

**HEALTH BENEFITS CONTINUATION COVERAGE
SERVICES AGREEMENT**

BETWEEN

**BLUE CROSS AND BLUE SHIELD OF TEXAS,
A DIVISION OF HEALTH CARE SERVICE CORPORATION**

**(hereinafter called BCBSTX)
and**

**Montague County, effective 10/01/2021
(hereinafter called the Employer)**

WHEREAS, the Employer has established a Group Health Plan for its employees and the eligible dependents of its employees; and

WHEREAS, Congress has imposed certain statutory requirements regarding Health Benefits Continuation of Coverage for those persons covered under the Employer's Group Health Plan; and

WHEREAS, the Employer has requested BCBSTX to furnish certain noninsurance services in connection with Continuation of Coverage under the Employer's Group Health Plan;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Article I - Definitions

As used in this Agreement:

- A. Applicable Premium means the amount a Group Health Plan will require a Qualified Beneficiary (or others permitted by Continuation of Coverage) to pay, for any period of COBRA continuation coverage, that does not exceed one hundred and two percent (102%) of the premium for that period or does not exceed one hundred and fifty percent (150%) of the premium after the 18th month of coverage for Qualified Beneficiaries eligible for extended coverage due to disability.
- B. Agreement Period means the twelve month period beginning on the effective date of this Agreement. The parties may by amendment, designate an initial Agreement Period which is less than a year, to coordinate with the Employer's next plan year anniversary provided all succeeding Agreement Periods shall mean the twelve month period coinciding with the Employer's plan year.
- C. COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended or as may be amended.
- D. Continuation of Coverage means the continuation of group health coverage mandated by COBRA and its regulations.
- E. Covered Qualified Beneficiary means a Qualified Beneficiary who is (or was) provided Continuation of Coverage by the Employer's Group Health Plan.
- F. Election period means the period of at least sixty (60) days duration beginning not later than the date on which coverage under the health benefit program terminates by reason of a Qualifying Event and ending not earlier than sixty (60) days after the later of (1) the beginning date or (2) the date a Participant has been notified of the right to elect Continuation of Coverage after the occurrence of a Qualifying Event.
- G. Employer means the individual proprietor, partnership or corporation identified in the Group Health Plan and any predecessor thereto, and any corporation with which the Employer shall be merged or consolidated, or any corporation resulting in any manner from a reorganization of the Employer or any individual, firm or corporation which shall assume the Health Benefits Continuation Coverage obligations of the Employer.
- H. Group Health Plan means an employee welfare benefit plan that is a considered a group health plan within the meaning of Section 4980 B(g)(2) of the Internal Revenue Code of 1986.

- I. Health Benefits Continuation Coverage means the administrative services BCBSTX offers to assist Employer in fulfilling Employer's responsibilities under COBRA.
- J. Qualifying Event means the occurrence of an event which would result in the loss of eligibility of a Participant under the Employer's health benefit program but for the requirements of COBRA.
- K. Plan Administrator means the term "administrator" as defined in Section 3(16)(a) of ERISA.
- L. Qualified Beneficiary means:
 - (A) In general, the term "Qualified Beneficiary" shall mean, with respect to an employee eligible for health coverage under the Group Health Plan, any individual who, on the day before a Qualifying Event is covered under the Group Health Plan.
 - (i) as the spouse of the covered employee, or
 - (ii) as the dependent child of the covered employee.
 - (B) In the case of a Qualifying Event which is caused by termination (other than by reason for such employee's gross misconduct), or reduction of hours of the employee's employment, the term "Qualified Beneficiary" includes the employee.
- M. Subscriber means each Covered Qualified Beneficiary who (1) elected to continue group coverage under COBRA; (2) submitted an application, and (2) has a certificate number for continuation coverage under COBRA. Depending upon the timing and nature of a Qualifying Event, a family may have more than one Subscriber.

Article II - Services to be Provided by BCBSTX

During the duration of this Agreement, BCBSTX will perform such services as described in this Article II.

