

AMALGAMATED NATIONAL HEALTH FUND



Michael Hirsch
Executive Vice President

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White Plains, NY 10604

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www.amalgamatedlife.com

October 7, 2010

HHC
Office of Consumer Information and Insurance Oversight
Office of Oversight
Attention: James Mayhew
Room 737-F-04
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Mr. Mayhew:

Enclosed is a Waiver Application for the Amalgamated National Health Fund for the Annual Limits Requirement of the Public Services Act Section 2711 for Plan Year January 1, 2011 through December 31, 2011.

If you have any questions, my contact information is above.

Very truly yours,

Michael Hirsch
Executive Vice President
Amalgamated Fund Administrators
Administrators for the Fund

**AMALGAMATED
NATIONAL HEALTH FUND**



Application for Waiver of the
Annual Limits Requirements of
The Public Health Services Act Section 2711
For Plan Year January 1, 2011 – December 31, 2011

By the Amalgamated National Health Fund
(formally UNITE HERE National Health Fund)

333 Westchester Avenue

White Plains, NY 10604

Plan Identification #: 13-6130178

HHS
Office of Consumer Information and Insurance Oversight
Office of Oversight
Attention: James Mayhew
Room 737-F-04
200 Independence Avenue, SW
Washington, D.C. 20201

Section 1: Application for Waiver

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

The waiver is sought for the (b)(4) Medical Plans and (b)(4) Prescription Drug Plans under the Amalgamated National Health Fund as detailed under Exhibit B. In addition the Fund will consolidate the (b)(4) Medical plans into (b)(4) standardized plans ("Standard Plans") and a "Compliant Plan" effective January 1, 2011 (Exhibit C). As part of this consolidation the (b)(4) plans will be placed into the next actuarially higher Standard or Compliant Plan. This waiver request also asks to waive the annual limits on these three Standard Plans and acknowledge their grandfathered status.

2. The number of individuals covered by the plan or policy form(s) submitted:

The number of individuals covered by the (b)(4) Medical Plans and (b)(4) Prescription Plans (b)(4) employers) under the Fund is (b)(4) as detailed by employer and plan under Exhibit A.

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

The annual limits for the (b)(4) Medical Plans range from \$ (b)(4) to unlimited and (b)(4) for the (b)(4) Prescription Drug Plans. Single coverage rates range from (b)(4).

4. A brief description of why compliance with the interim final regulations would result in a significant decrease in access to benefits of those currently covered by such plans or policies, or significant increase in premiums paid by those covered by such plans or policies, along with supporting documentation:

Compliance with annual limits under the interim regulations would require significant increases in both employer and employee contributions to the Fund. Increases would range from (b)(4) over current required rates. These increases would either force the collective bargaining parties to eliminate health care coverage entirely or significantly increase the required contributions for participants. The participants are low wage workers working for small to medium size employers and

therefore either situation would significantly decrease the access to benefits for current covered participants.

5. Attestation:

I, Michael Hirsch, Executive Vice President of Amalgamated Fund Administrators, the administrator for the Fund certify that: 1) the plans were in force prior to September 23, 2010; and 2) that the application of restricted annual limits to such plans or policies would result in a significant decrease in access to benefits for those currently covered by such plans or policies, or a significant increase in premiums paid by those covered by such plan or policies.



Michael Hirsch

Executive Vice President

Amalgamated Fund Administrators

The Administrator for the Amalgamated National Health Fund

Section 2: Background Information

The Amalgamated NHF is a multiemployer Fund covering approximately (b)(4) active member contracts which represents approximately (b)(4) participants (members, spouses, and children.) Their health care coverage is provided through Collective Bargaining Agreements (CBAs) with (b)(4) employers. The Collective Bargaining Agreements provide for specific contribution rates for a specific benefit plans. There are currently (b)(4) Medical Plans and (b)(4) Prescription Drug Plans. The Plans have various levels of benefits with annual Medical Plan maximums ranging from a low of (b)(4) to unlimited and annual Prescription Drug Plan maximum ranging from (b)(4). The Plan currently has two union sponsors (UNITE HERE and Workers United, SEIU). The participants are primarily low wage employees working for small to medium size employers.

The CBAs primarily are for three-year terms (although some are for shorter or longer periods of time.) The method of contributions is either a monthly dollar contribution or a percentage of payroll. In many CBAs, an employee co-premium is required. Monthly contributions range from a low of (b)(4) per month to (b)(4) per month for single coverage. In addition, some contracts provide for family, children only, or spouse only coverage. In each CBA, the level of contributions dictates the various levels of coverage. Exhibit A displays a listing of all contributing employers, their required contribution rates and the Plan that their employees are in.

The governance of the Fund is by a Board of Trustees equally divided between union and employer representatives. They are currently 22 Trustees on the Board. The Fund is administered by Amalgamated Fund Administrators, a not-for-profit third-party administrator, which is an affiliate of ALICO Services Corporation.

