



1199SEIU Licensed Practical Nurses Welfare Fund

330 WEST 42ND STREET | NEW YORK, NY 10036-6977 | WWW.1199SEIUBENEFITS.ORG

October 28, 2010

By UPS Overnight Delivery

Mr. James Mayhew
US Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Room 737-F-04
200 Independence Ave, SW
Washington DC 20201

Re: Request for Waiver of Restricted Annual Limits

Dear Mr. Mayhew:

Please accept this letter on behalf of the 1199SEIU Licensed Practical Nurses Welfare Fund (“the Fund”) as a request for a waiver of the restrictions on annual limits on essential health benefits established under the Patient Protection and Affordable Care Act (“PPACA”), 75 Fed. Reg. 37188. Although the interim final regulation issued by the US Departments of Health and Human Services, Labor, and Treasury allow restricted annual limits before 2014, even under this provision, unless the Fund is granted a waiver, the Fund will have to eliminate coverage for prescription drugs in order to offset the dramatic cost increase that would result from the elimination of the annual cap.

The Fund is a nonprofit tax-exempt organization administered by a Board of Trustees appointed by 1199SEIU, the certified collective bargaining agent for licensed practical nurses (“LPNs”) employed by the New York City Health and Hospitals Corporation. The LPNs receive their primary welfare benefits, including a limited prescription drug benefit for chemotherapy agents and injectibles only, from the City of New York. The Fund provides supplemental prescription drug, vision, dental, life and disability benefits pursuant to a collective bargaining agreement between the City of New York and 1199SEIU United Health Care Workers East (“the Union”). The Fund’s prescription drug benefit is capped at (b)(4) per family per year, and covers all prescribed prescription drugs, excluding chemotherapy agents and injectibles

that are covered by the City. Once a family has exhausted the Fund's prescription drug benefit, they are generally able to obtain prescription drugs for a (b)(4) copayment from the hospital pharmacy where they work.

Currently, the Fund receives (b)(4) annually per member in contributions from the City of New York for approximately (b)(4) employee members. This contribution covers all the Fund's benefits mentioned previously - prescription drug, vision, and dental for the members and their dependents, and life and disability benefits for the members.

This fund is one of many such supplemental welfare funds sponsored by unions with collective bargaining agreements with the City of New York.

We applaud Congress and the Administration for providing this waiver process so that employers (and unions) who are already funding health benefits for employees will not be forced to eliminate coverage during the period prior to 2014. Certainly, without the waiver this will be the result for the Fund.

Below is the Fund's response to information requested by the DHHS relative to group health Plans applying for "a waiver from the restricted annual limits":

1. The terms of the plan for which a waiver is sought:

The Fund is requesting a waiver of the elimination of its current annual maximum of (b)(4) per family for prescription drug coverage.

2. The number of individuals covered by the plan:

There are approximately (b)(4) participants covered by the Fund ((b)(4) members; (b)(4) spouses; (b)(4) children) as of September 2010.

3. The annual limit and rates applicable to the plan:

Currently, the Fund has an annual maximum prescription drug benefit of \$ [REDACTED] per family. The plan is currently self-funded, so no insured premium rate is available. The prescription drug rate (applicable cost) for the Plan was approximately [REDACTED] per active member per year in 2009. Participants do not contribute toward these benefits.

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:

The intent and purpose of the Fund is to provide supplemental health and welfare benefits for employees and their families covered under the City of New York's benefit programs. The City of New York is contractually bound to provide funding for such benefits. Current employer contribution levels cannot support the provision of full prescription drug benefits under this Fund.

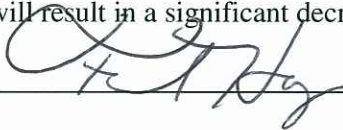
The Fund's actuary projects that compliance with the elimination of the annual cap requirement pursuant to PPACA will increase the cost of providing prescription drug benefits to two hundred fifty percent [REDACTED] of the current cost.

We understand that the City of New York cannot afford the enormous increase in contribution costs that complying with the restricted annual limit rule would impose on its supplemental welfare funds. Absent relief through the waiver program, if the City of New York does not agree to reopen collective bargaining (which it is not obligated to do) and increase prescription drug contributions to [REDACTED] their current level, the Fund will have to eliminate substantially all supplemental prescription drug coverage.

