



Local Union
No. 9

11/8

Colorado Sheet Metal Workers' Local 9 Family Health Plan

Mailing Address: P.O. Box 27910 * Denver, CO 80227-0910
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(303) 922-1213 * FAX (303) 922-1486 * 1-888-831-1213

November 1, 2010

By Certified Mail Return Receipt Requested

Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Oversight, Room 737-F-04
Attention: James Mayhew
200 Independence Avenue, S.W.
Washington, D. C. 20201

Re: Colorado Sheet Metal Workers' Local 9 Family Health Plan –
Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public
Health Service Act Section 2711

Dear Mr. Mayhew:

On behalf of the Board of Trustees of the Colorado Sheet Metal Workers' Local 9 Family Health Plan (the "Plan"), we respectfully request a waiver of the annual and lifetime limit requirements under Section 2711 of the Public Health Service Act ("PHSA"), as added by the Patient Protection and Affordable Care Act of 2010 ("Affordable Care Act"), effective for the plan year beginning January 1, 2011. The Plan is a Taft-Hartley self-insured multi-employer welfare fund governed by the Employee Retirement Income Security Act of 1974, as amended, and qualified under Section 501(c)(9) of the Internal Revenue Code, as amended. The Plan provides a program of health and welfare benefits to eligible employees and retirees of employers that are obligated to contribute to the Plan pursuant to collective bargaining agreements and/or other written agreements.

Request for Waiver of Annual Limit Requirements

As reflected in the Preamble to the interim final rules issued by the Departments of Treasury, Labor, and Health and Human Services, 75 Fed. Reg. 37187 (June 22, 2010) ("Regulations"), the waiver program is intended to mitigate any unintended consequences of the Affordable Care Act's application. *See* 75 Fed. Reg. at 37207. As described below, if the Plan is required to remove the annual limits applicable to the Plan, such a change could have the direct and unintended consequence of requiring the Plan's Board of Trustees to either decrease benefits or increase participants' cost-sharing, or both. Consequently, the Trustees are requesting a waiver of the annual limit requirements for the plan year beginning January 1, 2011.

The following information is provided in accordance with the guidelines for waiver applications issued by the Department of Health and Human Services on September 3, 2010:

1. The Plan (EIN # 84-6029106) is funded by employer contributions, which are paid into a trust fund. Employer contribution rates are set forth in the applicable collective bargaining agreements and/or participation agreements and are fixed for the duration of that agreement. The Plan has two benefit schedules offered to employees depending upon the employer's contribution rate: Schedule A provides in-network and out-of network benefits and Schedule B provides in-network benefits only. The terms of the Plan are described in the enclosed summary plan descriptions. The plan year is the calendar year.
2. As of September, 2010, the Plan covered (b)(4) participants (employees, retirees and their spouses and dependents).
3. The following annual limits are included in the Plan and apply to both Schedule A and Schedule B benefits unless otherwise noted:
 - a) (b)(4) overall calendar year limit on all benefits (does not apply to organ/tissue transplant benefits).
 - b) In addition, the Plan contains several annual limits on specific benefits. To the extent that such annual limits apply to "essential health benefits" as defined in Section 1302(b) of the Affordable Care Act, we request a waiver with respect to each of the following annual limits:
 - i) (b)(4) per person limit on dental benefits;
 - ii) (b)(4) limit for certain routine preventive care for employee and spouse, and (b)(4) limit for certain routine preventive care for dependent children age 5 and older; and
 - iii) (b)(4) limit for vision care;
 - iv) Organ and tissue transplant limits (Schedule A out-of-network: (b)(4) heart, (b)(4) liver, (b)(4) bone marrow, (b)(4) combined heart and lung, (b)(4) pancreas, and (b)(4) kidney, (b)(4) combined kidney and pancreas). In addition, there is a (b)(4) limit for travel services related to an organ or tissue transplant (Schedule A and B);
 - v) (b)(4) limit for durable medical equipment (Schedule B); and
 - vi) (b)(4) limit for external prosthetic appliances (Schedule B).
4. The Trustees believe that complying with the regulations will result either in a significant decrease in access to benefits for individuals covered under the Plan or a significant increase in premiums. We project that costs will increase by the medical inflation rate of between (b)(4)% and (b)(4)% per year before taking into consideration any changes required by the Affordable Care Act. We project that if the current annual limits are eliminated and replaced with the \$750,000 annual limit mandated by the Affordable Care Act, costs will increase in 2011 by a significant amount in addition to the medical inflation.

As of September 30, 2010, the Plan received \$ (b)(4) in contributions and paid out \$ (b)(4) in benefits and administrative expenses during the 2010 plan year. For the entire 2010 plan year, the projected income is \$ (b)(4), and the projected benefit payments and administrative expenses are \$ (b)(4) for a projected (b)(4) of (b)(4). For 2011, assuming increased costs and the \$750,000 annual limit under the Affordable Care Act, the gap will widen. Projected income for 2011 is (b)(4), and the projected benefit payments and administrative expenses are (b)(4) for a projected (b)(4). This includes the additional cost of stop loss insurance which will be necessary to help control costs in lieu of the current annual limit. The Plan generally seeks to maintain reserves sufficient to pay (b)(4) months of claims; for 2010 the actual reserve at the end of the plan year is projected to be (b)(4) months. For 2011, without the relief request in this application, that reserve is projected to decline precipitously to only (b)(4) months.

Currently, participants who are actively employed are not required to pay premiums since the employer contributions that fund the Plan are negotiated as part of the employees' wage package. Retirees currently pay a monthly premium, which is only a portion of the actual cost of coverage. The employer contribution rates pursuant to which the Plan is funded were previously negotiated between the bargaining parties with the expectation that the annual benefit limits would continue to apply. Removing the annual limits, as noted above, will increase expenses. These increases will effectively force the Trustees to eliminate or reduce the benefits that are currently being provided under the Plan or increase the cost sharing that participants are required to pay (e.g., co-payments, co-insurance, and deductibles), and/or impose or raise participant premiums. Consequently, the Trustees request a waiver of the annual limit requirements.

