

From: Botwinick, Alexandra (HHS/OCIO)
Sent: Tuesday, November 23, 2010 1:46 PM
To: 'kCole@gemgrouplp.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

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 for **Bricklayers Local 1 of MD, VA and DC**. 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 OCIOOversight@hhs.gov.

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

Sincerely,

Alexandra Botwinick

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

BRICK L1 MD:000001



THE SEGAL COMPANY
1920 N Street NW Suite 400 Washington, DC 20036-1659
T 202.833.6400 F 202.833.6490 www.segalco.com

**APPLICATION FOR WAIVER OF RESTRICTED ANNUAL LIMITS
Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund**

ATTACHMENT #2

The following is a finding of the financial position and cost-projections for the Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund:

-At the beginning of 2010, Plan assets net of liabilities were projected to be (b)(4) as of December 31, 2010 (including (b)(4) in merger assets). This assumed operating loss of (b)(4); however, date operating losses through August 2010 have already exceeded \$700,000, due in large measure to employment declines. In this same study, which preceded enactment of PPACA and the Plan's effective date for compliance, the Plan was projected to incur further losses in 2011 and 2012 of (b)(4) and (b)(4), respectively, which would reduce only 9 months of reserves by the end of 2012. A 2010 loss in excess of the projected (b)(4) would cause an even greater decline in the level of reserves.

-The projected cost of compliance with the PPACA restricted annual limits requirement (including increasing the existing overall benefit limits for both the Standard Plan and Material Handlers, and increasing the current prescription drug sublimit limits, to \$750,000) is projected to cost the Fund (b)(4) in 2011. On a per active employee basis, this would increase Plan costs by (b)(4) per hour. In addition to the foregoing, the Plan is projected to incur costs of (b)(4) in 2011 resulting from the "age 26" mandate and compliance with the MHPAEA. As mentioned in the (b)(4) paragraph, the 2011 projected benefit expenditures are in addition to the (b)(4) loss originally projected for 2011.

-As a result of quotes received from five insurance providers, it has been determined that the 2011 cost of a stop-loss insurance policy with a (b)(4) specific stop-loss deductible would range from (b)(4) per contract per month. On an annual basis, the resultant stop-loss premium would range from approximately (b)(4). In addition to the cost of whichever policy selected, the Fund would also incur the risk (b)(4) e to claim (b)(4) rial Handlers over and above their current annual limit of (b)(4) up to the (b)(4) deductible.

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BRICK L1 MD:000002

-To finance these increase costs, possible Plan changes may have a combination of a substantial increase in the calendar year deductible (from (b)(4)) and a decrease in the coinsurance paid by the Plan (from (b)(4)).

| | 1/1/2010 – 12/31/2010 | 1/1/2011- 12/31/2011 | | |
|-------------------|------------------------------|---|--|--------|
| | 2010 Premium rate equivalent | Requested Annual Maximum - Premium rate equivalent – with requested (b)(4) Annual Medical Limit for Standard Plan/ (b)(4) Annual Medical Limit for Material Handlers/Unlimited Lifetime Maximum | Annual Maximum if Waiver not granted - Premium rate equivalent – with \$750K Annual Medical Limit for both the Standard Plan & Material Handlers/ Unlimited Lifetime Maximum | |
| Standard Plan | (b)(4) single family | (b)(4) single family | (b)(4) single family | (b)(4) |
| Material Handlers | (b)(4) single family | (b)(4) single family | (b)(4) single family | (b)(4) |

Note: Premium rate equivalent” are based on COBRA rates minus the (b)(4) administrative charge.

Pages 4 through 131 redacted for the following reasons:

(b)(4)

From: Kathy Cole [KCole@gemgrouplp.com]
Sent: Wednesday, November 24, 2010 8:00 AM
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

Thank you very much – news to be thankful for this week.

Kathy Cole
Account Executive
GEMGroup Inc
301-839-8800 x802
kcole@gemgrouplp.com

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Tuesday, November 23, 2010 1:46 PM
To: Kathy Cole
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711
Importance: High

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for **Bricklayers Local 1 of MD, VA and DC**. 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

BRICK L1 MD:000005

BRICKLAYERS LOCAL 1 OF MD, VA AND DC HEALTH AND WELFARE FUND

Fund Office: GEMGroup, Administrator, The Constellation Centre One, 6009 Oxon Hill Road, Suite 416, Oxon Hill, MD 20745
Phone: (301) 839-8800 / 1-800-424-2707 / Fax: (301) 839-8812

APPLICATION FOR WAIVER OF RESTRICTED ANNUAL LIMITS Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund

November 5, 2010

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

Re: Waiver Application

Dear Mr. Mayhew,

As directed by OCIO Sub-Regulatory Guidance 2010-1, please accept this application on behalf of Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund ("Fund") for waiver of the restricted annual limits requirement of PHS Act Section 2711(a)(2), as added by the PPACA. The Fund is a grandfathered plan, and its plan year begins on January 1, 2011.

1. Terms of the Plan for Which Waiver is Sought

Please find the Summary Plan Description attached hereto as Attachment 1.

