

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Monday, December 06, 2010 8:14 AM
To: 'cementfund@aol.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Attachments: Updated Jan 1 Approval Letter .pdf
Good Morning,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for **Cement and Concrete Workers District Council**. 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 address with a copy to OCIIOoversight@hhs.gov.

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

Sincerely,

Alexandra Botwinick

Office of Oversight
HHS/OCIIO

alexandra.botwinick@hhs.gov

CCWDC:000001

10/26
pass dup.

CEMENT & CONCRETE WORKERS DISTRICT COUNCIL

Fringe Benefit Funds

35-30 FRANCIS LEWIS BOULEVARD, SUITE 201 • FLUSHING, N.Y. 11358

(718) 762-6133 FAX (718) 762-5144

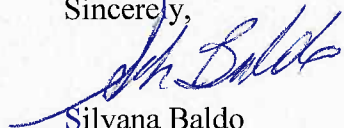
Annuity Fund • Pension Fund • Scholarship Fund • Welfare Fund

October 25, 2010

HHS Office of Consumer Information and Insurance Oversight
Office of Oversight
Attn: James Mayhew
Room 737-F-04
200 Independence Avenue SW
Washington, DC 20201

Please find enclosed the Waiver Application of the Cement and Concrete Workers District Council Welfare Fund Plan. We would appreciate the granting of this waiver.

Sincerely,



Silvana Baldo
Funds Administrator

c.c. file

Encls.

HHS, OFFICE OF CONSUMER INFORMATION
AND INSURANCE OVERSIGHT
OFFICE OF OVERSIGHT

x

IN THE MATTER OF THE WAIVER APPLICATION OF

CEMENT AND CONCRETE WORKERS
DISTRICT COUNCIL WELFARE FUND PLAN

PLAN NUMBER: 501

E.I.N. 13-5542693

x

To: HHS, Office of Consumer Information and Insurance Oversight
Office of Oversight
Attention James Mayhew
Room 737-F-04
200 Independence Avenue SW
Washington, DC 20201

By: Joseph S. Kaming, Esq.
Kaming & Kaming, Esqs.
156 East 65th Street
New York, NY 10065
Tel. (212) 535-0245

On behalf of:
Cement and Concrete Workers District
Council Welfare Fund
35-30 Francis Lewis Boulevard
Flushing, NY 11358
Tel. (718) 762-6133

Welfare Consultant
Alan Sofge
Segal
333 West 34th Street
New York, NY 10001-2402
Tel. (212) 251-5000

Accountants
Al Thoben
D'Arcangelo & Co., LLP
Certified Public Accountants
3020 Westchester Avenue
Purchase, NY 10577-2538
(914) 694-4600

Ms. Silvana Baldo, Plan Administrator of the captioned Plan, attests as follows:

A. I am Plan Administrator of above captioned Cement and Concrete
Workers District Council Welfare Fund Plan and as Plan Administrator I am issuer of the
coverage under the plan which is a self insured plan. I certify:

1. That the plan was in force prior to September 23, 2010; and
2. That the application of restricted annual limits to this Plan would result in a significant decrease in access to benefits for those currently covered by this Plan, or a significant increase in premiums paid by those covered by this Plan.

B. As Plan Administrator, on behalf of the Plan, I request a waiver of the "restricted annual limit" on essential health benefit provisions as imposed on our, the above captioned Plan, by § 2711(a)(2) of the Public Health Service Act and 45 C.F.R. § 147.126(a)(2). This waiver may be granted pursuant to 45 C.F.R. § 147.126 (d)(3). The justification warranting and supporting this waiver is as follows:

1. The terms of the Plan for which a waiver is sought are a general full health coverage plan with numerous essential health benefit caps. The Benefits are available only for individuals who fall into one or more of the following categories:

- (a) Active Employees – [generally (b)(4) hrs. of credited service in (b)(4) months]
Eligible Retirees [generally (b)(4) yrs of credited service, two (b)(4) hr yrs in last (b)(4)]
Falling into 2 categories:
 - (i) Eligible Retirees age 65 and over on Medicare
 - (ii) Eligible Retirees age 64 and under
- (b) Eligible Dependents
Falling into 2 categories:
 - (i) Eligible Dependents age 65 and over
 - (ii) Eligible Dependents age 64 and under
- (c) Participants
This category includes overlapping categories – Active Employees, Eligible Retirees, and 2 additional categories:
 - (i) Participants Eligible for a Death Benefit
 - (ii) Participants Eligible for Disability Benefits
- (d) COBRA Enrollees

2. The number of individuals covered by the Plan are as follows:

- (a) As of October 1, 2010, there were (b)(4) participants and dependents covered.

