that the Participant has which indicates that the Participant is entitled to benefits under the Plan.

If the Participant provides all of the required information, it may be that the expenses will be eligible for payment under the Plan.

**Timing of Notification of Benefit Determination on Review**

The Plan Administrator shall notify the Participant of the Plan's benefit determination on review within

the following timeframes:

- Pre-service Urgent Care Claims: As soon as possible, taking into account the medical exigencies, but not later than 72 hours after receipt of the appeal.
- Pre-service Non-urgent Care Claims: Within a Reasonable period of time appropriate to the medical circumstances, but not later than 30 days after receipt of the appeal.
- Concurrent Claims: The response will be made in the appropriate time period based upon the type of claim – pre-service urgent, pre-service non-urgent or post-service.
- Post-service Claims: Within a Reasonable period of time, but not later than 60 days after receipt of the appeal.
- Calculating Time Periods. The period of time within which the Plan’s determination is required to be made shall begin at the time an appeal is filed in accordance with the procedures of this Plan, without regard to whether all information necessary to make the determination accompanies the filing.

#### **Manner and Content of Notification of Adverse Benefit Determination on Review**

The Plan Administrator shall provide a Participant with notification, with respect to pre-service urgent care claims, by telephone, facsimile or similar method, and with respect to all other types of claims, in writing or electronically, of a Plan’s Adverse Benefit Determination on review, setting forth:

- Information sufficient to allow the Participant to identify the claim involved (including date of service, the healthcare provider, the claim amount, if applicable, and a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning);
- A reference to the specific portion(s) of the plan provisions upon which a denial is based;
- Specific reason(s) for a denial, including the denial code and its corresponding meaning, and a description of the Plan’s standard, if any, that was used in denying the claim, and a discussion of the decision;
- A description of any additional information necessary for the Participant to perfect the claim and an explanation of why such information is necessary;
- A description of available internal appeals and external review processes, including information regarding how to initiate an appeal;
- A description of the Plan’s review procedures and the time limits applicable to the procedures.
- A statement that the Participant is entitled to receive, upon request and free of charge, Reasonable access to, and copies of, all documents, records, and other information relevant to the Participant’s claim for benefits;
- The identity of any medical or vocational experts consulted in connection with a claim, even if the Plan did not rely upon their advice (or a statement that the identity of the expert will be provided, upon request);

- Any rule, guideline, protocol or similar criterion that was relied upon, considered, or generated in making the determination will be provided free of charge. If this is not practical, a statement will be included that such a rule, guideline, protocol or similar criterion was relied upon in making the determination and a copy will be provided to the Participant, free of charge, upon request;
- In the case of denials based upon a medical judgment (such as whether the treatment is Medically Necessary or Experimental), either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the Participant’s medical circumstances, will be provided. If this is not practical, a statement will be included that such explanation will be provided to the Participant, free of charge, upon request; and
- The following statement: “You and your Plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency.”

**Furnishing Documents in the Event of an Adverse Determination**

In the case of an Adverse Benefit Determination on review, the Plan Administrator shall provide such access to, and copies of, documents, records, and other information described in the section relating to “Manner and Content of Notification of Adverse Benefit Determination on Review” as appropriate.

**Decision on Review to be Final**

If, for any reason, the Participant does not receive a written response to the appeal within the appropriate time period set forth above, the Participant may assume that the appeal has been denied. The decision by the Plan Administrator or other appropriate named Fiduciary of the Plan on review will be final, binding and conclusive and will be afforded the maximum deference permitted by law. **All claim review procedures provided for in the Plan must be exhausted before any legal action is brought.**

**External Review Process**

**A. Scope**

1. The Federal external review process does not apply to a denial, reduction, termination, or a failure to provide payment for a benefit based on a determination that a participant or beneficiary fails to meet the requirements for eligibility under the terms of a group health plan.
2. The Federal external review process applies only to:
  - (a) An Adverse Benefit Determination (including a final internal Adverse Benefit Determination) by a plan or issuer that involves medical judgment (including, but not limited to, those based on the plan’s or issuer’s requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit; or its determination that a treatment is Experimental or investigational), as determined by the external reviewer; and
  - (b) A rescission of coverage (whether or not the rescission has any effect on any particular benefit at that time).

**B. Standard external review**

Standard external review is external review that is not considered expedited (as described in paragraph B of this section).