- A. Once the Employer has notified BCBSTX in writing of the occurrence of a Qualifying Event and has given BCBSTX the name and current address of a Qualified Beneficiary, BCBSTX will timely provide the Qualified Beneficiary notice of the right to continue group coverage directed to the address provided BCBSTX by the Employer.
- B. The notice provided a Qualified Beneficiary pursuant to Paragraph A of this Article II will also include information regarding Applicable Premium and an application form, and will state the Election Period for the election

of Continuation of Coverage. Any Qualified Beneficiary electing Continuation of Coverage will be directed to communicate such election in writing to BCBSTX. BCBSTX will bill and collect the initial Applicable Premium from the date of the loss of coverage because of the Qualifying Event to the end of the month in which such election is received.

- C. When an employee is a Qualified Beneficiary and makes an election, the election is deemed to include all Qualified Beneficiaries listed in the notice except as otherwise stated in such election. When the employee is not a Qualified Beneficiary and a dependent spouse is a Qualified Beneficiary, an election by the dependent spouse is deemed to include all Qualified Beneficiaries except as otherwise stated in such election. For purposes of this Section C, an election includes a declination.
- D. Once a Qualified Beneficiary is established as a Subscriber, BCBSTX will establish the membership information in the BCBSTX claims system.
- E. BCBSTX will provide a monthly statement to each Subscriber. Such statement shall indicate a due date for receipt of the Applicable Premium. When Applicable Premium is not paid or not paid timely, BCBSTX will terminate Continuation of Coverage and provide a written letter of termination to the Subscriber. HCSC will deem payments that are less than 90% of the Applicable Premium to be insufficient and shall terminate coverage. Payment of Applicable Premium less than the lesser of \$50 or 10% of Applicable Premium shall be governed by 54 CFR § 4980B-8, A-5(d).
- F. A Subscriber will be notified ninety (90) days prior to the maximum period of coverage that such coverage will terminate in ninety (90) days. The notice will contain information concerning the right, if any, to any additional type of continued coverage.
- G. Upon receipt of evidence satisfactory to BCBSTX that a Covered Qualified Beneficiary has become, after the date of election, ineligible for Continuation of Coverage for reasons other than failure to pay the Applicable Premium or the expiration of the maximum period of coverage, BCBSTX will notify such ineligible Covered Qualified Beneficiary that the coverage is being terminated and the date and reason for such termination, whether or not such termination date precedes the date of the notice.
- H. BCBSTX shall notify the Subscriber of any change in the Applicable Premium.
- I. BCBSTX will provide the Employer a written report giving the status of each Covered Qualified Beneficiary as of the end date of such report.
- J. BCBSTX shall bill Employer monthly for Applicable Premium for each of Employer's Covered Qualified Beneficiaries. The Applicable Premium shall be payable to BCBSTX in the same manner as for similarly situated

persons covered by the Group Health Plan for whom no Qualifying Event has occurred.

- K. On a monthly basis BCBSTX will furnish a check payable to Employer in the amount of Applicable Premium received from or on behalf of each Subscriber, less COBRA administration fees described in Article V.
- L. BCBSTX will respond to written or telephone inquiries regarding Health Benefits Continuation Coverage.

