

November 17, 2010

Department of Health and Human Service
Office of Consumer Information and Insurance Oversight
Attn: James Mayhew; Room 737-F-04
200 Independence Ave. SW
Washington, DC 20201

RE: Annual Limit Requirements of PHS Act Section 2711 – Waiver Application

Please accept this letter as the application for waiver from the restricted annual limit requirements of PHS Act Section 2711 for the Orange County AHRC Standalone Health Reimbursement Arrangement Section 105 Plan. The Plan is a health reimbursement arrangement.

- I. Terms of the Plan for which the waiver is sought: The Plan provisions that limit the annual benefit to the amount credited to the Plan participant's account, which is always below the minimum annual limit prescribed in interim regulations issued under the PHSA Act. **See the relevant Plan provisions in the attached Plan Document.**
- II. There are currently (b)(4) participants in the Plan, and (b)(4) covered dependents for a total of (b)(4) people covered.
- III. Each Plan year, the employer credits an amount to each Plan participant's account. **See the relevant Plan provisions in the attached Plan Document.** As noted above, the annual benefit is limited to the amount credited to the Plan participant's account.
- IV. By way of this application, we request that the restricted annual limit imposed under the interim final regulations (IFR) be waived for the 2011 Plan year.
- V. By signing below, the Plan administrator is certifying that:
 - i. That the Plan was in effect prior to September 23, 2010; and
 - ii. The application of the restricted annual limit to the Plan would result in a significant decrease in access to benefits for those currently covered by the Plan. Simply stated, the employer/sponsor is financially unable to adhere to the restricted annual limits. Payment of benefits up to the minimum annual limit would be a financial impossibility and, without a waiver, the Plan will be terminated.

Thank you for your consideration. Please contact this office directly at 518-563-0930 if you have any questions.

Sincerely,

Laura Gartshore
Plan Administrator Assistant

From: Botwinick, Alexandra (HHS/OCIO)

Sent: Monday, December 20, 2010 1:19 PM

To: Lallen@relphbenefitadvisors.com

Cc: Habit, Sandra (HHS/OCIO)

Subject: Advocacy and Resource Center Approval Letter for a Waiver of the Annual Limits Requirements 12-20-2010

Importance: High

Attachments: Updated Jan 1 Approval Letter .pdf

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for **Advocacy and Resource Center**. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail.

Please let me know if I can be of further assistance.

Sincerely,

Alexandra Botwinick

Office of Oversight

HHS/OCIO

alexandra.botwinick@hhs.gov

ADV-RES:000002

From: Lisa Allen [LAllen@relphbenefitadvisors.com]

Sent: Tuesday, December 21, 2010 8:11 AM

To: Botwinick, Alexandra (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO)

Subject: RE: Advocacy and Resource Center Approval Letter for a Waiver of the Annual Limits Requirements 12-20-2010

Thank you. [Confirming receipt of email](#)

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]

Sent: Monday, December 20, 2010 1:19 PM

To: Lisa Allen

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Advocacy and Resource Center Approval Letter for a Waiver of the Annual Limits Requirements 12-20-2010

Importance: High

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for **Advocacy and Resource Center**. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail.

Please let me know if I can be of further assistance.

Sincerely,

Alexandra Botwinick

Office of Oversight

HHS/OCIIO

alexandra.botwinick@hhs.gov

ADV-RES:000003

From: Lisa Allen [LAllen@relphbenefitadvisors.com]
Sent: Tuesday, November 30, 2010 6:29 PM
To: HHS HealthInsurance (HHS)
Cc: Gartshore, Laura
Subject: Waiver

Attachments: Standalone HRA amended and restated Janaury 1 2011_SIGNED.pdf; Signed Waiver Letter.TIF
Please find attached the applicable Waiver applicable along with the relevant Plan Document.

Please reply to all with your approval of waiver or questions you may have.
Thank you,

Advocacy and Resource Center

Lisa Allen
Director, New Business Operations
Relph Benefit Advisors
1150-G Pittsford-Victor Road, 2nd Floor
Pittsford, NY 14534
1-800-836-0026 x230
Fax: 585-419-3884
Cell: 585-415-0448

CONFIDENTIALITY NOTICE: The information contained in this electronic communication, including any attachments, is confidential information, is intended only for the use of the recipients named above, and may be protected by law. If the reader of this message is not an intended recipient, you are hereby notified that any review, use, dissemination, distribution or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please notify us immediately of the error by return e-mail and please permanently remove the original message and any copy of it from your system. Thank you.

Relph Benefit Advisors is a member of the **Benefit Advisors Network (BAN)**, the premier national credentialed network of independent employee benefit brokerage and consulting firms. BAN member firms share investment and human capital in state of the art technology and employee benefit expertise to deliver optimum results for their clients.


ADV-RES:000004



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Consumer Information and
Insurance Oversight
Washington, DC 20201

Date: October 2010

From: Steve Larsen, Director, Office of Oversight 

Subject: Application for Waiver of the Annual Limits Requirements of PHS Act Section 2711

Dear Waiver Applicant:

Section 2711(a)(2) of the Public Health Service Act (PHS Act), as added by the Patient Protection and Affordable Care Act (Affordable Care Act), requires the Secretary to impose restrictions on the imposition of annual limits on the dollar value of essential health benefits (as defined in section 1302(b) of the Affordable Care Act) for any participant or beneficiary in a new or existing group health plan or a new policy in the individual market for plan or policy years beginning on or after September 23, 2010 and prior to January 1, 2014. Specifically, the Secretary is granted the authority to determine what constitutes a "restricted annual limit" that can still be imposed under such plans or policies prior to January 1, 2014.

The interim final regulations published on June 28, 2010 (codified at 26 CFR § 54.9815-2719T; 29 CFR § 2590.715-2719; and 45 CFR § 147.126) established such restricted annual limits. The regulations also provided that these restricted annual limits may be waived by the Secretary of Health and Human Services (HHS) if compliance with the interim final regulations would result in a significant decrease in access to benefits or a significant increase in premiums. Pursuant to the regulation, HHS issued guidance on September 3 regarding the scope and process for applying for a waiver.

The Office of Consumer Information and Insurance Oversight, Office of Insurance Oversight received and processed your application for the plan(s) or policy(ies) year beginning January 1, 2011. We have determined that your application has met the criteria to obtain a waiver of the restricted annual limits requirements because compliance with the interim final regulations would result in a significant decrease in access to benefits for those currently covered by such plans or policies, or a significant increase in premiums paid by those covered by such plans or policies. To the extent you make any change to your benefit package after March 23, 2010, you must determine whether the change(s) will trigger loss of grandfathering status pursuant to 45 CFR § 147.140(g)(1).

An approval of your request for waiver of the restricted annual limits requirements granted under this process applies only to the annual limit(s) provided in your application for the plan or policy year beginning between September 23, 2010 and September 23, 2011. This waiver only applies to the annual limits requirements in Section 2711 of the ACA and does not apply to any other requirement of the Affordable Care Act, ERISA, the IRS Code or the PHS Act. Further, a group

health plan or health insurance issuer must reapply for any subsequent plan or policy year prior to January 1, 2014 when this waiver expires in accordance with future guidance from HHS. HHS may modify this waiver approval process memorandum and other relevant information.

If you have any questions regarding this letter, please email OCIIOOversight@hhs.gov.

Pages 7 through 20 redacted for the following reasons:

Exemption 4