FELRA & UFCW Health & Welfare Plan

A Plan of the Food Employers Labor Relations Association and United Food and Commercial Workers VEBA Fund

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MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES
OF THE FELRA AND UFCW VEBA FUND
VIA VIDEO CONFERENCE
DECEMBER 15, 2021

The following Trustees were present:

Union Trustees
M. Federici – Secretary
J. Chorpenning
A. Hanson

Employer Trustees
J. Paradis – Chairman
D. Dosenbach
M. Goble

Also present were:

Y. Anwar – UFCW Local 400
N. Eid – Confidio
J. Hack – UFCW Local 27
J. Harrison – UFCW Local 27
D. Jensen – Associated Administrators, LLC
M. Kreps – Groom Law Group
C. McDonough – Investment Performance Services
R. McKnight – Associated Administrators, LLC
C. Murphy – Associated Administrators, LLC
S. Sanchez – Slevin & Hart, P.C.
A. Sims – Associated Administrators, LLC
B. Slevin – Slevin & Hart, P.C.
J. Timm – The Segal Company
L. Walsh – Associated Administrators, LLC
M. Wilson – UFCW Local 400
A. Yu – Investment Performance Services

I. CALL TO ORDER

A quorum being present, the Chairman called the meeting to order.

II. MINUTES

The Trustees reviewed the minutes of the last regular meeting held on September 27, 2021, and the Appeals Committee meetings of October 13, 2021 and November 5, 2021, all of which were pre-circulated.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED that the minutes of the regular meeting held on September 27, 2021, and the Appeals Committee meetings of October 13, 2021 and November 5, 2021 are approved, as presented.**

III. FINANCIAL REPORT

A. PNC Bank

1. Summary of Activity Report – ERISA Account – October 31, 2021

Mr. Jensen presented the PNC Summary of Activity report for the period January 1, 2021 through October 31, 2021. Such report indicated a beginning market value of $32,607,051, earnings of $782,634, receipts of $93,515,267, and disbursements of $109,978,613, producing an ending market value of $16,926,339 as of October 31, 2021.

2. Summary of Activity Report – Non-ERISA Account DDA – October 31, 2021

Mr. Jensen presented the PNC Summary of Activity report for the Non-ERISA account for the period January 1, 2021 through October 31, 2021. Such report indicated a beginning market value of $7,130,603, receipts of $90,125,656, and disbursements of $96,392,194, producing an ending market value of $864,066 as of October 31, 2021.

3. Reserves

Mr. Jensen noted that as of October 31, 2021, the FELRA VEBA Fund had $23,249,485 in reserves, representing 2.16 months of reserves, compared to 2.46 months as of September 30, 2021. The average expense for the four quarters ending June 30, 2021 was $10,744,650.

B. Investment Performance Services

The Trustees welcomed Mr. Chris McDonough, and Ms. Angela Yu of Investment Performance Services (“IPS”) to the meeting.

1. Master Consulting Report – September 30, 2021

Mr. McDonough reviewed the Master Consulting Report for the period ending September 30, 2021. Such report indicated a beginning market value of $18,400,224, a net cash flow of $1,401,168, and a net investment change of $74,913, resulting in an ending market value of $19,876,305. The year-to-date performance through September 30, 2021 was 2.9%, gross of fees.

2. Preliminary Performance Update – October 31, 2021

Mr. McDonough reviewed the Preliminary Performance Report for the period ending October 31, 2021. Such report indicated a beginning market value of $19,876,305, negative net cash flow of $3,035,033, and a net investment change of $84,852, resulting in an ending market value of $16,926,124. The year-to-date performance was 3.4%, gross of fees.

3. Asset Allocation Review

Mr. McDonough stated that due to the timing and size of contributions to the Fund and withdrawals for cash needs, certain of the Fund's current allocations vary widely from the Investment Policy targets. He noted that as of July 31, 2021 the ARA Core Property Fund, LP real estate redemption was fully satisfied. Mr. McDonough discussed the Plan's cash needs and reported on IPS's recommendation that the Trustees consider rebalancing to bring the asset allocations closer to the Investment Policy targets. Mr. McDonough provided an overview of the current Investment Policy allocations and presented alternative portfolio options for the Trustees' consideration, as detailed in the IPS Q3 Master Consulting Report.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to amend the Fund's Investment Policy asset allocation targets such that the real estate target is 10%, the US large cap equity target is 10%, the intermediate fixed income target is 50%, the short duration high yield target is 25%, and the cash target remains 5%, as recommended by IPS.**

The Trustees thanked the representatives of Investment Performance Services for their report and they were excused from the meeting.

