

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

To: All Participants and Beneficiaries in the Commercial Active Plan, Commercial Retiree PPO Plan and Commercial Retiree Basic Plan of 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 (the “Plan”)

Re: Changes Due to End of the COVID-19 Public Health Emergency and the COVID-19 National Emergency – Effective May 12, 2023

Date: June 23, 2023

This document is a Summary of Material Modifications (“SMM”) intended to notify you of important changes due to the end of the COVID-19 Public Health Emergency and the COVID-19 National Emergency. Detailed below is an explanation of the Plan changes effective May 12, 2023 to the (1) OptumRx’s prescription benefit program and COVID-19 Testing, (2) Empire’s COVID-19 Testing and immunization program and (3) eligibility requirements applicable to the extension of coverage for layoffs solely due to the COVID-19 Pandemic. This summary is intended to satisfy the requirements for issuance of an 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 change 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) 331-1800.

1. Applicable Coverage for Over the Counter (“OTC”) COVID-19 Test Kits, COVID-19 Testing Ordered by Licensed Physicians, COVID-19 Immunizations, and Prescription Coverage to Treat COVID-19

OTC COVID-19 Test Kits

As of the effective date, the Plan will no longer pay for OTC COVID-19 test kits obtained at preferred network pharmacies such as Rite Aid (including Bartell Drugs), Walgreens, Kinney Drugs, Sam’s Club, Walmart Pharmacy and K-Mart (in the territory of Guam), ordered online through the Optum store or purchased at any other store or online retailer.

Also, if you purchase an OTC COVID-19 test kit from any other stores or online retailers as of the effective date, you will not be reimbursed for the cost of the OTC COVID-19 test kit even if you submit an online form via optumrx.com.

COVID-19 Testing Ordered by Licensed Physicians

COVID-19 Testing ordered by a licensed physician will be covered through Empire consistent with the Plan's Diagnostic Procedures as set forth in your SPD. Accordingly, such COVID-19 Testing in-network will be subject to a \$15 co-payment, and COVID-19 Testing out-of-network will be subject to your applicable deductible, 20% co-insurance plus any amount above the allowed amount.

OptumRx will not cover COVID-19 Testing ordered by a licensed physician.

COVID-19 Immunizations

Empire and OptumRx will cover COVID-19 Immunizations in-network at no cost. Empire will cover COVID-19 Immunizations out-of-network subject to your applicable deductible, 20% co-insurance plus any amount above the allowed amount.

OptumRx will not cover COVID-19 Immunizations out-of-network.

Prescription Coverage to Treat COVID-19

Empire will not cover anti-virals such as Paxlovid and Lagevrio to treat COVID-19.

OptumRx will cover anti-virals in-network at the non-formulary brand-level (i.e., subject to 40% co-payment, not to exceed \$60). OptumRx will not cover anti-virals out of -network.

2. Eligibility Requirements Applicable to the Extension of Coverage for Layoffs Due to the COVID-19 Pandemic

The Trustees amended the Plan, effective March 1, 2020 due to the COVID-19 Public Health Emergency, to extend coverage for layoffs due to the Covid-19 Pandemic. Such amendment provided that an employee who was covered under the Plan, and who had been laid off from Covered Employment solely as a result of the COVID-19 Pandemic, would remain under the Plan for two (2) additional calendar months after the last day of the month following the month in which the employee terminated Covered Employment.

Consistent with the end of the COVID-19 Public Health Emergency, effective May 12, 2023, the Trustees have amended the Plan to reinstate the coverage rule for Termination of Benefits in effect prior to the COVID-19 Public Health Emergency, as reflected in the SPD.

Please contact the Fund office at 212-331-1800 if you have any questions concerning the above information. You can also log onto www.local94.com to view the most current information regarding your benefits.

Sincerely,

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

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 (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) 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.