5. The required attestation of the information above, signed by the Chairman and Secretary of the Plan's Board of Trustees, is below.

Request for Waiver of Requirement that Lifetime Limit be Eliminated

While the Regulations specifically reference waivers of the annual limit requirements under Section 2711 of the PHSA, as added by the Affordable Care Act, it would be consistent with the purpose of the waiver provision to grant a lifetime limit waiver to the Plan based on the circumstances described herein. Consequently, the Trustees are requesting a waiver of the lifetime limit prohibition for the plan year beginning January 1, 2011. The following information is provided in accordance with the guidelines for waiver applications issued by the Department of Health and Human Services on September 3, 2010:

1. The terms of the Plan are described above and in the enclosed summary plan descriptions.
2. The number of individuals covered by the Plan is described above.
3. We request a waiver with respect to each of the following lifetime limits in the Plan to the extent that such lifetime limit applies to "essential health benefits" as defined in Section 1302(b) of the Affordable Care Act (Schedule A and B):
 - a) (b)(4) overall lifetime maximum for benefits; and
 - b) (b)(4) limit for bariatric surgery.
4. In addition to the cost increases described above, the Plan's benefit consultant projects that if the current lifetime limits are eliminated, costs would increase by an additional (b)(4) above the projected (b)(4) % medical inflation increase and increased costs related to the annual limits mandated by the Affordable Care Act. As described above, if expenses are increased, the

Trustees will need to eliminate or reduce the benefits that are currently being provided under the Plan or increase the cost sharing that participants are required to pay (e.g., co-payments, co-insurance, and deductibles) and/or impose or raise participant premiums. Accordingly, removing the Plan's current lifetime limits would result in a significant decrease in access to benefits for individuals covered under the Plan and/or a significant increase in premiums.

5. The required attestation of the information above, signed by the Chairman and Secretary of the Fund's Board of Trustees, is below.

We respectfully request expedited handling of this matter. If you have any questions or need additional information, please contact the undersigned.

Sincerely,


Board of Trustees
Colorado Sheet Metal Workers' Local 9 Family
Health Plan

Enclosures: SPDs and SMMs

Attestation

We hereby attest that we are the Chairman and Secretary of the Board of Trustees, the Plan Administrator of the Colorado Sheet Metal Workers' Local 9 Family Health Plan, and that the above Plan was in force prior to September 23, 2010 and that, based upon the above information, the application of restricted annual limits and the prohibition on lifetime limits to the Plan would result in a significant decrease in access to benefits for those currently covered by the Plan and/or a significant increase in the premiums needed to cover the cost of the Plan.


Signature / Date


Signature / Date

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From: Moultrie, Cam (HHS/OCIIO)
Sent: Monday, November 22, 2010 5:37 PM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).
The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A), (b)(4) (schedule B).
The Plan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright
Rael & Letson
303-902-5874
terryb@rael-letson.com

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From: Moultrie, Cam (HHS/OCIIO)
Sent: Tuesday, November 23, 2010 10:19 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

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W.E.Terry Bright
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303-902-5874
terryb@rael-letson.com

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From: Moultrie, Cam (HHS/OCIO)

Sent: Wednesday, December 01, 2010 11:28 AM

To: Habit, Sandra (HHS/OCIO)

Subject: FW: Additional information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

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From: Thomas J. Hart [mailto:thart@slevinhart.com]

Sent: Wednesday, November 24, 2010 10:06 AM

To: Moultrie, Cam (HHS/OCIO)

Cc: Dwayne Stephens; smacnaco@rmi.net; edebey@smw9.com; MARYSMW9@aol.com; Terry Bright; Karen J. Ward

Subject: Additional information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

This correspondence is a supplement to the response sent to you on Nov. 22, 2010 by Fund consultant Terry Bright (which is reproduced below). Mr. Bright had, pursuant to your request of Colorado Sheet Metal Workers Local 9 Family Health Plan Chairman Dwayne Stephens, provided you with projections as to the expected increases in COBRA "premiums" that would be charged to eligible plan participants in the event that the requested waiver is not granted. He also provided a projection of the significantly lower premium increase that would be charged if a waiver is granted. It is our understanding that the Agency has asked for these projections because they are, essentially, "proxies" that roughly demonstrate the impact of the granting, or refusal to grant, a waiver of the PPACA's minimum annual maximum benefit mandate on participants' access to benefits. And, the Trustees believe that the figures provided demonstrate that a waiver is required to prevent a significant decrease in access to benefits.

The Trustees of the Local 9 Family Health Plan understand that these calculations provide the Agency with data material to an understanding of the impact that a waiver will have on covered employees' access to medical benefits. However, they wish to emphasize that the raw statistics must be placed in perspective. In the case of the Family Health Plan, the rejection of a waiver will likely guarantee a reduction in benefits to participants. This is so because the Family Health Plan is established and maintained pursuant to an industry-wide collective bargaining agreement. The terms of that CBA (as well as a few "follow-on" agreements) cannot, as a practical matter, be changed mid-term. No practical possibility exists that the contributing employers might moderate the impact of the PPACA on participants by agreeing to increase their premium payments as employers that maintain individual plans might do. Neither is it reasonable to expect mitigation through use of the Plan's reserves. As the Plan's initial application makes clear, the Plan's financial reserves are expected to decline significantly even if a waiver is granted. That decline will accelerate if a waiver is denied. The only response that Trustees of collectively bargained plans can make to increased costs is to reduce benefits.

In the event you have any questions or require additional information, please feel free to contact us. Thank you for your consideration.