IV. <u>CONSULTANT'S REPORT</u>

The Trustees welcomed Mr. Josh Timm of the Segal Company ("Segal") and Ms. Nancy Eid of Confidio to the meeting.

A. The Segal Company

i. Carefirst Renewal

Mr. Timm reviewed CareFirst's proposed Network Lease and Flex Link Lease renewal rates document dated November 8, 2021. He noted the five-year proposal contains incremental increases on Flex Link at 1.7% and on Net Lease at 2.3% in Year 1 (1/1/2022-12/31/2022), and that the total increase over the five-year period is 14.0% in aggregate. Mr. Timm reported on Segal's recommendation that the Fund attempt to negotiated reductions to the proposed renewal rates. The Trustees agreed and directed Mr. Timm to follow up with CareFirst.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to delegate authority to Chairman and Secretary to make a decision on CareFirst's proposed renewal rates.**

ii. Superior Vision Renewal

Mr. Timm reviewed the renewal proposal from Superior Vision. He noted that Superior Vision had proposed no increase in rates for the renewal period of August 1, 2021 through July 31, 2023. He said Segal recommends approving a one-year renewal and then reviewing utilization of the benefit after one year.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve a one-year renewal with no increase in rates with Superior Vision.**

iii. Telehealth Visits Extension

Mr. Timm reported that the Trustees had previously approved coverage of telehealth appointments for services that otherwise would be covered by the Fund if performed in person, and a corresponding a waiver of the Plan's in-person medical visit requirement applicable to the traditional Fund (non-Kaiser) medical benefits and accident and sickness benefits for the period March 1 through December 31, 2021. The Trustees discussed extending the waiver given the ongoing COVID-19 pandemic.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to approve extension of coverage of telehealth appointments for services that otherwise would be covered by the Fund if performed in person, and a corresponding a waiver of the Plan's in-person medical visit requirement applicable to the traditional Fund (non-Kaiser) medical benefits and accident and sickness benefits, through December 31, 2022.

iv. Affordable Care Act ("ACA") 2022 List of Preventive Services Benefits

Mr. Timm presented the list of Preventive Services for 2022.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to adopt the 2022 list of Preventive Services Benefits, subject to Co-Counsel review.

v. Plans XX and XXX Part Time Dependent Child Rates 2022

Mr. Timm presented proposed Plan XX and XXX part-time costs for the 2022 Plan year per enrolled dependent child.

Plans XX and XXX Costs Per Enrolled Dependent Child Effective January 1, 2022						
	Per Child Rate*			3 or More Children Rate		
Plan	Medical	Rx	Total	Medical	Rx	Total
Plan XX – Part Time	$107.33	$31.77	$139.10	$321.99	$95.31	$417.30
Plan XXX – Part Time	$113.62	$33.10	$146.72	$340.86	$99.30	$440.16

Mr. Jensen reported that these rates had been approved by Chairman and Secretary between meetings and that the Participating Employers were notified in writing of the new rates to be effective January 1, 2022.

On Motion made and seconded, the Trustee voted unanimous approval of the following resolution:

RESOLVED, to ratify the action taken by the Chairman and Secretary between Board meetings to adopt the Plan XX and Plan XXX part time full cost dependent rates effective January 1, 2022.

The Trustees thanked Mr. Timm for his report and he was excused from the meeting.

B. Confidio

i. Managed Pharmacy Report

Ms. Eid presented the Pharmacy Benefits Management ("PBM") Report dated December 15, 2021. She stated that Confidio completed a Market Check to validate that the Fund's 2022 PBM pricing from Express Scripts Inc. ("ESI") is market-competitive. Ms. Eid reported that based on Confidio's assessment, the Fund's current 2022 pricing results in a cost that is higher than the market. Consistent with contractual requirements, Confidio submitted its Market Check Report to ESI, explaining Confidio's assessment and requesting an equitable pricing adjustment. ESI responded with a highly competitive pricing offer that aligned with the more favorable pricing benchmarks provided. Ms. Eid reviewed the financial modeling for the respective EGWP and active population that was performed for the 2022 Market Check, which reflected adjusted pricing that is projected to yield a 7.9% reduction in the annualized pharmacy costs for the Active Plan population, and a 5.7% reduction for the EGWP population, compared to current costs. She noted specialty and non-specialty rebates are the primary drivers of the savings and cost reduction.

Ms. Eid reported that the Chairman and Secretary reviewed and approved the 2022 ESI pricing adjustment between meetings, ESI had been notified, and the new rates will be in effect on January 1, 2022. She stated that ESI would be issuing contract amendments memorializing the new rates.

