

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

Xavier University Flex Plan

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Xavier University Flex Plan ("Plan"). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description ("SPD") previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

This amendment is effective **January 1, 2020**.

You may now request reimbursement for the purchase of "over the counter" drugs without a prescription.

You may now request reimbursement of the purchase of menstrual care products, including tampons, pads, and other products.

You may now request reimbursement of telehealth services.

2020 AMENDMENT – CAFETERIA PLANS

We are providing you with this amendment so that you can amend your Cafeteria Plans to comply with the new CARES Act provisions concerning reimbursement of over-the-counter (OTC) drugs, menstrual products, and telehealth.

Are cafeteria plans required to be amended for this change?

This amendment will be required in order for your plan to maintain operational compliance based on updates to debit card technology that now permit reimbursement for OTC drugs and menstrual products at the point of sale as well as reimbursements for telehealth, to the extent the plan does not already reimburse for these expenses.

Does an employer need to modify or make any elections in the amendment? Can the amendment be modified?

The employer will need to sign the amendment, but will not need to make any elections.

When do the amendments become effective?

The amendment is effective January 1, 2020. The amendment can be adopted at any time during 2020; however, IRS guidance indicates expenses for OTC drugs and menstrual products are reimbursable only if incurred after December 31, 2019. In order to accommodate the operational changes concerning reimbursements for medical expenses, the amendment must be adopted prior to the end of the 2020 plan year.

In addition to the amendment, we have provided a sample Summary of Material Modifications (SMM) to provide to plan participants to inform them of the changes.

2020 AMENDMENT FOR CARES ACT AND OTHER CHANGES

This amendment of the Plan (hereinafter referred to as "the Amendment") is adopted to reflect the provisions related to reimbursable medical expenses of the CARES Act of 2020. This Amendment is intended to provide a good faith compliance with the CARES Act and related guidance until the Plan is formally restated to incorporate such guidance.

ARTICLE 1 PREAMBLE; DEFINITIONS

- 1.1 **Adoption of Amendment.** The Employer adopts this Amendment to implement provisions of the Act and other regulations and Notices issued by the IRS or DOL which affect the Plan.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definition applies specifically to this Amendment:

The "Act" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.

ARTICLE 2 IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

- 2.1 **Identifying information.**
 - A. Name of Employer: Xavier University
 - B. Name of Plan: Xavier University Flex Plan
- 2.2 **Medical Expenses.** Plan reimburse any or all of the following amounts, as described in Article 3, for Participants?
 - (a) **Over the Counter Medications.**
 - (b) **Menstrual products.**
 - (c) **Telehealth (to the extent not otherwise provided).**
- 2.3 **Effective Date.** This Amendment is effective as of January 1, 2020. Expenses must be incurred after December 31, 2019.

**ARTICLE 3
MEDICAL EXPENSES REIMBURSED**

- 3.1 **Application.** The Plan's definition of "Medical Expenses" under the Plan is amended by the addition of the following provisions as selected at Section 2.2.
- 3.2 **Over the Counter Medications.** This Section 3.2 applies if the Employer has made Election 2.2(a). Notwithstanding anything in the Plan to the contrary, a Participant may be reimbursed for the cost of any medicine or drug for medical care, within the meaning of the term "medical care" as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, determined without regard to whether medicines or drugs have been prescribed. Insulin remains a covered expense. The intention of this provision is to permit coverage for over the counter medications.
- 3.3 **Menstrual Products.** If the Employer has made Election 2.2(b), a Participant may be reimbursed for the purchase of menstrual care products as defined in Code Section 223(d)(2)(D) and as authorized in Code Section 106(f).
- 3.4 **Telehealth.** If the Employer has made Election 2.2(c), a Participant may be reimbursed for expenses related to telehealth and other remote care as defined in the CARES Act and further guidance. Such coverage will not disqualify an HSA-eligible High Deductible Health Plan if made for services provided on or after January 1, 2020, with respect to Plan Years beginning on or before December 31, 2021 or, and with respect to such additional Plan Years as may become permissible under applicable law and/or IRS guidance.

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This Amendment has been executed this 12 day of November, 20 .

Name of Plan: Xavier University Flex Plan

Name of Employer: Xavier University

By: Jenni Dranis
EMPLOYER