2. Number of Individuals Covered by the Plan.

Currently, the Fund covers approximately (b)(4) individuals eligible for benefits.

3. Current Annual Limit

Currently, the Fund has a basic annual maximum cap of (b)(4) per individual for most participants ("Standard Plan"). However, a subset of (b)(4) individuals ("Material Handlers"), have an annual limit of (b)(4) per individual. For all categories of participants, the Fund's limit on prescription drug benefits is capped at \$(b)(4) per family.

4. Compliance Hardships

Compliance with the interim final regulations requiring restricted annual limits will pose a hardship on participants and beneficiaries.

By way of background, the Fund is a self-insured multiemployer plan whose participants work in the building trades sector. The members are craft workers engaged in the trowel trades, including as bricklayers, tilers, terrazzo and mosaic workers, and material handlers. The Fund is funded primarily through contributions made pursuant to collective bargaining agreements ("CBAs") entered into between Bricklayers Local 1 and signatory employers. The CBAs set out an hourly contribution rate per hours worked by each employee for the employers to contribute to the Fund. The Fund's Board of Trustees has no authority to alter the contribution rate. Thus, the Fund does not have a funding mechanism which would enable it to immediately increase revenue through employer contributions when its expenses increase due to a rise in claims or compliance with regulatory changes (e.g., PPACA annual limits requirements). Even if additional employer contributions were feasible, the

added costs would be very burdensome in this highly competitive industry, which would result in further job losses. As a result, fewer employees would be working sufficient hours to either obtain or retain benefit eligibility.

The only other ability for the Board of Trustees to increase revenue is through increases in participant cost-sharing. Currently, the Fund is funded through employer contributions and retiree and COBRA premiums, 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 through foregoing higher wages or even undergoing wage reductions in return for the current system of funding through employer contributions.

As a result of required PPACA compliance, particularly the greatly expanded restricted annual limits requirement, including the lifting of the (b)(4) cap on prescription drugs, 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 confront the Board of Trustees with some decisions – whether to reduce benefits, increase participant cost-sharing, deplete its reserves or all of the above. Depleting reserves is obviously a short-term option only 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 received a projection of the cost increases arising out of compliance with the restricted annual limits requirement from its health care consultants at the Segal Company. Its consultants have estimated that if the Fund's request for waiver of restricted annual limits is not granted, that drastic measures will have to be taken to ensure the solvency of the Fund. This includes tightening initial and continuing eligibility requirements, thereby leading to less active participants in the plan. Also, the Fund's premium-rate equivalent¹ may increase (b)(4) for the Standard Plan and (b)(4) for Material Handlers. See Attachment 2. Finally, even though the Board of Trustees would like to maintain the Fund's grandfathered status and the current benefit levels, the Fund may have to forgo its grandfathered status by raising deductibles (currently set at (b)(4)) to (b)(4). See Attachment #2. This nearly five-fold increase in deductibles will cause the Fund to lose grandfathered status. Losing grandfathered status would in-turn increase the costs of PPACA compliance, thereby leading to more participant cost-sharing or further cutting of benefits. 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.

For the 2010 plan year, the Fund was projected to operate on a loss of (b)(4) even before the enactment of PPACA. This figure was projected to increase to (b)(4) in 2011 and (b)(4) in 2012. See Attachment #2. In other words, the Fund is estimated to lose (b)(4) in the next two years, and that does not even include the added costs of health care reform compliance. The Fund's consultants have estimated that if the Fund is required adopt PPACA restricted annual limits, the Fund will experience an actuarial estimated (b)(4) in expenses for the 2011 plan year, in addition to (b)(4) for adult child coverage and compliance with the MHPAEA regulations. See Attachment #2. The Fund believes that absorbing these increases in expenses is not a sustainable option and will ultimately bankrupt the Fund.

In addition, estimates on stop loss insurance to cover large medical claims are projected in the amount of (b)(4) to (b)(4). See Attachment 2. Yet stop loss insurance would offer little or no protection to the

¹ The term "premium-rate equivalent" is the estimated cost of a self-insured plan, which includes claims, reserves, and administrative costs. Most multiemployer group health plans, including Bricklayers Local 1, do not charge participants premiums. This is due to the transient nature of the industry-workforce and the frequent start-stop projects that many members are engaged in. Accordingly, it is more administratively feasible to require employers to contribute an hourly rate on behalf of employees and to charge employees copayments, deductibles and co-insurance, rather than premiums. Therefore, we have used the term premium-rate equivalent to represent the cost-impact of providing participants with group health plan coverage.

anticipated increase in prescription drug costs. Nor would stop loss provide exposure to claims by Material Handlers over and above their current annual limit of (b)(4), up to the (b)(4) deductible.

A temporary waiver of the PPACA restricted annual limits requirement 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.

5. Plan Administrator Attestation

Please see enclosed as Attachment 3.

Thank you for your consideration. If you have any questions or require additional information or documentation, please do not hesitate to contact the undersigned.