Article III - Duties of the Employer

- A. The Employer retains full responsibility for and shall bear the cost of compliance with Continuation of Coverage.
- B. Employer shall provide all persons eligible for coverage under its Group Health Plan(s) the general notice of Continuation of Coverage in conformity with 29 CFR Section 2590.606-1.
 - 1. In the event Employer receives a notice from a person seeking Continuation of Coverage and determines that the person is not entitled to Continuation of Coverage, Employer shall provide such person an explanation as to why the person is not entitled to Continuation of Coverage.
 - 2. In the event Employer receives information from a Covered Qualified Beneficiary regarding an extension of Continuation Coverage whether as the result of a second Qualifying Event or a social security disability determination, Employer shall notify BCBSTX within 14 days.
- C. Employer will provide BCBSTX a written notice of the occurrence of a Qualifying Event.
 - 1. Within thirty (30) days after the occurrence of a Qualifying Event, the Employer will provide a written notice of such event to BCBSTX. The written notice will be on a form satisfactory to BCBSTX and will describe the nature and date of the Qualifying Event, the name, last known address and certificate number of each Qualified Beneficiary, the date coverage under the Group Health Plan terminates and the type(s) of coverage held by each Qualified Beneficiary on the date of the Qualifying Event. Upon request, BCBSTX will provide the Employer with an appropriate notice form.
 - 2. If the Qualifying Event is either the divorce of the Employee or a Dependent child ceasing to be a Dependent child under the provisions of the Employer's Group Health Plan, and the Employer had no notice of such Qualifying Event within 30 days of such Qualifying Event, the notice required by this Paragraph C will be

provided in writing to BCBSTX no later than fourteen (14) days following the Employer's receipt of notice of the occurrence of such Qualifying Event.

- D. Should any Qualified Beneficiary communicate or attempt an election or declination of Continuation of Coverage directly with the Employer or its officers or agents, the Employer shall immediately present any and all information regarding such action to BCBSTX. For purposes of this Paragraph D, "immediately" means within three (3) work days.
- E. Except to the extent that Article IV, paragraph C applies, the Employer shall undertake the defense of any action against it and/or BCBSTX and shall be responsible for the costs of defense; provided, however, that BCBSTX shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the costs and expenses of which shall be the responsibility of the Employer.
- F. It is understood by the Employer that agencies enforcing Continuation of Coverage requirements may impose penalties on an Employer or Plan Administrator who fails to comply. It is further understood by the Employer that BCBSTX shall in no way be responsible for any said penalties nor does BCBSTX agree to be liable for damages resulting from any said penalties which may be imposed on the Employer or Plan Administrator for non-compliance.
- G. The Employer hereby agrees to identify its employee who shall act as the sole contact between the Employer and BCBSTX in regard to matters under this Agreement.
- H. The Employer shall furnish on a timely basis to BCBSTX certain information concerning the Employer's Group Health Plan or Covered Qualified Beneficiaries as may from time to time be required by BCBSTX for the performance of its duties under this Agreement including, but not limited to, the following:
 - 1. All documents by which the Continuation of Coverage is established and any amendments or changes to the coverage as may from time to time be adopted including thirty (30) days prior written notification to BCBSTX when the Employer plans a reduction in force, lay-off, strike, or shutdown or filing for bankruptcy, or makes changes to any of the following: its Continuation of Coverage; benefit pricing; Applicable Premium; or Group Health Plan carriers.
 - 2. All data as may be required by BCBSTX regarding the Covered Qualified Beneficiaries who are to be covered under this Agreement.

- a. Such data may include, without limitation, a list of Covered Qualified Beneficiaries who are to be covered under this Agreement, and completed Continuation of Coverage forms.

Further, the Employer will notify BCBSTX of the effective date of coverage for all Covered Qualified Beneficiaries who are to be covered under this Agreement. Clerical errors or delays in keeping or reporting data relative to coverage under this Agreement will not invalidate coverage which would otherwise be validly in force or continue coverage which would otherwise validly terminate. However, the Employer is liable for any benefits paid for a Covered Qualified Beneficiary if the Employer had not timely notified BCBSTX of such Covered Qualified Beneficiary's termination or ineligibility under COBRA.

- b. All such notification by the Employer to BCBSTX must be furnished on forms or in a format approved by BCBSTX and must include all information reasonably required by BCBSTX to effect such changes.
3. Such information as to Continuation of Coverage benefits as will enable BCBSTX to accurately prepare any reports required under this Agreement. The Employer, furthermore, shall use its best efforts to cooperate with and assist BCBSTX as applicable, in the performance of its duties hereunder.
 - I. Employer shall notify BCBSTX within three (3) work days upon receipt of information which employer has regarding any possible early termination of Continuation of Coverage such as health coverage under another Group Health Plan or Medicare.
 - J. In the event of termination of this Agreement, the Employer shall notify Subscribers of such termination and the procedures to be followed to retain Continuation of Coverage.