Ms. Eid provided an overview of the 2022 Pharmacy Benefit Manager ("PBM") request for proposal project timelines, to procure and negotiate the best pricing for the Fund. She noted that the project timeline would begin in January 2022 with bid solicitation thereafter. Ms. Eid reported that Confidio suggests sending bid proposals to: (1) Express Scripts, (2) Navitus, (3) Optum Rx, (4) Elixir, and (5) DST Health Solutions. The target deadline for approving PBM bidders is February 1, 2022.

The Trustees thanked Ms. Eid for her report and she was excused from the meeting.

V. ATTORNEY'S REPORT

A. No Surprises Act - Summary of Material Modification ("SMM")

Ms. Sanchez reported on the Consolidated Appropriations Act (CAA) and No Surprises Act (NSA). She presented a proposed SMM which details modifications to the Plan relating to the CAA and NSA.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to amend the Fund's Plan of benefits as reflected in the Summary of Material Modification, as presented.

B. No Surprises Act - Complaint Procedure

Ms. Sanchez presented a proposed complaint procedure related to the No Surprises Act.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to approve the No Surprises Act complaint procedure, as presented.

C. No Surprises Act –Independent Dispute Resolution ("IDR")

Ms. Sanchez reported on the IDR requirements under the No Surprises Act.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to approve authorizing CareFirst and HRGi to administer the Independent Dispute Resolution process for the Fund, subject to confirmation by CareFirst and HRGi that they are able to do so; and

FURTHER RESOLVED to delegate authority to Chairman and Secretary to make any necessary decisions relating to the administration of independent dispute resolution procedures relating to No Surprises claims under the Fund's Plan.

D. No Surprises Act Balance Billing Model Notice

Ms. Sanchez reported on the model notice provided by Centers for Medicare and Medicaid Services ("CMS") regarding surprise billing.

E. Department of Labor ("DOL") Cybersecurity Best Practices

Ms. Sanchez reported on the DOL's guidance related to cybersecurity best practices.

After discussion, and on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to direct the Fund office to send cybersecurity questionnaires and contract addenda to Fund vendors that receive or maintain financial, personal or otherwise confidential information relating to the Fund.

F. Interim Final Rule relating to Prescription Drug and Healthcare Spending Reporting

Ms. Sanchez reported on the interim final rule related to prescription drug and healthcare spending reporting.

G. Carefirst BCBS Anti-Trust Class Action

Mr. Slevin reported on the Carefirst BCBS Anti-Trust Class Action.

H. Purdue Pharma Class Action

Ms. Sanchez reported on the Purdue Pharma Bankruptcy Action.

I. Epi-Pen Class Action

Ms. Sanchez reported on the EpiPen Class Action.

J. Valeant Pharmaceuticals Class Action

Ms. Sanchez reported on the Valeant Pharmaceuticals Class Action.

K. Endo Health Solutions Class Action

Ms. Sanchez reported on the Endo Health Solutions class action.

L. Safeway Payroll Audit

Ms. Sanchez reported on Safeway's payroll audit delinquency.

M. Summary Plan Description ("SPD)

Ms. Sanchez reported on the status of the Fund's SPD restatements.

N. Dentegra Contract

Mr. Slevin reported on the Fund's contract with Dentegra.

O. ESI Communications

Ms. Sanchez reported on participant communication documents relating to the Fund's EGWP benefit.

P. Clinical Addenda to ESI Contract

Ms. Sanchez reported on the clinical addenda to the ESI contract.

Q. Form 5500 Annual Filing

Ms. Sanchez reported on the Fund's Form 5500.

R. Form 990

Ms. Sanchez reported on the Fund's Form 990.

S. Summary Annual Report ("SAR")

Ms. Sanchez reported on the Fund's SAR.

T. Subrogation Report

Mr. Jensen stated that Slevin & Hart had reported subrogation recoveries of $39,014.84, with $9,753.00 payable to Slevin & Hart for the third quarter 2021.

VI. ADMINISTRATIVE MANAGER'S REPORT

A. Third Quarter 2021 – Combined Fund Recap

Mr. Jensen presented the Administrative Manager's Report for the Third Quarter 2021. For the combined VEBA Fund, Active and Retiree Plans, total income was $31,259,649. Expenses totaled $32,615,258, producing a net deficit of $1,355,609 for the third quarter 2021. Mr. Jensen noted that contributions were made on behalf of 15,765 active Plan participants.

Ms. Walsh announced that Harbour Benefit Holdings had purchased Associated Administrators, LLC on November 30, 2021. She explained that Harbour had approached Associated about the transaction, and she reviewed the reasons she believes Associated will be equipped to provide exemplary services to the Fund while having no effect on locations, personnel, or Associated's existing agreements. Associated will continue to be a distinct entity under the Harbour umbrella and its name will not change. Ms. Walsh stated that the CEO of Harbour offered to discuss the acquisition with the Trustees if they so desire. The Trustees said they may like to meet virtually with the CEO of Harbour Benefit Holdings at a subsequent meeting.

