

From: Botwinick, Alexandra (HHS/OCIIO)

Sent: Monday, January 24, 2011 8:12 AM

To: 'mcn@groom.com'

Cc: Habit, Sandra (HHS/OCIIO); 'agogna@groom.com'

Subject: Correction Officers' Benevolent Association Security Benefits Fund Waiver of the Annual Limits Requirements 1-24-2011

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 2711 for Correction Officers' Benevolent Association Security Benefits Fund, Plan 1. 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.

Alexandra Botwinick

Office of Oversight

HHS/OCIIO

alexandra.botwinick@hhs.gov

CORR OFF:000001

From: Nielsen, Mark (mcn@groom.com) [MNielsen@groom.com]

Sent: Monday, January 24, 2011 8:48 AM

To: Botwinick, Alexandra (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO); Gogna, Anubhav (AGogna@groom.com); Mazawey, Lou (ltm@groom.com)

Subject: RE: Correction Officers' Benevolent Association Security Benefits Fund Waiver of the Annual Limits Requirements 1-24-2011

Dear Alexandra,

This confirms receipt of the Department's approval of the annual limit waiver application filed by the Correction Officers' Benevolent Association Security Benefits Fund. We very much appreciate the Department's approval of the waiver application, and the courtesies that have been extended to us throughout this process.

Best regards,

Mark C. Nielsen

[019470/09]



Mark C. Nielsen / 1701 Pennsylvania Ave., N.W. / Washington, DC 20006 / Phone: 202-861-5429 / Fax: 202-659-4503 / www.Groom.com / MNielsen@groom.com

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

Sent: Monday, January 24, 2011 8:12 AM

To: Nielsen, Mark (mcn@groom.com)

Cc: Habit, Sandra (HHS/OCIIO); Gogna, Anubhav (AGogna@groom.com)

Subject: Correction Officers' Benevolent Association Security Benefits Fund Waiver of the Annual Limits Requirements 1-24-2011

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Good Morning,

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

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Alexandra Botwinick

Office of Oversight

HHS/OCIIO

alexandra.botwinick@hhs.gov

CORR OFF:000002

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To comply with U.S. Treasury Regulations, we also inform you that, unless expressly stated otherwise, any tax advice contained in this communication is not intended to be used and cannot be used by any taxpayer to avoid penalties under the Internal Revenue Code, and such advice cannot be quoted or referenced to promote or market to another party any transaction or matter addressed in this communication.

CORR OFF:000003



Correction Officers' Benevolent Association, Inc.

"Patrolling the Toughest Precincts in New York"
City of New York

November 19, 2010

Via Electronic Delivery: healthinsurance@hhs.gov

Norman Seabrook
President

Elias Husamudeen
1st Vice-President

Joseph Bracco
2nd Vice-President

Elizabeth Castro
3rd Vice President

Michael Maiello
Treasurer

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Financial Secretary

Thomas Farrell
Legislative Chairman

William Valentin
Corresponding Secretary

Karen Belfield
Recording Secretary

Benny Boscio
Sergeant-At-Arms

Koehler & Isaacs, LLP
COBA Attorney

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

**RE: Waiver Request—Correction Officers' Benevolent Association
Security Benefits Fund
Employer Identification Number: 13-6163565**

Dear Mr. Mayhew:

The Correction Officers' Benevolent Association Security Benefits Fund (the "Fund") respectfully submits this application for waiver of the restricted annual limits set forth in the Department of Health and Human Services' Interim Final Rule (the "IFR") issued on June 28, 2010 (75 Fed. Reg. 37188), promulgated pursuant to the Patient Protection and Affordable Care Act (the "ACA"). The Fund's next Plan Year begins January 1, 2011, and we therefore request that the Department review and approve this waiver application in accordance with the Sub-Regulatory Guidance (OCIIO 2010-1 and OCIIO 2010-1A) issued by the Office of Consumer Information and Insurance Oversight ("OCIIO") on September 3, 2010 and November 5, 2010, respectively.