Article IV – Responsibilities of BCBSTX

- A. BCBSTX is empowered to act on behalf of the Employer in connection with Continuation of Coverage only as expressly stated in this Agreement or as mutually agreed to in writing by the parties hereto.
- B. BCBSTX shall, to the extent possible, advise the Employer of any legal actions against it or the Employer which involve the obligations of the Employer or BCBSTX under this Agreement. BCBSTX, provided no conflicts of interest exist, shall fully cooperate with the Employer, at no cost to BCBSTX in the Employer's defense of any action arising out of matters related to the Continuation of Coverage, or this Agreement.

- C. BCBSTX hereby agrees to indemnify and hold harmless the Employer and its directors, officers and employees against any and all claims, lawsuits, judgments, costs, penalties and expenses with respect to this Agreement resulting from or arising out of any acts of BCBSTX or its employees which have been determined to be in breach of this Agreement, the Employer's written direction, the result of gross negligence, dishonesty, fraud, or a criminal act as determined by a court of competent jurisdiction.
- D. Except as provided in Article V, BCBSTX shall be responsible for expenses arising out of its performance of Health Benefits Continuation of Coverage.

Article V - Compensation

The Employer shall compensate BCBSTX for the Health Benefits Continuation of Coverage provided by BCBSTX under this Agreement as described in Exhibit A.

Article VI – Term and Termination

- A. This Agreement shall begin on the effective date indicated on Page 1 and shall continue for the Agreement Period. The Agreement shall renew automatically for successive twelve (12) month periods unless terminated as provided in this Article VI.
- B. Either party may terminate this Agreement without cause by giving at least ninety (90) days prior written notice to the other party. In the event of such termination BCBSTX agrees to use its best efforts to assist the Employer in notifying Subscribers, transferring data, files, and all other relevant information to the Employer or its delegate. The Employer will indemnify and hold BCBSTX harmless from any and all claims, cost and expenses, including, but not limited to, reasonable attorneys' fees arising from the termination of this Agreement.
- C. This Agreement will terminate on the earliest of the following dates:
 - 1. The date on which the compensation owing BCBSTX pursuant to this Agreement becomes overdue.
 - 2. The last day of the month following ninety (90) days prior written notice of termination as contained in B, above.
 - 3. The last date the Employer no longer has any Group Health Plan (whether insured or self-funded) with BCBSTX.
 - 4. The last date the Employer ceases to have an obligation to provide Continuation of Coverage under COBRA. In the event that the

Employer ceases to have an obligation to provide Continuation of Coverage, the Employer will provide BCBSTX with at least ten (10) days advance written notice of the cessation of its obligations.

- D. When this Agreement terminates,
1. BCBSTX shall have no further duty or responsibility after the date of termination. The Employer shall immediately have complete responsibility for Health Benefits Continuation of Coverage and any other responsibilities contained in this Agreement. Further, the Employer agrees to notify all Subscribers of the termination.
 2. The Employer will indemnify and hold BCBSTX harmless from any and all claims, costs and expenses, including, but not limited to, reasonable attorneys' fees arising from the termination of this Agreement or denial of Continuation of Coverage claims pursuant to this Agreement.
 3. Any and all compensation due BCBSTX, whether or not previously billed, will be due and payable within thirty (30) days of the date of termination.

