

**AMENDMENT TWENTY-SIX**  
**to the**  
**SACRAMENTO INDEPENDENT HOTEL, RESTAURANT AND TAVERN EMPLOYEES**  
**WELFARE PLAN**

**Recitals**

WHEREAS, the Board of Trustees of the Sacramento Independent Hotel, Restaurant and Tavern Employees Welfare Plan ("Plan") hereby amends the Plan rules, to cover Over-the-Counter COVID-19 tests (without a prescription or individualized clinical assessment by a health care provider), effective for purchases on or after January 15, 2022, pursuant to the jointly released U.S. Department of Labor, Health and Human Services, and Treasury Guidelines dated January 10, 2022 (Affordable Care Act FFCRA-Part-51 FAQ) (hereinafter referred to as "FAQ Part 51");

WHEREAS, FAQ Part 51 permits self-funded group health plans (such as this Plan) and Insurers (such as Kaiser and WHA) to impose permissible limitations such as limiting OTC COVID-19 tests (without prescription or doctors note) to 8 tests per covered individual per 30-day period (or calendar month) and/or limiting reimbursement of an OTC COVID-19 test from a non-preferred pharmacy or other retailers to no less than the actual price of the test or \$12 per test (whichever is lower) if the Plan provides direct coverage of the OTC COVID-19 test through preferred pharmacies or other retailer through direct coverage, including direct-to-consumer shipping programs;

WHEREAS, the Board of Trustees of the Plan believes it is in the best interest of its Plan Participants and Dependents during this COVID-19 public health pandemic to adopt this amendment;

WHEREAS, the Board of Trustees has the discretion to extend this benefit at any time beyond the public health emergency period; and

THEREFORE, the Board of Trustees amends the Plan as follows:

**Amendment**

**The Board of Trustees of the Plan has amended Item 11. Of Section C. "Other Covered Indemnity Plan Benefits" under Article IX. CLARIFICATION OF INDMENITY PLAN BENEFITS on page 36 of the Summary Plan Description (also known as the Plan Document), as follows:**

**(11) COVID-19 Testing, Diagnostic Services or Items (During Public Health Emergency).**

Effective March 18, 2020, the Plan's self-insured coverage through Aetna will cover charges for the all tests (for both in-network and out-of-network providers) to detect the SARS-COV-2 or COVID-19 or the diagnosis of the virus that causes COVID-19 at no cost (meaning no copayment, deductible or coinsurance) for: (a) tests approved, cleared or authorized by the FDA, (b) a test that a test developer intends or has requested FDA authorization for emergency use, (c) a state authorized test and the state has notified the Department of Health and Human Services, or (c) other tests that the Secretary of Health and Human Services determines appropriate in guidance, developed during the COVID-19 public health emergency period. This COVID-19 coverage extends to any diagnostic

items or services provided during a medical visit including an in-person or telehealth/telemedicine visit (such as virtual check-ins or e-visits) to a doctor's office, urgent care visit or an emergency room visit that results in an order for an administration of the SARS-COV-2 or COVID-19 testing or screening but only to the extent such items and services relate to the furnishing or administration of the test or to the evaluation of the need for a test. Prior authorization or other medical management requirements is not required for diagnostic services related to SARS-COV-2 or COVID-19 testing.

**Pricing of Out-of-Network Diagnostic Testing.** Pursuant to Section 3202 of the CARES Act and subject to any further government regulation and guidance, the Plan or Insurer will pay or reimburse for covered COVID-19 diagnostic tests as follows: (a) an existing negotiated rate if there is one or (b) in the absence of a pre-existing negotiated rate, the cash price listed by the diagnostic test provider on the public internet website of such provider.