Thomas J. Hart

Karen J. Ward

Counsel to SMW Local 9 Family Health Plan

CO METAL9:000042

Thomas J. Hart
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Slevin & Hart, P.C.
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thart@slevinhart.com

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: cam.moultrie@hhs.gov
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

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W.E.Terry Bright
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From: Moultrie, Cam (HHS/OCIO)

Sent: Thursday, December 02, 2010 5:24 PM

To: Terry Bright

Cc: Habit, Sandra (HHS/OCIO)

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Importance: High

In your application, your plans provides lifetime limits. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.

I have a couple more questions about your pl

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Wednesday, December 01, 2010 2:07 PM

To: Moultrie, Cam (HHS/OCIO)

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Wednesday, December 01, 2010 10:15 AM

To: Terry Bright

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

CO METAL9:000045

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
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(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

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The Plan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright
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From: Moultrie, Cam (HHS/OCIO)
Sent: Friday, December 03, 2010 2:03 PM
To: Habit, Sandra (HHS/OCIO)
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Importance: High

Cam Lynne Moultrie
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U.S. Department of Health and Human Services
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From: Karen J. Ward [mailto:kward@slevinhart.com]
Sent: Friday, December 03, 2010 1:43 PM
To: Moultrie, Cam (HHS/OCIO)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
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kward@slevinhart.com

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review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone at (202) 797-8700. Thank you.

From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>
Date: Thu, 2 Dec 2010 17:24:28 -0500
To: Terry Bright<terryb@rael-letson.com>
Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

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- What is the effective date of your plan

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Wednesday, December 01, 2010 2:07 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 01, 2010 10:15 AM
To: Terry Bright

CO METAL9:000049

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Monday, November 22, 2010 5:34 PM

To: Moultrie, Cam (HHS/OCIIO)

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A), (b)(4) (schedule B).

lan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright

Rael & Letson

303-902-5874

terryb@rael-letson.com

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From: Moultrie, Cam (HHS/OCIIO)
Sent: Monday, December 20, 2010 11:49 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: CO Sheet Metal Workers Local 9 Family Health Plan

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Friday, December 17, 2010 12:00 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: MARYSMW9@aol.com; Caroline Cervarich
Subject: CO Sheet Metal Workers Local 9 Family Health Plan

Ms. Moultrie: Any update or decision on this plan's request for waiver for annual and lifetime limit requirements?

W.E.Terry Bright
Rael & Letson
650-356-2352 (office)
303-902-5874 (mobile)
terryb@rael-letson.com

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From: Moultrie, Cam (HHS/OCIIO)
Sent: Monday, December 20, 2010 11:52 AM
To: Terry Bright
Cc: MARYSMW9@aol.com; Caroline Cervarich; Habit, Sandra (HHS/OCIIO)
Subject: RE: CO Sheet Metal Workers Local 9 Family Health Plan

Attachments: Colorado Sheet Metal Workers.xlsx

We are missing some information. Please fill in the missing information on the attached spreadsheet and return it to me.

In addition:

- 1) What are the effective and expiration dates of your collective bargaining agreement(s)?
- 2) 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?

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Friday, December 17, 2010 12:00 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: MARYSMW9@aol.com; Caroline Cervarich
Subject: CO Sheet Metal Workers Local 9 Family Health Plan

Ms. Moultrie: Any update or decision on this plan's request for waiver for annual and lifetime limit requirements?

W.E.Terry Bright
Rael & Letson
650-356-2352 (office)
303-902-5874 (mobile)
terryb@rael-letson.com

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CO METAL9:000053

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Annual Limit Waiver Request Applicant Name	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/yy)	Contact Name	Street Address	City	State	Zip Code	Phone Number (including area code) (xxx-xxx-xxx)	Email Address
Applicant ABC	Plan 1	Washington	DC	01/01/2011	Jane Doe	100 ABC Drive	Washington	DC	20202	1-800-ABC-1234	abc@abchealthplan.com
Colorado Sheet Metal Workers	Schedule A	Lakewood	CO	07/01/2011	Terry Bright	Terryb@rael-letson.com	Lakewood	CO	80226	(302) 902-5874	Terryb@rael-letson.com
	Schedule B	Lakewood	CO	07/01/2011	Terry Bright	Terryb@rael-letson.com	Lakewood	CO	80226	(302) 902-5874	Terryb@rael-letson.com

Current Essential Benefits Annual Limits (Annual Limit for Each Essential Benefit)												
Coverage (e.g., Limited Benefit, HRA, Rx only, Other)	Self-Insured	Individual or Group Policy	Number of Individuals Covered by Policy (include dependents)	Current Plan Annual Limit (in dollars)	Ambulatory	Emergency	Hospitalization	Laboratory	Pediatric	Maternity/Newborn	Mental Health/Substance Abuse	Rehabilitative/Devices
Limited Benefit	Yes	Group	2,500	\$100,000	None	\$5,000	None	None	None	None	None	None
						(b)(4)						

Benefit)		Copays/Coinsurance		Copay/Coinsurance		Copay/Coinsurance		Copay/Coninsurance		Rates or P		
Preventive/Wellness	Prescription	Plan Deductible	Copay (if applicable)	Coinsurance (if applicable)	Copay (if applicable)	Coinsurance (if applicable)	Copay (if applicable)	Coinsurance (if applicable)	Copay (if applicable)	Coinsurance (if applicable)	Individual / Employee Tier*	Employee contribution
None	\$3,000.00	\$1,000.00	\$15.00	50.00%	\$100.00	50.00%	\$100.00	50.00%	\$10.00	None	Employee + Family	\$105.00
(b)(4)												

Premium Equivalent		Rates or Premium Equivalent			would result from compliance						
Employer contribution	Total	Employee contribution	Employer contribution	Total	Employee contribution	Employer contribution	Total	Rate Increase that would result from compliance	Decrease in Access to Benefits that would result from compliance with \$750,000 Annual Limit Restriction (describe briefly)	Plan Administrator/ CEO of Health Insurance Issuer Name	Title of Individual Providing Attestation
\$1,100.00	\$1,205.00	\$115.00	\$1,150.00	\$1,265.00	\$150.00	\$1,400.00	\$1,550.00	22.53%	None	Jane Doe	Plan Administrator
				(b)(4)					If plan does not get a waiver they will need to eliminate or reduce benefits, increase cost sharing and or impose participant premiums.		
									If plan does not get a waiver they will need to eliminate or reduce benefits, increase cost sharing and or impose participant premiums.		