Applying the coverage mandates to the coverage that the Fund provides to its participants will dramatically increase health care costs to an unaffordable level and strain labor-management relations. The waiver program should acknowledge the conclusions of the bargaining parties as to the benefit levels that are affordable under the wage package by permitting the Fund to maintain its existing annual limits for prescription drug coverage under the terms of the plan.

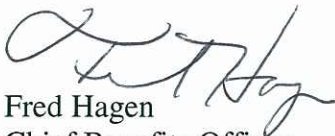
5. **An attestation, signed by the plan administrator or Chief Benefits Officer of the Fund's Plan, certifying 1) that the plan was in force prior to September 23, 2010; and 2) that the application of restricted annual limits to such plans or policies would result in a significant decrease in access 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.**

Attestation: The Fund was in force prior to September 23, 2010. The application of restricted annual limits will result in a significant decrease in access to benefits.



Fred Hagen
Chief Benefits Officer

Sincerely,



Fred Hagen
Chief Benefits Officer
Phone: (646) 473-6950
Fax: (646) 473-6019

From: Sarah Burgos [Sarah.Burgos@1199funds.org]
Sent: Thursday, October 28, 2010 12:10 PM
To: HHS HealthInsurance (HHS)
Subject: waiver

Attachments: Request for Waiver-LPN.pdf

Attached please find a request for a waiver on behalf of the 1199SEIU Licensed Practical Nurses Welfare Fund.

Sarah Burgos on behalf of Fred Hagen, Chief Benefits Officer

1199SEIU Benefit & Pension Fund

330 West 42nd St/31st Floor

New York, NY 10036

(646) 473-6953 (phone)

(646) 473-6019 (fax)

Sarah.Burgos@1199funds.org

<<Request for Waiver-LPN.pdf>>

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From: Andrews, Jane (HHS/OCIO)

Sent: Monday, November 15, 2010 11:02 AM

To: 'Sarah.Burgos@1199funds.org'

Cc: Habit, Sandra (HHS/OCIO)

Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date of _____ policy?

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the _____ rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a (b)(4) increase, but what are the actual dollars beneath that increase?

Thank you.

Jane W. Andrews

OCIO

7501 Wisconsin Ave

Bethesda, MD 20814

301-492-4122 (desk)

202-536-6779 (Blackberry)

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From: Sarah Burgos [Sarah.Burgos@1199funds.org]

Sent: Wednesday, November 17, 2010 8:29 AM

To: Andrews, Jane (HHS/OCIO)

Cc: Habit, Sandra (HHS/OCIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good morning: We did receive your e-mail on Monday and are currently working on getting the information requested. Thank you.

[Sarah Burgos](#)

From: Andrews, Jane (HHS/OCIO) [mailto:Jane.Andrews@hhs.gov]

Sent: Wednesday, November 17, 2010 8:27 AM

To: Andrews, Jane (HHS/OCIO); Sarah Burgos

Cc: Habit, Sandra (HHS/OCIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Burgos: I am writing to confirm your receipt of my e-mail from Monday. Thanks.

Jane W. Andrews

OCIO

7501 Wisconsin Ave

Bethesda, MD 20814

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Cc: Habit, Sandra (HHS/OCIO)

Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date of [redacted] policy?

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the [redacted] rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a [redacted] increase, but what are the actual dollars beneath that increase?

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1199SEIU LPN:000007

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Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
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What is the effective date policy?

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From: Sarah Burgos [Sarah.Burgos@1199funds.org]

Sent: Friday, November 19, 2010 2:38 PM

To: Andrews, Jane (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good afternoon,

Please note our responses to your questions below. If you have any additional questions, please do not hesitate to contact me.

Sarah Burgos on behalf of Fred Hagen

1199SEIU Benefit & Pension Fund

330 West 42nd St/31st Floor

New York, NY 10036

(646) 473-6953 (phone)

(646) 473-6019 (fax)

Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]

Sent: Monday, November 15, 2010 11:02 AM

To: Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date of [redacted] policy? **January 1, 2011**

When you write there is an [redacted] prescription drug rate for 2009, what is that rate for 2010, the [redacted] rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a [redacted] increase, but what are the actual dollars beneath that increase?

