

**SUMMARY OF MATERIAL MODIFICATIONS (“SMM”)
TO THE
HEALTH AND BENEFIT TRUST FUND OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL UNION
NO. 94-94A-94B, AFL-CIO**

COMMERCIAL DIVISION

To: All Participants and Beneficiaries in the Health and Benefit Trust Fund of the International Union of Operating Engineers Local Union No. 94-94A-94B, AFL-CIO

From: The Plan Administrator of the Health and Benefit Trust Fund of the International Union of Operating Engineers Local Union No. 94-94A-94B, AFL-CIO

Re: Notice of Correction to the Recent Summary Plan Description Active and Retiree Members Commercial Division (amended and restated effective as of January 1, 2017)

Date: December 10, 2017

Please be advised there was an error in the Summary Plan Description (“SPD”) that was recently mailed to you in that it contained incorrect information about the initial eligibility requirements for members who are actively employed in covered employment and the Invisalign method for corrective orthodontics was omitted. Specifically, the SPD did not accurately incorporate the modifications for these eligibility requirements that were effective as of January 1, 2014 and, instead, incorrectly reflected the prior rule. In addition the Invisalign method for corrective orthodontics effective 1/1/17 was omitted. Accordingly, this SMM is intended to notify you of the correct eligibility requirements and the Invisalign method for corrective orthodontics as follows:

Please refer to Section 1: Eligibility (page 5) - Initial Eligibility for Members Who Are Active

- The first two paragraphs should be replaced with the following two paragraphs.
- The remainder of the Initial Eligibility for Members who are Active set forth under Section 1: Eligibility is correct.

Initial Eligibility for Members Who Are Active

Effective as of January 1, 2014, new members of the Union and new employees of Contributing Employers will have to accrue 400 paid hours in Covered Employment within a six (6) consecutive month measurement period commencing as of their start date of covered employment to become eligible for benefits under the Fund. You will become eligible for benefits under the Fund as of the first day of the second month following the date that you accrued the 400 paid hours in Covered Employment within the applicable six (6) month measurement period. If you don't meet the eligibility requirements in the initial six month measurement period, a subsequent six month consecutive period will begin as of the first date of any subsequent month following your start date. As such, subsequent measurement periods can overlap, in part, with prior measurement periods. This will enable you to apply the relevant covered hours that span over multiple measurement periods in order to meet the 400 paid hours requirement.

For example, if you begin Covered Employment on January 15, 2014 and accumulate at least 400 hours on February 28, 2014, you will be eligible to participate in the Plan on April 1, 2014. If, however, you begin Covered Employment on January 15, 2014 and do not accumulate at least 400 hours through June 15, 2014 (i.e., the last day of the initial measurement period), you will not be eligible for coverage under the Fund until you satisfy the hours requirement for a subsequent measurement period. As an example, this could be achieved by accumulating the necessary hours in a subsequent measurement period that for instance runs from March 1, 2014 through August 31, 2014. If, during this subsequent measurement period (i.e., March through August), you accrue the required 400 hours on August 17, 2014, you will be able to participate on October 1, 2014.

These eligibility rules have been and continue to be in effect as of January 1, 2014, and the Plan has been operated accordingly.

Please refer to Section 6: Local 94/Sele-Dent Dental Program (page 37) Note: Orthodontia Benefits

- The paragraph listed below regarding the Invisalign method for corrective orthodontics effective 1/1/17 was omitted
- The remainder of the SPD including all information set forth under Section 6: Dental and Orthodontia Benefits is correct.

Orthodontia Benefit

Effective January 1, 2017, the Invisalign method for corrective orthodontics (as approved by the American Dental Association) is now a covered treatment under the existing orthodontic lifetime maximum of \$2,154. Please note this is a more expensive method of treatment than traditional orthodontic brackets; therefore the Local 94 Network orthodontists and the Sele-Dent PPO orthodontists do not have to accept the orthodontic lifetime maximum of \$2,154 for the Invisalign treatment as payment in full. However, you now have the option to choose this treatment as a covered benefit with the Plan covering up to \$2,154 of the costs for the Invisalign method. For this reason, it is important that you confirm with your orthodontist whether they will accept this amount as payment in full for such benefits or if they will charge a higher amount and bill you for the balance.

These benefits have been and continue to be in effect as of January 1, 2017, and the Plan has been operated accordingly.

You should take the time to read this SMM carefully and keep it with the 2017 Amended and Restated SPD that was recently provided to you. If you need another copy of the SPD or if you have any questions regarding this matter to the Plan, please contact the Plan Administrator during normal business hours at: 331-337 West 44th Street, New York, New York, 10036, telephone number: (212) 541-9880.

This SMM is intended to provide you with an easy-to-understand description of material issues 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 to 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

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 (Le., 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) 541-9880. 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.