From: Moultrie, Cam (HHS/OCIO)

Sent: Tuesday, December 21, 2010 1:29 PM

To: Habit, Sandra (HHS/OCIO)

Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Attachments: SM9H waiver spreadsheet 2.xls; 1-332166-0710_001_101220_waiver_application_spreadsheet_attachment.doc; 1-321859-0710_001_101101_Signed_PPACA_Waiver_application.pdf; 1-329325-0710_001_101203_PPACA_waiver_application_supplement.pdf

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Tuesday, December 21, 2010 12:58 PM

To: Moultrie, Cam (HHS/OCIO)

Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam: Attached is the completed spreadsheet as requested. We have also attached three documents that provided additional information as referenced in the spreadsheet by "see attached" in column AV.

In addition, your 12/20/2010 e-mail (see below) contains three questions which we respond to in sequence as follows:

-The Plan was in existence on March 23, 2101 and is in compliance with the grandfather provisions of the PPACA and regulations thereunder

-The Plan currently has a (b)(4) overall lifetime limit, and a (b)(4) lifetime limit for bariatric surgery. As explained in the Plan's application of November d supplemental response dated December 6, 2010 (copies attached), the Plan is requesting a waiver of the lifetime limits effective January 1, 2011.

-The Plan is a multiemployer collectively bargained plan subject to the Taft-Hartley Act. The master collective bargaining agreement for the majority of the Plan's participating employers was effective July 1, 2008 and expires June 30, 2011.

From: Moultrie, Cam (HHS/OCIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Monday, December 20, 2010 3:36 PM

To: Karen J. Ward

Cc: Terry Bright; MARYSMW9@aol.com; Thomas J. Hart

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

- I. Please complete the entire annual limits spreadsheet available at:
http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. Please return the completed spreadsheet

CO METAL9:000059

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?
- Confirm whether your plan provides any lifetime limits.
- Confirm whether the plan was created pursuant to the Taft-Hartley Act and, if applicable, the effective and expiration dates of the collective bargaining agreement.

In order to complete your application, please provide this information by 5:00 pm, December 22, 2010. 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.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Karen J. Ward [mailto:kward@slevinhart.com]
Sent: Friday, December 03, 2010 1:43 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward
Principal
Slevin & Hart, P.C.

CO METAL9:000060

1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
kward@slevinhart.com

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From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>
Date: Thu, 2 Dec 2010 17:24:28 -0500
To: Terry Bright<terryb@rael-letson.com>
Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

In your application, your plans provides lifetime limits. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.

I have a couple more questions about your pl

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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CO METAL9:000061

From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Wednesday, December 01, 2010 2:07 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 01, 2010 10:15 AM
To: Terry Bright
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright

CO METAL9:000062

Rael & Letson

303-902-5874

terryb@rael-letson.com

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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)
CO Sheet Metal Workers Local 9 Family Health Plan	Schedule A	Lakewood	CO	01/01/2011	Terry Bright	7510 West Mississippi Avenue	Lakewood	CO	80226	303-902-5874	terryb@rael-letson.com	Limited Benefit	Yes	Group	(b)(4)	
CO Sheet Metal Workers Local 9 Family Health Plan	Schedule B	Lakewood	CO	01/01/2011	Terry Bright	7510 West Mississippi Avenue	Lakewood	CO	80226	303-902-5874	terryb@rael-letson.com	Limited Benefit	Yes	Group		

PRA Disclosure Statement

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.

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		FF	
					Maternity/	Mental Health/ Substance	Rehabilitative/	Preventive/		Plan	Copay (if applicabl	Coinsuranc e (if	Copay (if applicabl	Coinsura nce (if applicabl	Copay (if applicabl	Coinsura nce (if applicabl	Copay (if applicabl
(b)(4)																	

ANNUAL LIMIT WAIVER APPLICATION 2010

Rx Insurance	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
Coinsurance (if applicable)	Individual/ Employee Tier*	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				
						(b)(4)						see attached	Dwayne Stephens and Tom Keating	Chairman and Secretary of the Board of Trustees
												see attached	Dwayne Stephens and Tom Keating	Chairman and Secretary of the Board of Trustees

* 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).

COLORADO SHEET METAL WORKERS' LOCAL 9 FAMILY HEALTH PLAN
Waiver of Annual Limits Requirements
Attachment to Application

Column AR, AS and AU -- Projected Rate Increase that would result from compliance with \$750,000 Annual Limit Restriction

Both Schedules A and B are part of a single, self insured, multiemployer Taft-Hartley health and welfare fund ("Fund"). All medical benefits under the Fund are self-insured and funded by contributions from participating employers, no contributions from active employees, and a small contribution from retirees, pursuant to collective bargaining agreements between the participating employers and the Sheet Metal Workers Local Union No. 9. Since the employer and employee contribution rates that fund the plans are fixed under the collective bargaining agreements, the Fund cannot at this point determine how it would cover the additional costs of complying with the annual limits prohibition if the waiver is not granted. Nevertheless, for the purposes of completing this spreadsheet, the Fund has calculated how much the cost of coverage (expressed as the COBRA premium) would increase, if the costs were paid in that way. However, any increase in premiums assessed on employees would be a significant percentage increase, since the current employee contribution rate is zero.

