

**SUMMARY OF MATERIAL MODIFICATIONS TO
THE HEALTH AND BENEFIT TRUST FUND OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 94-94A-94B, AFL-CIO**

Commercial and School Division

To: All Commercial and School Division Participants in the Health and Benefit Trust Fund of the International Union of Operating Engineers Local 94-94A-94B, AFL-CIO

From: The Plan Administrator of the Health and Benefit Trust Fund of the International Union of Operating Engineers Local 94-94A-94B, AFL-CIO – Commercial and School Division

Re: Gene Therapy Treatment and Applied Behavior Analysis (ABA) Therapy

Date: May 25, 2021

This document is a Summary of Material Modifications (“SMM”) intended to clarify certain benefits and to notify you of important changes under the Health and Benefit Trust Fund of the International Union of Operating Engineers Local 94-94A-94B, AFL-CIO’s (the “Fund”) Plan of benefits (the “Plan”). This summary is intended to satisfy the requirements for issuance of a SMM under the Employee Retirement Income Security Act of 1974, as amended. You should take the time to read this SMM carefully and keep it with the Summary Plan Description (“SPD”) that was previously provided to you. If you need another copy of the SPD or if you have any questions regarding this clarification to the Plan or the important changes please contact the Plan Administrator during normal business hours at: 331-337 West 44th Street, New York, New York, 10036, telephone number: (212) 331-1800.

Gene Therapy Treatment

The Board of Trustees wishes to clarify that the Fund provides coverage for gene therapy treatment as follows:

Eligible Fund health benefits include U.S. Food and Drug Administration (FDA) approved, medically necessary gene therapy treatment, subject to the clinical guidelines outlined in Empire Blue Cross Blue Shield’s clinical policy bulletins. These therapies are covered by the Fund subject to the Plan’s terms, including, applicable deductibles, coinsurance, and copayments.

Applied Behavior Analysis (ABA) Therapy

The Board of Trustees wishes to inform you that, effective May 1, 2021, the Plan will provide coverage for Applied Behavior Analysis (ABA) Therapy. The ABA Therapy will require pre-certification and will be determined based on medical necessity at the pre-certification process.

Please direct any questions regarding the Plan’s coverage for gene therapy treatment or ABA Therapy to the Fund office during normal business hours at: 331-337 West 44th Street, New York, New York, 10036, telephone number: (212) 331-1800.

Sincerely,

Board of Trustees, Health and Benefit Trust Fund of the International Union of Operating Engineers Local 94-94A-94B, AFL-CIO.

This SMM is intended to provide you with an easy-to-understand description of material changes concerning the Plan. While every effort has been made to make this description as complete and as accurate as possible, this SMM, of course, cannot contain a full restatement of the terms and provisions of the Plan. The Board of Trustees or its duly authorized designee, reserves the right, in its sole and absolute discretion, to amend, modify or terminate the Plan, or any benefits provided under the Plan, in whole or in part, at any time and for any reason, in accordance with the applicable amendment procedures established under the Plan and the Agreement and Declaration of Trust establishing the Plan (the "Trust Agreement"). The Trust Agreement is available at the Fund Office and may be inspected by you free of charge during normal business hours. No individual other than the Board of Trustees (or its duly authorized designee) has any authority to interpret the Plan documents, make any promises to you about benefits under the Plan, or change any provision of the Plan. Only the Board of Trustees (or its duly authorized designee) has the exclusive right and power, in its sole and absolute discretion, to interpret the terms of the Plan and decide all matters arising under the Plan.

IMPORTANT NOTICE REGARDING THE PLAN'S GRANDFATHERED PLAN STATUS

The Trustees believe that the Plan is a "grandfathered plan" as such term is defined under PPACA (more commonly known as Health Care Reform). As permitted by Health Care Reform, a grandfathered health plan can preserve certain basic health coverage that was already in effect when Health Care Reform was enacted. Being a grandfathered health plan means that the medical coverage that you have elected under the plan may not include certain consumer protections of Health Care Reform that apply to other group health plans, for example, the requirement for the provision of preventive health services without any cost sharing (i.e., copayments, coinsurance, deductibles). However, grandfathered health plans must comply with certain other consumer protections in Health Care Reform, for example, the elimination of lifetime limits on benefits and extension of coverage to dependents until age 26. Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the Plan Administrator during normal business hours at: 331-337 West 44th Street, New York, New York, 10036, telephone number: (212) 331-1800. You may also contact the Department of Labor at (866) 444-3272 or www.dol.gov/ebsa/healthreform. This website has a table summarizing which protections do and do not apply to grandfathered plans.