

From: cprocter@bartechgroup.com  
Sent: Monday, November 22, 2010 10:41 AM  
To: HHS HealthInsurance (HHS)  
Subject: Waiver of Annual Limits Requirement for The Bartech Group

Importance: High

Attachments: Waiver Request.pdf

Mr. Mayhew:

Please see the attached waiver request. Thank you

(See attached file: Waiver Request.pdf)

Connie Procter  
Director, Human Resources  
The Bartech Group

17199 North Laurel Park Drive, Suite 224 Livonia, Michigan 48152  
ph: 734.462.2504  
fax: 734.953.5068  
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Please visit us at [www.BartechGroup.com](http://www.BartechGroup.com)

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BARTECH:000001

November 18, 2010

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

Via email: [healthinsurance@hhs.gov](mailto:healthinsurance@hhs.gov)

**RE: Waiver of Annual Limits Requirement for The Bartech Group**

Dear Mr. Mayhew:

The Bartech Group hereby requests a waiver of the restricted annual limits requirement of PHS Act Section 2711(a)(2), as added by the Patient Protection and Affordable Care Act ("PPACA"). This letter is intended to support this request, as directed by OCIO Sub-Regulatory Guidance 2010-1, Process for Obtaining Waivers of the Annual Limits Requirements of PHS Act Section 2711 set forth in Insurance Standards Bulletin released September 3, 2010 by Steve Larsen, Director of the Office of Oversight. This application addresses the plan year beginning April 1, 2011 and ending March 31, 2012, the first plan year during which the PPACA becomes effective for Bartech.

**Background**

Bartech is a professional staffing and other human capital solutions firm providing services to our customers. Our business model is constrained by bill rates that our customers are willing pay Bartech for the services of our employees. Bartech offers our employees an industry competitive wage and benefits package, including a medical plan with a \$ (b)(4) annual limit. Many of our employees have elected higher wages in lieu of benefits, resulting in approximately (b)(4)% of our contract employees having elected not to take Bartech's medical plan. Of the remaining (b)(4)% who are enrolled, many pay all or most of the cost of their coverage.

Because much of the cost resulting from an increase in Bartech's annual plan limit will be borne by our employees, we believe that complying with this provision of the PPACA will result in many, if not most, of our remaining (b)(4)% of employees dropping medical coverage altogether. Obviously, this result would be contrary to the intent of PPACA, and is a situation we would like to avoid for the good of our employees and their covered family members. Hence, the rationale for our waiver request.

**Supporting Information**

1. Terms for the plan or policy form(s) for which a waiver is sought:

**Plan Sponsor** – The Bartech Group Welfare Plan

**Policy Year** - The Policy Plan Year begins April 1 as documented in the attached Summary Plan Description

2. There are a total of (b)(4) employees eligible to participate. The breakout is as follows:

	# Contractors	%
<b>Enrolled</b>	(b)(4)	(b)(4)
<b>Waived</b>		

3. The annual limit(s) and rates applicable to the plan:

**Annual limit:** Bartech has an annual limit of \$ (b)(4)

The other PPO plan design components are:

	Contractor PPO Plan	
	In network	Out of Network
Annual Deductible	(b)(4)	
Individual		
Family		
Out-of-pocket Maximum		
Individual		
Family		
Annual Maximum		
Lifetime maximum benefit		
Coinsurance		
Preventive care		
Prescription Drugs		
Rx Deductible	(b)(4) per member	
Retail		
Generic	(b)(4)	
Brand Preferred		
Brand Non-Preferred		
Mail Order		
Generic	(b)(4)	
Brand Preferred		
Brand Non-Preferred		

**Rates:** Bartech's plan is a self-funded PPO. Actuarially projected rates for 2011 are as follows:

Gross Rate Exhibit	2010	2011 trend increase only	2011 plus health care reform requirements
Employee Only	\$ (b)(4)	\$ (b)(4)	\$ (b)(4)
Employee Plus One	\$ (b)(4)	\$ (b)(4)	\$ (b)(4)
Family	\$ (b)(4)	\$ (b)(4)	\$ (b)(4)
% increase over 2010		(b)(4) %	(b)(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 the plans or policies, or significant increase in premiums paid by those covered by the plans or policies, along with any supporting documentation:

**The staffing industry:** This low-margin industry is significantly impacted by the mandates of health care reform. Each contract employee must in effect be their own profit center, with their own set of underlying costs (such as medical coverage). Customers are charged a fixed rate per contractor and, therefore, any underlying costs must remain stable, or flat. Many staffing firms offer a Limited Medical Plan, or "mini med". Instead of an insured mini-med, Bartech offers a self-funded PPO plan with no dollar limits on individual essential benefits, but a \$ (b)(4) annual limit on all services.

Since the bill rates paid by our customers are not adjusted annually, Bartech attempts to (b)(4) % of the annual medical increases to the employees in either the form of higher contributions, or increased deductibles and other out of pocket costs. Bartech can't afford to do otherwise.

**Projected cost impact to Bartech of complying with PPACA:** The actuarial value of lifting the annual limit is worth (b)(4) % to gross costs, this includes an anticipated \$ (b)(4) per employee per year (PEPY) to purchase stop loss insurance (\$ (b)(4) deductible) to protect the Bartech self-funded plan against catastrophic claims. Other health care reform requirements such as extending dependent coverage to age 26, and lifting the preventive care limit, is an additional (b)(4) %, and we are prepared to fully comply with those provisions. The annual medical trend increase for 2011 of projected to be (b)(4) % for a total of (b)(4) % increase to rates over 2010.

