From: Nancy Machut [machut@darensberries.com]
Sent: Tuesday, September 28, 2010 3:40 PM
To: HHS HealthInsurance (HHS)
Subject: HCRA Waiver Application

Attachments: Attestation.rtf; waverapplicpage4.jpg; waiverapplicpage1.jpg; waiverapplicpage2.jpg; waiverapplicpage3.jpg; healthoptionssummary.doc.pdf; Fieldplansummary.doc.pdf
Please see attached. Thank you, Daren Gee

September 27, 2010

Department of Health & Human Services
Office of Consumer Information and Insurance Oversight
Office of Oversight
Attn: Mr. James Mayhew
Room 737-F-04
200 Independence Ave. SW
Washington, DC 20201

Re: Application for Waiver of Annual Limits Requirements of PHS Act Section 2711

Dear Mr. Mayhew,

Who We Are

D.B. Specialty Farms is a strawberry grower located in Santa Maria, California. We employ (b)(4) employees seasonally and (b)(4) employees year-round and have been operating in the Santa Barbara County since August, 1994. We currently grow (b)(4) acres of strawberries in Northern Santa Barbara County. Our operations are divided into (b)(4) separate ranching properties ranging in size of (b)(4) to (b)(4) acre parcels. Our fiscal budget goes from September to August annually. In 2009, our annual payroll was in excess of (b)(4). We are the largest single grower of fresh strawberries in Santa Barbara County and produce close to (b)(4) trays annually. Up to this point, we have been able to provide health insurance to our full-time, year-round employees and their families at no cost to them.

D.B. Specialty Farm's Self-Insured Mini-Med Health Benefit Plan

D.B. Specialty Farms sponsors a self-insured mini-med health benefit plan for our employees and their dependents without which they would likely not have nor seek out private coverage. Our mini-med health benefit plan currently covers 493 participants.

P.O. Box 549 • Santa Maria, CA 93456 • Telephone (805) 928-9114 • Facsimilie (805) 928-4774

Traditionally, we have paid [redacted] of the cost of this health plan because we believe that health benefits coverage is essential and that a healthy, happy workforce is integral to our success. However, with the cost of health care increasing we have been forced to pass on some of that cost to our employees.

In order to comply with Health Care Reform our mini-med health benefit plan has redefined the dependent definition to include children up to the age of 26, removed pre-existing condition limitations on children under 19 years of age, and changed our lifetime maximum benefit to an annual limit. Our mini-med health benefit plan currently has an annual benefit limitation that is much lower than that imposed by the final interim regulations. The annual limitation is now set at [redacted]. The terms of the plan are attached hereto at Tab "1". The [redacted] annual limit and applicable rate of [redacted] per month for employee coverage and [redacted] per month for family coverage under the plan is detailed and demonstrated at Tab "2". Also attached is the explanation of how these rates are calculated and how they will increase if subject to compliance with the final interim regulations.

Self-Insured Mini-Med Benefit Plan Essential to Underserved Worker Population

Our self-funded mini-med benefit plan was specifically designed for our predominantly Hispanic seasonal workforce, a typically underserved population of individuals. This seasonal workforce has made it very clear that they prefer a bilingual healthcare environment, that they want and expect first dollar healthcare coverage and that they are willing to pay very limited if any co-pays or out of pocket expenses. We have purposely created and structured our mini-med health benefit plan to reflect these facts as detailed in the attached plan summary.

We chose to offer a self-insured model because it removes the profit incentive inherent in the insurance industry. If fact, if our health plan were to be a fully-insured product issued by an insurance carrier the cost of the plan would be [redacted] greater. By crafting a custom, health benefit plan for which we hold much of the risk we have been able to provide affordable coverage for our employees and their dependents.

Compliance with Interim Final Regulations Renders Coverage Unaffordable, Unattainable

Compliance with the interim final regulations will significantly increase the cost of our mini-med health benefit plan. Even with the limited cost sharing that we will impose upon our employees they will see their cost of coverage increase dramatically.