3. The annual limit(s) and rules applicable to the Plan for which a waiver is sought are as follows:

SUMMARY OF CAPS – SOME CAPS MAY BE INTERRELATED

HOSPITAL EXPENSE BENEFITS
OUT-PATIENT EXPENSE BENEFIT
SURGICAL EXPENSE BENEFITS
Second Surgical Opinion
ANESTHESIA BENEFITS
CATASTROPHIC EXPENSE BENEFIT
PRIVATE DUTY NURSES
HOME HEALTH CARE EXPENSE BENEFITS
MEDICAL EXPENSE BENEFITS (Home and Office Calls, In-Hospital Treatment)
WELL BABY CARE
IMMUNIZATION
PREGNANCY EXPENSE BENEFITS (OBSTETRICAL BENEFIT)
CONSULTATION BENEFITS
ROUTINE PHYSICAL EXAM EXPENSE
DIAGNOSTIC TESTING AND LABORATORY EXPENSE BENEFIT
SHOCK THERAPY TREATMENT EXPENSE BENEFITS
ALCOHOL & SUBSTANCE ABUSE BENEFITS
MEDICAL SUPPLIES AND EQUIPMENT BENEFITS
DENTAL EXPENSE BENEFITS
PRESCRIPTION EYEGLASS EXPENSE BENEFITS
PRESCRIPTION DRUG EXPENSE BENEFIT
HEARING AID EXPENSE BENEFITS

(b)(4)

4. A brief description of why 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 significant increase in premiums paid by those covered by such plans or policies, along with any supporting documentation is as follows:

a. The Plan is a full coverage with caps multiemployer New York City construction industry Plan for Union concrete laborers. The work available for the Plan concrete laborers is related to the construction industry market. At present, because of the economic downturn, there is approximately a persistent (b)(4) unemployment of participating Plan members. The 2010 half year financial statement shows for essential health benefits, excluding prescription drugs, group medical claims of (b)(4) (excluding administrative expenses). For this same period employer contributions were, based on the collectively bargained employee wage package, (b)(4). Prescription drug costs and additional cost for the Plan, were approximately (b)(4). Expanding deficits, as would be imposed by removing the caps, is not an alternative. The Plan coverage, of necessity, would collapse if the essential health benefit caps were removed.

b. The average family monthly premium for the New York City construction industry general full coverage plans without caps is approximately between (b)(4) per month (Cement Masons – Hip Health) and (b)(4) per month (Metal Lathers – Aetna). The average cost per month for the Cement and Concrete Workers present Plan with caps is (b)(4) per month for a family plan. With the caps removed, the Cement and Concrete Workers family Plan costs predictably would approach the full plan costs of the Masons or Metal Lathers, an increase of at least (b)(4). Obviously, if the caps were removed, the Plan Trustees, as required by the mandate of their fiduciary responsibilities, § 404 Employee Retirement Income Security Act, 29 U.S.C. §1104, would have to increase significantly contribution premiums of those covered by the Plan or eliminate coverage and thus cause a significant decrease in access to benefits for a significant number of participants currently covered by the Plan.

5. As Plan Administrator, I have retained documents in support of this application for potential examination by the Secretary.

WHEREFORE, I request the granting of this Waiver Application as fully warranted by compliance with the applicable law and regulations.

ABBY S KAPLAN
No. 01KA6221321
State of New York
Qualified in Kings County
Commission Expires May 3, 2014

Abby S. Kaplan

Silvana Baldo
SILVANA BALDO

Sworn to before me this 25th

day of October, 2010

From: Cementfund@aol.com
Sent: Monday, December 06, 2010 8:43 AM
To: Botwinick, Alexandra (HHS/OCIO)
Cc: OCIO Oversight
Subject: Re: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Follow Up Flag: Follow up

Flag Status: Red

Good Morning.