Column AV - Decrease in Access to Benefits that would result from compliance with \$750,000 Annual Limit Restriction

As a multiemployer Taft Hartley Plan with contribution rates set in collective bargaining agreements, the Board of Trustees is limited in its ability to fund the costs of the annual limits required under PPACA. As the Trustees believe that a waiver of the PPACA annual limits is warranted, no decisions have been made at this time regarding the actual benefit decreases that would be needed to offset a \$750,000 annual limit. However, if the waiver is not granted, the Trustees would likely be required to decrease benefits. Specifically, the Trustees would have to consider significant increases to deductibles and/or increases to the co-insurance amounts required to be paid by participants. These increases could be unaffordable for a large number of participants who would forego medical care because of large co-insurance and deductibles.

Given the short time period within which the Plan was required to complete and submit the waiver application spreadsheet, the Plan's does not have examples of the benefit reductions or participant cost-sharing increases that would be required if the waiver is not granted. Please let us know if you need more information.



Local Union
No. 9

Colorado Sheet Metal Workers' Local 9 Family Health Plan

Mailing Address: P.O. Box 27910 * Denver, CO 80227-0910
7510 W. Mississippi Suite #200 * Lakewood, Colorado 80226
(303) 922-1213 * FAX (303) 922-1486 * 1-888-831-1213

November 1, 2010

By Certified Mail Return Receipt Requested

Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
Office of Oversight, Room 737-F-04
Attention: James Mayhew
200 Independence Avenue, S.W.
Washington, D. C. 20201

Re: Colorado Sheet Metal Workers' Local 9 Family Health Plan –
Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public
Health Service Act Section 2711

Dear Mr. Mayhew:

On behalf of the Board of Trustees of the Colorado Sheet Metal Workers' Local 9 Family Health Plan (the "Plan"), we respectfully request a waiver of the annual and lifetime limit requirements under Section 2711 of the Public Health Service Act ("PHSA"), as added by the Patient Protection and Affordable Care Act of 2010 ("Affordable Care Act"), effective for the plan year beginning January 1, 2011. The Plan is a Taft-Hartley self-insured multi-employer welfare fund governed by the Employee Retirement Income Security Act of 1974, as amended, and qualified under Section 501(c)(9) of the Internal Revenue Code, as amended. The Plan provides a program of health and welfare benefits to eligible employees and retirees of employers that are obligated to contribute to the Plan pursuant to collective bargaining agreements and/or other written agreements.

Request for Waiver of Annual Limit Requirements

As reflected in the Preamble to the interim final rules issued by the Departments of Treasury, Labor, and Health and Human Services, 75 Fed. Reg. 37187 (June 22, 2010) ("Regulations"), the waiver program is intended to mitigate any unintended consequences of the Affordable Care Act's application. See 75 Fed. Reg. at 37207. As described below, if the Plan is required to remove the annual limits applicable to the Plan, such a change could have the direct and unintended consequence of requiring the Plan's Board of Trustees to either decrease benefits or increase participants' cost-sharing, or both. Consequently, the Trustees are requesting a waiver of the annual limit requirements for the plan year beginning January 1, 2011.

The following information is provided in accordance with the guidelines for waiver applications issued by the Department of Health and Human Services on September 3, 2010:

1. The Plan (EIN # 84-6029106) is funded by employer contributions, which are paid into a trust fund. Employer contribution rates are set forth in the applicable collective bargaining agreements and/or participation agreements and are fixed for the duration of that agreement. The Plan has two benefit schedules offered to employees depending upon the employer's contribution rate: Schedule A provides in-network and out-of network benefits and Schedule B provides in-network benefits only. The terms of the Plan are described in the enclosed summary plan descriptions. The plan year is the calendar year.

2. As of September, 2010, the Plan covered (b)(4) participants (employees, retirees and their spouses and dependents).

3. The following annual limits are included in the Plan and apply to both Schedule A and Schedule B benefits unless otherwise noted:
 - a) (b)(4) overall calendar year limit on all benefits (does not apply to organ/tissue transplant benefits).

 - b) In addition, the Plan contains several annual limits on specific benefits. To the extent that such annual limits apply to "essential health benefits" as defined in Section 1302(b) of the Affordable Care Act, we request a waiver with respect to each of the following annual limits:
 - i) (b)(4) per person limit on dental benefits;

 - ii) (b)(4) limit for certain routine preventive care for employee and spouse, and (b)(4) limit for certain routine preventive care for dependent children age 5 and older; and

 - iii) (b)(4) limit for vision care;

 - iv) Organ and tissue transplant limits (Schedule A out-of-network: (b)(4) heart, (b)(4) liver, (b)(4) bone marrow, (b)(4) combined heart and lung, (b)(4) pancreas, and (b)(4) kidney, (b)(4) combined kidney and pancreas). In addition, there is a (b)(4) limit for travel services related to an organ or tissue transplant (Schedule A and B);

 - v) (b)(4) limit for durable medical equipment (Schedule B); and

 - vi) (b)(4) limit for external prosthetic appliances (Schedule B).

4. The Trustees believe that complying with the regulations will result either in a significant decrease in access to benefits for individuals covered under the Plan or a significant increase in premiums. We project that costs will increase by the medical inflation rate of between (b)(4)% and (b)(4)% per year before taking into consideration any changes required by the Affordable Care Act. We project that if the current annual limits are eliminated and replaced with the \$750,000 annual limit mandated by the Affordable Care Act, costs will increase in 2011 by a significant amount in addition to the medical inflation.