We are seeking a waiver of the interim final regulations regarding mandatory annual limits for our mini-med health benefit plans because compliance with the mandated annual limits will cause both:

- A significant increase in premiums paid by those covered by the plan; and
- A significant decrease in access to benefits for those currently covered by our plan.

Our employees will see the cost of coverage increase (b)(4) to maintain single coverage and (b)(4) for family coverage. The significant cost increase to the employees can be attributed to the (b)(4) increase in the stop loss rates, the increased claims exposure raised by the $750,000 annual limit, and to the (b)(4) employee contribution which will now be required to participate in the health plan. Thus, without a waiver of the annual limit, currently at work employees will be charged new fees of (b)(4) for employee-only active coverage and (b)(4) for family active coverage per year to participate in health benefits.

In the event an employee undergoes a COBRA qualifying event, the cost of COBRA to maintain their coverage will increase (b)(4) for single coverage to a monthly rate of (b)(4) and (b)(4) for family coverage to a monthly rate of (b)(4) The exorbitant increase to the COBRA rates puts this option out of reach, and as a result few if any employees will ever elect COBRA continuation coverage.

Additionally, as we will be forced to move from a (b)(4) employer-paid plan to a cost sharing arrangement with our employees, we likely will see a large drop in participation due to this increase in cost. This will occur because our employees will opt out of the plan. Our employees make an average of (b)(4) hour. Compliance with the interim final regulations will cause their share of health coverage to jump significantly, up to (b)(4) per month for family coverage or (b)(4) of their take home pay.

Many of our employees will forego this cost in favor of relying on public assistance. Without coverage under our plan our employees and their dependents will likely add to the congestion of their local emergency waiting rooms. This will increase the demand on already economically strained public hospitals as well as adding potentially major new caseload and cost pressure to Medi-Cal, which is already overburdened.

Attached hereto at Tab "3" is an attestation by D.B. Specialty Farms Chief Executive Officer, Daren Gee, that our mini-med health benefit plan for which we are seeking a waiver was in force prior to September 23, 2010 and, as discussed above, the application of restricted annual limits to our mini-med health benefit plan will result in a significant increase in contribution paid by our employees and COBRA participants and a significant decrease in access to benefits by those participants who opt out due to the resulting financial burden.

If you have any concerns or questions regarding this application, please contact me at your earliest convenience. Thank you very much.

Very truly yours,

Daren Gee
Owner/Manager
D.B. Specialty Farms

DARENS:000005

CC: Herb Schultz, MPP

ATTESTATION
IN SUPPORT OF
APPLICATION OF WAIVER OF THE ANNUAL LIMITS REQUIREMENTS

I, Daren Gee, declare that I am the Sole Proprietor ofD.B. Specialty Farms.

I hereby attest and affirm that the information contained in this Application is true and correct. The mini-med health benefit plan submitted with this Application is in effect as of September 23, 2010. The annual plan year for this plan is October 1.

The current annual limit ofthis plan is (b)(4) If the annual limit is raised to $750,000 per year the expense for our employees and their dependents will increase significantly as explained in our Application letter, which is supported by our attached documentation.

The application of restricted annual limits to our mini-med health benefit plan will result in a significant increase in contribution paid by our employees and COBRA participants and a significant decrease in access to benefits by those participants who opt out due to the resulting financial burden.

It is imperative that our request for a waiver of the $750,000 annual limit be granted in order to preserve our employees' health benefits coverage. Without this waiver our employees will see either a significant increase in their costs for coverage or will opt out of coverage completely thereby reducing their access to coverage.

Executed this 27th day of September, 2010 at Santa Maria, California.
Daren Gee, Sole Proprietor D.B.

