

Excellus Health Plan, Inc. Waiver of Annual Limits Submission

Excellus Health Plan, on behalf of our employers and our members, are seeking a general waiver which would allow us to continue to offer prescription drug options with a dollar limit. We have submitted and had our rate adjustments approved by the NYSID and have communicated those increases to our employer groups and members as required by NYS.

We have received significant feedback from our employers, brokers and subscribers that the impact of premium increases and the implementation of Health Care Reform changes (which included the removal of any "capped" prescription drug benefit) is too great for our membership. As you will see from the attachment included with this letter, the increase in prescription drug costs at least doubled for those enrolled in a capped drug benefit. Removing the limit will cause an average increase of (b)(4) per year. Some plans will increase costs up to (b)(4) per year.

Our organization has done tremendous work in keeping our customers informed of Health Care Reform. In fact, we have been recognized by many other health plans as having a "Best in Class" website with insightful and helpful information for our employers and our members. We contemplated not requesting any waiver so that we could minimize any confusion in the marketplace. However, access to services through affordably-priced health plans is more important than any confusion a waiver might bring. We believe that subscribers are at risk of deciding against enrolling in employer sponsored coverage without some type of premium reduction. We believe that is best achieved through a waiver on the prescription drug limit on a very small number of our products.

We are asking for a waiver for the approximately (b)(4) members that are currently enrolled in a prescription drug plan with a limit.

As Chief Executive Officer of Excellus Health Plan, Inc., I hereby certify that the plans outlined in the attachment included with this letter were in force prior to September 23, 2010 and 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.

Signed:

Date:



David Klein
CEO, Excellus Health Plan, Inc.

11/29/2010

From: Jackie.Lytle@excellus.com
Sent: Tuesday, November 30, 2010 4:59 PM
To: HHS HealthInsurance (HHS)
Subject: Waiver - Excellus Health Plan

Attachments: ehpwaiversubmission.PDF; rxcapwaiver.xls

Please see attached documents in support of a Waiver regarding Annual Limit Removals for PPACA from Excellus Health Plan, Inc (Parent company for both Excellus BlueCross BlueShield and Univera Healthcare). Please contact me with any comments or questions.

Thank you.

Jacqueline Hawks Lytle
Director, Product & Contract Development
Office: 585-238-3627
Cell: 585-489-9314

EXCELLUS:000002

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Monday, January 03, 2011 10:27 AM
To: 'jackie.lyttle@excellus.com'
Subject: Excellus Health Plan Waiver of the Annual Limits Requirements 1-3-2011

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 Excellus Health Plan. 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

EXCELLUS:000003

From: Andrews, Jane (HHS/OCIO)
Sent: Wednesday, December 22, 2010 9:25 AM
To: 'Jackie.Lytle@excellus.com'
Cc: Habit, Sandra (HHS/OCIO)
Subject: RE: Your application for a waiver of annual limits requirements

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

Thank you.

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

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW:

This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law.

From: Jackie.Lytle@excellus.com [mailto:Jackie.Lytle@excellus.com]
Sent: Tuesday, December 21, 2010 4:35 PM
To: Andrews, Jane (HHS/OCIO)
Cc: Andrews, Jane (HHS/OCIO); Habit, Sandra (HHS/OCIO)
Subject: Re: Your application for a waiver of annual limits requirements

Please see attached response. Thank you for your consideration.

- This confirms that these plans were in existence prior to March 23, 2010 and are compliant with grandfathering provisions, pursuant to 45 CFE 147.140.
- This plan was not created pursuant to the Taft-Hartley Act.
- Our plans are fully insured.
- A signed attestation was completed upon original submission.

Please let me know if you have any questions.

Jacqueline Hawks Lytle
Director, Product & Contract Development
Office: 585-238-3627
Cell: 585-489-9314

"Andrews, Jane (HHS/OCIO)" <Jane.Andrews@hhs.gov>

12/18/2010 04:59 PM

To "Andrews, Jane (HHS/OCIO)" <Jane.Andrews@hhs.gov>
cc "Habit, Sandra (HHS/OCIO)" <Sandra.Habit@hhs.gov>

Subject Your application for a waiver of annual limits requirements

EXCELLUS:000004

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, if you did not include the following information in your application and is applicable, 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 it is, please provide the date the collective bargaining agreement will expire.
- Confirm that your plan is either self-insured or fully insured.
- If you did not complete and submit a signed attestation in accordance with the September 3, 2010 guidance, please submit that with the spreadsheet as a separate attachment.

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 and feel free to contact me with questions.

Jane W. Andrews
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[attachment "Waiver Application Form.xls" deleted by Jackie Lyttle/BlueCross/FLH]

EXCELLUS:000005

From: Andrews, Jane (HHS/OCIIO)
Sent: Saturday, December 18, 2010 4:58 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Your application for a waiver of annual limits requirements

Attachments: Waiver Application Form.xls

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.

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EXCELLUS:000006

From: Jackie.Lytle@excellus.com
Sent: Tuesday, December 21, 2010 4:35 PM
To: Andrews, Jane (HHS/OCIIO)
Cc: Andrews, Jane (HHS/OCIIO); Habit, Sandra (HHS/OCIIO)
Subject: Re: Your application for a waiver of annual limits requirements

Attachments: Waiver Application Form_excellus.xls

Please see attached response. Thank you for your consideration.

