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FLEXIBLE SPENDING ACCOUNT PLAN.
PRIVACY PRACTICES NOTICE

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

This notice describes how we (the health FSA plan) protect the personal health information we have about you which relates to your health FSA coverage ("Protected Health Information" or "PHI"), and how we may use and disclose this information. Protected Health Information includes individually identifiable information which relates to your past, present or future health, treatment or payment for health care services. This notice also describes your rights with respect to the Protected Health Information and how you can exercise those rights. This Notice is effective April 14, 2004.

We are required to provide this Notice to you by the Health Insurance Portability and Accountability Act ("HIPAA"). We are required by law to:

- Maintain the privacy of your PHI;
- Provide you this notice of our legal duties and privacy practices with respect to your Protected Health Information; and
- Follow the terms of this notice.

The main reasons for which we may use and may disclose your Protected Health Information are to evaluate and process any requests for coverage and claims for benefits. PHI may be used:

- **For Payment:** We may use and disclose Protected Health Information to determine and pay for benefits under your health FSA coverage. For example, PHI contained on claims may be reviewed to reimburse you for services rendered.
- **For Health Care Operations:** We may also use and disclose Protected Health Information for our health care operations. Health care operations include:
 - medical review, legal services, bank reconciliations and auditing; and
 - business management and general administrative activities such as plan design.
- **Business Associates:** We contract with individuals and entities (Business Associates) to perform various functions on our behalf or to provide certain types of services. To perform these functions or to provide the services, our Business Associates will receive, create, maintain, use, or disclose protected health information, but only after we require the Business Associates to agree in writing to contract terms designed to appropriately safeguard your information. For example, we may disclose your protected health information to an outside auditor to verify the plan is being administered correctly.
- **Other Covered Entities:** We may obtain or disclose your protected health information from health care providers to determine if a procedure or supply is an eligible benefit under the Plan.

- **Plan Sponsor:** We may disclose your protected health information to the plan sponsor of the health FSA plan (Nyhart) for purposes of plan administration or pursuant to an authorization request signed by you.
- **Where Required by Law or for Public Health Activities:** We disclose PHI when required by federal, state or local law. Examples of mandatory disclosures include providing PHI to a governmental agency or regulator with health care oversight or HIPAA compliance responsibilities.
- **To Avert a Serious Threat to Health or Safety:** We may disclose PHI to avert a serious threat to someone's health or safety. We may also disclose PHI to federal, state or local agencies engaged in disaster relief as well as to private disaster relief or disaster assistance agencies to allow those entities to carry out their responsibilities in specific disaster situations.
- **For Health-Related Benefits or Services:** We or our Business Associates may use PHI to provide you with information about benefits available to you under your current coverage and, in limited situations, about health-related products or services that may be of interest to you.
- **For Law Enforcement or Specific Government Functions:** We may disclose PHI in response to a request by a law enforcement official made through a court order, subpoena, warrant, summons or similar process. We may disclose PHI about you to federal officials for intelligence, counterintelligence, and other national security activities authorized by law.
- **When Requested as Part of a Regulatory or Legal Proceeding:** If you or your estate are involved in a lawsuit or a dispute, we may disclose Protected Health Information about you in response to a court or administrative order. We may also disclose PHI about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute but only if efforts have been made to tell you about the request or to obtain an order protecting the PHI requested. We may disclose PHI to any governmental agency or regulator with whom you have filed a complaint or as part of a regulatory agency examination.
- **To Government Programs Providing Public Benefits:** We may disclose your PHI relating to eligibility for or enrollment in the health FSA plan to another agency administering a government program providing public benefits, or to the military, if the sharing of this information among such agencies is required or expressly authorized by law.
- **Other Uses and Disclosures Of Your Protected Health Information:** Other uses and disclosures of your Protected Health Information not covered by this Notice or the laws that apply to us will be made only with your written authorization. If you have given us your authorization, you may revoke that authorization, in writing, at any time. If you revoke your authorization, we will no longer use or disclose the PHI for the reasons covered by your written authorization, except to the extent that we have taken action in reliance on your authorization. Please note that we are unable to take back any disclosures we have already made with your written authorization.
- **To A Personal Representative.** PHI may be disclosed to a personal representative named by you or designated by law (such as an executor after your death).

