

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Wednesday, December 29, 2010 3:04 PM
To: dkoepfel@central-laborers.com
Subject: Central Laborers' Welfare Fund Waiver of the Annual Limits Requirements 12-29-2010

Importance: High

Follow Up Flag: Follow up
Flag Status: Green

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 Central Laborers' 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

CENT LABOR:000001

From: Boortz, Kimberly (HHS/OCIO)
Sent: Thursday, December 16, 2010 4:57 PM
To: 'Bernanke, Jessica R.'
Cc: Sheer, Jennifer (HHS/OCIO)
Subject: Central Laborer's Welfare Fund Annual Limits Waiver Application
Attachments: Waiver Application Form.xls

Dear Applicant,

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. 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 in existence prior to March 23, 2010. If so, is the plan in compliance with grandfathering provisions, pursuant to 45 CFR 147.140?
 - Please confirm all relevant CBAs expire on July 1, 2011.

In order to complete your application, please provide this information by 5:00 pm, December 17, 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.

Kim Boortz, M.P.P.

Office of Consumer Support | Office of Consumer Information and Insurance Oversight (OCIO)
Department of Health and Human Services (HHS)

(301) 492- 4483 | kimberly.boortz@hhs.gov

CENT LABOR:000002

From: Records, Joseph (HHS/OCIIO)
Sent: Monday, December 20, 2010 3:22 PM
To: 'jbernanke@segalco.com'
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Central Laborers' Welfare Fund Annual Limits Waiver Application
Attachments: Waiver Application Form.xls

Dear Ms. Bernanke:

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:

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Thank you.

Joseph P. Records
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
7501 Wisconsin Avenue, N.W.
Bethesda, Maryland 20814
(301) 492-4257

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CENT LABOR:000003

From: Boortz, Kimberly (HHS/OCIIO)
Sent: Monday, December 20, 2010 11:24 AM
To: 'Dan Koepfel'
Cc: 'Kelly, Tony'; 'Sanders, Joe'; 'Bernanke, Jessica R.'; 'Moran, Karen'; csmith@central-laborers.com; Sheer, Jennifer (HHS/OCIIO)
Subject: Central Laborers Welfare Fund Annual Limits Waiver Application

Dear Dan,

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

Thank you.

Kim Boortz, M.P.P.

Office of Consumer Support | Office of Consumer Information and Insurance Oversight (OCIIO)
Department of Health and Human Services (HHS)

(301) 492- 4483 | kimberly.boortz@hhs.gov

From: Dan Koepfel [<mailto:dkoepfel@central-laborers.com>]
Sent: Monday, December 20, 2010 10:45 AM
To: Boortz, Kimberly (HHS/OCIIO)
Cc: 'Kelly, Tony'; 'Sanders, Joe'; 'Bernanke, Jessica R.'; 'Moran, Karen'; csmith@central-laborers.com
Subject: RE: 0900 - Waiver Application Form - Central Laborers

Dear Ms. Boortz,

Attached is the completed waiver application sheet 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:

- 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? [Yes](#)
- Please confirm all relevant CBAs expire on July 1, 2011. [Included in the attached Excel file.](#)

Dan Koepfel

Dan Koepfel
Central Laborers' Pension, Annuity and Welfare Funds
Executive Director
PO Box 1267
Jacksonville, IL 62651-1267

p 217-243-8521 x184

f 217-245-1293

dkoepfel@central-laborers.com

CENT LABOR:000004

<http://www.central-laborers.com>

From: Moran, Karen [<mailto:kmoran@segalco.com>]
Sent: Monday, December 20, 2010 9:35 AM
To: dkoepfel@central-laborers.com
Cc: Kelly, Tony; Sanders, Joe; Bernanke, Jessica R.
Subject: 0900 - Waiver Application Form - Central Laborers
Importance: High

Dan -

Here is the completed waiver form that needs to be sent to HHS. I added the CBA worksheet you sent over to the Excel document attached. HHS also had two questions that we have answered in the text below. Please forward to Kimberly.Boortz@hhs.gov

If you have any questions, please let me know.