- This confirms that these plans were in existence prior to March 23, 2010 and are compliant with grandfathering provisions, pursuant to 45 CFE 147.140.
- This plan was not created pursuant to the Taft-Hartley Act.
- Our plans are fully insured.
- A signed attestation was completed upon original submission.

Please let me know if you have any questions.

Jacqueline Hawks Lytle
Director, Product & Contract Development
Office: 585-238-3627
Cell: 585-489-9314

"Andrews, Jane (HHS/OCIIO)" <Jane.Andrews@hhs.gov>

12/18/2010 04:59 PM

To "Andrews, Jane (HHS/OCIIO)" <Jane.Andrews@hhs.gov>

cc "Habit, Sandra (HHS/OCIIO)" <Sandra.Habit@hhs.gov>

Subject Your application for a waiver of annual limits requirements

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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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 - Confirm whether the plan was created pursuant to the Taft-Hartley Act. If is is, please provide the date the collective bargaining agreement will expire.

EXCELLUS:000007

- Confirm that your plan is either self-insured or fully insured.
- If you did not complete and submit a signed attestation in accordance with the September 3, 2010 guidance, please submit that with the spreadsheet as a separate attachment.

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[attachment "Waiver Application Form.xls" deleted by Jackie Lyttle/BlueCross/FLH]

Pages 9 through 12 redacted for the following reasons:

(b)(4)

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)
Applicant ABC	Plan 1	Washington	DC	01/01/2011	Jane Doe	100 ABC Drive	Washington	DC	20201	1-800-ABC-1234	abc@abchealthplan.com	Limited Benefit	Yes	Group	4,000	\$100,000
Applicant ABC	Plan 1	Washington	DC	01/01/2011	Jane Doe	100 ABC Drive	Washington	DC	20202	1-800-ABC-1234	abc@abchealthplan.com	Limited Benefit	Yes	Group	2,500	\$100,000
<p>PRA Disclosure Statement</p> <p>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.</p>																

ANNUAL LIMIT WAIVER APPLICATION 2010

Current Essential Benefits Annual Limits (Annual Limit for Each Essential Benefit)											Office Visit Copays/Coinsurance		Hospital Inpatient Copay/Coinsurance		Emergency Room Copay/Coinsurance		Rx Copay/Coinsurance	
Ambulatory	Emergency	Hospitalization	Laboratory	Pediatric	Maternity/ Newborn	Mental Health/ Substance Abuse	Rehabilitative/ Devices	Preventive/ Wellness	Prescription	Plan Deductible	Copay (if applicabl e)	Coinsuranc e (if applicabl e)	Copay (if applicabl e)	Coinsura nce (if applicabl e)	Copay (if applicabl e)	Coinsura nce (if applicabl e)	Copay (if applicabl e)	Coinsuran ce (if applicabl e)
None	None	None	None	None	None	None	None	None	\$3,000.00	\$500.00	\$15.00	50.00%	\$100.00	50.00%	\$100.00	50.00%	\$10.00	None
None	None	None	None	None	None	None	None	None	\$3,000.00	\$1,000.00	\$15.00	50.00%	\$100.00	50.00%	\$100.00	50.00%	\$10.00	None

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	\$100.00	\$600.00	\$700.00	\$110.00	\$650.00	\$760.00	\$125.00	\$800.00	\$925.00	21.71%	None	Jane Doe	Plan Administrator
Employee + Family	\$105.00	\$1,100.00	\$1,205.00	\$115.00	\$1,150.00	\$1,265.00	\$150.00	\$1,400.00	\$1,550.00	22.53%	None	Jane Doe	Plan 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

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)
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Applicant ABC	Plan 1	Washington	DC	01/01/2011	Jane Doe	100 ABC Drive	Washington	DC	20202	1-800-ABC-1234	abc@abchealthplan.com	Limited Benefit	Yes	Group	2,500	\$100,000
Excillus Health Plan	EXR-57	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	lyttle@excellus.com					
Excillus Health Plan	EXR-66	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	lyttle@excellus.com					
Excillus Health Plan	EXR-C-33	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	jackie.lyttle@excellus.com					
Excillus Health Plan	EXR-C-51	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	jackie.lyttle@excellus.com			(b)(4)		
Excillus Health Plan	EXHP-92	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	jackie.lyttle@excellus.com					
Excillus Health Plan	107	Rochester	NY	01/01/2011	Jackie Lyttle	165 Court St.	Rochester	NY	14647	585-238-3627	jackie.lyttle@excellus.com					

ANNUAL LIMIT WAIVER APPLICATION 2010

Current Essential Benefits Annual Limits (Annual Limit for Each Essential Benefit)					Office Visit Copays/Coinsurance	Hospital Inpatient Copay/Coinsurance	Emergency Room Copay/Coinsurance	Rx Copay/Coninsurance				
Maternity/	Mental Health/ Substance	Rehabilitative/	Preventive/	Plan	Copay (if applicabl	Coinsuranc e (if	Copay (if applicabl	Coinsura nce (if applicabl	Copay (if applicabl	Coinsura nce (if applicabl	Copay (if applicabl	Coinsuran ce (if
(b)(4)												

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	\$100.00	\$600.00	\$700.00	\$110.00	\$650.00	\$760.00	\$125.00	\$800.00	\$925.00	21.71%	None	Jane Doe	Plan Administrator
												Jane Doe	Plan Administrator
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(b)(4)


* 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).



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.