Article VII – Relationship of Parties

- A. BCBSTX is an independent contractor with respect to the Employer, and nothing in this Agreement shall create, or be construed to create, the relationship of employer and employee between BCBSTX and the Employer, nor shall the Employer's agents, officers or employees be considered or construed to be considered employees of BCBSTX for any purpose whatsoever. BCBSTX is not the Plan Administrator and makes no discretionary decisions regarding eligibility for, or termination of, Continuation of Coverage.
- B. It is understood and agreed that nothing contained in this Agreement shall confer or be construed to confer any benefit on persons who are not parties to this Agreement including, but not limited to, beneficiaries or former beneficiaries of the Employer or the Group Health Plan.
- C. The Employer acknowledges that this Agreement is separate and distinct from any other agreement(s) between the parties regarding certain administrative services or policies of insurance issued to said Employer. All amounts due hereunder shall be in addition to the amounts, service fees, or premiums due BCBSTX under any such agreement(s).

Article VII - General Provisions

- A. **AMENDMENTS:** This Agreement may be modified at any time with the mutual consent of BCBSTX and the Employer. All amendments will be in writing and signed by an authorized representative of each party. Only the President or a Vice President of BCBSTX is authorized to amend this Agreement on behalf of BCBSTX.
- B. **ENTIRE CONTRACT:** This Agreement is the entire contract between the parties.
- C. **TEXAS LAW GOVERNS:** This Agreement has been negotiated and executed in the State of Texas and will be governed by and construed in accordance with the law of the State of Texas. All services performed by BCBSTX shall be deemed to have been performed in Dallas County, Texas.
- D. **TAXES:** In the event any taxing authority having jurisdiction over either (or both) of the parties determines that the compensation paid to BCBSTX by the Employer results in any tax liability (other than an income tax) to BCBSTX, such tax shall be the responsibility of the Employer, and the amount of such tax shall be paid by the Employer to BCBSTX upon written request pursuant to Article V of this Agreement.
- F. **NOTIFICATION:** BCBSTX is not obligated to notify any Qualified Beneficiary (regardless of whether or not the Qualified Beneficiary has elected Continuation of Coverage) of the termination of this Agreement.
- G. **INFORMATION:** All written information (including billings and compensation) and notices provided pursuant to this Agreement will be posted by first class mail, postage prepaid to BCBSTX at P.O. Box 1180, Marion, IL 62959-7680 and to the Employer at P O Box 186, Montague, TX 76251.


IN WITNESS WHEREOF, BCBSTX and the Employer have caused this Agreement to be executed by their authorized representative.

**BLUE CROSS AND BLUE SHIELD OF TEXAS,
A DIVISION OF HEALTH CARE SERVICE CORPORATION**

By: _____
(Signature - BCBSTX)

(Title)

(Date)

By: 
(Signature - Employer)

County Judge
(Title)

July 12, 2021
(Date)

EXHIBIT A

ADMINISTRATIVE FEE

1. The compensation to BCBSTX by the Employer for the Health Benefits Continuation Services provided to Employer will be based upon two separate components: a charge to the Employer per Subscriber and a charge (not to exceed two (2) percent of the Applicable Premium) billed to a Covered Qualified Beneficiary.
2. The compensation amounts provided in this EXHIBIT A shall remain in effect until the December 31 following the anniversary date of this Agreement. BCBSTX may amend the compensation for each succeeding Agreement Period by providing the Employer written notice of such amendment at least thirty (30) days prior to the commencement of the Agreement Period. The new compensation will apply to any Qualifying Event which occurs during the new Agreement Period.
3. The compensation is \$150.00 per Subscriber.
4. The execution of this Agreement shall be deemed an assignment to BCBSTX of the right of the Employer to charge a Covered Qualified Beneficiary an administrative charge or percentage of premium. It is expressly agreed and understood that BCBSTX will charge and collect one hundred two (102) percent of Applicable Premium to a Covered Qualified Beneficiary and that the Employer shall not make or request any charge whatsoever.

Premium shall not be considered part of the Employer's compensation to BCBSTX. In the event a Covered Qualified Beneficiary is entitled to an additional eleven (11) months of coverage because of a determination of total disability under the Social Security Act, BCBSTX shall receive two (2) percent of Applicable Premium as compensation.