**Coverage of Over-the-Counter ("OTC") COVID-19 Tests.** Effective for purchases on or after January 15, 2022 and during the public health emergency period, the Plan (through its Pharmacy Benefit Manager currently Magellan RX) and its Insured/HMO Carriers (currently WHA and Kaiser) will provide coverage for, including reimbursement of, all OTC tests (also known as at-home tests or self-tests): (a) approved, cleared or authorized by the FDA, (b) test that received FDA authorization for emergency use, (c) state authorized test and state has notified the Dept. of HHS, and (d) other tests that the Secretary of HHS determined appropriate in guidance during the public health emergency period, to detect the SARS-COV-2 (the virus that causes coronavirus disease 2019) or the diagnosis of COVID-19, purchased through pharmacies, retail stores and online retailers, without any cost-sharing, prior authorization or medical management requirements and without a prescription or involvement of a health care provider or individualized clinical assessment.

Pursuant to federal guidance, the Plan or Insured Carriers are permitted (but not mandated) to make quantity and cost limitations under the following Safe Harbors pursuant to FAQ Part 51. If the Safe Harbor requirements are met the Plan is permitted to implement the following limitations:

- (a) **Cost Limits (Through Pharmacy Network or Direct Coverage).** The Plan and its Insured Carriers are permitted to limit reimbursement from a non-preferred pharmacy or other retailers to the lesser of: (i) the actual price of the test or (ii) \$12 per test, provided that the:
  - (1) Plan or Insured Carrier provides access to direct coverage, without cost-sharing (meaning the participant does not pay an upfront cost and instead the plan or its contracted entity pays the preferred pharmacy or retailer directly) of OTC COVID-19 tests through a preferred pharmacy network or other retailers, including direct-to-consumer shipping programs; and
  - (2) Plan or Insured Carrier takes reasonable steps to provide adequate access to OTC COVID-19 tests through an adequate number of retail locations (both in-person and on-line locations).
- (b) **Quantity Test limit.** The Plan or Insured Carrier are permitted to limit OTC COVID-19 tests without a prescription or provider involvement, to no less than 8 tests per

covered individual (ex. Participant, Dependent Spouse, Dependent Child) per 30-day period or calendar month. In applying the quantity limit of 8, the Plan or Insured Carrier may count each test separately, even if multiple tests are sold in one package. The Plan or Insured Carriers are permitted to set more generous limits although not mandated.

If the above Safe Harbors (a) is not met (for example, if there are delays that are significantly longer than the amount of time it takes to receive other items under, if applicable, the Plan's or Insured Carrier's direct-to-consumer shipping program), the Plan or Insured Carrier must provide coverage of the OTC COVID-19 test without cost-sharing and cannot deny coverage and cannot set limits relating to reimbursement on the amount of OTC COVID-19 tests.

If the above Safe Harbor (b) is not met (for example, OTC COVID-19 test with doctor's note), the Plan or Insured Carrier must provide coverage of the OTC COVID-19 test without cost-sharing and cannot deny coverage and cannot set quantity limits.

To address suspected fraud or abuse the Plan or Insured Carriers are permitted to require reasonable documentation of proof of purchase with a claim for reimbursement for the cost of the OTC COVID-19 test or require a self-attestation.

**For Participants and Dependents enrolled in the Kaiser HMO Plan option, please contact Kaiser for more information on how to file a claim for reimbursement or any direct coverage arrangements (if applicable) for OTC COVID-19 tests.**

**For Participants and Dependents enrolled in the Western Health Advantage ("WHA") HMO Plan option, please contact WHA for more information on how to file a claim for reimbursement or any direct coverage arrangements (if applicable) for OTC COVID-19 tests.**

**For Participants and Dependents enrolled in the self-funded Plan option, please contact Magellan RX for more information on how to file a claim for reimbursement or any direct coverage arrangements (if applicable) for OTC COVID-19 tests.**

**Approved:**

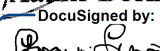
**LABOR TRUSTEES**

DocuSigned by:




**Ty Hudson, Chair**


DocuSigned by:

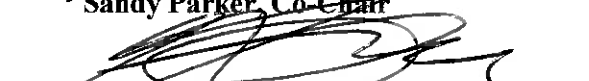



**Regina Longo**

  
**Alejandro Rayburn**

**MANAGEMENT TRUSTEES**

  
Sandy Parker, Co-Chair

  
Jeroen Gerrese

  
Marta Rodriguez