Karen L. Moran
Senior Health Analyst
SEGAL
101 North Wacker, Suite 500 | Chicago, IL 60606
☎ Tel 312.984.8639 | 📠 Fax 312.984.8590
✉ kmoran@segalco.com

Dear Ms. Boortz,

Attached is the completed waiver application sheet 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:

- 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? [Yes](#)
- Please confirm all relevant CBAs expire on July 1, 2011. [Included in the attached Excel file.](#)

Dan Koeppel

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Thank you.

CENT LABOR:000005

From: Records, Joseph (HHS/OCIIO)
Sent: Tuesday, December 21, 2010 11:10 AM
To: 'Bernanke, Jessica R.'
Cc: Sheer, Jennifer (HHS/OCIIO); Boortz, Kimberly (HHS/OCIIO)
Subject: RE: Central Laborers' Welfare Fund Annual Limits Waiver Application

Hi Ms. Bernanke,

You are correct; the Central Laborers' Welfare Fund does not need to respond to my request. I apologize for any confusion.

Joe Records
(301) 492-4257

From: Bernanke, Jessica R. [<mailto:jbernanke@segalco.com>]
Sent: Tuesday, December 21, 2010 10:59 AM
To: Records, Joseph (HHS/OCIIO); Boortz, Kimberly (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Central Laborers' Welfare Fund Annual Limits Waiver Application

Mr. Records - Thank you for this information request. However, as I understand it, the Central Laborers' Welfare Fund received a similar request from Ms. Kim Boortz at HHS, and submitted its response to Ms. Boortz yesterday. As such, I believe that the Central Laborers' Welfare Fund does not need to respond to your request below.

Please confirm whether my understanding is correct.

Thank you. Jessica Bernanke

Jessica Bernanke
Senior Compliance Specialist
SEGAL
1920 N Street, NW, Washington DC 20036
☎ Tel 202.833.6419 | 📠 Fax 202.833.6490
✉ jbernanke@segalco.com
Assistant: Lori Dugan 202.833.6491 ldugan@segalco.com

From: Records, Joseph (HHS/OCIIO) [<mailto:Joseph.Records@hhs.gov>]
Sent: Monday, December 20, 2010 3:22 PM
To: Bernanke, Jessica R.
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Central Laborers' Welfare Fund Annual Limits Waiver Application

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CENT LABOR:000006

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Thank you.

Joseph P. Records
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
7501 Wisconsin Avenue, N.W.
Bethesda, Maryland 20814
(301) 492-4257

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Thank you.

CENT LABOR:000007

From: Bernanke, Jessica R. [jbernanke@segalco.com]
Sent: Friday, December 17, 2010 4:19 PM
To: Boortz, Kimberly (HHS/OCIO)
Cc: Sheer, Jennifer (HHS/OCIO)
Subject: RE: Central Laborer's Welfare Fund Annual Limits Waiver Application

Kim - Thank you for taking the time to talk with me this afternoon. As we discussed, the Central Laborer's Welfare Fund will submit the spreadsheet and its responses to HHS's questions as soon as possible next week. In addition, the Fund Office will be filing its response with HHS directly (rather than having Segal file on its behalf).

Have a great weekend. Jessica

Jessica Bernanke
Senior Compliance Specialist
SEGAL
1920 N Street, NW, Washington DC 20036
Tel 202.833.6419 | Fax 202.833.6490
jbernanke@segalco.com
Assistant: Lori Dugan 202.833.6491 ldugan@segalco.com

From: Boortz, Kimberly (HHS/OCIO) [<mailto:Kimberly.Boortz@hhs.gov>]
Sent: Thursday, December 16, 2010 4:57 PM
To: Bernanke, Jessica R.
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Subject: Central Laborer's Welfare Fund Annual Limits Waiver Application

Dear Applicant,

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CENT LABOR:000008

Thank you.

Kim Boortz, M.P.P.