**Affordability:** The chart on the following page compares average annual employee contributions for 2010 with projected average annual employee contributions for 2011, both before and after adjusting for the anticipated impact of PPACA. The 2011 contributions assume that the entire projected cost increase for 2011 would be borne by employees through higher contributions. This chart also reflects the percentage of average salary represented by these increased contributions. Based on our analysis, as evidenced by only (b)(4) % enrollment in the medical plan, affordability is likely the primary issue.

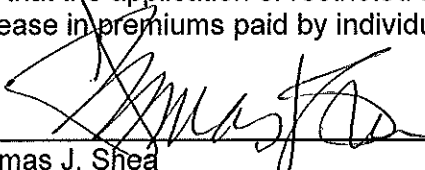
Employee Contributions			
(Avg. salary of enrolled employee = \$ (b)(4) )			
<u>All enrolled employees</u>	<u>EE</u>	<u>EE+1</u>	<u>FAM</u>
2010 Contributions % of Avg Salary	\$		
2011 - Trend increase only % of Avg Salary	\$	(b)(4)	
2011plus Health Care Reform requirements % of Avg Salary	\$		

In conclusion, we feel that offering medical benefits to our contract employees is important, and we also feel strongly about continuing to offer them, and making them affordable. Employees already see between (b)(4)% and (b)(4)% of their gross salary committed to medical premiums. For 2011 we are constrained by our business model which necessitates passing along (b)(4)% of annual increases directly to the employees - an additional (b)(4)% of gross salary. We feel that the PPACA restriction on annual limits and its associated cost impact will cause many of those who are enrolled in coverage, to ultimately drop it due to the cost, and this is not what we as a Plan Sponsor desire.

Thank you for your consideration. This letter was prepared with the assistance of Buck Consultants, LLC. If you have further questions or require any additional documentation or information please contact John Lapinski at 248.304.2445 or [john.lapinski@buckconsultants.com](mailto:john.lapinski@buckconsultants.com).

**Attestation**

I attest to and certify that The Bartech Group plan was in force prior to September 23, 2010, and that the application of restricted annual limits to the plan would result in a significant increase in premiums paid by individuals covered by the plan.



\_\_\_\_\_  
 Thomas J. Shea  
 Chief Administrative Officer  
 The Bartech Group

\_\_\_\_\_  
 11/18/10

Date

**From:** Lapinski, John [John.Lapinski@buckconsultants.com]

**Sent:** Thursday, December 02, 2010 4:47 PM

**To:** Habit, Sandra (HHS/OCIO)

**Subject:** The Bartech Group - Waiver of Annual Limits Requirement under PPACA

Sandra, it was a pleasure talking to you today. On behalf of The Bartech Group, I am confirming that in 2011:

- Although it has not been decided by the Board, it is likely that Bartech will eschew Grandfather status
- Bartech will eliminate the \$(b)(4) annual cap on preventive services
- Bartech will eliminate the current \$(b)(4) lifetime maximum

Please call or email me should you have any additional questions or require clarification on anything addressed in this email or Bartech's application.

John M. Lapinski  
Principal, Health & Productivity Practice  
**Buck Consultants, a Xerox Company**  
300 Galleria Office Centre, Suite 500  
Southfield, MI 48034  
248.304.2445 Phone  
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[www.buckconsultants.com](http://www.buckconsultants.com)

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BARTECH:000006

**From:** Mercer, Joseph (HHS/OCIIO)  
**Sent:** Thursday, December 16, 2010 11:31 AM  
**To:** 'john.lapinski@buckconsultants.com'  
**Cc:** Sheer, Jennifer (HHS/OCIIO)  
**Subject:** Bartech Group Annual Limit Waiver Application  
**Attachments:** Waiver Application Form.xls

Dear Mr. Lapinski:

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.
- II. In addition, 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?

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.

Joseph Mercer, JD  
U.S. Department of Health & Human Services  
Office of Consumer Information and Insurance Oversight  
Office of Consumer Support  
301-492-4265

BARTECH:000007

**From:** Lapinski, John [John.Lapinski@buckconsultants.com]  
**Sent:** Wednesday, December 29, 2010 3:08 PM  
**To:** Botwinick, Alexandra (HHS/OCIIO)  
**Subject:** RE: Bartech Group Waiver of the Annual Limits Requirements 12-29-2010

**Follow Up Flag:** Follow up

**Flag Status:** Red

Alexandra, got it. Thank you.

John M. Lapinski  
248.304.2445 Phone  
248.225.4021 Mobile  
[john.lapinski@buckconsultants.com](mailto:john.lapinski@buckconsultants.com)

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**From:** Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]  
**Sent:** Wednesday, December 29, 2010 3:03 PM  
**To:** Lapinski, John  
**Subject:** Bartech Group Waiver of the Annual Limits Requirements 12-29-2010  
**Importance:** High

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for Bartech Group. 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](mailto:alexandra.botwinick@hhs.gov)

BARTECH:000008



**From:** Botwinick, Alexandra (HHS/OCIIO)  
**Sent:** Wednesday, December 29, 2010 3:03 PM  
**To:** john.lapinski@buckconsultants.com  
**Subject:** Bartech Group Waiver of the Annual Limits Requirements 12-29-2010

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Green

**Attachments:** April 1 .pdf  
Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for Bartech Group. 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](mailto:alexandra.botwinick@hhs.gov)

BARTECH:000009



**Date:** November 2010

**From:** Steve Larsen, Director, Office of Oversight *SL*

**Subject:** Application for Waiver of the Annual Limits Requirements of PHS Act Section 2711

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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 April 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 [OCIIOversight@hhs.gov](mailto:OCIIOversight@hhs.gov).