Sincerely,



Kathy Cole

Account Executive

GEM Group Inc

301-839-8800 x802

kcole@gemgroupip.com

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BRICKLAYERS LOCAL 1 OF MD, VA AND DC HEALTH AND WELFARE FUND

Fund Office: GEMGroup, Administrator, The Constellation Centre One, 6009 Oxon Hill Road, Suite 416, Oxon Hill, MD 20745
Phone: (301) 839-8800 / 1-800-424-2707 / Fax: (301) 839-8812

APPLICATION FOR WAIVER OF RESTRICTED ANNUAL LIMITS Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund

Attachment #3

November 5, 2010

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

Re: Waiver Application Attestation of Plan Administrator

Dear Mr. Mayhew,

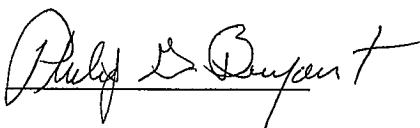
As required by OCIIO Sub-Regulatory Guidance 2010-1, please find my attestation for the PPACA restricted annual limits Waiver Application, as follows:

I, Philip G. Bryant, a member of the Board of Trustees of the Bricklayers Local 1 of MD, VA & DC Health and Welfare Fund ("Fund"), attest to the following:

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

-I also attest that the application of the restricted annual limits requirement may result in a significant decrease to benefits for Participants and Beneficiaries and/or give rise to the need for a significant increase in contributions required to fully fund the Fund. I attest that to the best of my 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 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 Beneficiaries.

Sincerely,



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BRICK L1 MD:000009

From: Kathy Cole [KCole@gemgrouplp.com]
Sent: Wednesday, November 17, 2010 4:45 PM
To: Habit, Sandra (HHS/OCIO)
Cc: aesfahani@odonoghuelaw.com; rberger@segalco.com
Subject: BAC1 Welfare Fund - Waiver Application

Importance: High

Attachments: BAC Local 1 HW - OCIO Waiver Program - Application - Attachment#2 v2.PDF
Sandra – please see attached, a revised attachment 2 to the waiver application for the Bricklayers Local No 1 of MD, VA and DC Health & Welfare Fund. The information you requested on Tuesday 11/16/2010 has now been included.

Please do not hesitate to contact me directly with any additional requests or questions you may have.

Sincerely,

Kathy Cole
Account Executive
GEMGroup Inc
301-839-8800 x802
kcole@gemgrouplp.com

BRICKLAYERS LOCAL 1 OF MD, VA AND DC HEALTH AND WELFARE FUND

Fund Office: GEMGroup, Administrator, The Constellation Centre One, 6009 Oxon Hill Road, Suite 416, Oxon Hill, MD 20745
Phone: (301) 839-8800 / 1-800-424-2707 / Fax: (301) 839-8812

SUMMARY OF MATERIAL MODIFICATION

October 2009

Start of address
Line 1
Line 2
Line 3
City, State, Zip

Dear Participant:

The Trustees are pleased to advise you of the following improvements in your Plan of Benefits.

This is to serve as notification of recent and upcoming changes that have been made to your current Summary Plan Description. Please be advised of the following:

Comprehensive Major Medical Lifetime Maximum

The Comprehensive Major Medical Lifetime Maximum has been increased from (b)(4) to \$750,000. This change does not affect the Material Handler comprehensive Major Medical maximum which will remain at (b)(4).

This Plan change is effective January 1, 2010.

Annual Family Prescription Drug Maximum

The annual prescription drug maximum per family has been increased from (b)(4) per year.

This plan change is retroactive to July 1, 2009.

If your family has already met the calendar year maximum, please submit copies of original purchase receipts with necessary prescription details, along with the attached claim form, directly to SAV RX for processing. If copies of original purchase receipts are not available, pharmacy printouts with complete prescription purchase details can also be submitted with the attached claim form. All covered prescription purchases made after July 1, 2009, will be considered for benefits based on the new annual maximum.

The Trustees will continue to try and improve your benefits whenever it can be done prudently.


You should maintain this Summary Material Modification with your copy of the current Summary Plan Description in a safe place for your future reference. If you have questions regarding these changes you can contact the Fund Office's Claims Department at 1-800-242-8923.



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.

From: Kathy Cole [KCole@gemgrouplp.com]
Sent: Saturday, November 06, 2010 10:57 AM
To: HHS HealthInsurance (HHS)
Cc: cgilligan@odonoghuelaw.com; rberger@segalco.com;
pbryant@baclocal1.org; aesfahani@odonoghuelaw.com
Subject: WAIVER

Attachments: RX drug ann increase and lifetime max increase 1009.doc;
BAC1 SPD 04012008.pdf; MX-M450N_20101106_093241.pdf

To whom it may concern:

On behalf of the Bricklayers Local 1 of MD, VA and DC Health & Welfare Fund, please accept this application and supporting material, pursuant to OCIO Sub-Regulatory Guidance 2010-1, for waiver of the restricted annual dollar limit set forth under PPACA. If you have any questions, please do not hesitate to contact the undersigned.

Thank you,

Kathy Cole
Account Executive
GEMGroup Inc
301-839-8800 x802
kcole@gemgrouplp.com

<<MX-M450N_20101106_093241.pdf>>