

11/29/10

KRAW & KRAW
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November 24, 2010

TO: Via UPS Next Day Air
Office of Consumer Information and Insurance Oversight
Office of Oversight
200 Independence Ave., SW
Room 737-F-04
Washington, DC 20201
Attn: James Mayhew

FROM: Katherine McDonough

RE: Western States Insulators and Allied Workers' Health Plan
Waiver Application

Dr. Mr. Mayhew:

Enclosed please find the Annual Limit Waiver Application under the Public Health Services Act Section 2711 for the Western States Insulators' and Allied Workers Health Plan. If you have any questions, please give me a call.

Regards,
Katherine McDonough

Enclosures

KM/rc

**APPLICATION
WAIVER OF THE ANNUAL LIMITS REQUIREMENT
OF PHS ACT SECTION 2711**

Plan Information

Plan Name: Western States Insulators and Allied Workers' Health Plan
EIN: 94-6470245
Plan Number: 501
Address: 1640 South Loop Road
Alameda, CA 94502
Phone Number: (510) 433-4400

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

The Western States Insulators and Allied Workers' Health Plan ("Health Plan") is a limited Plan. The Health Plan has never been and is not intended to be comprehensive health and welfare coverage. Insulators and Allied workers are at an increased risk for developing certain illnesses including asbestosis (scarring of the lungs), lung cancer and mesothelioma. This Health Plan was designed to diagnose these diseases at an early stage. The Health Plan covers only multi-phasic examinations and CT Scans for participants who have worked in covered employment under a collective bargaining agreement which requires contributions to this Plan. Dependents are not eligible to participate. A copy of the plan document is attached.

2. *The number of individuals covered by the Plan submitted:*

(b)(4)

3. *The annual limits and rates applicable to the Plan submitted:*

Multi-phasic examinations and CT scans are reimbursed at rates set periodically by the Board of Trustees. The current reimbursement rate is actual cost up to \$(b)(4) per eligible exam and actual cost up to \$(b)(4) per eligible CT scan. If the cost of the exam or the CT scan exceeds the reimbursement amount, the participant will pay the difference.

If the cost of the examination exceeds this amount, the participant must pay the difference. Participants can receive an exam every year, every two years, or every three years depending on age. The frequency of examinations is as follows:

(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 significant increase in premiums paid by those covered by such plan, along with any supporting documentation:*

(b)(4)

5. *Attestation*

I, the undersigned Plan Administrator of the above named Health Plan, certify that (1) the plan was in force prior to September 23, 2010; and (2) 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.

Signature:



Name:

Steve Steele

Title:

Chairman, Board of Trustees

Address:

Western States Insulators and Allied Workers' Health Plan

1320 Harbor Bay Pkwy, Ste 220

Alameda, CA 94502

Phone Number:

(510) 769-4800

From: Mercer, Joseph (HHS/OCIIO)
Sent: Monday, December 20, 2010 2:20 PM
To: 'KmcDonough@kraw.com'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application
Attachments: Waiver Application Form.xls

Dear Ms. McDonough:

Thank you for your submission of Western States Insulators' and Allied Workers Health Plan's application for the Waiver of the Annual Limits Requirements of the Public Health Service Act (PHS Act) Section 2711. In order to expedite your application, please provide the following information:

- I. Please complete the entire annual limits spreadsheet, attached to the email and available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. Please return the completed spreadsheet to this email address as an attachment. We will only be able to process spreadsheets that are fully complete (i.e., every cell should contain the information requested). If a cell on the spreadsheet does not pertain to your plan, please write "None," and/or provide an explanation regarding why you are unable to complete that particular cell in a separate document.

- II. In addition, please provide the following information:
 - Confirm whether the plan was in existence prior to March 23, 2010. If so, is the plan in compliance with grandfathering provisions, pursuant to 45 CFR 147.140?

 - Confirm whether the plan was created pursuant to the Taft-Hartley Act. If yes:
 - Please confirm the Collective Bargaining Agreement was ratified prior to October 3, 2008.
 - Please provide the date for which the Collective Bargaining Agreement will expire.

In order to complete your application, please provide this information by 5:00 pm, December 21, 2010. Once this information is received and the application is complete, it will be processed by the Department of Health and Human Services (HHS). As stated in our September 3, 2010 Sub-Regulatory Guidance, HHS will issue a decision within 30 days of receiving a complete application. You will receive an e-mail from HHS notifying you of the waiver decision.

Thank you.

Joseph Mercer, JD
U.S. Department of Health & Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
301-492-4265

From: Katherine McDonough [kmcdonough@kraw.com]
Sent: Monday, December 20, 2010 8:08 PM
To: Mercer, Joseph (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application

Mr. Mercer:

Your request for information will require us to pull some information from the Fund's administrator about varying costs in numerous jurisdictions; this plan covers the western United States and rates vary from area to area. It will also require an actuarial review by the plan's consultant.

Given the upcoming holidays, we respectfully request an extension until January 7, 2011.

Thank you,



Katherine A. McDonough
Kraw & Kraw Law Group
605 Ellis Street, Suite 200
Mountain View, Ca 94043
Direct Dial: 650-314-7829
Cellular: 408-234-2630
Fax: 650-314-7899
E-Mail: kmcdonough@kraw.com <<mailto:kmcdonough@kraw.com>>

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CIRCULAR 230 NOTICE: To ensure our compliance with certain U.S. federal tax regulations, we must inform you that, unless expressly stated otherwise, any advice contained in this correspondence (or any attachment hereto) relating to U.S. federal taxes is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding any federal tax penalties that may be imposed by the Internal Revenue Service or (ii) promoting, marketing or recommending to another party any matters addressed herein. If you would like a written opinion on one or more federal tax issues addressed herein upon which you can rely for the purpose of avoiding penalties, or a written opinion to be used in promoting, marketing or recommending to another party any matters addressed herein, please contact us.

