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Montmorency County Board of Commissioners

Resolutions 2022-04

RESOLUTION ADOPTING THE MERS HEALTH CARE SAVINGS PROGRAM

MERS Health Care Savings Program Uniform Resolution



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711

www.mersomich.com

WHEREAS, the Municipal Employees Retirement Act authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 72; MCL 38.1536(2)(a)).

WHEREAS, the Board has authorized MERS' establishment of the health care savings program ("HCSP" or "Program"), which a participating municipality or court, or another eligible public employer that constitutes a "municipality" under MERS Plan Document Section 2; MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees.

WHEREAS, MERS has been determined by the Internal Revenue Service to be a tax qualified "governmental plan" and trust under section 401(a) of the Internal Revenue Code of 1986, and all trust assets within MERS reserves are therefore exempt from taxation under Code section 501(a) (IRS Letter of Favorable Determination dated October 8, 2016).

WHEREAS, the Board has established a governmental trust (the "Trust Fund") to hold the assets of the HCSP, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator.

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 et seq. ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries.

WHEREAS, a separate MERS health care trust fund created under PA 149 also constitutes a governmental trust established by an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the PA 149 trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code.

WHEREAS, the Board acts as investment fiduciary for the pooled assets of each MERS participating municipality as defined by the MERS 401(a) Plan Document, on whose behalf MERS performs all plan administration and investment functions, and such participating municipalities and courts have full membership, representation and voting rights at the Annual Meeting as provided under Plan Section 78; MCL 38.1545.

WHEREAS, the Board also acts as investment fiduciary for those participating employers who are non-MERS participating municipalities and courts that have adopted the MERS Health Care Savings Program, Retiree Health Funding Vehicle, or Investment Service Program, and such entities are not accorded membership, representation or voting rights provided to MERS participating municipalities and courts at the Annual meeting under Plan Document Section Document 78; MCL 38.1545.

MERS Health Care Savings Program Uniform Resolution

WHEREAS, adoption of this Uniform Resolution and the HCSP Participation Agreement (the "Uniform Resolution") by each Eligible Employer is necessary and required in order that the benefits available under the MERS HCSP may be extended to the Eligible Employer's employees.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this HCSP Resolution that Section 43 of the MERS Plan Document shall not apply to this Uniform Resolution Adopting MERS HCSP, the Participation Agreement, the HCSP Plan Document, the Trust Agreement, and their administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS HCSP is made or occurs, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty to administer (or to have administered) the Trust Fund, or to continue administration.

WHEREAS, concurrent with this HCSP Uniform Resolution, and as a continuing obligation, this governing body has completed, approved, and submitted to MERS documents necessary for participation in and implementation of the HCSP. This obligation applies to any documents deemed necessary to the operation of the Trust Fund by MERS.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) the MERS HCSP as provided below.

SECTION 1. HCSP PARTICIPATION

EFFECTIVE January 1, 2022, (to be known as the ADOPTION DATE) the

MERS HCSP is hereby adopted by the Montmorency County
(MERS municipality or court or other eligible employer)

- CONTRIBUTIONS** shall be as allowed and specified in the MERS Health Care Savings Program Participation Agreement. Basic Employer Contributions, Mandatory Salary Reduction Contributions, Mandatory Leave Conversion Contributions, and Post-Tax Employee Contributions, shall be remitted pursuant to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the MERS Trust Fund.
- INVESTMENT** of funds accumulated and held in the Health Care Savings Program Trust Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 76; MCL 38.1539, and PA 149.
- THE ELIGIBLE EMPLOYER** shall abide by the terms of the HCSP, including the HCSP Plan Document, HCSP Trust Agreement, all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

MERS Health Care Savings Program Uniform Resolution

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS HCSP Trust Fund (as a sub-fund within all pooled HCSP trust funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under PERSIA, pursuant to PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS HCSP Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all HCSP funds held in trust for all Eligible Employers.
- (C) All monies in the MERS HCSP Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund on a defined contribution, individual account, basis its MERS HCSP Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons" under the Internal Revenue Code. Participation in and any coverage under HCSP shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963.
- (E) The Eligible Employer designates and incorporates as "Eligible Employees" who shall constitute "qualified persons" under this HCSP Resolution those who are "Eligible Employees" as defined in the HCSP Participation Agreement under this HCSP.
- (F) The Eligible Employer may designate employer contacts who shall receive necessary reports, notices, etc. and shall act on behalf of the Eligible Employer.