2010 rate for prescription with current annual maximum is [redacted]

2011 rate for prescription with current annual maximum would be [redacted]

2011 rate for prescription with a \$750,000 annual maximum is [redacted]

Thank you.

Jane W. Andrews

OCIIO

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From: Fred Hagen [Fred.Hagen@1199funds.org]

Sent: Monday, December 13, 2010 3:21 PM

To: Sarah Burgos; Andrews, Jane (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

Thank you for your consideration in this matter.

Fred Hagen

Chief Benefits Officer

1199SEIU Benefit Funds

646-473-6950

From: Sarah Burgos

Sent: Friday, November 19, 2010 2:38 PM

To: Andrews, Jane (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

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(646) 473-6953 (phone)

(646) 473-6019 (fax)

Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]

Sent: Monday, November 15, 2010 11:02 AM

To: Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

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What is the effective date _____ policy? **January 1, 2011**

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the re _____ rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a (b)(4) increase, but what are the actual dollars beneath that increase?

2010 rate for prescription with current annual maximum is (b)(4)

2011 rate for prescription with current annual maximum would be (b)(4)

2011 rate for prescription with a \$750,000 annual maximum is (b)(4)

1199SEIU LPN:000012

Thank you.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Andrews, Jane (HHS/OCIIO)
Sent: Monday, December 13, 2010 3:43 PM
To: 'Fred.Hagen@1199funds.org'; 'Sarah.Burgos@1199funds.org'
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
I am checking on the status

From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 03:20 PM
To: Sarah Burgos <Sarah.Burgos@1199funds.org>; Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

Thank you for your consideration in this matter.

Fred Hagen
Chief Benefits Officer
1199SEIU Benefit Funds
646-473-6950

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Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good afternoon,

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Sarah Burgos on behalf of Fred Hagen
1199SEIU Benefit & Pension Fund
330 West 42nd St/31st Floor
New York, NY 10036
(646) 473-6953 (phone)
(646) 473-6019 (fax)
Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
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Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

1199SEIU LPN:000014

What is the effective date of policy? [January 1, 2011](#)

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2010 rate for prescription with current annual maximum is (b)(4)

2011 rate for prescription with current annual maximum would be (b)(4)

2011 rate for prescription with a \$750,000 annual maximum is (b)(4)

Thank you.

Jane W. Andrews
OCIO
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From: Fred Hagen [Fred.Hagen@1199funds.org]

Sent: Monday, December 13, 2010 3:50 PM

To: Andrews, Jane (HHS/OCIIO); Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thanks so much.

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]

Sent: Monday, December 13, 2010 3:43 PM

To: Fred Hagen; Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

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Chief Benefits Officer

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1199SEIU LPN:000016

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
To: Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

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What is the effective date of policy? [January 1, 2011](#)

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[2010 rate for prescription with current annual maximum is \(b\)\(4\)](#)

[2011 rate for prescription with current annual maximum with \(b\)\(4\)](#)

[2011 rate for prescription with a \\$750,000 annual maximum is \(b\)\(4\)](#)

Thank you.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
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301-492-4122 (desk)
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From: Andrews, Jane (HHS/OCIIO)

Sent: Tuesday, December 14, 2010 9:57 AM

To: Habit, Sandra (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

This is one that should have been on approval list but feel of radar screen. We are trying to get Gary and Jim to approve today.

Jane W. Andrews

OCIIO

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From: Habit, Sandra (HHS/OCIIO)

Sent: Monday, December 13, 2010 4:04 PM

To: Andrews, Jane (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Jane,

I'm really confused by this. I think that 1199 SEIU and 1199 SEIU LPN's are the same because Sara Burgos and Fred Hagen are on both sets of emails. 1199 SEIU has been approved but 1199 SEIU LPN has not been approved and on the master spreadsheet it only says "may be a duplicate of 125". Let me know how you would like me to proceed with this.

Sandy

From: Andrews, Jane (HHS/OCIIO)

Sent: Monday, December 13, 2010 3:56 PM

To: Habit, Sandra (HHS/OCIIO)

Subject: Fw: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Importance: High

I think these LPNs are on a new or recent approval list so Erica may know.

From: Botwinick, Alexandra (HHS/OCIIO)

Sent: Monday, December 13, 2010 03:53 PM

To: Andrews, Jane (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I checked the folder. You have correspondence from them on the 19th which is what they asked. Its 1199SEIU Licensed Practical Nurses.

