

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Friday, October 29, 2010 3:14 PM
To: 'paul@bestbackstretch.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 B.E.S.T of New York. 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

BEST NY:000001

5. Plan Executive Director Attestation

Plan Administrator Attestation

I, Paul Ruchames, Plan Administrator of the Backstretch Employees Employee Welfare Benefits Plan do hereby attest that the Plan was in force prior to September 23, 2010, and that the application of restricted annual limits would result in a significant decrease in access to benefits for those participants currently covered by the plan.

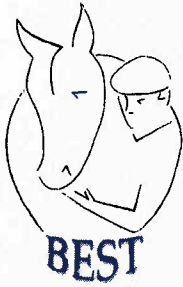


Paul Ruchames

For Backstretch Employee Service Team of New York
On behalf of the Backstretch Employees Employee
Welfare Benefits Plan

10/6/10

Date



BACKSTRETCH EMPLOYEE SERVICE TEAM of New York Inc.
Belmont Park Racetrack

2150 Hempstead Turnpike, Gate 6, Cottage 28B
Elmont, N.Y. 11003

Phone: (516) 488-3434

Fax: (516) 354-0578

www.bestbackstretch.com

Backstretch Employee Service Team of New York (B.E.S.T.)
On behalf of **Backstretch Employees Employee Welfare Benefits Plan**
2150 Hempstead Turnpike
Cottage 28B
Elmont, N.Y. 11003

October 6, 2010

HHS Office of Consumer Information and Insurance Oversight
Office of Oversight
Attention: James Mayhew
Room 737-F-04
200 Independence Ave. SW
Washington, DC 20201
[or e-mail to healthinsurance@hhs.gov (use "waiver" as the subject of the email)]

Re: Waiver from Restricted Annual Limits
Backstretch Employees Employee Welfare Benefits Plan
Plan #501
EIN #: 11-2976735

Dear Mr. Mayhew:

Pursuant to OCHO Sub-Regulatory Guidance (OCHO 2010 – 1): Process for Obtaining Waivers of the Annual Limits Requirements of PHSD Act Section 2711, the Backstretch Employee Service Team of New York Inc. (B.E.S.T), a New York not-for-profit entity) hereby requests a waiver from the restricted annual limits set forth in 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) (the "IFR") for the plan year beginning January 1, 2011 for the Backstretch Employees Welfare Benefits Plan (the "Plan"). The Plan was offered prior to September 23, 2010 for the plan or policy year beginning between September 23, 2010 and September 23, 2011.

Application Provisions

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

The current plan year is based upon the calendar so this waiver is requested for January 1, 2010 through December 31, 2011.

The benefits are provided pursuant to a self funded arrangement, and the benefits are administered by a third party administrator; MagnaCare.

Summary of Benefits for the Plan for which the waiver is sought are as follows:

The plan covers basic medical and surgical benefits for “backstretch” workers at some New York area racetracks. These workers are not normally eligible for any health benefits either through their employer or through other avenues such as Medicaid/CHIP/NY State Assistance Programs.

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

Between (b)(4) participants are covered under the plan and the plan does not cover dependents.

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

The annual limit for the Plan is (b)(4) per covered individual. The annual rates that apply for the 2010 and 2011 Plan Years (assuming that our waiver is approved) are as follows:

Tier	Participant % Paid Monthly	B.E.S.T. % Funded Monthly	Total Premium Equivalent Monthly Cost
2010 Participant ONLY			monthly
2011 Participant ONLY		(b)(4)	monthly

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;*

B.E.S.T. provides free primary health care and a limited health insurance plan for minimum wage/low wage workers on the “backstretch” (of Belmont, Aqueduct and Saratoga Race Tracks) who do not receive health insurance through their employers. B.E.S.T. is not the employer of the insured workers. The workers are employed by thoroughbred horse trainers, the overwhelming majority of whom employ fewer than (b)(4) employees, do not provide health insurance, and are themselves exempt from these regulations. B.E.S.T. provides free primary health care and health insurance to backstretch workers who would otherwise go untreated, or seek medical care in hospital emergency rooms as uninsured patients. B.E.S.T. is funded by charitable donations from other not-for-profit organizations and from its other fundraising activities and simply does not have funding available to cover the cost increases which higher annual limits would require. Without a waiver to this requirement, B.E.S.T. would have to cancel its health insurance plan in its entirety.

5. Plan Executive Director Attestation

Plan Administrator Attestation

I, Paul Ruchames, Plan Administrator of the Backstretch Employees Employee Welfare Benefits Plan do hereby attest that the Plan was in force prior to September 23, 2010, and that the application of restricted annual limits would result in a significant decrease in access to benefits for those participants currently covered by the plan.