1. Request for external review. The Plan will allow a claimant to file a request for an external review with the Plan if the request is filed within four (4) months after the date of receipt of a notice of an Adverse Benefit Determination or final internal Adverse Benefit Determination. If there is no corresponding date four months after the date of receipt of such a notice, then the request must be filed by the first day of the fifth month following the receipt of the notice. For example, if the date of receipt of the notice is October 30, because there is no February 30, the request must be filed by March 1. If the last filing date would fall on a Saturday, Sunday, or Federal holiday, the last filing date is extended to the next day that is not a Saturday, Sunday, or Federal holiday.
2. Preliminary review. Within five (5) business days following the date of receipt of the external review request, the Plan will complete a preliminary review of the request to determine whether:
  - (a) The claimant is or was covered under the Plan at the time the health care item or service was requested or, in the case of a retrospective review, was covered under the Plan at the time the health care item or service was provided;
  - (b) The Adverse Benefit Determination or the final Adverse Benefit Determination does not relate to the claimant's failure to meet the requirements for eligibility under the terms of the Plan (e.g., worker classification or similar determination);
  - (c) The claimant has exhausted the Plan's internal appeal process unless the claimant is not required to exhaust the internal appeals process under the interim final regulations; and
  - (d) The claimant has provided all the information and forms required to process an external review.

Within one (1) business day after completion of the preliminary review, the Plan will issue a notification in writing to the claimant. If the request is complete but not eligible for external review, such notification will include the reasons for its ineligibility and contact information for the Employee Benefits Security Administration (toll-free number 866-444-EBSA (3272)). If the request is not complete, such notification will describe the information or materials needed to make the request complete and the Plan will allow a claimant to perfect the request for external review with the four-month filing period or within the 48 hour period following the receipt of the notification, whichever is later.

3. Referral to Independent Review Organization. The Plan will assign an independent Review Organization (IRO) that is accredited by URAC or by a similar nationally-recognized accrediting organization to conduct the external review. Moreover, the Plan will take action against bias and to ensure independence. Accordingly, the Plan will contract with (or direct the Claims Processor to contract with, on its behalf) at least three (3) IROs for assignments under the Plan and rotate claims assignments among them (or incorporate other independent unbiased method for selection of IROs, such as random selection). In addition, the IRO may not be eligible for any financial incentives based on the likelihood that the IRO will support the denial of benefits.
4. Reversal of Plan's decision. Upon receipt of a notice of a final external review decision reversing the Adverse Benefit Determination or final internal Adverse Benefit Determination, the Plan will provide coverage or payment for the claim without delay, regardless of whether the plan intends to seek judicial review of the external review decision and unless or until there is a judicial decision otherwise.

### **C. Expedited external review**

1. Request for expedited external review. The Plan will allow a claimant to make a request for an expedited external review with the Plan at the time the claimant receives:

- (a) An Adverse Benefit Determination if the Adverse Benefit Determination involves a medical condition of the claimant for which the timeframe for completion of a standard internal appeal under the interim final regulations would seriously jeopardize the life or health of the claimant or would jeopardize the claimant's ability to regain maximum function and the claimant has filed a request for an expedited internal appeal; or
  - (b) A final internal Adverse Benefit Determination, if the claimant has a medical condition where the timeframe for completion of a standard external review would seriously jeopardize the life or health of the claimant or would jeopardize the claimant's ability to regain maximum function, or if the final internal Adverse Benefit Determination concerns an admission, availability of care, continued stay, or health care item or service for which the claimant received Emergency Services, but has not been discharged from a facility.
2. Preliminary review. Immediately upon receipt of the request for expedited external review, the Plan will determine whether the request meets the reviewability requirements set forth in paragraph A.2 above for standard external review. The Plan will immediately send a notice that meets the requirements set forth in paragraph A.2 above for standard external review to the claimant of its eligibility determination.
3. Referral to independent Review Organization. Upon a determination that a request is eligible for external review following the preliminary review, the Plan will assign an IRO pursuant to the requirements set forth in paragraph A.3 above for standard review. The Plan will provide or transmit all necessary documents and information considered in making the Adverse Benefit Determination or final internal Adverse Benefit Determination to the assigned IRO electronically or by telephone or facsimile or any other available expeditious method.  
The assigned IRO, to the extent the information or documents are available and the IRO considers them appropriate, will consider the information or documents described above under the procedures for standard review. In reaching a decision, the assigned IRO will review the claim de novo and is not bound by any decisions or conclusions reached during the Plan's internal claims and appeals process.
4. Notice of final external review decision. The Plan's (or Claim Processor's) contract with the assigned IRO will require the IRO to provide notice of the final external review decision, in accordance with the requirements set forth in paragraph A.3 above, as expeditiously as the claimant's medical condition or circumstances require, but in no event more than 72 hours after the IRO receives the request for an expedited external review. If the notice is not in writing, within 48 hours after the date of providing that notice, the assigned IRO will provide written confirmation of the decision to the claimant and the Plan.