Alexandra Botwinick

Office of Oversight

HHS/OCIIO

(301) 492-4177

alexandra.botwinick@hhs.gov

1199SEIU LPN:000019

From: Andrews, Jane (HHS/OCIIO)
Sent: Monday, December 13, 2010 3:53 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Too hArd for me to recall. I will ask Sandy to see if she can track this one down.

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Monday, December 13, 2010 03:51 PM
To: Andrews, Jane (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

November 5th

It is published on the public list as 1199SEIU Greater New York Benefit Fund. Is that a different app?

Alexandra Botwinick

Office of Oversight
HHS/OCIIO
(301) 492-4177
alexandra.botwinick@hhs.gov

From: Andrews, Jane (HHS/OCIIO)
Sent: Monday, December 13, 2010 3:49 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

November 5 or December5?

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Monday, December 13, 2010 03:45 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Pham, Erica (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Jane I have that Lisa Keels did their application and they received and confirmed receipt of a waiver on November 5th. The contact e-mail was Sarah.Burgos@1199funds.org. Is this another application from them?

Alexandra Botwinick

Office of Oversight
HHS/OCIIO
(301) 492-4177
alexandra.botwinick@hhs.gov

From: Andrews, Jane (HHS/OCIIO)
Sent: Monday, December 13, 2010 3:43 PM
To: Botwinick, Alexandra (HHS/OCIIO); Pham, Erica (HHS/OCIIO)
Subject: Fw: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Since I am out of office would you mind checking on this ones' status? Thanks

From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 03:20 PM
To: Sarah Burgos <Sarah.Burgos@1199funds.org>; Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

Thank you for your consideration in this matter.

Fred Hagen
Chief Benefits Officer
1199SEIU Benefit Funds
646-473-6950

From: Sarah Burgos
Sent: Friday, November 19, 2010 2:38 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good afternoon,

Please note our responses to your questions below. If you have any additional questions, please do not hesitate to contact me.

Sarah Burgos on behalf of Fred Hagen
1199SEIU Benefit & Pension Fund
330 West 42nd St/31st Floor
New York, NY 10036
(646) 473-6953 (phone)
(646) 473-6019 (fax)
Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
To: Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

1199SEIU LPN:000021

What is the effective date of policy? [January 1, 2011](#)

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a (b)(4) increase, but what are the actual dollars beneath that increase?

2010 rate for prescription with current annual maximum is (b)(4)

2011 rate for prescription with current annual maximum would be (b)(4)

2011 rate for prescription with a \$750,000 annual maximum is (b)(4)

Thank you.

Jane W. Andrews
OCIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Fred Hagen [Fred.Hagen@1199funds.org]
Sent: Tuesday, December 14, 2010 4:57 PM
To: Andrews, Jane (HHS/OCIIO); Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
Thanks so much for your attention to this matter.

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Tuesday, December 14, 2010 4:56 PM
To: Fred Hagen; Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Fred and Sarah – I just left a voice mail for Sarah indicating that you should be getting an approval letter of your waiver application for 1199SEIU LPN Fund.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Tuesday, December 14, 2010 11:07 AM
To: Andrews, Jane (HHS/OCIIO); Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thank you for your prompt reply. We are looking forward to your response.

Fred Hagen
Chief Benefits Officer
1199 SEIU Benefit and Pension Fund
646-473-6950 Office
646-473-6019 Fax

From: Andrews, Jane (HHS/OCIIO)
To: Fred Hagen; Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Sent: Tue Dec 14 10:47:30 2010
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
Mr. Hagen and Ms. Burgos.

I need to apologize for the delay in getting you a response. You are correct that we last corresponded on November 19th. I completed my review on November 23, but for some reason, when I sent it forward for second level review, this application got dropped from the approval committee list. I suspect it is due to having received two applications from 1199 one of which was approved November 5, but I am not sure. In any case, I will ensure that this application gets in front of the committee today so I can communicate back to you with a final determination by COB.

Again, my apologies.

1199SEIU LPN:000023

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 3:50 PM
To: Andrews, Jane (HHS/OCIIO); Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thanks so much.

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, December 13, 2010 3:43 PM
To: Fred Hagen; Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am checking on the status

From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 03:20 PM
To: Sarah Burgos <Sarah.Burgos@1199funds.org>; Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

Thank you for your consideration in this matter.