Office of Consumer Support | Office of Consumer Information and Insurance Oversight (OCIO)
Department of Health and Human Services (HHS)

(301) 492- 4483 | kimberly.boortz@hhs.gov

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CENT LABOR:000009

From: Bernanke, Jessica R. [jbernanke@segalco.com]
Sent: Tuesday, December 21, 2010 11:21 AM
To: Records, Joseph (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO); Boortz, Kimberly (HHS/OCIIO)
Subject: RE: Central Laborers' Welfare Fund Annual Limits Waiver Application

Thank you. Happy Holidays. Jessica

Jessica Bernanke
Senior Compliance Specialist
SEGAL
1920 N Street, NW, Washington DC 20036
☎ Tel 202.833.6419 | 📠 Fax 202.833.6490
✉ jbernanke@segalco.com
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Joe Records
(301) 492-4257

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Sent: Tuesday, December 21, 2010 10:59 AM
To: Records, Joseph (HHS/OCIIO); Boortz, Kimberly (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Central Laborers' Welfare Fund Annual Limits Waiver Application

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✉ jbernanke@segalco.com
Assistant: Lori Dugan 202.833.6491 ldugan@segalco.com

CENT LABOR:000010

From: Records, Joseph (HHS/OCIIO) [<mailto:Joseph.Records@hhs.gov>]
Sent: Monday, December 20, 2010 3:22 PM
To: Bernanke, Jessica R.
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Central Laborers' Welfare Fund Annual Limits Waiver Application

Dear Ms. Bernanke:

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Office of Consumer Information and Insurance Oversight
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CENT LABOR:000011

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CENT LABOR:000012

From: Bernanke, Jessica R. [jbernanke@segalco.com]
Sent: Tuesday, December 21, 2010 10:59 AM
To: Records, Joseph (HHS/OCIIO); Boortz, Kimberly (HHS/OCIIO)
Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: RE: Central Laborers' Welfare Fund Annual Limits Waiver Application

Mr. Records - Thank you for this information request. However, as I understand it, the Central Laborers' Welfare Fund received a similar request from Ms. Kim Boortz at HHS, and submitted its response to Ms. Boortz yesterday. As such, I believe that the Central Laborers' Welfare Fund does not need to respond to your request below.

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Thank you. Jessica Bernanke

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Sent: Monday, December 20, 2010 3:22 PM
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Cc: Sheer, Jennifer (HHS/OCIIO)
Subject: Central Laborers' Welfare Fund Annual Limits Waiver Application

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CENT LABOR:000013

Thank you.

Joseph P. Records
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Consumer Support
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(301) 492-4257

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Thank you.


CENT LABOR:000014



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.



Central Laborers' Welfare Fund

P.O. Box 1267 • Jacksonville, Illinois 62651 • Phone 217/243-8521 • Fax 217/243-8619

<http://www.central-laborers.com>

December 2, 2010

WAIVER APPLICATION FORM

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

Dear Mr. Mayhew:

Please accept this application from the Central Laborers' Welfare Fund (Fund) plan for a waiver from the restricted annual limits set forth in the Interim Final Regulations for the plan year January 1, 2011. The plan was offered prior to September 23, 2010.

The Fund provides group health benefits to actives and non-Medicare Retirees, and their eligible dependents.

This letter includes the following information as required by OCIO Sub-Regulatory Guidance 2010-1: Process of Obtaining Waivers for the Annual Limits Requirements of PHS Act Section 2711.

(1) The terms of the plan or policy form(s) for which a waiver is sought.

- The Central Laborers' Welfare Fund is a multi-employer Taft-Hartley health and welfare plan that maintains several different benefit plans for eligible participants and their dependents. The Fund provides self-funded medical and prescription drug expenses. Self-funded dental, vision, hearing, disability and death and are also provided for most participants.
- The Fund is funded primarily through employer contributions in accordance with collective bargaining agreement(s) between the Laborers' International Union of North America (the "Union") and the contributing employers. The current contribution rate is (b)(4) per hour worked. The eligible participants do not contribute toward their health plan coverage.
- The Fund will offer two health care options for calendar year 2011, one through Blue Cross Blue Shield PPO and the other through Health Link POS. The waiver is being sought with

regard to both of these options, each of which has an annual maximum of (b)(4) and a lifetime maximum of (b)(4) (however, the lifetime maximums will be eliminated effective January 1, 2011).