Section 3: Implementation

The Board of Trustees has adopted the following implementation plan in order for the Fund to comply with The Affordable Care Act of 2010 (the "ACT").

The Fund will comply with all aspects of the ACT as a grandfathered plan with the exception of annual dollar maximums which this application has asked for waiver on.

As of January 1, 2011 all plans which have annual maximums below (b)(4) will be consolidated into three plans. Plans with annual maximums above (b)(4) will be placed into a "Compliant Plan" with annual maximums required under the ACT for 2011 through 2013. See "Summary of Employees in New Plans" (Exhibit D.) The three plans ("Waived Plans") and a Compliant Plans will have the exact same coverage levels except for annual maximums of (b)(4) and \$750,000 respectively (See Exhibit C). The current Plans and employers attached to those plans will be placed into the next highest actuarially equivalent plan effective January 1, 2011 (see Exhibit A).

As collective bargaining agreements expire, employers will be able to continue their participation in one of the three Waived Plans or move to the Compliant Plan. If the collective bargaining agreement expires after December 31, 2013, the participating employer will be required to participate in the "Compliant Plan" effective January 1, 2014 or have a re-opener in their contract for health care benefits as of January 1, 2014.

Pages 7 through 164 redacted for the following reasons:

Exemption 4

From: Pham, Erica (HHS/OCIIO)
Sent: Monday, November 08, 2010 1:09 PM
To: 'Hirsch, Michael'
Cc: Andrews, Jane (HHS/OCIIO); Habit, Sandra (HHS/OCIIO)
Subject: RE: Waiver Application for Amalgamated National Health Fund

Mr. Hirsch:

Can you please confirm the following with respect to your application:

1. The four plans submitted for the waiver were available enrollment prior to September 23, 2010; or
2. The four plans submitted for the waiver had enrollment prior to September 23, 2010 (i.e. the plans were offered on a limited basis to employer groups prior to September 23, 2010).

Based your response, we will be able to complete the processing of your waiver application.

Kind Regards,
Erica Pham

-----Original Message-----

From: Hirsch, Michael [mailto:MHIRSCH@amalgamatedlife.com]
Sent: Monday, November 08, 2010 1:02 PM
To: Pham, Erica (HHS/OCIIO); Andrews, Jane (HHS/OCIIO)
Subject: RE: Waiver Application for Amalgamated National Health Fund

Any uodate yet. I would like to report to my board which is meeting now.

Michael Hirsch

From: Pham, Erica (HHS/OCIIO) [mailto:Erica.Pham@hhs.gov]
Sent: Fri 11/5/2010 4:44 PM
To: Hirsch, Michael; Andrews, Jane (HHS/OCIIO)
Subject: RE: Waiver Application for Amalgamated National Health Fund

Dear Mr. Hirsch:

Thank you for your patience. We are in the process of reviewing your application and obtaining decisions regarding how to approach the benefit plan design. We understand your timelines and challenge, and we are trying to receive an answer back in a timely manner, as we hope to have more guidance by Monday.

Kind regards,

Erica Pham

AMALG NATL:000008

From: Hirsch, Michael [mailto:MHIRSCH@amalgamatedlife.com]
Sent: Friday, November 05, 2010 4:33 PM
To: Andrews, Jane (HHS/OCIO); Pham, Erica (HHS/OCIO)
Subject: Waiver Application for Amalgamated National Health Fund

I really need an update on the status of our application ASAP.

Michael Hirsch

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From: Hirsch, Michael
Sent: Friday, November 05, 2010 9:28 AM
To: Jane.andrews@hhs.gov; erica.pham@hhs.gov
Subject:

Jane Andrews

Erica Pham

I am inquiring as to the status of the waiver application for the Amalgamated National health Fund which was received by your office on October 7, 2010.

I believe I spoke with you last week and you had indicated that we might have a response by the end of this week.

AMALG NATL:000009

The Fund will be having a implementation seminar this Monday November 8th and I was hoping to be able to report on the status of the application then.

Could you please give me an update ASAP.

Thank you

Michael Hirsch

914-367-4212

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AMALG NATL:000010

From: Hirsch, Michael [MHIRSCH@amalgamatedlife.com]
Sent: Tuesday, November 09, 2010 5:46 PM
To: Pham, Erica (HHS/OCIIO)
Cc: Andrews, Jane (HHS/OCIIO); Habit, Sandra (HHS/OCIIO)
Subject: Re: Waiver Application for Amalgamated National Health Fund

As per your request see my response below:

For Waiver Plan 1 (\$ (b)(4) annual maximum) we utilized Medical Plan 94, modified to provide essential benefits and comply with Health Care Reform.