#### **Appointment of Authorized Representative**

A Participant is permitted to appoint an authorized representative to act on his or her behalf with respect to a benefit claim or appeal of a denial. An Assignment of Benefits by a Participant to a Provider will not constitute appointment of that Provider as an authorized representative. To appoint such a representative, the Participant must complete a form which can be obtained from the Plan Administrator or the Claims Administrator. However, in connection with a claim involving Urgent Care, the Plan will permit a health care professional with knowledge of the Participant's medical condition to act as the Participant's authorized representative without completion of this form. In the event a Participant designates an authorized representative, all future communications from the Plan will be with the representative, rather than the Participant, unless the Participant directs the Plan Administrator, in writing, to the contrary.

**Physical Examinations**

The Plan reserves the right to have a Physician of its own choosing examine any Participant whose condition, Sickness or Injury is the basis of a claim. All such examinations shall be at the expense of the Plan. This right may be exercised when and as often as the Plan may reasonably require during the pendency of a claim. The Participant must comply with this requirement as a necessary condition to coverage.

**Autopsy**

The Plan reserves the right to have an autopsy performed upon any deceased Participant whose condition, Sickness, or Injury is the basis of a claim. This right may be exercised only where not prohibited by law.

**Payment of Benefits**

All benefits under this Plan are payable, in U.S. Dollars, to the covered Employee whose Sickness or Injury, or whose covered Dependent's Sickness or Injury, is the basis of a claim. In the event of the death or incapacity of a covered Employee and in the absence of written evidence to this Plan of the qualification of a guardian for his or her estate, this Plan may, in its sole discretion, make any and all such payments to the individual or institution which, in the opinion of this Plan, is or was providing the care and support of such Employee.

**Assignments**

Benefits for medical expenses covered under this Plan may be assigned by a Participant to the Provider as consideration in full for services rendered; however, if those benefits are paid directly to the Employee, the Plan shall be deemed to have fulfilled its obligations with respect to such benefits. The Plan will not be responsible for determining whether any such assignment is valid. Payment of benefits which have been assigned will be made directly to the assignee unless a written request not to honor the assignment, signed by the covered Employee and the assignee, has been received before the proof of loss is submitted.

No Participant shall at any time, either during the time in which he or she is a Participant in the Plan, or following his or her termination as a Participant, in any manner, have any right to assign his or her right to sue to recover benefits under the Plan, to enforce rights due under the Plan or to any other causes of action which he or she may have against the Plan or its fiduciaries.

A Provider which accepts an Assignment of Benefits, in accordance with this Plan as consideration in full for services rendered, is bound by the rules and provisions set forth within the terms of this document.

**Non U.S. Providers**

Medical expenses for care, supplies, or services which are rendered by a Provider whose principal place of business or address for payment is located outside the United States (a "Non U.S. Provider") are payable under the Plan, subject to all Plan exclusions, limitations, maximums and other provisions, under the following conditions:

1. Benefits may not be assigned to a Non U.S. Provider;
2. The Participant is responsible for making all payments to Non U.S. Providers, and submitting receipts to the Plan for reimbursement;
3. Benefit payments will be determined by the Plan based upon the exchange rate in effect on the Incurred Date;
4. The Non U.S. Provider shall be subject to, and in compliance with, all U.S. and other applicable licensing requirements; and
5. Claims for benefits must be submitted to the Plan in English.

## **Recovery of Payments**

Occasionally, benefits are paid more than once, are paid based upon improper billing or a misstatement in a proof of loss or enrollment information, are not paid according to the Plan's terms, conditions, limitations or exclusions, or should otherwise not have been paid by the Plan. As such this Plan may pay benefits that are later found to be greater than the Maximum Allowable Charge. In this case, this Plan may recover the amount of the overpayment from the source to which it was paid, primary payers, or from the party on whose behalf the charge(s) were paid. As such, whenever the Plan pays benefits exceeding the amount of benefits payable under the terms of the Plan, the Plan Administrator has the right to recover any such erroneous payment directly from the person or entity who received such payment and/or from other payers and/or the Plan Participant or dependent on whose behalf such payment was made.

A Plan Participant, Dependent, Provider, another benefit plan, insurer, or any other person or entity who receives a payment exceeding the amount of benefits payable under the terms of the Plan or on whose behalf such payment was made, shall return or refund the amount of such erroneous payment to the Plan within 30 days of discovery or demand. The Plan Administrator shall have no obligation to secure payment for the expense for which the erroneous payment was made or to which it was applied.

