



FLORIDA LABORERS HEALTH FUND

Administered by Southern Benefit Administrators, Incorporated



Mailing Address:
P. O. Box 1449
Goodlettsville, TN 37070-1449

Telephone: (615) 859-0131
Toll Free: (800) 831-4914
Fax: (615) 859-4699

Street Address:
2001 Caldwell Drive
Goodlettsville, TN 37072-3589



Date: November 2, 2010

Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Oversight – ATTN: James Mahew
Room 737-F-04
200 Independence Ave. SW
Washington, D.C. 20201

Re: Florida Laborers Health Fund
EIN: 59-6369928

Pursuant to regulations published on June 28, 2010 the Florida Laborers Health Fund is applying for waiver of the restricted annual limits. In compliance with these provisions we are enclosing a copy of the schedule of benefits which reflects the current benefit structure. The current Plan has an annual maximum of (b)(4) and a lifetime limit of (b)(4). This Plan was in existence prior to September 23, 2010.

The medical, prescription drugs and vision benefits provided by this Plan are entirely self-funded. Family coverage is provided to employees who satisfy the eligibility requirements established by the Board of Trustees. The Plan's current eligibility rules require employees to have a total of (b)(4) employer contributions made on their behalf each month. This Plan is a collectively bargained Taft Hartley Welfare Fund and managed by Employer and Employee Trustees.


Because of adverse employment conditions, employer contributions have decreased significantly over the past year. As a result, benefit and other expenses exceed employer contributions. As the enclosed chart reflects, expenses exceeded contributions by (b)(4) per eligible per month in 2008, by (b)(4) in 2009, and by (b)(4) during the first nine months of 2010. The Trustees are hopeful the Fund's reserves will help in getting through these conditions.

In order to comply with provisions of the Affordable Care Act (ACA), we have secured stop-loss quotes. Stop-loss coverage will protect the Fund in the event of catastrophic claims. We are enclosing a copy of the most competitive quote received. You will note the monthly premium is (b)(4) per eligible per month. Based on (b)(4) eligible employees, this would increase the Plan's costs by (b)(4) per year. Although the premium can be reduced by having the Plan accept additional liability beyond (b)(4) the annual cost is significant.

To make adjustments for this additional cost, the Trustees will be forced to eliminate the "non-essential" benefits and increase the eligibility requirements to reduce the number of eligible employees. Current employment conditions, ending of the COBRA subsidy, and the increased cost of self-contributions, will result in the loss of coverage for a significant number of employees and their families who have had coverage under this Plan for many years. The hardship being placed on this Plan will ultimately be borne by the employees.

The effective date for this Fund to be in compliance with ACA is January 1, 2011. I attest that the information I have presented is correct. Please let us know if you need anything further in regard to this request.

We have a meeting with this board on Tuesday, November 16, 2010 and would like very much to review your response regarding the waiver request with the trustees at that time. Please direct your response to my attention at donny.dowlen@southernbenefit.com or fax to me at (615) 859-0324. I can also be reached at (800) 831-4914.


Donny Dowlen
Plan Administrator

Pages 2 through 4 redacted for the following reasons:

(b)(4)

From: Donny Dowlen [donny.dowlen@southernbenefit.com]
Sent: Tuesday, November 02, 2010 11:26 AM
To: HHS HealthInsurance (HHS)
Cc: jere.brassell@southernbenefit.com; 'Jay Brassell'; lynn.brassell@southernbenefit.com; 'John D Brassell'
Subject: Waiver

Attachments: 112102.pdf

Attached is documentation for the Florida Laborers Health Fund.

Donny Dowlen
Southern Benefit Administrators
P.O. Box 1449
Goodlettsville, TN 37070-1449
800-831-4914

Privacy and Confidentiality Notice: *This message is being sent via secure SSL encryption to protect the privacy of our clients and to ensure compliance with HIPAA regulations. Furthermore, this message (including any attached or embedded documents) is intended for the exclusive and confidential use of the individual or entity to which it has been addressed, and unless otherwise expressly indicated, is confidential and privileged information of Southern Benefit Administrators, Inc. Any dissemination, distribution or copying of the enclosed material is prohibited. If you receive this transmission in error, please notify us immediately by e-mail at abuse@southernbenefit.com, and delete the original message. Your cooperation is appreciated.*

From: Kottenmeier, Erika (HHS/OCIIO)
Sent: Tuesday, November 23, 2010 4:15 PM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: Florida Laborers Health Fund

Sorry, forgot to send you this. It's for Florida Laborers Health Fund.