For Waiver Plan 2 ((b)(4) annual maximum) we utilized Medical Plan 117, modified to provide essential benefits and comply with Health Care Reform

For Waiver Plan 3 ((b)(4) annual maximum) we utilized Medical Plan 72, modified to provide essential benefits and comply with Health Care Reform.

All three plans submitted for waiver existed and had enrollment prior to September 23, 2010. We are not seeking a waiver for the fourth plan since it fully meets all requirements of Health Care Reform.

As our application indicates our proposal is to move all participants in to four plans (the three Waiver Plans and one Compliant Plan) instead of asking for waiver for all 138 plans. All three Waiver Plans and the Compliant Plan comply with all aspects of Health Care Reform, including provisions for no cost sharing for in-network preventive care benefits.

I hope I have answered your questions and look forward to your response.

Michael Hirsch

Sent from my iPad

On Nov 8, 2010, at 1:08 PM, "Pham, Erica (HHS/OCIIO)" <Erica.Pham@hhs.gov> wrote:

Mr. Hirsch:

Can you please confirm the following with respect to your application:

1. The four plans submitted for the waiver were available enrollment prior to September 23, 2010; or
2. The four plans submitted for the waiver had enrollment prior to September 23, 2010 (i.e. the plans were offered on a limited basis to employer groups prior to September 23, 2010).

Based your response, we will be able to complete the processing of your waiver application.

Kind Regards,
Erica Pham

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AMALG NATL:000011

-----Original Message-----

From: Hirsch, Michael [<mailto:MHIRSCH@amalgamatedlife.com>]
Sent: Monday, November 08, 2010 1:02 PM
To: Pham, Erica (HHS/OCIIO); Andrews, Jane (HHS/OCIIO)
Subject: RE: Waiver Application for Amalgamated National Health Fund

Any update yet. I would like to report to my board which is meeting now.

Michael Hirsch

From: Pham, Erica (HHS/OCIIO) [<mailto:Erica.Pham@hhs.gov>]
Sent: Fri 11/5/2010 4:44 PM
To: Hirsch, Michael; Andrews, Jane (HHS/OCIIO)
Subject: RE: Waiver Application for Amalgamated National Health Fund

Dear Mr. Hirsch:

Thank you for your patience. We are in the process of reviewing your application and obtaining decisions regarding how to approach the benefit plan design. We understand your timelines and challenge, and we are trying to receive an answer back in a timely manner, as we hope to have more guidance by Monday.

Kind regards,

Erica Pham

From: Hirsch, Michael [<mailto:MHIRSCH@amalgamatedlife.com>]
Sent: Friday, November 05, 2010 4:33 PM
To: Andrews, Jane (HHS/OCIIO); Pham, Erica (HHS/OCIIO)
Subject: Waiver Application for Amalgamated National Health Fund

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Michael Hirsch

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AMALG NATL:000012

From: Hirsch, Michael
Sent: Friday, November 05, 2010 9:28 AM
To: Jane.andrews@hhs.gov; erica.pham@hhs.gov
Subject:

Jane Andrews

Erica Pham

I am inquiring as to the status of the waiver application for the Amalgamated National health Fund which was received by your office on October 7, 2010.

I believe I spoke with you last week and you had indicated that we might have a response by the end of this week.

The Fund will be having a implementation seminar this Monday November 8th and I was hoping to be able to report on the status of the application then.

Could you please give me an update ASAP.

Thank you

Michael Hirsch

914-367-4212

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AMALG NATL:000013

From: Botwinick, Alexandra (HHS/OCIO)
Sent: Monday, November 15, 2010 3:59 PM
To: 'mhirsch@amalgamatedlife.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Attachments: Updated Jan 1 Approval Letter .pdf
Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for Amalgamated National Health 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 address with a copy to OCIOOversight@hhs.gov.

Please let me know if I can be of further assistance.

Sincerely,

Alexandra Botwinick

Office of Oversight
HHS/OCIO
alexandra.botwinick@hhs.gov

From: Hirsch, Michael [MHIRSCH@amalgamatedlife.com]
Sent: Monday, November 15, 2010 7:14 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Cc: OCIIO Oversight
Subject: Re: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Follow Up Flag: Follow up
Flag Status: Red

This is to confirm receipt of Waiver Determination letter.

Thank you

Michael Hirsch
Michael Hirsch
Executive Vice President
Amalgamated Life
914-367-4212
mhirsch@amalgamatedlife.com

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Monday, November 15, 2010 03:59 PM
To: Hirsch, Michael
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for Amalgamated National Health 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 address with a copy to OCIIOOversight@hhs.gov.

Please let me know if I can be of further assistance.

Sincerely,

Alexandra Botwinick

Office of Oversight
HHS/OCIIO
alexandra.botwinick@hhs.gov

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AMALG NATL:000015


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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.