The person or entity receiving an erroneous payment may not apply such payment to another expense. The Plan Administrator shall have the sole discretion to choose who will repay the Plan for an erroneous payment and whether such payment shall be reimbursed in a lump sum. When a Plan Participant or other entity does not comply with the provisions of this section, the Plan Administrator shall have the authority, in its sole discretion, to deny payment of any claims for benefits by the Plan Participant and to deny or reduce future benefits payable (including payment of future benefits for other injuries or Illnesses) under the Plan by the amount due as reimbursement to the Plan. The Plan Administrator may also, in its sole discretion, deny or reduce future benefits (including future benefits for other injuries or Illnesses) under any other group benefits plan maintained by the Plan Sponsor. The reductions will equal the amount of the required reimbursement.

Providers and any other person or entity accepting payment from the Plan or to whom a right to benefits has been assigned, in consideration of services rendered, payments and/or rights, agrees to be bound by the terms of this Plan and agree to submit claims for reimbursement in strict accordance with their State's health care practice acts, ICD-9 or CPT standards, Medicare guidelines, HCPCS standards, or other standards approved by the Plan Administrator or insurer. Any payments made on claims for reimbursement not in accordance with the above provisions shall be repaid to the Plan within 30 days of discovery or demand or incur prejudgment interest of 1.5% per month. If the Plan must bring an action against a Plan Participant, Provider or other person or entity to enforce the provisions of this section, then that Plan Participant, Provider or other person or entity agrees to pay the Plan's attorneys' fees and costs, regardless of the action's outcome.

Further, Plan Participants and/or their dependents, beneficiaries, estate, heirs, guardian, personal representative, or assigns (Plan Participants) shall assign or be deemed to have assigned to the Plan their right to recover said payments made by the Plan, from any other party and/or recovery for which the Plan Participant(s) are entitled, for or in relation to facility-acquired condition(s), Provider error(s), or damages arising from another party's act or omission for which the Plan has not already been refunded.

The Plan reserves the right to deduct from any benefits properly payable under this Plan the amount of any payment which has been made:

1. In error;
2. Pursuant to a misstatement contained in a proof of loss or a fraudulent act;

3. Pursuant to a misstatement made to obtain coverage under this Plan within two years after the date such coverage commences;
4. With respect to an ineligible person;
5. In anticipation of obtaining a recovery if a Plan Participant fails to comply with the Plan's Third Party Recovery, Subrogation and Reimbursement provisions; or
6. Pursuant to a claim for which benefits are recoverable under any policy or act of law providing for coverage for occupational Injury or disease to the extent that such benefits are recovered. This provision (6) shall not be deemed to require the Plan to pay benefits under this Plan in any such instance.

The deduction may be made against any claim for benefits under this Plan by a Plan Participant or by any of his Covered Dependents if such payment is made with respect to the Plan Participant or any person covered or asserting coverage as a Dependent of the Plan Participant.

If the Plan seeks to recoup funds from a Provider, due to a claim being made in error, a claim being fraudulent on the part of the Provider, and/or the claim that is the result of the Provider's misstatement, said Provider shall, as part of its assignment to benefits from the Plan, abstain from billing the Plan Participant for any outstanding amount(s).

#### **Medicaid Coverage**

A Participant's eligibility for any State Medicaid benefits will not be taken into account in determining or making any payments for benefits to or on behalf of such Participant. Any such benefit payments will be subject to the State's right to reimbursement for benefits it has paid on behalf of the Participant, as required by the State Medicaid program; and the Plan will honor any Subrogation rights the State may have with respect to benefits which are payable under the Plan.



## **GENERAL PROVISIONS**

### **Applicable Law**

This is a self-funded benefit plan coming within the purview of the laws of the State of Wisconsin. The Plan is funded with Employee and/or Employer contributions.

### **Clerical Error/Delay**

Clerical errors made on the records of the Plan and delays in making entries on such records shall not invalidate coverage nor cause coverage to be in force or to continue in force. Rather, the Effective Dates of coverage shall be determined solely in accordance with the provisions of this Plan regardless of whether any contributions with respect to Participants have been made or have failed to be made because of such errors or delays. Upon discovery of any such error or delay, an equitable adjustment of any such contributions will be made.

### **Conformity With Applicable Laws**

This Plan shall be deemed to automatically be amended to conform as required by any applicable law, regulation or the order or judgment of a court of competent jurisdiction governing provisions of this Plan, including, but not limited to, stated maximums, exclusions or limitations. In the event that any law, regulation or the order or judgment of a court of competent jurisdiction causes the Plan Administrator to pay claims which are otherwise limited or excluded under this Plan, such payments will be considered as being in accordance with the terms of this Plan Document.

