

From: Mark Chanzis [mac@jibe.com]
Sent: Wednesday, September 29, 2010 3:11 PM
To: HHS HealthInsurance (HHS)
Subject: ESF Waiver Application

Importance: High

Attachments: ESF HHS Waiver, 9-29-10.pdf

Dear Mr. Mayhew:

Attached is the waiver application from the Employees Security Fund of the Electrical Products Industries Health and Welfare Plan (ESF).

The attachment includes the required information as outlined in the September 3, 2010 memo from Steven Larsen, Director, Office of Oversight, as it pertains to the request for a waiver of the annual limits requirement. The Joint Industry Board is the Plan Administrator for the ESF Welfare Plan.

If you have any questions, please let me know.

Thank you for your consideration.

Sincerely,

Mark Chanzis
Director of Administration, CEBS
Joint Industry Board of the Electrical Industry
158-11 Harry Van Arsdale Jr. Avenue
Flushing, New York 11365
718-591-2000 ext. 1300
718-591-1862 Fax
mac@jibe.com

James Mayhew
HHS Office of Consumer Information and Insurance Oversight, Office of Oversight
Room 737-F-04
200 Independence Ave, S.W.
Washington, DC 20201

Dear Mr. Mayhew:

Please accept this application from the Employees Security Fund of the Electrical Products Industries Health and Welfare Plan (the "Plan") for a waiver from the restricted annual limits set forth in the Interim Final Regulations for the plan year January 1, 2011 to December 31, 2011. The Plan was offered prior to September 23, 2010. This letter and its attachments include the following information as required by OCIO Sub-Regulatory Guidance 2010-1: Process for Obtaining Waivers of the Annual Limits Requirements of PHS Act Section 2711.

The Plan was established in 1944 and is maintained under collective bargaining agreements between the Local Union No. 3, I.B.E.W., AFL-CIO ("Local 3") and employers in the electrical manufacturing, supply and fixture industries, as well as other employers. The Fund is self-insured and is administered by a joint board of employer and union trustees. Benefit options include Plan A (hospital benefits with limited outpatient benefits) and Plan C, which provides more comprehensive major medical coverage as well as hospitalization coverage. Plan C was created most recently and the goal is to move all active participants and retirees into Plan C. All but (b)(4) employees are currently covered under Plan C. For purpose of this application, the rates for these two Plans were calculated on a combined basis, as claims experience is not credible for the few participants covered by Plan A.

In order for an employee to be eligible to have contributions made to the Plan on his/her behalf, he/she must work under a Local 3 collective bargaining agreement, which establishes the contribution amount for the work performed. Since many Local 3 workers work for multiple employers during the course of a year, the Local 3 collective bargaining agreements require an employer contribution to the Plan based on a percentage of gross salary payable on the employee's behalf from each employer. When a minimum threshold of weeks are worked (at least 26 continuous weeks) with one or more contributing employers in a 52-month contribution period, the employee and his/her dependents are eligible to receive benefits under the Plan.

The Plan is requesting a waiver of the restricted annual limits on the Plan's prescription drug coverage which currently provides a maximum of (b)(4) per family under Plan C. The Plan is also asking for a waiver for Plan A which has the same (b)(4) per family annual prescription drug maximum, as well as an inpatient hospitalization maximum of (b)(4) a day for up to (b)(4) days per calendar year. Plan B has no participants and is no longer an option for any health coverage.

The elimination of the Plan's current annual (b)(4) limit on prescription drugs for the coming plan year has been calculated by the Plan's prescription drug manager to cost (b)(4), a (b)(4) increase, which is not mitigated by the new restricted annual limit of \$750,000. The Plan is currently under economic stress from a downturn in the electrical manufacturing, supply and fixture industries and increases in costs, and is projected to run deficits in the coming years.

Having to eliminate the current annual maximums would lead to a significant increase in the cost of the Plan that can not be offset by additional employer contributions given the collective bargaining cycles, as described in Attachment A.

Consequently, the Trustees would need to consider imposing employee contributions for the first time ever, in the estimated amount of (b)(4) per month, as an additional condition of obtaining coverage. The increase in premiums would thus be from (b)(4) to (b)(4) a month. In the alternative, the Trustees would have to consider eliminating the prescription drug coverage or reduce other benefits in order to make up the shortfall. Compliance with the Interim Final Regulation could thus result in a significant decrease in access to benefits, as those who did not pay the new employee premium would lose their coverage under the Plan, as well as a significant increase in premiums, since previously there were none.

Attestation

I hereby attest to the following: I am the plan administrator of the Employees Security Fund of the Electrical Products Industries Health and Welfare Plan. I certify that (1) the Plan was in force prior to September 23, 2010 and (2) the application of the new restricted annual limits to the Plan could result in a significant decrease in access to benefits for those currently covered by the Plan and a significant increase in premiums paid by the Plan's participants and covered dependents.



September 29, 2010

Mark Chanzis

Pages 4 through 13 redacted for the following reasons:

(b)(4)

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Tuesday, October 26, 2010 3:00 PM
To: 'mac@jibei.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Attachments: Updated Jan 1 Approval Letter .pdf
Mr. Chanzis,

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

From: Mark Chanzis [mac@jibe.com]
Sent: Tuesday, October 26, 2010 4:30 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Cc: OCIIO Oversight
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Follow Up Flag: Follow up
Flag Status: Red

Attachments: Updated Jan 1 Approval Letter .pdf
Dear Ms. Botwinick:

Thank you for approving our waiver for the ESF Health and Welfare Plan. We appreciate your cooperation.