I acknowledge receipt of letter regarding the Cement & Concrete Workers District Council email date 12/6/2010.

Thank You for a favorable decision.

Sincerely,
Silvana Baldo
Fund Administrator
718-762-6133

CCWDC:000007

From: Moultrie, Cam (HHS/OCIIO)
Sent: Thursday, November 18, 2010 12:40 PM
To: Joseph S. Kaming
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Response: Cement & Concrete Workers Welfare Fund
Thank you for your response.

When does the next plan year begin?

Cam Lynne Moultrie
Program Analyst
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

From: Joseph S. Kaming [mailto:jskaming@nyc.rr.com]
Sent: Wednesday, November 17, 2010 3:59 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Alan Sofge; Hany Kilada; Silvana Baldo
Subject: Response: Cement & Concrete Workers Welfare Fund

To: Cam L. Moultrie
From: Joseph S. Kaming, Esq.

Please find attached the response you requested in your e-mail of November 16, 2010 and a copy of the Fund's original waiver submission. We request, based upon the validity of our submission and response, that the Funds are granted the requested waiver. Thank you on behalf of the Cement & Concrete Workers District Council and the Funds.

From: Moultrie, Cam (HHS/OCIIO)
Sent: Friday, November 19, 2010 11:25 AM
To: Joseph S. Kaming
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Response: Cement & Concrete Workers Welfare Fund
Thank you for the information.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

From: Joseph S. Kaming [mailto:jskaming@nyc.rr.com]
Sent: Friday, November 19, 2010 10:01 AM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Silvana Baldo; Alan Sofge
Subject: RE: Response: Cement & Concrete Workers Welfare Fund

The next plan year begins January 1, 2011. Thank you for your attention to this critical matter for the Union.

Sincerely, Joseph Kaming for Cement & Concrete Welfare Fund

-----Original Message-----

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Thursday, November 18, 2010 12:40 PM
To: Joseph S. Kaming
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Response: Cement & Concrete Workers Welfare Fund

Thank you for your response.

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Cam Lynne Moultrie
Program Analyst
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
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cam.moultrie@hhs.gov

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To: Cam L. Moultrie
From: Joseph S. Kaming, Esq.

Please find attached the response you requested in your e-mail of November 16, 2010 and a copy of the Fund's original waiver submission. We request, based upon the validity of our submission and response, that the Funds are granted the requested waiver. Thank you on behalf

CCWDC:000009

of the Cement & Concrete Workers District Council and the Funds.

CEMENT & CONCRETE WORKERS DISTRICT COUNCIL

Fringe Benefit Funds

35-30 FRANCIS LEWIS BOULEVARD, SUITE 201 • FLUSHING, N.Y. 11358

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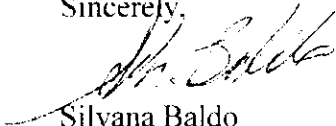
Annuity Fund • Pension Fund • Scholarship Fund • Welfare Fund

October 25, 2010

HHS Office of Consumer Information and Insurance Oversight
Office of Oversight
Attn: James Mayhew
Room 737-F-04
200 Independence Avenue SW
Washington, DC 20201

Please find enclosed the Waiver Application of the Cement and Concrete Workers District Council Welfare Fund Plan. We would appreciate the granting of this waiver.

Sincerely,



Silvana Baldo
Funds Administrator

c.c. file

Encls.