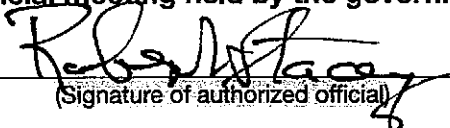
SECTION 3. EFFECTIVENESS OF THIS HCSP UNIFORM RESOLUTION

This Resolution shall have no legal effect until an executed copy of this adopting Resolution is filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 72, PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall execute this Resolution, and return a copy to the Eligible Employer's designated primary contact.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action may be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 86 of the MERS Plan Document shall apply to this Resolution and all acts performed under MERS' authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

MERS Health Care Savings Program Uniform Resolution

I hereby certify that the above is a true copy of the Uniform Resolution Adopting The MERS Health Care Savings Program, adopted at the official meeting held by the governing body of this municipality:

On May 12th, 2022 
(Signature of authorized official)

Printed name: Robert Stacey Position title: Board Chairman
(Authorized Official - printed) (Authorized Official - position)

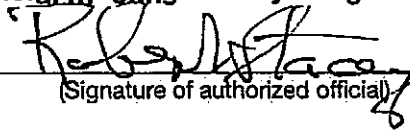
Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20_____
(Authorized MERS signatory)

MERS Health Care Savings Program Uniform Resolution

I hereby certify that the above is a true copy of the Uniform Resolution Adopting The MERS Health Care Savings Program, adopted at the official meeting held by the governing body of this municipality:

On May 12th, 2022


(Signature of authorized official)

Printed name: Robert Stacey
(Authorized Official - printed)

Position title: Board Chairman
(Authorized Official - position)

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20_____
(Authorized MERS signatory)

Motion made by: Geyer Balog and seconded by Gary Girardin

On Roll Call:

Ayes: Madison, Stacey, Balog, Girardin

Nays: Edwards

I, Cheryl A. Neilsen, County Clerk, hereby certify that this is a true and accurate copy of the resolution adopted by the Montmorency County Board of Commissioners at their regular meeting held on May 12, 2022.

Signed _____
County Clerk Cheryl A. Neilsen

MERS Health Care Savings Program Participation Agreement



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I. PARTICIPATING EMPLOYER

Employer Name: Montmorency County
(Name of municipality or court)
Municipality Number: 6001 Division Number: _____

II. EFFECTIVE DATE

1. If this is the initial Participation Agreement relating to the MERS Health Care Savings Program for this covered group, the effective date of the program here adopted shall be:
January 1, 2022
(Date)
2. If this is an amendment and restatement of an existing Participation Agreement relating to the MERS Health Care Savings Program for this covered group, the effective date of this amendment and restatement shall be effective: _____
(Date)

Note: You only need to mark *changes* to your plan throughout the remainder of this Agreement.

III. COVERED EMPLOYEE GROUPS

A participating Employer may cover all of its employee groups, bargaining units, or personnel/ employee classifications ("Covered Group") in the same Health Care Savings Program plan. **Contributions shall be made on the same basis within each Covered Group according to the associated HCSP Contribution Addendum, remitted as directed by the Program Administrator.** This agreement encompasses the following group(s):

POAM employees hired or promoted into POAM after 12/22/2021
(Name/s of HCSP covered group/s)

Note: To maintain the tax-favored status of the employer's Health Care Savings Program and to comply with federal law, the Employer may not provide coverage or benefit levels to highly-compensated employees that are not provided to non highly-compensated employees.

IV. ELIGIBLE EMPLOYEES

Only Employees of a "municipality" may be covered by the Health Care Savings Program Participation Agreement. Independent contractors may not participate in the Health Care Savings Program.

The Employer shall provide MERS with the name, address, Social Security Number, and date of birth for each Eligible Employee, as defined by the Participation Agreement.

V. EMPLOYER CONTRIBUTIONS TO THE HEALTH CARE SAVINGS PROGRAM

The Participating Employer hereby elects to make contributions to the Trust. Contributions shall be made on the same basis within each Covered Group specified in this agreement, and remitted to MERS as directed by the employer, to be credited to the individual accounts of Eligible Employees according to the associated Contribution Addendum.

MERS Health Care Savings Program Participation Agreement

Vesting Cycle For Basic Employer Contributions Only. The employer contributions identified in this Participation Agreement are subject to the following vesting cycle (where vesting is different, separate participation agreement must be completed).

- Immediate Vesting upon Participation
- Cliff Vesting: The participant is 100% vested upon 5 year(s).
(Stated years)
- Graded Vesting Percentage per year of service: Employers can select the percentage of vesting with the corresponding years of service:

Years of Service	Percent Vested
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	100%

FORFEITURE PROVISION. Upon separation from service with the Employer prior to meeting the required vesting schedule set out above or in the event a Participant dies without Dependent(s) and/or a named Beneficiary, a Participant's account assets shall (where forfeiture is different, separate participation agreement must be completed):

Check only one:

- Remain in the HCSP sub-trust to be reallocated among all Plan participants equally
- Remain in the HCSP sub-trust to be used to offset future Employer Contributions
- Be transferred to the Retiree Health Funding Vehicle ("RHFV")

VI. MODIFICATION OF THE TERMS OF THE PARTICIPATION AGREEMENT

If a Participating Employer desires to amend any of its previous elections contained in this Participation Agreement, including attachments, the Governing Body by official action must adopt a new Participation Agreement and forward it to the Board for approval. The amendment of the new Participation Agreement is not effective until approved by the Board and other procedures required by the Trust Agreement and Plan Document have been implemented.