Sincerely,

Mark Chanzis
Director of Administration, CEBS
Joint Industry Board of the Electrical Industry
158-11 Harry Van Arsdale Jr. Avenue
Flushing, New York 11365
718-591-2000 ext. 1300
718-591-1862 Fax
mac@jibe.com

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Tuesday, October 26, 2010 3:00 PM
To: Mark Chanzis
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711
Importance: High

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

Sincerely,

Alexandra Botwinick

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

ESF EP:000006

From: Mark Chanzis [mac@jibe.com]
Sent: Monday, November 15, 2010 4:17 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711 - ESF Health and Welfare Plan
Ms. Botwinick,

Yes, it does clear up the issue. Thank you very much.

Mark Chanzis
Director of Administration, CEBS
Joint Industry Board of the Electrical Industry
158-11 Harry Van Arsdale Jr. Avenue
Flushing, New York 11365
718-591-2000 ext. 1300
718-591-1862 Fax
mac@jibe.com

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Monday, November 15, 2010 1:18 PM
To: Mark Chanzis
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711 - ESF Health and Welfare Plan

Mr. Chanzis,

From your last e-mail, it does not appear that the new information (the dental plan) would change your premium amounts. Consequently, HHS can extend the approved waiver that was granted on October 26, 2010, to also cover the dental plan that was not submitted in your original application. However, please correct me if I am confused and the premium increases will in fact change.

I will place this e-mail along with all of our communications into your file. Please let me know if this clears up the issue.

Thanks so much,

Alexandra Botwinick

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

From: Mark Chanzis [mailto:mac@jibe.com]
Sent: Monday, November 15, 2010 12:53 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711 - ESF Health and Welfare Plan

Ms. Botwinick,

Thanks for you quick response. My email below may have been misleading as it did refer to additional information. However, the additional information was really to advise HHS that we failed to ask for the waiver to include the (b)(4) annual limit for pediatric services. We did not ask our actuary perform a calculation as to how many children could be expected to exceed such limit for the year, as we anticipate it will be a small number. But we do know that if such limit is not waived, the cost associated with allowing

ESF EP:000007

children to exceed this dental limit will add to the prescription drug and inpatient hospital costs that were actuarially estimated and provided with our initial submission.

Please do not hesitate to call me if you have any questions.

Sincerely,

Mark Chanzis
Director of Administration, CEBS
Joint Industry Board of the Electrical Industry
158-11 Harry Van Arsdale Jr. Avenue
Flushing, New York 11365
718-591-2000 ext. 1300
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mac@jibe.com

From: Botwinick, Alexandra (HHS/OCIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Monday, November 15, 2010 12:24 PM
To: Mark Chanzis
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711 - ESF Health and Welfare Plan

Mr. Chanzis,

Thank you for brining this to our attention. Please submit any additional information directly to me and I will review it as soon as possible.

Please let me know if you have any questions.

Sincerely,

Alexandra Botwinick

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

From: Mark Chanzis [mailto:mac@jibe.com]
Sent: Wednesday, November 10, 2010 9:17 AM
To: Botwinick, Alexandra (HHS/OCIO)
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711 - ESF Health and Welfare Plan

Dear Ms. Botwinick:

In our rush to submit the waiver application to HHS for the ESF Health and Welfare Plan, we recently realized that we inadvertently omitted the inclusion of a benefit that is required to have its current limit excluded. Our understanding is that the Plan's current limit of (b)(4) for all dental work performed in the calendar year cannot apply to pediatric services.

Since HHS has already approved the waiver (as attached) for the other benefits identified in the application and the additional expense that results from eliminating the dental limit would increase the cost to the plan even more than previously indicated, we respectfully request that this specific benefit be included under the

ESF EP:000008

waiver for the 2011 calendar year.

I understand that you spoke with this Plan's ERISA counsel regarding the submission of additional information and I was informed you would allow me to send this email directly to you.

Thank you again for your consideration.

Sincerely,

Mark Chanzis
Director of Administration, CEBS
Joint Industry Board of the Electrical Industry
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Sincerely,

Alexandra Botwinick

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

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Mr. Chanzis,

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Please let me know if you have any questions.

Sincerely,

Alexandra Botwinick

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Since HHS has already approved the waiver (as attached) for the other benefits identified in the application and the additional expense that results from eliminating the dental limit would increase the cost to the plan even more than previously indicated, we respectfully request that this specific benefit be included under the waiver for the 2011 calendar year.

I understand that you spoke with this Plan's ERISA counsel regarding the submission of additional information and I was informed you would allow me to send this email directly to you.

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Mark Chanzis
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Joint Industry Board of the Electrical Industry
158-11 Harry Van Arsdale Jr. Avenue
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718-591-2000 ext. 1300

ESF EP:000010

718-591-1862 Fax

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From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]

Sent: Tuesday, October 26, 2010 3:00 PM

To: Mark Chanzis

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

Importance: High

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

Sincerely,

Alexandra Botwinick

Office of Oversight

HHS/OCIIO

alexandra.botwinick@hhs.gov


ESF EP:000011



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.