As of September 30, 2010, the Plan received (b)(4) in contributions and paid out (b)(4) in benefits and administrative expenses during the 2010 plan year. For the entire 2010 plan year, the projected income is (b)(4) and the projected benefit payments and administrative expenses are (b)(4) for a (b)(4). For 2011, assuming increased costs and the \$750,000 annual limit under the Affordable Care Act, the gap will widen. Projected income for 2011 is (b)(4), and the projected benefit payments and administrative expenses are (b)(4) for a (b)(4). This includes the additional cost of stop loss insurance which will be necessary to help control costs in lieu of the current annual limit. The Plan generally seeks to maintain reserves sufficient to pay (b)(4) months of claims; for 2010 the actual reserve at the end of the plan year is projected to be (b)(4) months. For 2011, without the relief request in this application, that reserve is projected to decline precipitously to only (b)(4) months.

Currently, participants who are actively employed are not required to pay premiums since the employer contributions that fund the Plan are negotiated as part of the employees' wage package. Retirees currently pay a monthly premium, which is only a portion of the actual cost of coverage. The employer contribution rates pursuant to which the Plan is funded were previously negotiated between the bargaining parties with the expectation that the annual benefit limits would continue to apply. Removing the annual limits, as noted above, will increase expenses. These increases will effectively force the Trustees to eliminate or reduce the benefits that are currently being provided under the Plan or increase the cost sharing that participants are required to pay (e.g., co-payments, co-insurance, and deductibles), and/or impose or raise participant premiums. Consequently, the Trustees request a waiver of the annual limit requirements.

5. The required attestation of the information above, signed by the Chairman and Secretary of the Plan's Board of Trustees, is below.

Request for Waiver of Requirement that Lifetime Limit be Eliminated

While the Regulations specifically reference waivers of the annual limit requirements under Section 2711 of the PHSA, as added by the Affordable Care Act, it would be consistent with the purpose of the waiver provision to grant a lifetime limit waiver to the Plan based on the circumstances described herein. Consequently, the Trustees are requesting a waiver of the lifetime limit prohibition for the plan year beginning January 1, 2011. The following information is provided in accordance with the guidelines for waiver applications issued by the Department of Health and Human Services on September 3, 2010:

1. The terms of the Plan are described above and in the enclosed summary plan descriptions.
2. The number of individuals covered by the Plan is described above.
3. We request a waiver with respect to each of the following lifetime limits in the Plan to the extent that such lifetime limit applies to "essential health benefits" as defined in Section 1302(b) of the Affordable Care Act (Schedule A and B):
 - a) (b)(4) overall lifetime maximum for benefits; and
 - b) (b)(4) limit for bariatric surgery.
4. In addition to the cost increases described above, the Plan's benefit consultant projects that if the current lifetime limits are eliminated, costs would increase by an additional \$ (b)(4) above the projected (b)(4) % medical inflation increase and increased costs related to the annual limits mandated by the Affordable Care Act.. As described above, if expenses are increased, the

Trustees will need to eliminate or reduce the benefits that are currently being provided under the Plan or increase the cost sharing that participants are required to pay (e.g., co-payments, co-insurance, and deductibles) and/or impose or raise participant premiums. Accordingly, removing the Plan's current lifetime limits would result in a significant decrease in access to benefits for individuals covered under the Plan and/or a significant increase in premiums.

5. The required attestation of the information above, signed by the Chairman and Secretary of the Fund's Board of Trustees, is below.

We respectfully request expedited handling of this matter. If you have any questions or need additional information, please contact the undersigned.

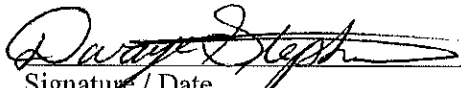
Sincerely,


Board of Trustees
Colorado Sheet Metal Workers' Local 9 Family
Health Plan

Enclosures: SPDs and SMMs

Attestation

We hereby attest that we are the Chairman and Secretary of the Board of Trustees, the Plan Administrator of the Colorado Sheet Metal Workers' Local 9 Family Health Plan, and that the above Plan was in force prior to September 23, 2010 and that, based upon the above information, the application of restricted annual limits and the prohibition on lifetime limits to the Plan would result in a significant decrease in access to benefits for those currently covered by the Plan and/or a significant increase in the premiums needed to cover the cost of the Plan.


Signature / Date


Signature / Date

S L E V I N & H A R T, P. C .

Attorneys at Law
1625 Massachusetts Avenue, N.W., Suite 450
Washington, D.C. 20036
(202) 797-8700
Fax (202) 234-8231

THOMAS J. HART
Member of the Firm

Thart@slevinhart.com



December 6, 2010

By Electronic Mail

Cam Lynne Moultrie
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
200 Independence Avenue, S.W.
Washington, D. C. 20201

Re: Colorado Sheet Metal Workers' Local 9 Family Health Plan –
Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public
Health Service Act Section 2711

Dear Ms. Moultrie:

As you may recall from our prior correspondence to you, this firm is counsel to the Colorado Sheet Metal Workers' Local 9 Family Health Plan ("Plan" or "Local 9 Plan"). On behalf of the Board of Trustees of the Plan, we write in response to the request for information contained in your email dated December 2, 2010. We first respond to your comment about the elimination of lifetime limits on essential health benefits under the Patient Protection and Affordable Care Act of 2010 ("Act") and regulations promulgated thereunder. As you know, the Act eliminated such lifetime limits for group health plans as of the first day of the first plan year beginning after September 23, 2010. Since the Local 9 Plan's plan year is the calendar year, the Act's prohibition of lifetime maximums will not become effective for the Plan until January 1, 2011 at the earliest (or January 1, 2012 if the waiver request is granted). The Trustees are mindful of the requirements of the Act and have already taken action to implement certain other changes under the Act to be effective January 1, 2011.