VII. INVOICES

The Trustees reviewed the lists of invoices for the Active Plan and Retiree Plan dated December 15, 2021. It was noted there was one addition to the list.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED that the invoices on the lists dated December 15, 2021 for the Active Plan and Retiree Plan are approved for payment.**

VIII. OTHER FUND BUSINESS

A. Safeway Payroll Audit – Status Update

Mr. Jensen reported that Safeway has not remitted payment in the amount of $38,141.60 for the payroll audit conducted by Calibre. Mr. Dosenbach indicated that payment is forthcoming.

B. Active – 2022 Open Enrollment Update

Mr. Jensen reported that all 2022 Open Enrollment materials have been mailed to all eligible participants. Changes to elections received from participants will be effective January 1, 2022.

C. COVID-19 Related Claims Processing

Mr. Jensen provided a summary of COVID-19 medical claims experience for the period January 1, 2021 through October 31, 2021. He noted that 8,163 tests were paid at a cost of $1,005,390.80. Treatment was provided to 1471 plan participants at a cost of $880,783.63.

D. COBRA Premium Subsidy

Mr. Jensen reported on the COBRA subsidy and noted that the Fund office had filed the Form 940 requesting the tax credit for the subsidized COBRA premiums for the second quarter on behalf of nine participants in the amount of $8,770. He noted that the Internal Revenue Service notified the Fund that it is offsetting this amount against the balance levied by the IRS against the FELRA and UFCW Severance Fund. Ms. Sanchez reported on the status of the levy notice. Mr. Jensen noted that the third quarter Form 940 had been submitted on behalf of nineteen participants in the amount of $23,010.19 by the October 31, 2022 deadline.

E. Medicare Deductibles and Coinsurance Rates for 2022

Mr. Jensen presented for the Trustees' review the 2021 Centers for Medicare and Medicaid Services ("CMS") published changes to the Medicare Part A and B premiums, deductibles and coinsurance. After discussion, and

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve the Medicare deductibles and coinsurance rates for the Retiree Medicare Supplemental Benefit, on a non-precedent-setting basis.**

F. <u>Employer Group Waiver Plan ("EGWP") – Medicare Late Enrollment ("LEP")</u>

Mr. Jensen reported on the late enrollment penalty rules under Medicare Part D and explained that the Fund office estimates that any such annual late enrollment penalties potentially applicable to the Fund for 2022 would total approximately $468. After discussion,

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, that for the 2022 Plan Year, the Fund will pay the cost of any Medicare late enrollment penalties applicable to participants covered under the EGWP and will reevaluate this matter for the 2023 Plan Year.**

G. <u>Scholarship Program Termination – Recommendation from Committee</u>

Mr. Jensen reported that at the September 9, 2021 meeting, the Trustees delegated authority to Chair and Secretary to make a decision on how to disburse the remaining funds in the Scholarship program. He said that, between meetings, the Chair and Secretary approved providing an additional $1,000 scholarship benefit to each of the 2021 Scholarship recipients, which would be applied to either to the current semester or the next semester of tuition, as appropriate.

> **RESOLVED, to ratify the action taken by Chair and Secretary between Board meetings to provide an additional $1,000 scholarship benefit to each of the 2021 Scholarship recipients.**

H. <u>Miscellaneous Correspondence</u>

i. Retiree Analysis for 2022

Mr. Jensen noted that Cheiron's Retiree Analysis for 2022 was available for review on the Trustee Web Portal. Cheiron reported that due to the implementation of the EGWP effective January 1, 2021, retiree co-pays would not require an increase in 2022.

ii. ESI Rebate Checks

Mr. Jensen reported that the Fund had received a coverage gap rebate from ESI for the second quarter 2021 in the amount of $229,000. He further reported that the Fund had received a rebate check from ESI related to second quarter 2021 EGWP in the amount of $323,000.

ADOPTION OF COMMITTEE RECOMMENDATIONS

After review of the recommendations made by the Severance, Legal and Scholarship Committees during their meetings,

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, that the recommendations made by the Severance, Legal and Scholarship Committees are adopted.**

IX. NEXT MEETING DATE AND LOCATION

After discussion, the Trustees noted that the next meetings are scheduled on the following dates:

Friday, March 11, 2022

Friday, June 10, 2022

Thursday, September 15, 2022

Monday, December 12, 2022

The meetings will be held via video conference.

X. ADJOURNMENT

There being no further business to come before the Trustees, the meeting was adjourned.

Respectfully submitted,

Mark Federici, Secretary