### **Fraud**

The following actions by any Participant, or a Participant's knowledge of such actions being taken by another, constitute fraud and will result in immediate termination of all coverage under this Plan for the entire Family Unit of which the Participant is a member:

1. Attempting to submit a claim for benefits (which includes attempting to fill a prescription) for a person who is not a Participant of the Plan;
2. Attempting to file a claim for a Participant for services which were not rendered or Drugs or other items which were not provided;
3. Providing false or misleading information in connection with enrollment in the Plan; or
4. Providing any false or misleading information to the Plan.

### **Headings**

The headings used in this Plan Document are used for convenience of reference only. Participants are advised not to rely on any provision because of the heading.

### **No Waiver or Estoppel**

No term, condition or provision of this Plan shall be deemed to have been waived, and there shall be no estoppel against the enforcement of any provision of this Plan, except by written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than the one specifically waived.

### **Plan Contributions**

The Plan Administrator shall, from time to time, evaluate the funding method of the Plan and determine the amount to be contributed by the Participating Employer and the amount to be contributed (if any) by each Participant.

The Plan Sponsor shall fund the Plan in a manner consistent with the provisions of the Internal Revenue Code, and such other laws and regulations as shall be applicable to the end that the Plan shall be funded on a lawful and sound basis; but, to the extent permitted by governing law, the Plan Administrator shall be free to determine the manner and means of funding the Plan. The amount of the Participant's contribution (if any) will be determined from time to time by the Plan Administrator.

### **Right to Receive and Release Information**

For the purpose of determining the applicability of and implementing the terms of these benefits, the Plan Administrator may, without the consent of or notice to any person, release or obtain any information necessary to determine the acceptability of any applicant or Participant for benefits from this Plan. In so acting, the Plan Administrator shall be free from any liability that may arise with regard to such action. Any Participant claiming benefits under this Plan shall furnish to the Plan Administrator such information as may be necessary to implement this provision.

### **Written Notice**

Any written notice required under this Plan which, as of the Effective Date, is in conflict with the law of any governmental body or agency which has jurisdiction over this Plan shall be interpreted to conform to the minimum requirements of such law.

### **Right of Recovery**

In accordance with the section entitled Recovery of Payments, whenever payments have been made by this Plan in a total amount, at any time, in excess of the Maximum Amount of benefits payable under this Plan, the Plan shall have the right to recover such payments, to the extent of such excess, from any one or more of the following as this Plan shall determine: any person to or with respect to whom such payments were made, or such person's legal representative, any insurance companies, or any other individuals or organizations which the Plan determines are responsible for payment of such amount, and any future benefits payable to the Participant or his or her Dependents.

### **Statements**

All statements made by the COMPANY or by a Plan Participant will, in the absence of fraud, be considered representations and not warranties, and no statements made for the purpose of obtaining benefits under this document will be used in any contest to avoid or reduce the benefits provided by the document unless contained in a written application for benefits and a copy of the instrument containing such representation is or has been furnished to the Plan Participant.

Any Plan Participant who knowingly and with intent to defraud the Plan, files a statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any material fact, commits a fraudulent act. The Plan Participant may be subject to prosecution by the United States Department of Labor. Fraudulently claiming benefits may be punishable by a substantial fine, imprisonment, or both.

### **Commitment to Protecting Health Information**

The Plan will comply with the Standards for Privacy of Individually Identifiable Health Information (i.e., the “Privacy Rule”) set forth by the U.S. Department of Health and Human Services (“HHS”) pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”). Such standards control the dissemination of “protected health information” (“PHI”) of Plan Participants. Privacy standards will be implemented and enforced in the offices of the Employer and Plan Sponsor and any other entity that may assist in the operation of the Plan.

The Plan is required by law to take Reasonable steps to ensure the privacy of the Plan Participant’s PHI, and inform him/her about:

1. The Plan’s disclosures and uses of PHI;
2. The Plan Participant’s privacy rights with respect to his/her PHI;
3. The Plan’s duties with respect to his/her PHI;
4. The Plan Participant’s right to file a complaint with the Plan and with the Secretary of HHS; and
5. The person or office to contact for further information about the Plan’s privacy practices.

Within this provision capitalized terms may be used, but not otherwise defined. These terms shall have the same meaning as those terms set forth in 45 CFR Sections 160.103 and 164.501. Any HIPAA regulation modifications altering a defined HIPAA term or regulatory citation shall be deemed incorporated into this provision.