Pursuant to OCIIO's Sub-Regulatory Guidance, the Fund submits the following information:

1. The Terms of the Plan for Which the Waiver Is Sought

This waiver application is submitted on behalf of the Fund, a self-funded plan that provides supplemental benefits to New York City Correction Officers who are covered under a collective bargaining agreement ("CBA") between the Correction Officers' Benevolent Association, City of New York (the "Union") and New York City, for whom the City makes contributions to the Fund. The Fund covers approximately (b)(4) participants which includes New York City Correction Officers and their eligible dependents. The Fund provides prescription



drug, dental, vision, hearing aid, disability, death and other supplemental benefits not provided by the City of New York to Fund members and their eligible dependents. The Fund's participants and eligible dependents receive health-related coverage (e.g., prescription drugs, dental, vision and hearing aid benefits) with minimal copayments and the Fund also provides a prepaid program of preventative dentistry through Dentcare Delivery Systems, Inc. The Fund's members may access dental and vision benefits through preferred provider networks that accept the Fund's benefit schedules with little to no out-of-pocket cost to the member, or members may see out-of-network providers of their choice and seek direct reimbursement from the Fund. Basic health plans provided by New York City do not include prescription drug coverage and the other benefits offered by the Fund. As a consequence, most union sponsored supplemental benefit plans, such as those provided by the Fund, fill these critical gaps in coverage, typically with prudently established annual limits. Some of the benefits provided by the Fund are not subject to the ACA's restricted annual limits. However, the essential benefits provided by the Fund are currently subject to annual limits that are well below the \$750,000 restricted annual limit established by the IFR for Plan Years beginning on or after September 23, 2010 but before September 23, 2011. For these benefits, we believe that a waiver is warranted.

2. Number of Individuals Covered

The Fund currently provides coverage to (b)(4) participants and their dependents.

3. The Annual Limits and Rates Applicable to the Plan

The Fund has a (b)(4) annual limit per covered family on prescription drug coverage.

The City of New York contributes (b)(4) per employee/per annum to the Fund, which is applied to cover the cost of all Fund benefits and administrative costs. The contribution rate is established pursuant to a CBA between the Union and the City of New York. Fund members and their eligible dependents do not pay a premium or otherwise contribute directly to the Fund for access to coverage, although they do pay modest co-payments for various covered benefits. With respect to the Fund's prescription drug coverage, there is a (b)(4) copayment for generic drugs, and a (b)(4) percent copayment for brand-name drugs that are dispensed by participating network pharmacies. Fund participants that receive prescription drugs from out-of-network pharmacies are reimbursed directly in accordance with a fee schedule established by the Fund.

4. Description of Why Compliance With the IFR Would Result In a Decrease in Access to Benefits Or a Significant Premium Increase

The benefits provided by the Fund are collectively bargained between the Union and New York City, and are the result of hard-fought negotiations which contractually obligate New York City to remit the negotiated contribution rate to the Fund. The City's contributions to the Fund are limited by contract, and must cover *all* benefits provided by the Fund. The current CBA with the City will expire on October 31, 2011.

The Fund's consultant has calculated the impact that raising the Fund's annual limits to

\$750,000 would have on the Fund. Currently, New York City contributes (b)(4) per member annually to the Fund, which is used to fund all of the benefits offered by the Fund, including prescription drug coverage. The Fund currently pays a maximum of (b)(4) annually per covered family for prescription drugs. Even with a limit as low as (b)(4) per year, the Fund spends nearly one-third of New York City's annual contributions on prescription drug costs alone. The Fund cannot remain solvent if it were required to raise its annual limits on prescription drug benefits from (b)(4) to \$750,000 – a (b)(4) percent increase. Indeed, given that the Fund's resources are severely limited – and because contributions rates are contractually established through a CBA that was negotiated long before the ACA's enactment – a (b)(4) percent increase in annual limits will force the Fund to discontinue or drastically diminish offering various benefits, including prescription drug coverage.