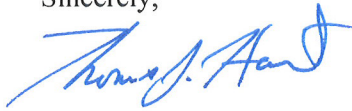
As explained in the Plan's waiver application, the Trustees are requesting a waiver of the Act's prohibition on lifetime limits with respect to Plan benefits that may be considered essential health benefits, as well as a waiver of the restricted annual limits with respect to Plan benefits that may be considered essential health benefits. The Trustees have requested these waivers effective January 1, 2011. In their application, the Trustees itemized both the annual limits and the lifetime limits for which the Trustees are requesting a waiver. The elimination of the lifetime limits, as well as the application of increased annual limits, under the Act on and after January 1, 2011 would result in a significant decrease in access to benefits for participants currently covered by the Plan and/or a significant increase in the premiums needed to cover the cost of the Plan, as demonstrated in the application. Accordingly, the Trustees reiterate their request for a waiver of both the lifetime limit and annual limit requirements under the Act effective January 1, 2011.

In response to your request for additional information, we provide the following:

1. As of November 30, 2010, there were (b)(4) individuals (employees, retirees, spouses and dependents) in Schedule A and (b)(4) individuals in Schedule B. The waiver application originally reported a total of (b)(4) participants as of September 2010, but this number inadvertently included only employees and retirees, not spouses and dependents.
2. The Plan was effective on July 1, 1967. Effective on January 1, 2006, the Trustees added a new Schedule of benefits, Schedule B.

If you need anything further, please do not hesitate to contact us.

Sincerely,



Thomas J. Hart

Cc: Terry Bright, Rael & Letson
Mary Martin

329155v1

From: Moultrie, Cam (HHS/OCIIO)

Sent: Tuesday, December 21, 2010 1:32 PM

To: Terry Bright

Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich; Habit, Sandra (HHS/OCIIO)

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Thank you.

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Tuesday, December 21, 2010 12:58 PM

To: Moultrie, Cam (HHS/OCIIO)

Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam: Attached is the completed spreadsheet as requested. We have also attached three documents that provided additional information as referenced in the spreadsheet by "see attached" in column AV.

In addition, your 12/20/2010 e-mail (see below) contains three questions which we respond to in sequence as follows:

-The Plan was in existence on March 23, 2101 and is in compliance with the grandfather provisions of the PPACA and regulations thereunder

-The Plan currently has a \$(b)(4) million overall lifetime limit, and a \$(b)(4) lifetime limit for bariatric surgery. As explained in the Plan's application of November 2010 and supplemental response dated December 6, 2010 (copies attached), the Plan is requesting a waiver of the lifetime limits effective January 1, 2011.

-The Plan is a multiemployer collectively bargained plan subject to the Taft-Hartley Act. The master collective bargaining agreement for the majority of the Plan's participating employers was effective July 1, 2008 and expires June 30, 2011.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Monday, December 20, 2010 3:36 PM

To: Karen J. Ward

Cc: Terry Bright; MARYSMW9@aol.com; Thomas J. Hart

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

- I. Please complete the entire annual limits spreadsheet available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. 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

CO METAL9:000074

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?
- Confirm whether your plan provides any lifetime limits.
- Confirm whether the plan was created pursuant to the Taft-Hartley Act and, if applicable, the effective and expiration dates of the collective bargaining agreement.

In order to complete your application, please provide this information by 5:00 pm, December 22, 2010. 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.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Karen J. Ward [mailto:kward@slevinhart.com]
Sent: Friday, December 03, 2010 1:43 PM
To: Moultrie, Cam (HHS/OCHIO)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax

CO METAL9:000075

kward@slevinhart.com

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From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>

Date: Thu, 2 Dec 2010 17:24:28 -0500

To: Terry Bright<terryb@rael-letson.com>

Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

In your application, your plans provides lifetime limits. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.

I have a couple more questions about your pla

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Wednesday, December 01, 2010 2:07 PM

To: Moultrie, Cam (HHS/OCIIO)

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

CO METAL9:000076

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Wednesday, December 01, 2010 10:15 AM

To: Terry Bright

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]

Sent: Monday, November 22, 2010 5:34 PM

To: Moultrie, Cam (HHS/OCIIO)

Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com

Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A),

(b)(4) (schedule B).

lan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright

Rael & Letson

303-902-5874

terryb@rael-letson.com

CO METAL9:000077

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From: Moultrie, Cam (HHS/OCIIO)

Sent: Wednesday, December 22, 2010 10:12 AM

To: Terry Bright

Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich; Habit, Sandra (HHS/OCIIO)

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Thank you for the information.

Pursuant to Section 2711 of the PHS Act, you may not have any lifetime limit on your plan as of September 23, 2010, except in the case of non-essential benefits that are permitted under Federal or State law. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan. Please confirm whether these lifetime limits will be eliminated from your plan.

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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Sent: Tuesday, December 21, 2010 12:58 PM

To: Moultrie, Cam (HHS/OCIIO)

Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam: Attached is the completed spreadsheet as requested. We have also attached three documents that provided additional information as referenced in the spreadsheet by "see attached" in column AV.

In addition, your 12/20/2010 e-mail (see below) contains three questions which we respond to in sequence as follows:

-The Plan was in existence on March 23, 2101 and is in compliance with the grandfather provisions of the PPACA and regulations thereunder

-The Plan currently has a (b)(4) overall lifetime limit, and a (b)(4) lifetime limit for bariatric surgery. As explained in the Plan's application of November d supplemental response d cember 6, 2010 (copies attached), the Plan is requesting a waiver of the lifetime limits effective January 1, 2011.

-The Plan is a multiemployer collectively bargained plan subject to the Taft-Hartley Act. The master collective bargaining agreement for the majority of the Plan's participating employers was effective July 1, 2008 and expires June 30, 2011.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Monday, December 20, 2010 3:36 PM

To: Karen J. Ward

Cc: Terry Bright; MARYSMW9@aol.com; Thomas J. Hart

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

CO METAL9:000079

- I. Please complete the entire annual limits spreadsheet available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. 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?
 - Confirm whether your plan provides any lifetime limits.
 - Confirm whether the plan was created pursuant to the Taft-Hartley Act and, if applicable, the effective and expiration dates of the collective bargaining agreement.

