

## Lancey, Brandon (CMS/OSORA)

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**From:** Pete Tonia [ptonia@philacarpenter.org]  
**Sent:** Wednesday, December 15, 2010 5:23 PM  
**To:** OCIO Oversight  
**Subject:** Carpenters Health & Welfare Fund of Philadelphia & Vicinity Waiver Application  
**Attachments:** a\_Waiver Application Form.xlsx; b\_Description Why PPACA Will Result In Decrease of Benefits.doc; c\_Waiver Attestation Letter.doc

Mr. James Mayhew,

Attached is the Carpenters Health & Welfare Fund of Philadelphia & Vicinity Waiver Application. Attached are three documents:

A – The Waiver Application

B – A brief description why the interim regulations would decrease access to benefits

C- An Attestation certifying that the Fund was in place prior to September 23, 2010 and that the removal of annual limits would result in a decrease in access to benefits

Thank you.

*Pete Tonia*

**Coordinator of Benefits**

**[ptonia@philacarpenter.org](mailto:ptonia@philacarpenter.org)**

**Carpenters Benefit Funds of Philadelphia  
& Vicinity**

**1811 Spring Garden Street**

**Philadelphia, PA 19130**

**Phone: (215) 568-0430 Fax: (215) 496-0173**

**ANNUAL LIMIT WAIVER APPLICATION 2010**

Annual Limit Waiver Request Applicant Name	Policy Name (use a new row for each policy application)	Applicant (Plan/ Policy Situs) City	Applicant (Plan/ Policy Situs) State	Plan/ Policy Effective Date (mm/dd/yyyy)	Contact Name	Street Address	City	State	Zip Code	Phone Number (including area code)	Email Address	Type of Coverage (e.g., Limited Benefit, HRA, Rx only, Other)	Self-Insured (Yes/No)	Individual or Group Policy	Total Number of Individuals Covered by Policy (include all dependents covered)	Current Plan Overall Annual Limit (in dollars)
Applicant ABC	Plan 1	Washington	DC	01/01/2011	Jane Doe	100 ABC Drive	Washington	DC	20201	1-800-ABC-1234	<a href="mailto:abc@abchealthplan.com">abc@abchealthplan.com</a>	Limited Benefit	Yes	Group	(b)(4)	
Carpenters Health & Welfare Fund of Philadelphia & Vicinity	Plan 1	Philadelphia	PA	05/01/2011	Pete Tonia	1811 Spring Garden Street	Philadelphia	PA	19130	(215)568-0430	<a href="mailto:ptonia@philacarpenter.org">ptonia@philacarpenter.org</a>	Limited Benefit	Yes	Group		
<div style="background-color: #cccccc; width: 100px; margin: auto; padding: 2px;">(b)(4)</div>																
<p>PRA Disclosure Statement</p> <p>According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1105. The time required to complete this information collection is estimated to average ( 8 hours) or ( 240 minutes) per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.</p>																

**ANNUAL LIMIT WAIVER APPLICATION 2010**

Current Essential Benefits Annual Limits (Annual Limit for Each Essential Benefit)										Office Visit Copays/Coinsurance	Hospital Inpatient Copay/Coinsurance	Emergency Room Copay/Coinsurance	Rx Copay/Coninsurance					
Ambulatory	Emergency	Hospitalization	Laboratory	Pediatric	Maternity/ Newborn	Mental Health/ Substance Abuse	Rehabilitative/ Devices	Preventive/ Wellness	Prescription	Plan Deductible	Copay (if applicabl e)	Coinsuranc e (if applicabl e)	Copay (if applicabl e)	Coinsura nce (if applicabl e)	Copay (if applicabl e)	Coinsura nce (if applicabl e)	Copay (if applicabl e)	Coinsuran ce (if applicabl e)

(b)(4)

(b)(4)																		

**ANNUAL LIMIT WAIVER APPLICATION 2010**

Individual/ Employee Tier*	Current Monthly Premium Rates or Premium Equivalent Rates (in dollars)*:			Renewal Monthly Premium Rates or Premium Equivalent Rates if Waiver Granted (in dollars)*			Projected Rate Increase that would result from compliance with \$750,000 Annual Limit Restriction (in dollars) (Average Premium by Individual)*			Projected Rate Increase that would result from compliance with \$750,000 Annual Limit Restriction (in dollars)(Average Premium by Individual) (Difference of Column AT and AQ divided by Column AQ)	Decrease in Access to Benefits that would result from compliance with \$750,000 Annual Limit Restriction (describe briefly in cell or in a	Plan Administrator/ CEO of Health Insurance Issuer Name	Title of Individual Providing Attestation
	Employee contribution (if applicable)	Employer contribution (if applicable)	Total	Employee contribution (if applicable)	Employer contribution (if applicable)	Total	Employee contribution (if applicable)	Employer contribution (if applicable)	Total				
					(4)(g)						None	Jane Doe	Plan Administrator
											None	Pete Tonia	Plan Administrator

\* When completing the columns requesting premium rate information, please express the premium rates as a composite rate (if premiums are a range based on years of service or age) and by tier (Employee, Employee + Spouse, Employee + Child, Family, etc.) as applicable. If you are an issuer, please provide the premium amount in the column titled, "Total" (Column AN, AQ and AT).