Further, the Fund's consultant estimates that implementing the \$750,000 annual limit between January 1, 2011 and December 31, 2011 would, on a conservative basis, increase the Fund's prescription drug costs by approximately (b)(4) percent (over (b)(4)), and result in financial insolvency absent additional funding, of which there is none. According to the Fund's consultant, it is expected that removal of the Fund's annual prescription drug maximum will cause prescription drug costs to eventually reach (b)(4) times ((b)(4) dollars) over the current levels. This would require the Union to obtain an increase in New York City's contribution rate of almost (b)(4) percent (approximately (b)(4) per covered employee per year) simply to cover the Fund's additional benefit expenditures for prescription drugs during the 2011 Plan Year. A contribution rate increase is not possible, however, given that New York City's contribution rate is contractually established in a CBA. Accordingly, there is no way for the Fund to obtain a contribution rate that would sustain benefits offered with a \$750,000 annual limit, and to prevent insolvency, the Fund's Trustees would be forced to either cut the Fund's prescription drug benefits, or to reduce other critical benefits that the Fund offers, such as dental and vision, to offset the additional costs that will result from a \$750,000 annual limit during the 2011 plan year. Under either scenario, Fund members would experience a "significant decrease in access to benefits for those currently covered by the [Fund]," which is what OCIIO's guidance requires for issuance of a waiver. See September 3, 2010 guidance, §III(4)-(5).

Based on the above information, we respectfully request a waiver of the \$750,000 restricted annual limit for the Plan Year commencing January 1, 2011.

5. Attestation

By my signature below, I certify that the coverage provided by the Fund was in force prior to September 23, 2010, and that application of the restricted annual limits to the Fund for the January 1, 2011-December 31, 2011 Plan Year would result in the Fund's insolvency and thus a significant decrease in access to, if not the total elimination of benefits for those currently covered by the Fund.

We very much appreciate the Department's consideration of this waiver application, and we look forward to hearing from you. In the meantime, please do not hesitate to contact the Fund's legal counsel, Louis T. Mazawey, Mark C. Nielsen or Anubhav Gogna, should you have

any questions or require any additional information. Mr. Mazawey may be reached at 202.861.6608, or by email at ltm@groom.com. Mr. Nielsen may be reached at 202.861.5429 or by email at mcn@groom.com, and Mr. Gogna may be reached at 202.861.2602, or by email at agogna@groom.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Bracco". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Joseph Bracco
Fund Administrator,
COBA Security Benefits Fund

From: Morales, Veronica (HHS/OCIO)
Sent: Thursday, December 30, 2010 3:32 PM
To: 'Nielsen, Mark (mcn@groom.com)'
Cc: Sheer, Jennifer (HHS/OCIO)
Subject: RE: Correction Officers' Benevolent Association, Inc. Waiver Application

Dear Applicant:

Thank you for your information.

Your application is now complete and you should receive a determination of your application within 30 days.

Thank you.

Veronica W. Morales, J.D.
U.S. Department of Health & Human Services
Office of Consumer Information & Insurance Oversight
Office of Consumer Support
Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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From: Nielsen, Mark (mcn@groom.com) [<mailto:MNielsen@groom.com>]
Sent: Thursday, December 30, 2010 11:56 AM
To: Morales, Veronica (HHS/OCIO)
Cc: Sheer, Jennifer (HHS/OCIO); Gogna, Anubhav (AGogna@groom.com); Mazawey, Lou (ltm@groom.com)
Subject: RE: Correction Officers' Benevolent Association, Inc. Waiver Application

Dear Ms. Morales,

Thank you for your email regarding the annual limit waiver request that was filed by the Correction Officers' Benevolent Association Security Benefits Fund (the "Fund"). As requested, we are attaching the spreadsheet that your office provided, detailing information applicable to the Fund's prescription drug benefits, for which the Fund has requested a waiver of the annual limit that is currently in effect. Please note that the Fund's next Plan Year starts January 1, 2011. Accordingly, we respectfully request expedited consideration of this waiver request.

In response to your specific questions, please note:

1. As detailed in the Fund's attestation that accompanied its waiver request, the Fund was in existence prior to March 23, 2010;
2. The Fund is in compliance with the grandfathering provisions pursuant to 45 CFR 147.140; and
3. The Fund is not established pursuant to the Taft-Hartley Act, which applies only to benefit plans that are *jointly* maintained by unions and employers, and which are governed by a *joint* board of trustees comprising an equal number of employer and union trustees. Rather, the Fund was established and is maintained by the Correction Officers' Benevolent Association, City of New York (the "Union") to provide supplemental benefits -- such as prescription drug coverage -- to collectively bargained employees of New York City who are represented by the Union. The supplemental benefits provided by the Fund (prescription drug, dental, vision, hearing aid, and death) are not covered by the City of New York's plan for such employees. Accordingly, the Union established the Fund to fill in this "gap" in coverage, and to ensure that collectively bargained employees receive coverage for these important health benefits. The Fund provides these benefits with contributions from the City, negotiated between the Union and the City.