### **How Health Information May be Used and Disclosed**

In general, the Privacy Rules permit the Plan to use and disclose an individual’s PHI, without obtaining authorization, only if the use or disclosure is:

1. To carry out Payment of benefits;
2. For Health Care Operations;
3. For Treatment purposes; or
4. If the use or disclosure falls within one of the limited circumstances described in the rules (e.g., the disclosure is required by law or for public health activities).

### **Disclosure of PHI to the Plan Sponsor for Plan Administration Purposes**

In order that the Plan Sponsor may receive and use PHI for plan administration purposes, the Plan Sponsor agrees to:

1. Not use or further disclose PHI other than as permitted or required by the Plan documents or as required by law (as defined in the privacy standards);
2. Ensure that any agents, including a subcontractor, to whom the Plan Sponsor provides PHI received from the Plan, agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such PHI;
3. Establish safeguards for information, including security systems for data processing and storage;
4. Maintain the confidentiality of all PHI, unless an individual gives specific consent or authorization to disclose such data or unless the data is used for health care payment or Plan operations;

5. Receive PHI, in the absence of an individual's express authorization, only to carry out Plan administration functions;
6. Not use or disclose PHI for employment-related actions and decisions or in connection with any other benefit or Employee benefit plan of the Plan Sponsor, except pursuant to an authorization which meets the requirements of the privacy standards;
7. Report to the Plan any PHI use or disclosure that is inconsistent with the uses or disclosures provided for of which the Plan Sponsor becomes aware;
8. Make available PHI in accordance with section 164.524 of the privacy standards (45 CFR 164.524);
9. Make available PHI for Amendment and incorporate any Amendments to PHI in accordance with section 164.526 of the privacy standards (45 CFR 164.526);
10. Make available the information required to provide an accounting of disclosures in accordance with section 164.528 of the privacy standards (45 CFR 164.528);
11. Make its internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of the U.S. Department of Health and Human Services ("HHS"), or any other officer or Employee of HHS to whom the authority involved has been delegated, for purposes of determining compliance by the Plan with part 164, subpart E, of the privacy standards (45 CFR 164.500 et seq);
12. Report to the Plan any inconsistent uses or disclosures of PHI of which the Plan Sponsor becomes aware;
13. Train Employees in privacy protection requirements and appoint a privacy compliance coordinator responsible for such protections;
14. If feasible, return or destroy all PHI received from the Plan that the Plan Sponsor still maintains in any form and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible; and
15. Ensure that adequate separation between the Plan and the Plan Sponsor, as required in section 164.504(f)(2)(iii) of the privacy standards (45 CFR 164.504(f)(2)(iii)), is established as follows:
  - (a) The following Employees, or classes of Employees, or other persons under control of the Plan Sponsor, shall be given access to the PHI to be disclosed:
    - (i) Privacy Officer: The access to and use of PHI by the individuals described above shall be restricted to the plan administration functions that the Plan Sponsor performs for the Plan.
    - (b) In the event any of the individuals described in above do not comply with the provisions of the Plan documents relating to use and disclosure of PHI, the Plan Administrator shall impose Reasonable sanctions as necessary, in its discretion, to ensure that no further non-compliance occurs. The Plan Administrator will promptly report such violation or non-compliance to the Plan, and will cooperate with the Plan to correct violation or non-compliance to impose appropriate disciplinary action or sanctions. Such sanctions shall be imposed progressively (for example, an oral warning, a written

warning, time off without pay and termination), if appropriate, and shall be imposed so that they are commensurate with the severity of the violation.

### **Disclosure of Summary Health Information to the Plan Sponsor**

The Plan may disclose PHI to the Plan Sponsor of the group health plan for purposes of plan administration or pursuant to an authorization request signed by the Plan Participant. The Plan may use or disclose “summary health information” to the Plan Sponsor for obtaining premium bids or modifying, amending, or terminating the group health plan.

### **Disclosure of Certain Enrollment Information to the Plan Sponsor**

Pursuant to section 164.504(f)(1)(iii) of the privacy standards (45 CFR 164.504(f)(1)(iii)), the Plan may disclose to the Plan Sponsor information on whether an individual is participating in the Plan or is enrolled in or has un-enrolled from a health insurance issuer or health maintenance organization offered by the Plan to the Plan Sponsor.