**BOARD OF ADMINISTRATION**

LABOR	MANAGEMENT
Edward Coryell Co – Chairman	Walter P. Palmer, Jr. Co - Chairman
Edward Coryell, Jr. Robert Naughton Noel Orr Guy Pigliacelli	James R. Davis Frank Lutter Walter P. Palmer, III James H. Sullivan

CO - COUNSEL

Jennings Sigmond P.C./Harry Reagan, Esq.

# CARPENTERS

## HEALTH & WELFARE FUND OF PHILADELPHIA & VICINITY

1811 SPRING GARDEN STREET  
PHILADELPHIA, PA 19130-3916  
215-568-0430 \* FAX 215-496-0173

email: [fundadmin@philacarpenter.org](mailto:fundadmin@philacarpenter.org)  
website: [philacarpenterfunds.org](http://philacarpenterfunds.org)



December 15, 2010

HHS

Office of Consumer Information & Insurance Oversight  
Office of Oversight  
Attention: James Mayhew  
Room 737-F-04  
200 Independence Ave, SW  
Washington, DC 20201

Re: Waiver Application – Description of Compliance with Interim Regulations Resulting  
In a Decrease of Benefits

Dear Mr. Mayhew,

Compliance with the interim final regulations requiring restricted annual limits will pose a hardship on participants and beneficiaries of the Carpenters Health & Welfare Fund of Philadelphia & Vicinity. By way of background, the Fund is a self-insured multiemployer plan whose participants primarily work in the industrial, commercial and residential sectors of the construction industry. The Fund is funded primarily through contributions made pursuant to collective bargaining agreements (“CBAs”) entered into between participating unions and signatory employers. The CBA sets out an hourly contribution rate per hour worked by each employee. The employer’s signatory to the CBA contribute this sum to the Fund. The Fund’s Board of Trustees has no authority to alter the contribution rate mid contract. Thus, the Fund does not have a funding mechanism that would enable it to increase revenue immediately through employer contributions when its expenses increase due to a rise in claims or compliance with regulatory changes (e.g., PPACA annual limits requirements). The only ability for the Board of Trustees to increase revenue is through increases in participant cost-sharing. Currently, the Fund is funded through employer contributions, as active employee participants do not pay premiums. Any shift of funding through participant cost-sharing would have an extreme adverse financial effect on participants who have already funded their benefits by foregoing higher wages in return for the current system of funding through employer contributions.

As a result of required PPACA compliance, particularly the mandate for removing the annual limit on prescription drug benefits, the Fund is now faced with the prospect of having to find resources to pay substantially higher benefit costs. This will greatly impact the Fund’s ability to deliver the benefits at the current levels.

Accordingly, the increased costs present the Board of Trustees with difficult decisions, all of which may seriously – and adversely – impact the participants. The Board of Trustees would like to maintain the Fund’s grandfathered status and the current level of benefits. Accordingly, it does not wish to reduce benefits or increase participant cost-sharing. The Board of Trustees also

does not view depletion of its reserves as a viable solution. To the contrary, it is a short-term option that could have dire consequences for the Fund and its participants if reserves are depleted to unacceptable levels or if unexpected catastrophic claims arise.

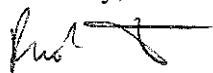
The Fund has experienced a \$ (b)(4) loss in the first six months of the current plan year, not including PPACA compliance. This loss is extremely problematic, as it represents approximately (b)(4)% of the Fund's current reserves. These reserves are not increasing. Indeed, given the slump in the building trades and construction sector, the Fund has experienced a significant drop in revenue from contributing employers in the past year. This drop is mainly due to reduced contributions resulting from high rates of unemployment and under-employment in the industry. Given the current financial posture of the Fund, the imposition of these PPACA mandates places an inordinate amount of financial stress on the Fund, and in turn, on the Fund's participants.

The Fund has received a projection of the cost increase arising out of compliance with PPACA's annual limits requirement on prescription drug coverage from its health care consultant at the McKeogh Company. The Fund's consultant has estimated that if the Fund is required to adopt unrestricted annual limits for prescription drug benefits, the Fund will experience an actuarial increase of (b)(4) % per year. This increase, combined with the projected 2010 anticipated plan year losses, will deplete the Fund's total reserves even more. The Fund believes that absorbing this increase in expenses is not a sustainable option.