Fred Hagen
Chief Benefits Officer
1199SEIU Benefit Funds
646-473-6950

From: Sarah Burgos
Sent: Friday, November 19, 2010 2:38 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

1199SEIU LPN:000024

Good afternoon,

Please note our responses to your questions below. If you have any additional questions, please do not hesitate to contact me.

Sarah Burgos on behalf of Fred Hagen
1199SEIU Benefit & Pension Fund
330 West 42nd St/31st Floor
New York, NY 10036
(646) 473-6953 (phone)
(646) 473-6019 (fax)
Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
To: Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date policy? [January 1, 2011](#)

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the renewal rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a 250% increase, but what are the actual dollars beneath that increase?

[2010 rate for prescription with current annual maximum is \(b\)\(4\)](#)

[2011 rate for prescription with current annual maximum would be \(b\)\(4\)](#)

[2011 rate for prescription with a \\$750,000 annual maximum is \(b\)\(4\)](#)

Thank you.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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1199SEIU LPN:000025

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From: Andrews, Jane (HHS/OCIIO)
Sent: Tuesday, December 14, 2010 10:48 AM
To: 'Fred Hagen'; 'Sarah Burgos'
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
Mr. Hagen and Ms. Burgos.

I need to apologize for the delay in getting you a response. You are correct that we last corresponded on November 19th. I completed my review on November 23, but for some reason, when I sent it forward for second level review, this application got dropped from the approval committee list. I suspect it is due to having received two applications from 1199 one of which was approved November 5, but I am not sure. In any case, I will ensure that this application gets in front of the committee today so I can communicate back to you with a final determination by COB.

Again, my apologies.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 3:50 PM
To: Andrews, Jane (HHS/OCIIO); Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thanks so much.

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, December 13, 2010 3:43 PM
To: Fred Hagen; Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am checking on the status

From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 03:20 PM
To: Sarah Burgos <Sarah.Burgos@1199funds.org>; Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

1199SEIU LPN:000028

Thank you for your consideration in this matter.

Fred Hagen
Chief Benefits Officer
1199SEIU Benefit Funds
646-473-6950

From: Sarah Burgos
Sent: Friday, November 19, 2010 2:38 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good afternoon,

Please note our responses to your questions below. If you have any additional questions, please do not hesitate to contact me.

Sarah Burgos on behalf of Fred Hagen
1199SEIU Benefit & Pension Fund
330 West 42nd St/31st Floor
New York, NY 10036
(646) 473-6953 (phone)
(646) 473-6019 (fax)
Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
To: Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date of [redacted] policy? [January 1, 2011](#)

When you write there is an [redacted] prescription drug rate for 2009, what is that rate for 2010, the [redacted] rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a [redacted] increase, but what are the actual dollars beneath that increase?

[2010 rate for prescription with current annual maximum is \[redacted\]](#)

[2011 rate for prescription with current annual maximum would be \[redacted\]](#)

[2011 rate for prescription with a \\$750,000 annual maximum is \[redacted\]](#)

Thank you.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Andrews, Jane (HHS/OCIIO)

Sent: Tuesday, December 14, 2010 4:56 PM

To: 'Fred Hagen'; 'Sarah Burgos'

Cc: Habit, Sandra (HHS/OCIIO)

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Fred and Sarah – I just left a voice mail for Sarah indicating that you should be getting an approval letter of your waiver application for 1199SEIU LPN Fund.

Jane W. Andrews

OCIIO

7501 Wisconsin Ave

Bethesda, MD 20814

301-492-4122 (desk)

202-536-6779 (Blackberry)

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From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]

Sent: Tuesday, December 14, 2010 11:07 AM

To: Andrews, Jane (HHS/OCIIO); Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thank you for your prompt reply. We are looking forward to your response.

Fred Hagen

Chief Benefits Officer

1199 SEIU Benefit and Pension Fund

646-473-6950 Office

646-473-6019 Fax

From: Andrews, Jane (HHS/OCIIO)

To: Fred Hagen; Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Sent: Tue Dec 14 10:47:30 2010

Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits
Mr. Hagen and Ms. Burgos.