Paul Ruchames

For Backstretch Employee Service Team of New York

On behalf of the Backstretch Employees Employee

Welfare Benefits Plan

October 7, 2010

Date

Backstretch Employee Service Team of New York (B.E.S.T.)
On behalf of **Backstretch Employees Employee Welfare Benefits Plan**
2150 Hempstead Turnpike
Cottage 28B
Elmont, N.Y. 11003

October 6, 2010

HHS Office of Consumer Information and Insurance Oversight
Office of Oversight
Attention: James Mayhew
Room 737-F-04
200 Independence Ave. SW
Washington, DC 20201
[or e-mail to healthinsurance@hhs.gov (use “waiver” as the subject of the email)]

Re: Waiver from Restricted Annual Limits
Backstretch Employees Employee Welfare Benefits Plan
Plan #501
EIN #: 11-2976735

Dear Mr. Mayhew:

Pursuant to OCHO Sub-Regulatory Guidance (OCHO 2010 – 1): Process for Obtaining Waivers of the Annual Limits Requirements of PHSD Act Section 2711, the Backstretch Employee Service Team of New York Inc. (B.E.S.T), a New York not-for-profit entity) hereby requests a waiver from the restricted annual limits set forth in 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) (the “IFR”) for the plan year beginning January 1, 2011 for the Backstretch Employees Welfare Benefits Plan (the “Plan”). The Plan was offered prior to September 23, 2010 for the plan or policy year beginning between September 23, 2010 and September 23, 2011.

Application Provisions

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

The current plan year is based upon the calendar so this waiver is requested for January 1, 2010 through December 31, 2011.

The benefits are provided pursuant to a self funded arrangement, and the benefits are administered by a third party administrator; MagnaCare.

Summary of Benefits for the Plan for which the waiver is sought are as follows:

The plan covers basic medical and surgical benefits for “backstretch” workers at some New York area racetracks. These workers are not normally eligible for any health benefits either through their employer or through other avenues such as Medicaid/CHIP/NY State Assistance Programs.

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

Between (b)(4) participants are covered under the plan and the plan does not cover dependent

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

The annual limit for the Plan is (b)(4) per covered individual.
 The annual rates that apply for (b)(4) 2011 Plan Years (assuming that our waiver is approved) are as follows:

Tier	Participant % Paid Monthly	B.E.S.T. % Funded Monthly	Total Premium Equivalent Monthly Cost
2010 Participant ONLY			monthly
2011 Participant ONLY		(b)(4)	monthly

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;*

B.E.S.T. provides free primary health care and a limited health insurance plan for minimum wage/low wage workers on the “backstretch” (of Belmont, Aqueduct and Saratoga Race Tracks) who do not receive health insurance through their employers. B.E.S.T. is not the employer of the insured workers. The workers are employed by thoroughbred horse trainers, the overwhelming majority of whom employ fewer than (b)(4) employees, do not provide health insurance, and are themselves exempt from these regulations. B.E.S.T. provides free primary health care and health insurance to backstretch workers who would otherwise go untreated, or seek medical care in hospital emergency rooms as uninsured patients. B.E.S.T. is funded by charitable donations from other not-for-profit organizations and from its other fundraising activities and simply does not have funding available to cover the cost increases which higher annual limits would require. Without a waiver to this requirement, B.E.S.T. would have to cancel its health insurance plan in its entirety.

5. Plan Executive Director Attestation

Plan Administrator Attestation

I, Paul Ruchames, Plan Administrator of the Backstretch Employees Employee Welfare Benefits Plan do hereby attest that the Plan was in force prior to September 23, 2010, and that the application of restricted annual limits would result in a significant decrease in access to benefits for those participants currently covered by the plan.

Paul Ruchames
For Backstretch Employee Service Team of New York
On behalf of the Backstretch Employees Employee
Welfare Benefits Plan

Date

From: paul@bestbackstretch.com
Sent: Friday, October 29, 2010 8:29 PM
To: Botwinick, Alexandra (HHS/OCIO)
Subject: Re: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Follow Up Flag: Follow up
Flag Status: Red

Dear Ms. Botwinick,

On behalf of my non profit organization and the hundreds of indigent workers for whom we provide health insurance, I wish to express our thanks for granting us a waiver for 2011.

Paul Ruchames LCSW
Executive Director
B.E.S.T.
2150 Hempstead Turnpike
Elmont, New York 11003

>-----Original Message-----

>From: Botwinick, Alexandra (HHS/OCIO)
>[mailto:Alexandra.Botwinick@hhs.gov]
>Sent: Friday, October 29, 2010 03:14 PM
>To: 'paul@bestbackstretch.com'
>Subject: Waiver of the Annual Limits Requirements of PHS Act Section
>2711

>Importance: High

>

>Good Afternoon,

>

>Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for B.E.S.T of New York. 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<mailto:alexandra.botwinick@hhs.gov>

>

>

>

>

>

BEST NY:000009

From: Habit, Sandra (HHS/OCIO)
Sent: Tuesday, October 26, 2010 3:01 PM
To: 'paul@bestbackstretch.com'
Subject: Backstretch Employee Welfare Benefit Waiver
Dear Mr. Ruchames:

Thank you for your application for the Waiver of the Annual Limits Requirements of the PHS Act Section 2711. In order to complete your application, please provide the following information:

- You application appears to have provided just the employee contribution rates. Please provide the monthly premium rates applicable to the plan or policy forms if the plan were to comply with the restricted annual benefits (sum of the employee and employer premium contributions). If your plan is self-funded, please provide your monthly premium equivalent rates.
- We received an unsigned attestation from you, the Plan Administrator of Backstretch Employees Welfare Benefit Plan. Please provide a signed attestation by a plan administrator.
- Please provide the current monthly premium rates and the projected monthly premium rates applicable to the plan or policy forms if the plan were to comply with the restricted annual benefits. In other words, we would like a chart that reflects the following information:

	2010 January Premium (current level)	2011 January Premium (renewal)	2011 January Premium (if \$750,000 annual limit was applied)
EE			
EE + Child (if applicable or other appropriate tier)			
EE + Spouse (if applicable or other appropriate tier)			
Family (if applicable or other appropriate tier)			

In order to complete your application, please provide this information by 5:00 pm, October 27, 2010. We look forward to receiving your completed application. If you have any questions, please feel free to contact me.
Thank you.

Sandy

Sandra Habit
Quality Analyst
Office of Consumer Information and Insurance Oversight
301-492-4175

BEST NY:000010

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 disclosures may result in prosecution to the full extent of the law.

From: faith@bestbackstretch.com
Sent: Wednesday, October 27, 2010 1:44 PM
To: Habit, Sandra (HHS/OCIIO)
Cc: paul@bestbackstretch.com

Attachments: Revised Welfare Benefits Waiver.doc; DOC102710.pdf

Dear Ms. Habit,

My response to your email of 10/26/10 is attached as well as the signatory page. I appreciate your assistance in this process.

Paul Ruchames LCSW

Executive Director BEST

BEST NY:000012

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

From: Habit, Sandra (HHS/OCHIO) [<mailto:Sandra.Habit@hhs.gov>]

Sent: Tuesday, October 26, 2010 03:00 PM

To: 'paul@bestbackstretch.com'

Subject: Backstretch Employee Welfare Benefit Waiver

Dear Mr. Ruchames:

Thank you for your application for the Waiver of the Annual Limits Requirements of the PHS Act Section 2711. In order to complete your application, please provide the following information:

* Your application appears to have provided just the employee contribution rates. Please provide the monthly premium rates applicable to the plan or policy forms if the plan were to comply with the restricted annual benefits (sum of the employee and employer premium contributions). If your plan is self-funded, please provide your monthly premium equivalent rates. **Actually those are the monthly premium equivalent rates provided in letter and not the employee contrib (b)(4) B.E.S.T. does not charge participants any contributions as we pay (b)(4) of the premium.**

* We received an unsigned attestation from you, the Plan Administrator of Backstretch Employees Welfare Benefit Plan. Please provide a signed attestation by a plan administrator. **See attached scanned copy.**

* Please provide the current monthly premium rates and the projected monthly premium rates applicable to the plan or policy forms if the plan were to comply with the restricted annual benefits. In other words, we would like a chart that reflects the following information: **Note again that only participants are eligible and not dependents and we do not charge them anything to participate in the (b)(4) Below are the monthly premium equivalent rates and B.E.S.T. pays (b)(4) for the participant.**

2010 January Premium (current level)

(b)(4) **monthly for EE only coverage paid (b)(4) by B.E.S.T.**

2011 January Premium (renewal)

(b)(4) **monthly for EE only coverage paid (b)(4) by B.E.S.T.**

2011 January Premium (if \$750,000 annual limit was applied)

EE- (b)(4) **monthly EE only (this would not be possible as we could not fun (b)(4) amount if we needed to maintain \$750,000 annual limit as current plan is (b)(4) annual & lifetime limit)**

EE + Child (if applicable or other appropriate tier)

Not applicable

EE + Spouse (if applicable or other appropriate tier)

Not applicable

Family (if applicable or other appropriate tier)


Not applicable



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: paul@bestbackstretch.com
Sent: Thursday, October 07, 2010 11:45 AM
To: HHS HealthInsurance (HHS)
Subject: waiver

Attachments: Backstretch_Employees_Welfare_Benefits_Plan[1] F.doc

Mr. Mayhew,

Attached is the waiver request on behalf of the Backstretch Employee Service Team of New York Inc. (also known by the acronym of B.E.S.T.). BEST is a New York based, 501C-3 non profit Corporation which currently provides health insurance for indigent workers on the "backstretch" of 3 New York racetracks.

Thank you for your attention to our request.

Paul Ruchames, LCSW
Executive Director
BEST

Executive Director
B.E.S.T.
2150 Hempstead Turnpike
Elmont, New York 11003

BEST NY:000017