If the Fund's request for a waiver of the restricted annual limits on prescription drug benefits is not granted, the Fund's consultant opines that drastic measures will have to be taken to ensure the solvency of the Fund. Other alternatives include drastically raising participant cost-sharing by raising the coinsurance and/or out of pocket maximums. These changes would cause the Fund to lose grandfathered status, which would in turn further increase costs to the Fund. Alternatively, the Fund could be forced to eliminate prescription drug benefits for retirees all together.

A temporary waiver of the PPACA restricted annual limits requirement on prescription drug coverage will give the Fund some additional time to find new sources of funding, explore additional ways to save costs for both the Fund and its participants, or restructure benefits to provide the participants and their dependents with the best plan of benefits possible within the Fund's financial means.

Sincerely,



Pete Tonia  
Coordinator of the Carpenters Benefit Funds

PT/dmk

**BOARD OF ADMINISTRATION**

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Edward Coryell, Jr. Robert Naughton Noel Orr Guy Pigliacelli	James R. Davis Frank Lutter Walter P. Palmer, III James H. Sullivan

CO - COUNSEL

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December 15, 2010

HHS

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

RE: Waiver Application Attestation of Plan Administrator

Dear Mr. Mayhew,

As required by OCIO sub-Regulatory Guidance 2010-1, please find my attestation for the PPACA restricted annual limits Waiver Application, as follows:

I, Pete Tonia, Coordinator of the Philadelphia Carpenters Union Benefit Funds, attest to the following:

I attest that the Fund was in force prior to September 23, 2010.

I also attest that the application of the restricted annual limits requirement for prescription drug coverage may result in a significant decrease to benefits for Participants and dependents and/or cause the need for a significant increase in contributions required to fully fund the Fund. I attest that to the best of knowledge, the facts set forth in the Fund's application are true and correct. If the Fund's request for waiver of the restricted annual limits requirement for prescription drug coverage is not granted; then the Fund's costs will increase substantially. Such increase may be borne in whole or in part by the Fund's Participants and Dependents.

Sincerely,

Pete Tonia  
Coordinator of the Carpenters Benefit Funds

PT/dmk

**From:** Botwinick, Alexandra (HHS/OCIIO)

**Sent:** Monday, January 31, 2011 8:57 AM

**To:** 'ptonia@philacarpenter.org'

**Cc:** Habit, Sandra (HHS/OCIIO)

**Subject:** Carpenters Health & Welfare Fund of Philadelphia & Vicinity Waiver of the Annual Limits Requirements 1-31-2011

**Importance:** High

**Attachments:** May 1 .pdf

Good Morning,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for Carpenters Health & Welfare Fund of Philadelphia & Vicinity, Plan 1. 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.

Alexandra Botwinick

Office of Oversight

HHS/OCIIO

[alexandra.botwinick@hhs.gov](mailto:alexandra.botwinick@hhs.gov)

CARP PHILLY:000008



**From:** Pete Tonia [ptonia@philacarpenter.org]  
**Sent:** Monday, January 31, 2011 9:59 AM  
**To:** Botwinick, Alexandra (HHS/OCIIO)  
**Cc:** Habit, Sandra (HHS/OCIIO)  
**Subject:** RE: Carpenters Health & Welfare Fund of Philadelphia & Vicinity Waiver of the Annual Limits Requirements 1-31-2011  
**Please accept this e-mail as receipt of your confirming Waiver of Annual Limits.**

*Pete Tonia*

**Coordinator of Benefits**  
**(ptonia@philacarpenter.org)**  
**Carpenters Benefit Funds of Philadelphia**  
**& Vicinity**  
**1811 Spring Garden Street**  
**Philadelphia, PA 19130**  
**Phone: (215) 568-0430 Fax: (215) 496-0173**

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**From:** Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]  
**Sent:** Monday, January 31, 2011 8:57 AM  
**To:** 'ptonia@philacarpenter.org'  
**Cc:** Habit, Sandra (HHS/OCIIO)  
**Subject:** Carpenters Health & Welfare Fund of Philadelphia & Vicinity Waiver of the Annual Limits Requirements 1-31-2011  
**Importance:** High

Good Morning,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for Carpenters Health & Welfare Fund of Philadelphia & Vicinity, Plan 1. 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.

Alexandra Botwinick

Office of Oversight  
HHS/OCIIO  
[alexandra.botwinick@hhs.gov](mailto:alexandra.botwinick@hhs.gov)


CARP PHILLY:000009



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

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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 May 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 [OCIIIOversight@hhs.gov](mailto:OCIIIOversight@hhs.gov).