CITY OF MEDFORD

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August 24, 2010

Office of Health Plan Standards and Compliance Assistance
Employee Benefit Security Administration, Room N-5653
U. S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210
Attn: RIN 121-AB43

Ladies and Gentlemen:

I am writing this letter regarding the proposal to impose annual and lifetime dollar limits on benefits available through Health Reimbursement Arrangement accounts; these could be negatively affected by the interim final regulations published in the Federal Register on June 28, 2010. We will be making these same comments to the other agencies involved in this issue.

The City of Medford is a member of the VEBA Trust for Public Employees in the Northwest, specifically local government employers (and their participant employees) in the States of Washington, Oregon and Idaho. I currently serve as Chair of the Board of Trustees of this trust. All of our City employees are included in the VEBA trust through collective bargaining agreements or management contract. The City also provides through these same arrangements comprehensive medical/dental/vision insurance coverage available to employees and their families. Our HRA VEBA contributions supplement and in no way substitute for employer contributions to our current health care coverages, and we are deeply concerned that the proposed regulations might force us to eliminate HRA funding if the proposed regulations are implemented. We do not believe Congress intended to implement supplemental HRA programs.

We agree that no HRA program should be allowed to impose an annual or lifetime limitation on withdrawals from participant accounts. In our case, the limitation on withdrawals is the funds available to reimburse the employees for eligible medical expenses. So the regulation should be rewritten to ensure that the prohibition on annual or lifetime limits means specifically that an HRA shall deny a requested reimbursement once a participant's account balance reaches zero. In

our view, this is not a "lifetime" limitation as that term is commonly applied. It is simply recognition that a requested reimbursement cannot exceed the available funds.

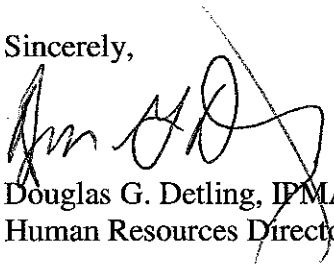
In addition, we believe that if an employer provides insurance coverage through a group health plan that satisfied PHS Section 2711, that fact alone should satisfy the definition of "integrated with other coverage" as applied to any HRA program made available to employees of their same employer. Further, the final regulations should provide that a stand-alone HRA that supplements an employer's group health insurance is defined as the type of plan that is not required to provide "essential health benefits"—thus qualifying it for the exemption provided by PPACA section 2711(b).

If the Department and other agencies decide to proceed with the interim final regulations as drafted, then we believe it would be helpful to apply a blanket waiver of the prohibition on annual limits through 2013 rather than force HRAs to apply for individual waivers, but we strongly believe that, if our suggestions are taken into account, the need for such waivers will be drastically reduced.

We hope the Department will be responsive to our concerns. We do not believe Congress intended to limit or dramatically alter the ability of employers who have supported the maximum flexibility in their health care benefits through a comprehensive program of group health insurance at reasonable rates, flexible spending accounts and HRA programs. In our City's specific case, employees are using their group health insurance and flexible spending accounts under Section 125 for current eligible medical expenses, and largely reserving funds for post-employment health care needs through funding of their HRA VEBA program. The regulations as drafted could eliminate or drastically curtail our HRA VEBA participation by failing to recognize the supplemental nature of our program.

You will be receiving suggestions on this subject from our trust's attorney, Russell E. Greenblatt. We concur with Mr. Greenblatt's specific comments. We appreciate the opportunity to comment on the proposal, and hope our views will be helpful in fashioning final regulations.

Sincerely,



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Human Resources Director