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## Initial Notice of COBRA Rights

### Cal State San Marcos Foundation

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Date: \_\_\_\_\_

To: \_\_\_\_\_  
Employee and spouse

Re: COBRA continuation of group health coverage under the Cal State San Marcos Foundation (the "Plan")

Federal law requires us as an employer sponsoring a group health plan to offer employees and their families the opportunity to elect a temporary extension of health coverage (called "continuation coverage" or "COBRA coverage") in certain instances where coverage under the Plan would otherwise end. You do not have to show that you are insurable to elect continuation coverage. However, you may have to pay all or part of the premium for your continuation coverage. At the end of the maximum coverage period (described below), you must be allowed to enroll in an individual conversion health plan if it is otherwise available under the Plan.

This notice is intended to inform you, in a summary fashion, of your rights and obligations under the law. The law, however, is not clear on some points and is interpreted by federal agencies and the courts. Congress often changes the law. Therefore, this summary is subject to change, without notice, as interpretations or changes of the law occur. ***Both you and your spouse should read this summary carefully and keep it with your records.***

#### **Qualifying Events**

If you are an ***employee*** of the Employer covered by the Plan you have a right to elect this continuation coverage if you lose coverage under the Plan for any one of the following two "Qualifying Events":

1. Termination of your employment (for reasons other than your gross misconduct); or
2. Reduction in the hours of your employment, if such reduction causes you to no longer be eligible for coverage under the Plan.

If you are the ***spouse*** of an employee covered by the Plan you have the right to elect continuation coverage if you lose coverage under the Plan for any of the following four "Qualifying Events":

1. The death of your spouse;
2. A termination of your spouse's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment with the employer which causes a loss of plan coverage;
3. Divorce or legal separation from your spouse; or
4. Your spouse becomes entitled to Medicare benefits.

In the case of a ***dependent child*** of an employee covered by the Plan, he or she has the right to elect continuation coverage if group health coverage under the Plan is lost for any of the following five "Qualifying Events":

1. The death of the employee parent;
2. The termination of the employee parent's employment (for reasons other than gross misconduct) or reduction in the employee parent's hours of employment with the employer, causing that employee to lose coverage under the plan;
3. Parents' divorce or legal separation;
4. The employee parent becomes entitled to Medicare benefits; or

5. The dependent ceases to be a “dependent child” under the plan.

### **Qualified Beneficiaries**

Qualified Beneficiaries are limited to only the employee, spouse at the time of the initial Qualifying Event and dependent children covered by the Plan as of such event. However, any child born to or placed for adoption with a covered employee during a period of COBRA coverage will be eligible to become a Qualified Beneficiary upon proper notification to the Plan Administrator of the birth or adoption.

### **Notices and Election**

When the Employer is notified that one of these Qualifying Events has occurred, it will notify the Plan Administrator, (if different from the Employer), and you and all Qualified Beneficiaries will be notified of your rights to choose continuation coverage.

Under the law, the employee or a family member has the responsibility to notify the Employer of a divorce, legal separation or a child losing dependent status under the Plan. You or your family member must give this notice no later than 60 days after the day you would lose coverage because of one of the above Qualifying Events. If you fail to give this notice during the 60-day period, you will not be offered the option to elect continuation coverage. When the Employer or Plan Administrator (if different) is notified that one of the events has happened, you will be notified that you have the right to elect continuation coverage. Under the law, you must elect continuation coverage within 60 days after Plan coverage ends, or, 60 days after the date of the notice of your right to elect continuation coverage, whichever is later. If you do not elect continuation coverage within the 60-day period, you will lose your right to elect continuation coverage.

A covered employee or the spouse of the covered employee may elect continuation coverage for all family members. The covered employee, his or her spouse and dependent children, however, each have an independent right to elect continuation coverage. Thus, a spouse or dependent child may elect continuation coverage even if the covered employee does not elect it.

### **Bankruptcy of Employer**

COBRA continuation rights may also apply to certain retirees, spouses and dependent children if the Employer commences a bankruptcy proceeding and these individuals lose coverage.