CORR OFF:000008

I hope this information is helpful. If you have any questions or need anything else, please contact me or Anu Gogna. I can be reached at 202.861.5429, and Anu can be reached at 202.861.2602.

Best regards,

Mark C. Nielsen
[019470/09]

Groom Law Group, Chartered



Mark C. Nielsen / 1701 Pennsylvania Ave., N.W. / Washington, DC 20006 / Phone: 202-861-5429 / Fax: 202-659-4503 /
www.Groom.com / MNielsen@groom.com

From: Morales, Veronica (HHS/OCIIO) [<mailto:Veronica.Morales@hhs.gov>]
Sent: Thursday, December 30, 2010 11:03 AM
To: Nielsen, Mark (mcn@groom.com)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: FW: Correction Officers' Benevolent Association, Inc. Waiver Application

Mr. Nielsen,

Please note on December 9, 2010, I spoke to Ms. Clarissa Nunez and I requested to have the fund administrator's email address. She replied she could not provide me with his email. She stated I could send her whatever spreadsheet I needed to send Mr. Bracco on the waiver application. I proceeded with the email below. I never got a response since said date.

My co-worker, Alix Pereira, informed me you inquired about the waiver application for Correction Officers' Benevolent Association, Inc. Thus, I am forwarding you the email sent on December 9, 2010.

I will be out of the office starting tomorrow, December 31 until Friday, January 14, 2011. I will leave a contact person to follow-up with on your pending waiver application.

Thank You.

Veronica W. Morales, J.D.
U.S. Department of Health & Human Services
Office of Consumer Information & Insurance Oversight
Office of Consumer Support
Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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From: Morales, Veronica (HHS/OCIIO)
Sent: Thursday, December 09, 2010 1:38 PM
To: 'cnunez@cobanyc.org'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Correction Officers' Benevolent Association, Inc. Waiver Application

Dear Mr. Bracco:

Thank you for your 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:

CORR OFF:000009

- 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.

In order to complete your application, please provide this information by 5:00 pm, December 10, 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.

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CORR OFF:000010

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)
Correction Officers' Benevolent Association Security Benefits Fund	Plan 1	New York	NY	1/1/2011 Plan Year	Mark C. Nielsen; Anubhav Gogna	1701 Pennsylvania Avenue, N.W.	Washington	DC	20006	202-861-5429; 202-861-2602	mcn@groom.com ; agogna@groom.com			(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.

ANNUAL LIMIT WAIVER APPLICATION 2010

Individual/ Employee Tier*	Current Monthly Premium Rates or Premium Equivalent Rates (in dollars)*:			Renewal Monthly Premium Rates or Premium Equivalent Rates if Waiver Granted (in dollars)*			Projected Rate Increase that would result from compliance with \$750,000 Annual Limit Restriction (in dollars) (Average Premium by Individual)*			Projected Rate Increase that would result from compliance with \$750,000 Annual Limit Restriction (in dollars)(Average Premium by Individual) (Difference of Column AT and AQ divided by Column AQ)	Decrease in Access to Benefits that would result from compliance with \$750,000 Annual Limit Restriction (describe briefly in cell or in a	Plan Administrator/ CEO of Health Insurance Issuer Name	Title of Individual Providing Attestation
	Employee contribution (if applicable)	Employer contribution (if applicable)	Total	Employee contribution (if applicable)	Employer contribution (if applicable)	Total	Employee contribution (if applicable)	Employer contribution (if applicable)	Total				
Employee + Family						(b)(4)						Joseph Bracco	Fund Administrator

* When completing the columns requesting premium rate information, please express the premium rates as a composite rate (if premiums are a range based on years of service or age) and by tier (Employee, Employee + Spouse, Employee + Child, Family, etc.) as applicable. If you are an issuer, please provide the premium amount in the column titled, "Total" (Column AN, AQ and AT).