By: 

Specialty Farms

DB Specialty Farms
Field Plan

A. GENERAL FEATURES	
Calendar Year Deductible	(b)(4)
Maximum Deductible per Family	(b)(4)
Stop Loss	(b)(4)
	Nonparticipating Hospital charges do not apply to the Stop Loss. When UR is not done the Stop Loss will not apply. Some Injectable Medications will not apply to Stop Loss.
Lifetime Maximum Benefit	(b)(4)
Percentage Payable	(b)(4) (Participating Providers) / (b)(4) (Non-Participating Providers).
Participating Primary Care Providers	This would encompass General, Family, OB/GYN, Internist, and Pediatrician.
Maternity Coverage	Participant or Spouse
Pre-Existing Conditions	Waived after 6 months continuous coverage.
B. PAID HOSPITAL EXPENSES	A co-payment equal to the Deductible is charged to you when a Non-participating Hospital is used.
Inpatient Care -Room Accommodations	Participating Provider: Pays (b)(4) of Covered Expense. Non-Participating Provider: Pays (b)(4) of Covered Expense.
-Intensive Care Unit	Participating Provider: Pays (b)(4) of Covered Expense. Non-Participating Provider: Pays (b)(4) Covered Expense to (b)(4) a day maximum payable.
-Ancillary Charges	Participating Provider: Pays (b)(4) of Covered Expense. Non-Participating Provider: Pays of Covered Expense.
-Preadmission Testing	When testing is not done prior to admission, the charge for confinement will be reduced by one day. Participating Provider: Pays (b)(4) overed Expense. Non-Participating Provider: (b)(4) of Covered Expense.
Outpatient Care -Emergency Room	(b)(4) Co-Pay (co-pay waived if admitted to the Hospital or within 48 hrs of an accident) then plan pays (b)(4) of Covered Expense.
-Surgicenters	Participating Provider: Pays (b)(4) of Covered Expense. Non-Participating Provider: (b)(4) of Covered Expense.
C. PROFESSIONAL SERVICES	
Surgeon/Assistant Surgeon/Anesthesia/ Doctor Hospital Visit	Pays the Percentage Payable of Covered Expense. Pays (b)(4) of Covered Expense.
Doctor Visit (Office/Home)/Primary & Specialist	Participating Provider: (b)(4) Co-P en (b)(4) of Covered Expense. Non-Participating Provi Pays (b)(4) of d Expense less the Deductible.
Injectables	Pays the Percentage Payable of Covered Expense. Subject to Deductible.
D. OTHER COVERED EXPENSES	
Diagnostic X-Ray & Lab MRI's and CAT Scans	Services Performed by Participating Primary Care Provider payable at (b)(4) after Office Visit Co-Pay. All other providers payable at (b)(4) Pays the (b)(4) of Covered Exp .
Skilled Nursing	Pays (b)(4) of Covered Expense to (b)(4) per Calendar Year.
Ambulance	Pays (b)(4) of Covered Expense.
Durable Medical Equipment	Pays (b)(4) of Covered Expense.
Physical Therapy	Pays of Covered Expense.

Chiropractic Care	Pays the entage Payable of Covered Expense. (X-rays to [redacted]; Maximum Benefit: [redacted] per calendar year).
Home Health Care	Pays 80% of Co Expense.
Infertility Services	After a sep [redacted] Deductible, plan pays [redacted] lifetime. Related drugs limited to $[redacted] Lifetime Maximum.
Severe Mental Illness	Payable as any other Covered Expense.
Serious Emotional Disturbances - For a Dependent (Up to age 18)	Payable as any other Covered Expense. Subject to Section 10144.5 California Insurance Code.
E. UTILIZATION MANAGEMENT	
Inpatient Admissions	Requires pre-admission review of at least 3 working days for non-Emergency Hospital admissions. Within 48 hours of ssion for all other admissions. Failure to obtain approval results in [redacted] reduction in benefits.
Outpatient Surgery	Requires prior aut tion or extra [redacted] Co-Pay per occurrence.
F. PRESCRIPTION DRUG	
RESTAT Pharmacy	30 day supply and mandatory generic substitution apply. Formulary: [redacted] generic / [redacted] brand name. Non-Formu [redacted] of the discounted rate OR [redacted], whichever is greater. Oral contraceptives are a Covered Expense.
IPS - Mail Order Program	Approved maintenance medications only. Generic Drugs: [redacted] ay up to a 60 day supply. Brand Name Dr [redacted] Co-Pay up to a 60-day supply. Oral contraceptives are a Covered Expense.
G. SPECIAL PROVISIONS	
Mexico Panel Program	[redacted] Co-Pay per visit; [redacted] Co-Pay per ation; Inpatient: [redacted] Co-Pay per m ion; Outpatient: [redacted] per day; [redacted] Co-Pay on surg services; Lab/x-ray; [redacted] Co-Pay per day. Non rticipating Mexico Panel Provider: No benefit.
H. RIDERS (OPTIONS)	
Preventive	1) Routine Physical Exam to [redacted] every year (Not subject to Deductible) 2) Immunization covered. 3) ic day care covered.