VII. APPOINTING MERS AS THE PROGRAM ADMINISTRATOR

The Employer hereby agrees to the provisions of the MERS Health Care Savings Program Plan Document ("Plan Document") and Trust Agreement and appoints MERS as the Program Administrator pursuant to the terms and conditions of the Plan Document and Trust Agreement. The Employer also agrees that in the event of any conflict between the Plan Document or the Trust Agreement and this Participation Agreement, the Plan Document and Trust Agreement control.

VIII. FEES AND EXPENSES

Employer acknowledges that investment selection and associated participant fees and operating expenses are established and charged by MERS as set forth in the Investment Fund and Fee Summary sheets available at www.mersofmich.com and may be amended by MERS.

MERS Health Care Savings Program Participation Agreement

IX. STATE LAW

To the extent not preempted by federal law, this agreement shall be interpreted in accordance with Michigan law.

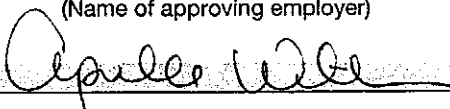
X. TERMINATION OF THE PARTICIPATION AGREEMENT

This Participation Agreement may be terminated only in accordance with the Trust Agreement.

XI. EXECUTION BY GOVERNING BODY OF MUNICIPALITY

The foregoing Participation Agreement is hereby adopted and approved on the 12th day of May, 2022 at the official meeting held by Montmorency County.

(Name of approving employer)

Authorized Signature: 

Name: Aprille Williamson

Title: County Controller

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20____

(Authorized MERS signatory)

Contribution Addendum for MERS Health Care Savings Program (HCSP)



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This is an Addendum to the Participation Agreement completed by Montmorency County
Name of Participating Employer
for POAM employees hired or promoted into POAM after 12/22/2021 of _____
Covered Employee Group Division Code

The Addendum modifies the *MERS Health Care Savings Program Participation Agreement*. Please complete this addendum for each contribution structure associated with the covered employee group.

Check one or more (A or B, C and/or D):

A. Employer Contributions for Retirees / Former Employees. Employer contributions may be made according to any frequency. Identify below the contribution formula or amount that will apply to all in this covered group. *Note: If this contribution is selected, Sections B, C, and D do not apply.*

Contribution structure (specify \$ or %): _____

For active employees, please check one or more below (B, C, and/or D).

B. Basic Employer (Before-Tax) Contributions. Before-tax employer contributions may be made as a percentage of salary and/or by a specified dollar amount. Identify below the basic employer contribution formula to be applied to the covered groups within the Health Care Savings Program identified in this addendum.

Contribution structure (specify \$ or % and, if a %, include the basis for that contribution. For example: Employer will contribute 3% of base wages):

\$50.00 biweekly

C. Mandatory Salary Reduction (Before-Tax) Contributions. Before-tax Employer Contributions shall be made that represent a mandatory salary reduction resulting from collective bargaining or the establishment of a personnel policy. These reductions may be made as a percentage of salary or a specific dollar amount.

Contribution structure (specify \$ or % and, if a %, include the basis for that contribution. For example: Employees will contribute 3% of base wages):

Contribution Addendum for MERS Health Care Savings Program (HCSP)

D. Mandatory Leave Conversion (Before-Tax) Contributions. Before-tax Employer Contributions shall be made that represent a mandatory conversion of accrued leave including, but not limited to vacation, holiday, sick leave, or severance amounts otherwise paid out, to a cash contribution. These contributions may be calculated as a percentage of accrued leave or a specific dollar amount representing the accrued leave. Leave conversions may be made on an annual basis or at separation from service, or at such other time as the Employer indicates. *(Note: The leave conversion program shall not permit employees the option of receiving cash in lieu of the employer contribution.)*

- Check here if the covered employee group has the option to direct any/all of the leave conversion lump sum to an existing 457 program.

Check one or more:

- As of _____, _____ % of _____
Annual date or X weeks before termination Percentage Type of Leave Conversion (sick, vacation, etc.)
must be contributed to the HCSP.
- As of _____, _____ % of _____
Annual date or X weeks before termination Percentage Type of Leave Conversion (sick, vacation, etc.)
must be contributed to the HCSP.
- As of _____, _____ % of _____
Annual date or X weeks before termination Percentage Type of Leave Conversion (sick, vacation, etc.)
must be contributed to the HCSP.
- As of _____, _____ % of _____
Annual date or X weeks before termination Percentage Type of Leave Conversion (sick, vacation, etc.)
must be contributed to the HCSP.

Post-Tax Employee Contributions. Post-tax Employee Contributions made by Eligible Employees within the Covered Group(s) shall be remitted as directed by the Program Administrator, to be credited to the individual accounts of Eligible Employees. All Employee Contributions must be remitted to MERS along with the Participation Report.