ANNUAL LIMIT WAIVER APPLICATION 2010

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From: Morales, Veronica (HHS/OCIIO)
Sent: Thursday, December 09, 2010 1:38 PM
To: 'cnunez@cobanyc.org'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Correction Officers' Benevolent Association, Inc. Waiver Application
Attachments: Waiver Application Form.xls

Dear Mr. Bracco:

Thank you for your 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?
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In order to complete your application, please provide this information by 5:00 pm, December 10, 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.

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CORR OFF:000017

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Dear Ms. Morales,

Thank you for your email and for the status update. I apologize that you have not received a response from the COBA Fund directly; the Fund listed myself and my colleagues as the contacts for any questions specifically to ensure that you would get any information you needed as quickly as possible. We will complete the spreadsheet and return it to your office ASAP.

In the meantime, if you have any questions or need anything at all, please contact me or my colleague, Anu Gogna, who is copied on this email. Thank you.

Best regards,

Mark C. Nielsen

Groom Law Group, Chartered



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CORR OFF:000018

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 - Confirm whether the plan was created pursuant to the Taft-Hartley Act.

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Thank you.

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Office of Consumer Information & Insurance Oversight
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Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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CORR OFF:000019

CORR OFF:000020

From: Nielsen, Mark (mcn@groom.com) [MNIelsen@groom.com]
Sent: Thursday, December 30, 2010 11:56 AM
To: Morales, Veronica (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO); Gogna, Anubhav (AGogna@groom.com); Mazawey, Lou (ltm@groom.com)
Subject: RE: Correction Officers' Benevolent Association, Inc. Waiver Application
Attachments: COBA Fund Waiver Application Form.xls

Dear Ms. Morales,

Thank you for your email regarding the annual limit waiver request that was filed by the Correction Officers' Benevolent Association Security Benefits Fund (the "Fund"). As requested, we are attaching the spreadsheet that your office provided, detailing information applicable to the Fund's prescription drug benefits, for which the Fund has requested a waiver of the annual limit that is currently in effect. Please note that the Fund's next Plan Year starts January 1, 2011. Accordingly, we respectfully request expedited consideration of this waiver request.

In response to your specific questions, please note:

1. As detailed in the Fund's attestation that accompanied its waiver request, the Fund was in existence prior to March 23, 2010;
2. The Fund is in compliance with the grandfathering provisions pursuant to 45 CFR 147.140; and
3. The Fund is not established pursuant to the Taft-Hartley Act, which applies only to benefit plans that are *jointly* maintained by unions and employers, and which are governed by a *joint* board of trustees comprising an equal number of employer and union trustees. Rather, the Fund was established and is maintained by the Correction Officers' Benevolent Association, City of New York (the "Union") to provide supplemental benefits -- such as prescription drug coverage -- to collectively bargained employees of New York City who are represented by the Union. The supplemental benefits provided by the Fund (prescription drug, dental, vision, hearing aid, and death) are not covered by the City of New York's plan for such employees. Accordingly, the Union established the Fund to fill in this "gap" in coverage, and to ensure that collectively bargained employees receive coverage for these important health benefits. The Fund provides these benefits with contributions from the City, negotiated between the Union and the City.

I hope this information is helpful. If you have any questions or need anything else, please contact me or Anu Gogna. I can be reached at 202.861.5429, and Anu can be reached at 202.861.2602.

Best regards,

Mark C. Nielsen
[019470/09]

Groom Law Group, Chartered



Mark C. Nielsen / 1701 Pennsylvania Ave., N.W. / Washington, DC 20006 / Phone: 202-861-5429 / Fax: 202-659-4503 / www.Groom.com / MNIelsen@groom.com

From: Morales, Veronica (HHS/OCIIO) [<mailto:Veronica.Morales@hhs.gov>]
Sent: Thursday, December 30, 2010 11:03 AM
To: Nielsen, Mark (mcn@groom.com)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: FW: Correction Officers' Benevolent Association, Inc. Waiver Application

Mr. Nielsen,

Please note on December 9, 2010, I spoke to Ms. Clarissa Nunez and I requested to have the fund administrator's email address.