### **Premium Payments**

If you elect continuation coverage, the Employer must give you coverage that, as of the time coverage is provided, is identical to the coverage provided under the Employer’s Plan to similarly situated employees or family members. This means that if the coverage for similarly situated employees or family members is modified, your coverage will be modified. You will also have the same rights to change Plans or change covered dependents as active employees.

You must pay the premium payments for your “initial premium months” by the 45th day after you elect continuation coverage. Your initial premium months are the months that end on or before the 45th day after you elect continuation coverage. All other premiums are due on the 1st of the month for which the premium is paid, subject to a 31-day grace period.

### **Maximum Coverage Periods**

If you (spouse or dependent child) lose group health coverage because of the employee’s death, divorce, legal separation, or the employee’s becoming entitled to Medicare, or because you lose your status as a dependent under the Plan, the maximum coverage period (for spouse and dependent child) is 36 months from the date coverage ends as a result of these qualifying events.

If you (employee, spouse or dependent child) lose group health coverage because of a termination or reduction in hours of the employee’s employment, the maximum continuation period (for the employee, spouse and dependent child) is 36 months from the date coverage ends as a result of the termination or reduction in hours. For employees covered by federal COBRA, the first 18 months are available by reason of COBRA and the second 18 months are provided under Cal-COBRA. There are two exceptions to this rule (in either exception Cal-COBRA

extends continuation coverage from the point at which COBRA ends to 36 months):

1. If any qualified beneficiary is disabled on the date of termination or reduction in hours or within 60 days after COBRA coverage begins, the maximum continuation coverage period for all related Qualified Beneficiaries is up to 29 months from the date of termination or reduction in hours. The disability that extends the 18-month coverage period must be determined to be a disability by the Social Security Administration (SSA). For the 29-month continuation coverage period to apply, notice of the determination of disability under the SSA must be provided to the Plan Administrator within the 18-month coverage period and within 60 days after the date of the SSA's determination. The 29-month period will be shortened if the individual is no longer disabled before the end of the disability extension. You must notify the Plan Administrator within 30 days of receipt of such determination and COBRA coverage will end the first day of the month that begins more than 30 days after such notice.
2. If a second Qualifying Event occurs (for example, the employee dies or becomes divorced) within the 18-month or 29-month coverage period, the maximum coverage period becomes 36 months from the date of the first Qualifying Event.

Special rule involving employee's entitlement to Medicare benefits: This rule applies only if you are the employee's spouse or dependent child and you have continuation coverage because of a Qualifying Event that was not the employee's becoming entitled to Medicare benefits. If the employee becomes entitled to Medicare (either before or after that Qualifying Event), your maximum coverage period ends 36 months from the date the employee became entitled to Medicare, or, if later, on the last day of the maximum coverage period for which you were eligible due to the initial Qualifying Event.

#### **Termination before the End of Maximum Coverage Period**

Your continuation coverage automatically terminates (even before the end of the maximum coverage period) when any one of the following five events occurs:

1. The Employer no longer provides group health coverage to any of its employees;
2. The premium for your continuation coverage is not timely paid;
3. A Qualified Beneficiary becomes covered under another group health plan (as an employee or otherwise), after the date he or she elects COBRA coverage. The new group health plan must not contain any exclusion or limitation with respect to any pre-existing condition you have, or the pre-existing condition exclusion or limitation must not apply due to Health Insurance Portability and Accountability Act of 1996 (HIPAA) restrictions;
4. The Qualified Beneficiary becomes entitled to Medicare benefits, after the date he or she elects COBRA coverage;
5. If a Qualified Beneficiary becomes entitled to a 29-month maximum coverage period, but then there is a final determination under Title II or XVI of the Social Security Act that the Qualified Beneficiary is no longer disabled; continuation coverage for all Qualified Beneficiaries will not end until the later of the end of the initial 18 month coverage period, or the first day of the month that begins more than 30 days after receipt of such determination.

#### **Other Information**

If you have any questions about the law, please contact the person shown below. If there are changes in your marital status or your address or that of your spouse, please notify the Employer or Plan Administrator, if different.