Your Rights Regarding Protected Health Information

- **Right to Inspect and Copy Your Protected Health Information:** In most cases, you have the right to inspect and obtain a copy of the Protected Health Information we or a Business Associate maintains about you. To inspect and copy PHI, you must submit your request in writing to the Privacy Officer listed below. To receive a copy of your PHI, you may be charged a fee for the costs of copying, mailing or other supplies associated with your request. However, certain types of Protected Health Information will not be made available for inspection and copying. This includes psychotherapy notes, and PHI collected by us in connection with, or in reasonable anticipation of any claim or legal proceeding. In very limited circumstances (such as if the PHI was created or obtained for research, or the PHI was confidentially obtained from a source other than a health care provider and if you had access to the information you could determine the source's identity), we may deny your request to inspect and obtain a copy of your PHI.

If access is denied, you may request a review within 60 days after the denial. The review will be conducted by a person chosen by us who was not involved in the original decision to deny your request.

- **Right to Amend Your Protected Health Information:** If you believe that your PHI is incorrect or that an important part of it is missing, you have the right to ask us to amend it while it is kept by or for us. You must provide your request and your reason for the request in writing, and submit it to the Privacy Officer shown below. We may deny your request if it is not in writing or does not include a reason that supports the request. In addition, we may deny your request if you ask us to amend Protected Health Information that:
 - is accurate and complete;
 - was not created by us, unless the person or entity that created the PHI is no longer available to make the amendment;
 - is not part of the PHI kept by us or for us by a Business Associate; or
 - is not part of the PHI which you would be permitted to inspect and copy.
- **Right to a List of Disclosures:** You have the right to request a list of the disclosures we have made of PHI about you. This list will not include disclosures made for payment or health care operations, for purposes of national security, made to law enforcement or to corrections personnel, made according to your authorization or made directly to you. To request this list, you must submit your request in writing to the Privacy Officer shown below. Your request must state the time period from which you want to receive a list of disclosures. The time period may not be longer than six years and may not include dates before April 14, 2004. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a 12-month period will be free. We may charge you for any additional requests.
- **Right to Request Restrictions:** You have the right to request a restriction or limitation on Protected Health Information we use or disclose about you for payment or health care operations, or that we disclose to someone who may be involved in your care or payment for your care, like a family member or friend. For example, you may ask us not to disclose PHI relating to a medical procedure you have had. While we will consider your request, **we are not required to agree to it.** To request a restriction, you must make your request in writing to the Privacy Officer. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure or both; and (3) to whom you want the limits to apply (for example, disclosures to your spouse or parent).

- **Right to Request Confidential Communications:** You have the right to request that we communicate with you about PHI in a certain way or at a certain location if you tell us that communication in another manner may endanger you. For example, you can ask that we only contact you at work or by mail. To request confidential communications you must make your request in writing to the Privacy Officer and specify how or where you wish to be contacted. We will accommodate all reasonable requests.
- **Right to File a Complaint:** If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the Department of Health and Human Services.

To file a complaint with us, contact the Privacy Contact Person to obtain a complaint form.

To file a complaint with Health and Human Services, contact:

US Department of Health and Human Services
 200 Independence Avenue S.W.
 Washington, DC 20201

All complaints must be submitted in writing. You will not be penalized for filing a complaint with us or the government.

Additional Information

- **Changes to This Notice:** We reserve the right to change the terms of this notice and our privacy practices at any time. The revised or changed notice may be effective for Protected Health Information we already have about you as well as any PHI we receive in the future. The effective date of this notice and any revised or changed notice may be found on the last page, on the bottom left hand corner of the notice. You will receive a copy of any revised notice either electronically or on paper.
- **Electronic Notice:** If you received this Notice electronically, you may also request a paper copy from the Privacy Contact Person. The paper copy will be provided at no charge.

You may request a copy of this Notice at any time. It is also posted on our website (www.nyhart.biz/participants).

Our Privacy Contact Person is:

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While all requests should be made to the Privacy Contact Person, responses to certain requests may be handled by a Business Associate if the Business Associate is in a better position to address the issue.