CORR OFF:000021

She replied she could not provide me with his email. She stated I could send her whatever spreadsheet I needed to send Mr. Bracco on the waiver application. I proceeded with the email below. I never got a response since said date.

My co-worker, Alix Pereira, informed me you inquired about the waiver application for Correction Officers' Benevolent Association, Inc. Thus, I am forwarding you the email sent on December 9, 2010.

I will be out of the office starting tomorrow, December 31 until Friday, January 14, 2011. I will leave a contact person to follow-up with on your pending waiver application.

Thank You.

Veronica W. Morales, J.D.
U.S. Department of Health & Human Services
Office of Consumer Information & Insurance Oversight
Office of Consumer Support
Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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From: Morales, Veronica (HHS/OCIIO)
Sent: Thursday, December 09, 2010 1:38 PM
To: 'cnunez@cobanyc.org'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Correction Officers' Benevolent Association, Inc. Waiver Application

Dear Mr. Bracco:

Thank you for your 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.

In order to complete your application, please provide this information by 5:00 pm, December 10, 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.

Veronica W. Morales, J.D.

CORR OFF:000022

U.S. Department of Health & Human Services
Office of Consumer Information & Insurance Oversight
Office of Consumer Support
Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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To comply with U.S. Treasury Regulations, we also inform you that, unless expressly stated otherwise, any tax advice contained in this communication is not intended to be used and cannot be used by any taxpayer to avoid penalties under the Internal Revenue Code, and such advice cannot be quoted or referenced to promote or market to another party any transaction or matter addressed in this communication.

CORR OFF:000023

From: Morales, Veronica (HHS/OCIIO)
Sent: Thursday, December 30, 2010 11:03 AM
To: 'MNielsen@groom.com'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: FW: Correction Officers' Benevolent Association, Inc. Waiver Application
Attachments: Waiver Application Form.xls

Mr. Nielsen,

Please note on December 9, 2010, I spoke to Ms. Clarissa Nunez and I requested to have the fund administrator's email address. She replied she could not provide me with his email. She stated I could send her whatever spreadsheet I needed to send Mr. Bracco on the waiver application. I proceeded with the email below. I never got a response since said date.

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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.
- 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?

CORR OFF:000024

- Confirm whether the plan was created pursuant to the Taft-Hartley Act.

In order to complete your application, please provide this information by 5:00 pm, December 10, 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.

Veronica W. Morales, J.D.
U.S. Department of Health & Human Services
Office of Consumer Information & Insurance Oversight
Office of Consumer Support
Phone# (301) 492-4249
Email: veronica.morales@hhs.gov

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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: Gogna, Anubhav (AGogna@groom.com) [AGogna@groom.com]

Sent: Monday, November 22, 2010 1:13 PM

To: HHS HealthInsurance (HHS)

Cc: Mazawey, Lou (ltm@groom.com); Nielsen, Mark (mcn@groom.com); Killion, Tammy (TKillion@groom.com)

Subject: WAIVER--Correction Officers' Benevolent Association Security Benefits Fund

Attachments: COBA Fund Waiver--FINAL.pdf

Dear Mr. Mayhew,

On behalf of the Correction Officers' Benevolent Association Security Benefits Fund (the "Fund"), I am submitting this application for waiver of the restricted annual limit under Public Health Services Act § 2711, pursuant to OCIIO S latory Guidance OCIIO 2010-1 and 2010-1A. The Fund has a per-family annual limit on prescription drug benefits of (b)(4) and, as detailed in the attached waiver application, imposition of a \$750,000 annual limit would result in the Fund's insol drastically reduced access to benefits for those currently covered by the Fund.

We appreciate your consideration of the Fund's request. Please let Lou Mazawey, Mark Nielsen or me know if you have any questions or need anything else. Lou can be reached at 202.861.6608, Mark can be reached at at 202.861.5429 and I can be reached at 202.861.2602.

Best regards,

Anubhav Gogna

[019470/09]



Anubhav Gogna / 1701 Pennsylvania Ave., N.W. / Washington, DC 20006 / Phone: 202-861-2602 / Fax: 202-659-4503 / www.Groom.com / AGogna@groom.com

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CORR OFF:000028