I need to apologize for the delay in getting you a response. You are correct that we last corresponded on November 19th. I completed my review on November 23, but for some reason, when I sent it forward for second level review, this application got dropped from the approval committee list. I suspect it is due to having received two applications from 1199 one of which was approved November 5, but I am not sure. In any case, I will ensure that this application gets in front of the committee today so I can communicate back to you with a final determination by COB.

Again, my apologies.

Jane W. Andrews

OCIIO

7501 Wisconsin Ave

Bethesda, MD 20814

301-492-4122 (desk)

202-536-6779 (Blackberry)

1199SEIU LPN:000031

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From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 3:50 PM
To: Andrews, Jane (HHS/OCIIO); Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Thanks so much.

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, December 13, 2010 3:43 PM
To: Fred Hagen; Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Re: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am checking on the status

From: Fred Hagen [mailto:Fred.Hagen@1199funds.org]
Sent: Monday, December 13, 2010 03:20 PM
To: Sarah Burgos <Sarah.Burgos@1199funds.org>; Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Ms. Andrews/Ms. Habit,

We just want to confirm that you did receive our response sent on November 19, 2010 to your inquiry for additional information regarding our waiver application.

We look forward to hearing your response as soon as possible since this Plan's effective date is January 1, 2011.

Thank you for your consideration in this matter.

Fred Hagen
Chief Benefits Officer
1199SEIU Benefit Funds
646-473-6950

From: Sarah Burgos
Sent: Friday, November 19, 2010 2:38 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO); Fred Hagen
Subject: RE: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

Good afternoon,

Please note our responses to your questions below. If you have any additional questions, please do not hesitate to contact me.

Sarah Burgos on behalf of Fred Hagen
1199SEIU Benefit & Pension Fund
330 West 42nd St/31st Floor

1199SEIU LPN:000032

New York, NY 10036
(646) 473-6953 (phone)
(646) 473-6019 (fax)
Sarah.Burgos@1199funds.org

From: Andrews, Jane (HHS/OCIIO) [mailto:Jane.Andrews@hhs.gov]
Sent: Monday, November 15, 2010 11:02 AM
To: Sarah Burgos
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Application on behalf of Fred Hagen, for a 1199SEIU fund waiver request of annual limits

I am in receipt of your application for a waiver of annual limits for the 1199SEIU fund. I have a few questions:

What is the effective date of policy? [January 1, 2011](#)

When you write there is an (b)(4) prescription drug rate for 2009, what is that rate for 2010, the renewal rate for 2011, and what is the rate should the prescription drug's annual limit be required to come up to \$750,000? I see a (b)(4) increase, but what are the actual dollars beneath that increase?

[2010 rate for prescription with current annual maximum is \(b\)\(4\)](#)

[2011 rate for prescription with current annual maximum would be \(b\)\(4\)](#)

[2011 rate for prescription with a \\$750,000 annual maximum is \(b\)\(4\)](#)

Thank you.

Jane W. Andrews
OCIIO
7501 Wisconsin Ave
Bethesda, MD 20814
301-492-4122 (desk)
202-536-6779 (Blackberry)

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From: Botwinick, Alexandra (HHS/OCIIO)

Sent: Tuesday, December 21, 2010 9:33 AM

To: 'Sarah.Burgos@1199funds.org'

Cc: Habit, Sandra (HHS/OCIIO)

Subject: 1199SEIU Licensed Practical Nurses Welfare Fund Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

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 **1199SEIU Licensed Practical Nurses Welfare Fund**. 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

1199SEIU LPN:000035

From: Sarah Burgos [Sarah.Burgos@1199funds.org]

Sent: Tuesday, December 28, 2010 8:51 AM

To: Botwinick, Alexandra (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO)

Subject: RE: 1199SEIU Licensed Practical Nurses Welfare Fund Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

Sorry for the delay in response. I was out of the office. Letter received. Thank you.

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

Sent: Tuesday, December 21, 2010 9:33 AM

To: Sarah Burgos

Cc: Habit, Sandra (HHS/OCIIO)

Subject: 1199SEIU Licensed Practical Nurses Welfare Fund Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

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 **1199SEIU Licensed Practical Nurses Welfare Fund**. 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

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consent or as permitted by law is prohibited. Unauthorized re-disclosure or failure to maintain confidentiality could subject you to penalties described in federal and state law. If you have received this message in error, please notify us immediately and destroy the related message.



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.