### **Disclosure of PHI to Obtain Stop-loss or Excess Loss Coverage**

The Plan Sponsor may hereby authorize and direct the Plan, through the Plan Administrator or the Claims Administrator, to disclose PHI to stop-loss carriers, excess loss carriers or managing general underwriters (“MGUs”) for underwriting and other purposes in order to obtain and maintain stop-loss or excess loss coverage related to benefit claims under the Plan. Such disclosures shall be made in accordance with the privacy standards.

### **Other Disclosures and Uses of PHI:**

#### **Primary Uses and Disclosures of PHI**

1. Treatment, Payment and Health Care Operations: The Plan has the right to use and disclose a Plan Participant’s PHI for all activities as included within the definitions of Treatment, Payment, and Health Care Operations and pursuant to the HIPAA Privacy Rule.
2. Business Associates: The Plan contracts with individuals and entities (Business Associates) to perform various functions on its behalf. In performance of these functions or to provide services, Business Associates will receive, create, maintain, use, or disclose PHI, but only after the Plan and the Business Associate agree in writing to contract terms requiring the Business Associate to appropriately safeguard the Plan Participant’s information.
3. Other Covered Entities: The Plan may disclose PHI to assist health care Providers in connection with their treatment or payment activities or to assist other covered entities in connection with payment activities and certain health care operations. For example, the Plan may disclose PHI to a health care Provider when needed by the Provider to render treatment to a Plan Participant, and the Plan may disclose PHI to another covered entity to conduct health care operations. The Plan may also disclose or share PHI with other insurance carriers (such as Medicare, etc.) in order to coordinate benefits, if a Plan Participant has coverage through another carrier.

#### **Other Possible Uses and Disclosures of PHI**

1. Required by Law: The Plan may use or disclose PHI when required by law, provided the use or disclosure complies with and is limited to the relevant requirements of such law.

2. **Public Health and Safety:** The Plan may use or disclose PHI when permitted for purposes of public health activities, including disclosures to:
  - (a) a public health authority or other appropriate government authority authorized by law to receive reports of Child abuse or neglect;
  - (b) report reactions to medications or problems with products or devices regulated by the Federal Food and Drug Administration or other activities related to quality, safety, or effectiveness of FDA-regulated products or activities;
  - (c) locate and notify persons of recalls of products they may be using; and (d) a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if authorized by law.
3. The Plan may disclose PHI to a government authority, except for reports of Child abuse or neglect permitted by (5) above, when required or authorized by law, or with the Plan Participant's agreement, if the Plan reasonably believes he/she to be a victim of abuse, neglect, or domestic violence. In such case, the Plan will promptly inform the Plan Participant that such a disclosure has been or will be made unless the Plan believes that informing him/her would place him/her at risk of serious harm (but only to someone in a position to help prevent the threat). Disclosure generally may be made to a minor's parents or other representatives although there may be circumstances under Federal or State law when the parents or other representatives may not be given access to the minor's PHI.
4. **Health Oversight Activities:** The Plan may disclose PHI to a health oversight agency for oversight activities authorized by law. This includes civil, administrative or criminal investigations; inspections; claim audits; licensure or disciplinary actions; and other activities necessary for appropriate oversight of a health care system, government health care program, and compliance with certain laws.
5. **Lawsuits and Disputes:** The Plan may disclose PHI when required for judicial or administrative proceedings. For example, the Plan Participant's PHI may be disclosed in response to a subpoena, discovery requests, or other required legal processes when the Plan is given satisfactory assurances that the requesting party has made a good faith attempt to advise the Plan Participant of the request or to obtain an order protecting such information, and done in accordance with specified procedural safeguards.
6. **Law Enforcement:** The Plan may disclose PHI to a law enforcement official when required for law enforcement purposes concerning identifying or locating a suspect, fugitive, material witness or missing person. Under certain circumstances, the Plan may disclose the Plan Participant's PHI in response to a law enforcement official's request if he/she is, or are suspected to be, a victim of a crime and if it believes in good faith that the PHI constitutes evidence of criminal conduct that occurred on the Sponsor's or Plan's premises.
7. **Decedents:** The Plan may disclose PHI to a coroner, funeral director or medical examiner for the purpose of identifying a deceased person, determining a cause of death or as necessary to carry out their duties as authorized by law.
8. **Research:** The Plan may use or disclose PHI for research, subject to certain limited conditions.

9. **To Avert a Serious Threat to Health or Safety:** The Plan may disclose PHI in accordance with applicable law and standards of ethical conduct, if the Plan, in good faith, believes the use or disclosure is necessary to prevent or lessen a threat to health or safety of a person or to the public.
10. **Workers' Compensation:** The Plan may disclose PHI when authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
11. **Military and National Security:** The Plan may disclose PHI to military authorities of armed forces personnel under certain circumstances. As authorized by law, the Plan may disclose PHI required for intelligence, counter-intelligence, and other national security activities to authorized Federal officials.