From: Mercer, Joseph (HHS/OCIIO) [<mailto:Joseph.Mercer@hhs.gov>]
Sent: Monday, December 20, 2010 11:20 AM
To: Katherine McDonough
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application

WS Insulators:000005

Dear Ms. McDonough:

Thank you for your submission of Western States Insulators' and Allied Workers Health Plan's application for the Waiver of the Annual Limits Requirements of the Public Health Service Act (PHS Act) Section 2711. In order to expedite your application, please provide the following information:

- I. Please complete the entire annual limits spreadsheet, attached to the email and available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. Please return the completed spreadsheet to this email address as an attachment. We will only be able to process spreadsheets that are fully complete (i.e., every cell should contain the information requested). If a cell on the spreadsheet does not pertain to your plan, please write "None," and/or provide an explanation regarding why you are unable to complete that particular cell in a separate document.

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Thank you.

Joseph Mercer, JD
U.S. Department of Health & Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
301-492-4265

From: Mercer, Joseph (HHS/OCIIO)
Sent: Tuesday, December 21, 2010 9:51 AM
To: 'Katherine McDonough'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application

Ms. McDonough,

An extension until January 7, 2011 is not a problem. Your application was submitted on time, and when we receive your additional information, we will start to consider your waiver application for approval or denial.

Thank you,

Joseph Mercer, JD
U.S. Department of Health & Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
301-492-4265

From: Katherine McDonough [<mailto:kmcdonough@kraw.com>]
Sent: Monday, December 20, 2010 8:08 PM
To: Mercer, Joseph (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application

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Thank you,



Katherine A. Mcdonough
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WS Insulators:000007

CIRCULAR 230 NOTICE: To ensure our compliance with certain U.S. federal tax regulations, we must inform you that, unless expressly stated otherwise, any advice contained in this correspondence (or any attachment hereto) relating to U.S. federal taxes is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding any federal tax penalties that may be imposed by the Internal Revenue Service or (ii) promoting, marketing or recommending to another party any matters addressed herein. If you would like a written opinion on one or more federal tax issues addressed herein upon which you can rely for the purpose of avoiding penalties, or a written opinion to be used in promoting, marketing or recommending to another party any matters addressed herein, please contact us.

From: Mercer, Joseph (HHS/OCIIO) [<mailto:Joseph.Mercer@hhs.gov>]
Sent: Monday, December 20, 2010 11:20 AM
To: Katherine McDonough
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Western States Insulators' and Allied Workers Health Plan Annual Limit Waiver Application

Dear Ms. McDonough:

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- I. Please complete the entire annual limits spreadsheet, attached to the email and available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. Please return the completed spreadsheet to this email address as an attachment. We will only be able to process spreadsheets that are fully complete (i.e., every cell should contain the information requested). If a cell on the spreadsheet does not pertain to your plan, please write "None," and/or provide an explanation regarding why you are unable to complete that particular cell in a separate document.
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Thank you.

Joseph Mercer, JD
U.S. Department of Health & Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
301-492-4265

WS Insulators:000008

From: Scelzo, Kathleen (HHS/OCIO)
Sent: Monday, January 31, 2011 2:01 PM
To: 'kmcdonough@kraw.com'
Cc: Habit, Sandra (HHS/OCIO)
Subject: Western States insulators and Allied Workers

Importance: High

Katherine,

Thanks for talking with me this afternoon. I am looking forward to receiving your completed spreadsheet by close of business on Tuesday February 1, 2011 so that the application process for the limited waiver can be complete.

Many thanks,

Kathleen M. Scelzo, RN, MSN
Rules Compliance Division
Office of Insurance Oversight
Office of Consumer Information and Insurance Oversight (OCIO)
Department of Health and Human Services
7501 Wisconsin Avenue
Bethesda, MD
301-492-4121

From: Katherine McDonough [kmcdonough@kraw.com]
Sent: Tuesday, February 01, 2011 12:33 PM
To: Scelzo, Kathleen (HHS/OCIIO)
Subject: Western States Insulators and Allied Workers' Health Plan

Attachments: Western States_Waiver Application Form_01222011v3F.zip

Ms. Scelzo:

Attached please find the spreadsheet for the Western States Insulators and Allied Workers' Health Plan. Please let me know if you have any questions.

Thank you,



Katherine A. McDonough
Kraw & Kraw Law Group
605 Ellis Street, Suite 200
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ANNUAL LIMIT WAIVER APPLICATION 2010

Annual Limit Waiver Request Applicant Name	Policy Name (use a new row for each policy application)	Applicant (Plan/ Policy Situs) City	Applicant (Plan/ Policy Situs) State	Plan/ Policy Effective Date (mm/dd/yyyy)	Contact Name	Street Address	City	State	Zip Code	Phone Number (including area code)	Email Address	Type of Coverage (e.g., Limited Benefit, HRA, Rx only, Other)	Self-Insured (Yes/No)	Individual or Group Policy	Total Number of Individuals Covered by Policy (include all dependents covered)	Current Plan Overall Annual Limit (in dollars)
Western States Insulators and Allied Workers' Health Plan	Plan 501	Alameda	CA	01/01/2011	Russ O'Brien	1640 South Loop Road	Alameda	CA	94502	510-337-3357	ROBrien@atpa.com	Limited Benefit	Yes	Group	(b)(4)	

PRA Disclosure Statement


According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1105. The time required to complete this information collection is estimated to average (8 hours) or (240 minutes) per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.



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 17 through 46 redacted for the following reasons:

Exemption 4