PLEASE CALL THE PINNACLE CLAIMS MANAGEMENT, INC. CUSTOMER SERVICE DEPARTMENT AT (800) 649-9121 FOR FURTHER INFORMATION.

NOTE: This outline is for use as a reference only and is a summary of available benefits. It is not a contract. All benefits referenced are subject to any applicable exclusions and/or limitations in the DB Specialty Farms - Field Summary Plan Description and member eligibility at the time services are rendered.

WPA 80 02/04/02
EA 01-07

Pages 9 through 46 redacted for the following reasons:

Exemption 4

From: Nancy Machut [machut@darensberries.com]
Sent: Thursday, October 21, 2010 11:31 AM
To: Botwinick, Alexandra (HHS/OCIIO); OCIIO Oversight
Subject: Re: Waiver of the Annual Limits Requirements of PHS Act Section 2711
Thank you very much for this decision. Nancy Machut

On Thu, Oct 21, 2010 at 7:40 AM, Botwinick, Alexandra (HHS/OCIIO) <Alexandra.Botwinick@hhs.gov> wrote:

> Ms. Machut,
>
> Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for DarensBerries. 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

Pages 11 through 14 redacted for the following reasons:

Exemption 4

PINNACLE
CLAIMS MANAGEMENT, INC.
Technology Driven, Customer Focused

August 2, 2010

Ms. Nancy Machut
DB Specialty Farms
313 Plaza Drive #12
Santa Maria, CA 93454

Re: Pinnacle Contract Renewal

Dear Ms. Machut:

Thank you for your continued support of Pinnacle Claims Management, Inc. (Pinnacle). As you may know, the DB Specialty Farms contract is scheduled to renew with us on October 1, 2010 Your service fee will increase by (b)(4) which generally reflects the increase in our internal costs of doing business.

Although Pinnacle strives to achieve affordability and cost savings whenever possible, there are impacts on our operating and administrative costs that must be considered. Pinnacle continues to improve its technology and to increase its programming efficiency. This rate modification will therefore be executed to accommodate the increased changes in the administration of services that we provide to your organization.

Your administrative fee per employee per month (pepm) will increase from (b)(4) to the new monthly rate of (b)(4) pepm. Additionally, your Anthem Blue Cross network will also be increasing fee from (b)(4) pepm to (b)(4) pepm. Additionally, Anthem's dental network fee will increase from (b)(4) pepm to (b)(4) pepm.

For documentation purposes, our standard plan amendment fee of (b)(4) per plan amendment has also been added to the addendum. Pinnacle will notify you before incurring this cost on your behalf.

Please sign, date, and return the provided amendment at your earliest convenience. This rate will automatically take effect October 1, 2010 unless we otherwise hear from you.

Pinnacle truly respects the relationship we have formed and welcomes all communication. If there are any questions or concerns, please contact me directly at 949-885-2209.

Sincerely,

David Zanze
President

Cc: Janet Webb, Western Growers Insurance Services

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Consumer Information and
Insurance Oversight
Washington, DC 20201

Date: September 24, 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 October 1, 2010. 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.

A waiver approval granted under this process applies only for the plan or policy year beginning between September 23, 2010 and September 23, 2011. 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 after reviewing the information provided in connection with the waiver process set forth in this memorandum and other relevant information.

If you have any questions regarding this letter, please email OCIIOOversight@hhs.gov.

Sincerely,

Steve Larsen
Director, Office of Oversight
Office of Consumer Information and Insurance Oversight

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Thursday, October 21, 2010 10:40 AM
To: 'machut@darensberries.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Attachments: Updated 10-1 approval letter .pdf
Ms. Machut,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for DarensBerries. 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