### **Required Disclosures of PHI**

1. **Disclosures to Plan Participants:** The Plan is required to disclose to a Plan Participant most of the PHI in a Designated Record Set when the Plan Participant requests access to this information. The Plan will disclose a Plan Participant's PHI to an individual who has been assigned as his/her representative and who has qualified for such designation in accordance with the relevant State law. Before disclosure to an individual qualified as a personal representative, the Plan must be given written supporting documentation establishing the basis of the personal representation.

The Plan may elect not to treat the person as the Plan Participant's personal representative if it has a Reasonable belief that the Plan Participant has been, or may be, subjected to domestic violence, abuse, or neglect by such person, it is not in the Plan Participant's best interest to treat the person as his/her personal representative, or treating such person as his/her personal representative could endanger the Plan Participant.

2. **Disclosures to the Secretary of the U.S. Dept of Health and Human Services:** The Plan is required to disclose the Plan Participant's PHI to the Secretary of the U.S. Department of Health and Human Resources when the Secretary is investigating or determining the Plan's compliance with the HIPAA Privacy Rule.

### **Rights to Individuals**

The Plan Participant has the following rights regarding PHI about him/her:

1. **Request Restrictions:** The Plan Participant has the right to request additional restrictions on the use or disclosure of PHI for treatment, payment, or health care operations. The Plan Participant may request the Plan restrict disclosures to family members, relatives, friends or other persons identified by him/her who are involved in his/her care or payment for his/her care. The Plan is not required to agree to these requested restrictions.
2. **Right to Receive Confidential Communication:** The Plan Participant has the right to request that he/she receive communications regarding PHI in a certain manner or at a certain location. The request must be made in writing and how the Plan Participant would like to be contacted. The Plan will accommodate all Reasonable requests.
3. **Copy of this Notice:** The Plan Participant is entitled to receive a paper copy of this notice at any time. To obtain a paper copy, contact the Privacy Compliance Coordinator.

4. Accounting of Disclosures: The Plan Participant has the right to request an accounting of disclosures the Plan has made of his/her PHI. The request must be made in writing and does not apply to disclosures for treatment, payment, health care operations, and certain other purposes. The Plan Participant is entitled to such an accounting for the six (6) years prior to his/her request, though not earlier than April 14, 2003. Except as provided below, for each disclosure, the accounting will include: (a) the date of the disclosure, (b) the name of the entity or person who received the PHI and, if known, the address of such entity or person; (c) a description of the PHI disclosed, (d) a statement of the purpose of the disclosure that reasonably informs the Plan Participant of the basis of the disclosure, and certain other information. If the Plan Participant wishes to make a request, please contact the Privacy Compliance Coordinator.
5. Access: The Plan Participant has the right to request the opportunity to look at or get copies of PHI maintained by the Plan about him/her in certain records maintained by the Plan. If the Plan Participant requests copies, he/she may be charged a fee to cover the costs of copying, mailing, and other supplies. To inspect or copy PHI contact the Privacy Compliance Coordinator. In very limited circumstances, the Plan may deny the Plan Participant's request. If the Plan denies the request, the Plan Participant may be entitled to a review of that denial.
6. Amendment: The Plan Participant has the right to request that the Plan change or amend his/her PHI. The Plan reserves the right to require this request be in writing. Submit the request to the Privacy Compliance Coordinator. The Plan may deny the Plan Participant's request in certain cases, including if it is not writing or if he/she does not provide a reason for the request.

### **Questions or Complaints**

If the Plan Participant wants more information about the Plan's privacy practices, has questions or concerns, or believes that the Plan may have violated his/her privacy rights, please contact the Plan using the following information. The Plan Participant may submit a written complaint to the U.S. Department of Health and Human Services or with the Plan. The Plan will provide the Plan Participant with the address to file his/her complaint with the U.S. Department of Health and Human Services upon request.

The Plan will not retaliate against the Plan Participant for filing a complaint with the Plan or the U.S. Department of Health and Human Services.

### **Contact Information:**

Privacy Compliance Coordinator Contact Information:

City Attorney  
City of Manitowoc  
900 Quay Street  
Manitowoc, WI 54220  
Phone: 920 686 6540  
Fax: 920 686 6545

Additional Contact Information for HIPAA Questions:

Human Resource Director  
City of Manitowoc  
900 Quay Street  
Manitowoc, WI 54220  
Phone: 920 686 6993  
Fax: 920 686 6999