From: Moultrie, Cam (HHS/OCIO)

Sent: Tuesday, November 16, 2010 4:08 PM

To: cementfund@aol.com

Cc: Habit, Sandra (HHS/OCIO)

Subject: Waiver Application for Cement and Concrete Workers District Council Welfare Fund Plan, 501

Dear Applicant:

Thank you for your application for the Waiver of the Annual Limits Requirements of the PHS Act Section 2711. In order to complete your application, please provide the following information:

- Please provide the effective date for your plan.
- Please provide the annual limit for your plan.
- In your application, your plan(s) or policy(ies) provide a lifetime limit. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.
- Please confirm whether the plan is in compliance with the interim final regulations relating to grandfathered health plans.
- Please provide the current monthly premium rates and the projected monthly premium rates applicable to the plan or policy forms if the plan were to comply with the restricted annual benefits. In other words, we would like a chart that reflects the following information:

	2010 January Premium (current level)	2011 January Premium (renewal)	2011 January Premium (if \$750,000 annual limit was applied)
EE			
EE + Child (if applicable or other appropriate tier)			
EE + Spouse (if applicable or other appropriate tier)			
Family (if applicable or other appropriate tier)			

In order to complete your application, please provide this information by 5:00 pm, November 17, 2010. We look forward to receiving your completed application. Thank you.

Cam L. Moultrie
Program Analyst
Office of Consumer Information and Insurance Oversight

CCWDC:000012

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

CCWDC:000013

From: Moultrie, Cam (HHS/OCIIO)
Sent: Thursday, November 18, 2010 10:51 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: Response: Cement & Concrete Workers Welfare Fund

Attachments: Response waiver letter0001.pdf; Waiver Application0001.pdf

Cam Lynne Moultrie
Program Analyst
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

From: Joseph S. Kaming [mailto:jskaming@nyc.rr.com]
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To: Moultrie, Cam (HHS/OCIIO)
Cc: Alan Sofge; Hany Kilada; Silvana Baldo
Subject: Response: Cement & Concrete Workers Welfare Fund

To: Cam L. Moultrie
From: Joseph S. Kaming, Esq.

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CEMENT & CONCRETE WORKERS DISTRICT COUNCIL

Fringe Benefit Funds

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(718) 762-6133 FAX (718) 762-5144

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November 17, 2010

HHS Office of Consumer Information and Insurance Oversight
 Office of Oversight
 Attn: Cam I Moultrie
 Program Analyst

Please accept this response to the Office's request of November 16, 2019. We have attached our original waiver submission including the annual limitation table for which the waiver is requested.

1. Our plan, as explained in the submission, is a self insured plan which relies upon hourly contributions for laborers' hours worked in the now depressed New York City construction industry. Since we are self insured by these contributions, there is a continuing effective date. The coverage does not have an out sourced contractual period term.

2. The annual limits are contained in the table which constituted part of the original submission, attached herein.


3. Our plan has no lifetime limits.

4. Our plan is in compliance with the interim final regulations relating to grandfathered health plans.

Unit for coverage in keeping with plan provisios	2010 monthly self insured cost	2011 monthly self insured cost (projected)	2011 January premium (if \$750,000 annual limit was applied) – base on quotations relating to this coverage – we no longer can be self insured
single		(b)(9)	
family			
No other			

The New York City construction market is substantially depressed. We wish to be able to continue our plan. We believe that this response and our original submission fully warrants the granting of the requested waiver,

Sincerely,

A handwritten signature in black ink that reads "Joseph S. Kaming". The signature is written in a cursive style with a large, prominent initial "J".


Joseph S. Kaming, Esq.
on behalf of the
Cement and Concrete Workers
Welfare Fund



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.

From: cementfund@aol.com
Sent: Monday, October 25, 2010 11:19 AM
To: HHS HealthInsurance (HHS)
Subject: Waiver

Follow Up Flag: Follow up
Flag Status: Red

Attachments: OneTouch Oct 25, 2010 (1).TIF; OneTouch Oct 25, 2010 (3).TIF; OneTouch Oct 25, 2010 (2).TIF;
OneTouch Oct 25, 2010 (4).TIF; OneTouch Oct 25, 2010 (5).TIF

Please find enclosed the Waiver Application of the Cement and Concrete Workers District Council Welfare Fund Plan. WE would appreciate the granting of this Waiver.

CCWDC:000019

CEMENT & CONCRETE WORKERS DISTRICT COUNCIL

Fringe Benefit Funds

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(718) 762-6133 FAX (718) 762-5144

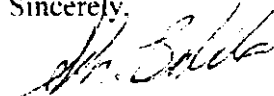
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Encls.