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

From: Kottenmeier, Erika (HHS/OCIIO)
Sent: Tuesday, November 23, 2010 4:10 PM
To: 'jerebrassell@yahoo.com'
Cc: 'Donny Dowlen'
Subject: RE: Florida Laborers Health Fund

Dear Jere,

Thank you for replying on behalf of Mr. Dowlen. I did receive your response yesterday and wanted to discuss it with my colleagues prior to replying to you.

We appreciate the situation in which entirely self-funded trusts such as the Florida Laborers Health Fund often find themselves: particularly in times where medical costs continue to soar but collective bargaining agreements keep employer contributions frozen for multiple years. We are also aware that a) the Florida Laborers Health Fund is entirely self-funded, b) the implications thereof, c) the implications of the collective bargaining agreements for your employers' contributions, and d) the restrictions faced by LMRA funds.

That said, we do still require the financial information I requested from Mr. Dowlen. While you do not have to give us "premiums" per se, the waiver program has been tasked with evaluating a wide variety of plans: employer-sponsored and fully-insured, multi-employer, single-employer, small-group, large group, and so on. In order to make an objective comparison of plans we must compare current costs, expected costs upon renewal, and expected costs upon renewal with ACA limits. The costs may not necessarily be premiums, but employer contributions or premium equivalents in the form of COBRA estimates work just as well. This cost data is a reliable, objective measure of "significant increase in premiums," and allows us to compare "apples to apples" when looking at plans of different types and sizes. This is important considering the public scrutiny to which this program is subjected. I am sure you are aware that such a high-profile program is subject to Freedom of Information Act (FOIA) requests, which require that we disclose all information we receive and on which we base our decisions. We want to show evidence of an unbiased, decision-making process applied equally across all plan-types and sizes. As such, we collect this data from all our applicants, including all our multi-employer plans.

To date every multi-employer plan has been able to provide us with some type of cost data showing current costs, and projecting 2011 plan year costs with and without the ACA limits. Whether it be an average of employers' contributions, a high and low range, or COBRA premium equivalents, it is imperative that you show us what the impact of the ACA would be on the cost of your plan (even hypothetically, given the CBA will not allow a change in employer contribution). Mr. Dowlen was able to provide us with the correct information for another plan he submitted, so I am certain he can do so again. We will also take into account that you will have to reduce the benefits and amend your eligibility rules if you are not afforded a waiver, among the other consequences you assert in your e-mail. Your efforts will not go unnoticed.

Kind Regards,

Erika Kottenmeier

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

From: jerebrassell@yahoo.com [mailto:jerebrassell@yahoo.com]

FL LABOR:000004

Sent: Tuesday, November 23, 2010 3:28 PM
To: Kottenmeier, Erika (HHS/OCIO)
Subject: Florida Laborers Health Fund

Erika,

While I realize that it is much too soon to have heard from you in response to my email regarding the above Plan that you likely first saw yesterday morning, it would be helpful if you could acknowledge that you indeed received it via return email. Thank you very much.

Jere T. Brassell
Sent via BlackBerry by AT&T

FL LABOR:000005

From: Kottenmeier, Erika (HHS/OCIO)
Sent: Monday, November 15, 2010 4:27 PM
To: 'Donny Dowlen'
Cc: Habit, Sandra (HHS/OCIO)
Subject: Annual Limits Waiver Application
Dear Mr. Dowlen,

Thank you for your application on behalf of the Florida Laborers Health Fund. Before we can complete evaluation we require more information from you. Specifically, please tell us the following:

- How much are employers and employees currently paying in total premium dollars?
- How much would the renewal premium be for the next plan year if you did not have to comply with the \$750,000 annual limits?
- How much would the renewal premium be for the next plan year if you do comply with the new annual limits (I believe this information is contained in the application in the form of your quotes from stop-loss insurers. Is it correct to infer that (b)(4) per eligible per month is the total premium cost your member employers would pay if you have to meet the \$750,000 limit?)

This information may be best captured in the following table:

	Current Total Premium level	Renewal Total Premium level (without \$750,000 annual limit)	Renewal Total Premium (with \$750,000 annual limit)
EE			
EE + Child (if applicable or other appropriate tier)			
EE + Spouse (if applicable or other appropriate tier)			
Family (if applicable or other appropriate tier)			

Additionally, was this fund in existence prior to March 23rd, 2010, and if so, have the trustees elected to comply with the grandfathering provisions? Finally, what was the date of the last collective bargaining agreement pursuant to which this plan was designed?