- Below is a brief overview of the Schedule of Benefits for both the Blue Cross Blue Shield PPO and Health Link POS:

	In-Network	Out-of-Network
Deductible		
Coinsurance	(b)(4)	
Out-of-Pocket Maximum		

(2) The number of individuals covered by the plan submitted.

- Blue Cross Blue Shield PPO – (b)(4) enrolled.
- Health Link POS – (b)(4) enrolled.

(3) The annual limit(s) and rates applicable to the plan or policy form(s) submitted.

Annual Limit:

- The waiver is being sought to retain the (b)(4) overall medical annual maximum for each of the Blue Cross Blue Shield PPO and the Health Link POS.

Rates: The “rates” are expressed as premium equivalents, which are based on the COBRA premium less the (b)(4) load.

Parameters of Premium Equivalent	Amount
2010 Premium Equivalent	
2011 projected Premium Equivalent with current (b)(4) annual maximum	
2011 projected Premium Equivalent with \$750,000 annual maximum	(b)(4)
Percentage Increase Between projected 2011 Premium Equivalents	
Dollar Increase Between projected 2011 Premium Equivalents	

(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.

Complying with the restricted annual dollar limits, i.e., increasing the annual limit to \$750,000 for the 2011 plan year, would result in a significant decrease in access to benefits for current participants and dependents and/or a significant increase in premiums paid by those covered by the plans, for the following reasons:

- The Fund does not have assets available to absorb the increased costs associated with raising the annual limit to \$750,000. Currently, for 2011, the Fund is projected to reduce its asset reserves by (b)(4). The additional costs associated with increasing the current annual maximum to \$750,000 would increase that projected loss by (b)(4) for a total loss of (b)(4) for calendar year 2011.
- In theory, the Fund could absorb the increased costs by raising employer contributions by (b)(4) per hour worked, to (b)(4). While the Union and contributing employers are expected to negotiate new rates effective June 1, 2011, the Fund expects that the employer contribution rate will continue to fall short of the amount needed to absorb the costs of the current benefits, and certainly the costs of the benefits if the annual limits are raised to \$750,000. In the alternative, for a short time, the Fund could charge participants an employee contribution of (b)(4) per month, except that the Fund has no authority or ability to impose employee contributions.
- As such, if the waiver is not granted, the Fund will need to absorb the costs associated with raising the annual limits to \$750,000 by increasing premiums and/or decreasing access to benefits. In particular the Fund would likely:
 - Increase current deductibles from (b)(4) and (b)(4) to (b)(4) and (b)(4).
 - Increase the current copayments for office visits and prescription drug. Office visits would need to increase from (b)(4)/ visit to (b)(4)/ visit. The prescription drug copayments would need to increase as follows:
 - from (b)(4) formulary / (b)(4) non-formulary / (b)(4) generic to (b)(4) formulary / (b)(4) non-formulary / (b)(4) generic for retail
 - from (b)(4) formulary / (b)(4) non-formulary / (b)(4) generic to (b)(4) formulary / (b)(4) non-formulary / (b)(4) generic for retail
 - These significant increases would be a hardship for the membership and likely would deter them from seeking medical care, as well as filling their prescription drugs.

Attestation

I, Dan Koepfel, hereby attest to the following: I am the Executive Director of the Central Laborers' Welfare Fund. I certify that the plan, including the Blue Cross Blue Shield PPO and Health Link POS options, was in force prior to September 23, 2010. The application of restricted annual limits to the plan would result in a significant decrease in access to benefits for those currently covered by the plan or a significant increase in premiums paid by the plan's participants and covered dependents.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Koepfel", written in a cursive style.

Dan Koepfel
Executive Director

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