I understand you have a board meeting tomorrow and it is very unlikely we will be able to give you a firm answer as to whether your plan will be approved or not. However, if you can provide us this information in a timely fashion, we can probably have an approval or disapproval letter out to you by the end of the week.

Kind Regards,

Erika M. Kottenmeier
Division of Enforcement
Office of Oversight
HHS/OCIO
erika.kottenmeier@hhs.gov

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: Donny Dowlen [donny.dowlen@southernbenefit.com]

Sent: Wednesday, November 24, 2010 11:35 AM

To: Kottenmeier, Erika (HHS/OCIIO)

Cc: Habit, Sandra (HHS/OCIIO); 'Jere Brassell'

Subject: RE: Annual Limits Waiver Application

Erika, the purpose of this is to respond to your email below regarding the Florida Laborers Health Fund. I will respond in the order of your questions:

1. The Plan is funded solely by premiums (employer contributions) un collective bargaining agreements. They are expected to total approximately (b)(4) in 2011.
2. Total Plan costs in 2011 are projected to total (b)(4) exclusive the annual benefit limit requirement, creating a deficit of (b)(4) ce with which there is no additional source of funding. for
3. Current quotes to acquire stop loss coverage range between (b)(4) and (b)(4) per participant per month. Once underwriting is completed and (b)(4) cat ic claims are revealed, i easonable to e tual rate to fall midway between the two quotes, or (b)(4) . equals (b)(4) in additional expenses, thereb the expected co (b)(4) (b)(4) and inc (b)(4) projected unfunded deficit to (b)(4)
4. The fund was in existence prior to March 23, 2010.
5. The trustees have elected to maintain the Fund as a grandfathered Plan.
6. The longest collective bargaining agreement in effect on March 23, 2010 expires in 2013.

We trust this provides the information you need. If you need further information, please let us know.

Donny Dowlen
Southern Benefit Administrators
800-831-4914

From: Kottenmeier, Erika (HHS/OCIIO) [mailto:Erika.Kottenmeier@hhs.gov]

Sent: Monday, November 15, 2010 3:27 PM

To: 'Donny Dowlen'

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Annual Limits Waiver Application

Dear Mr. Dowlen,

Thank you for your application on behalf of the Florida Laborers Health Fund. Before we can complete evaluation we require more information from you. Specifically, please tell us the following:

- How much are employers and employees currently paying in total premium dollars?
- How much would the renewal premium be for the next plan year if you did not have to comply with the \$750,000 annual limits?
- How much would the renewal premium be for the next plan year if you do comply with the new annual limits (I believe this information is contained in the application in the form of your quotes from stop-loss insurers. Is it correct to infer that (b)(4) per eligible per month is the total premium cost your member employers would pay if you have to meet the \$750,000 limit?)

This information may be best captured in the following table:

Current Total Premium level	Renewal Total Premium level (without \$750,000 annual limit)	Renewal Total Premium (with \$750,000 annual limit)
-----------------------------	--	---

EE
EE + Child (if applicable or other appropriate tier)
EE + Spouse (if applicable or other appropriate tier)

FL LABOR:000007

Family (if applicable or other appropriate tier)

Additionally, was this fund in existence prior to March 23rd, 2010, and if so, have the trustees elected to comply with the grandfathering provisions? Finally, what was the date of the last collective bargaining agreement pursuant to which this plan was designed?

I understand you have a board meeting tomorrow and it is very unlikely we will be able to give you a firm answer as to whether your plan will be approved or not. However, if you can provide us this information in a timely fashion, we can probably have an approval or disapproval letter out to you by the end of the week.

Kind Regards,

Erika M. Kottenmeier
Division of Enforcement
Office of Oversight
HHS/OCIO
erika.kottenmeier@hhs.gov

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.

Privacy and Confidentiality Notice: This message is being sent via secure SSL encryption to protect the privacy of our clients and to ensure compliance with HIPAA regulations. Furthermore, this message (including any attached or embedded documents) is intended for the exclusive and confidential use of the individual or entity to which it has been addressed, and unless otherwise expressly indicated, is confidential and privileged information of Southern Benefit Administrators, Inc. Any dissemination, distribution or copying of the enclosed material is prohibited. If you receive this transmission in error, please notify us immediately by e-mail at abuse@southernbenefit.com, and delete the original message. Your cooperation is appreciated.

From: Botwinick, Alexandra (HHS/OCIO)
Sent: Tuesday, December 14, 2010 12:04 PM
To: 'donny.dowlen@southernbenefit.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Follow Up Flag: Follow up
Flag Status: Red

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 **Florida Laborers 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.

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

Sincerely,

Alexandra Botwinick


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



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.