In order to complete your application, please provide this information by 5:00 pm, December 22, 2010. 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.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Karen J. Ward [<mailto:kward@slevinhart.com>]
Sent: Friday, December 03, 2010 1:43 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward

CO METAL9:000080

Principal

Slevin & Hart, P.C.

1625 Massachusetts Ave., N.W., Suite 450

Washington, D.C. 20036

202-797-8700 Tel

202-234-8231 Fax

kward@slevinhart.com

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From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>

Date: Thu, 2 Dec 2010 17:24:28 -0500

To: Terry Bright<terryb@rael-letson.com>

Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

In your application, your plans provides lifetime limits. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.

I have a couple more questions about your pl

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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CO METAL9:000081

From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Wednesday, December 01, 2010 2:07 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 01, 2010 10:15 AM
To: Terry Bright
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright
Rael & Letson
303-902-5874
terryb@rael-letson.com

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From: Moultrie, Cam (HHS/OCIO)

Sent: Wednesday, December 22, 2010 11:54 AM

To: Habit, Sandra (HHS/OCIO)

Subject: Colorado Sheet Metal Workers

Had conference call with Attorney. Confirmed that we are not providing waivers to any lifetime limits.

Cam Lynne Moultrie

Office of Consumer Information and Insurance Oversight

U.S. Department of Health and Human Services

(301) 492-4174

cam.moultrie@hhs.gov

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CO METAL9:000084

From: Moultrie, Cam (HHS/OCIIO)
Sent: Wednesday, December 22, 2010 11:54 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Moultrie, Cam (HHS/OCIIO)
Sent: Wednesday, December 22, 2010 11:52 AM
To: 'Terry Bright'
Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Thank you for your information. Per our conversation, we are not providing waivers on any lifetime limits. We are only considering waivers of annual limits. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan. Please confirm whether this lifetime limit will be eliminated from your plan.

Thank you.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Tuesday, December 21, 2010 12:58 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich

CO METAL9:000085

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam: Attached is the completed spreadsheet as requested. We have also attached three documents that provided additional information as referenced in the spreadsheet by "see attached" in column AV.

In addition, your 12/20/2010 e-mail (see below) contains three questions which we respond to in sequence as follows:

-The Plan was in existence on March 23, 2010 and is in compliance with the grandfather provisions of the PPACA and regulations thereunder

-The Plan currently has a (b)(4) overall lifetime limit, and a (b)(4) lifetime limit for bariatric surgery. As explained in the Plan's application of November 1, 2010 and supplemental response dated November 6, 2010 (copies attached), the Plan is requesting a waiver of the lifetime limits effective January 1, 2011.

-The Plan is a multiemployer collectively bargained plan subject to the Taft-Hartley Act. The master collective bargaining agreement for the majority of the Plan's participating employers was effective July 1, 2008 and expires June 30, 2011.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]

Sent: Monday, December 20, 2010 3:36 PM

To: Karen J. Ward

Cc: Terry Bright; MARYSMW9@aol.com; Thomas J. Hart

Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

- I. Please complete the entire annual limits spreadsheet available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. 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?
 - Confirm whether your plan provides any lifetime limits.
 - Confirm whether the plan was created pursuant to the Taft-Hartley Act and, if applicable, the effective and expiration dates of the collective bargaining agreement.

In order to complete your application, please provide this information by 5:00 pm, December 22, 2010. 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.

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

CO METAL9:000086

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From: Karen J. Ward [mailto:kward@slevinhart.com]
Sent: Friday, December 03, 2010 1:43 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
kward@slevinhart.com

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From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>
Date: Thu, 2 Dec 2010 17:24:28 -0500
To: Terry Bright<terryb@rael-letson.com>
Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

In your application, your plans provides lifetime limits. According to the regulation, you may not have any lifetime limit on your plan, except in the case of non-essential benefits that are permitted under Federal or State law. Effective September 23, 2010, you may no longer have a lifetime limit on your plan or policy. Plans that previously had a lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan.

I have a couple more questions about your plan:

CO METAL9:000087

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Wednesday, December 01, 2010 2:07 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 01, 2010 10:15 AM
To: Terry Bright
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

CO METAL9:000088

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright
Rael & Letson
303-902-5874
terryb@rael-letson.com

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CO METAL9:000089

From: Moultrie, Cam (HHS/OCIIO)
Sent: Wednesday, December 22, 2010 2:48 PM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Wednesday, December 22, 2010 2:42 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich; Habit, Sandra (HHS/OCIIO)
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Dear Ms. Moultrie: Thank you for the clarification with respect to the lifetime limit. This e-mail will confirm that the Plan will be amended to eliminate the lifetime limit effective January 1, 2011. If you need any further information with respect to the request for a waiver of the annual limits, please let us know.

W.E. Terry Bright
Rael & Letson
650-356-2352 (office)
303-902-5874 (mobile)
terryb@rael-letson.com

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 22, 2010 8:12 AM
To: Terry Bright
Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich; Habit, Sandra (HHS/OCIIO)
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Thank you for the information.

Pursuant to Section 2711 of the PHS Act, you may not have any lifetime limit on your plan as of September 23, 2010, except in the case of non-essential benefits that are permitted under Federal or State law. Plans that previously had a

CO METAL9:000090

lifetime limit may add an annual limit not less than the lifetime limit without affecting the grandfather status of the plan. Please confirm whether these lifetime limits will be eliminated from your plan.

Cam Lynne Moultrie
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(301) 492-4174
cam.moultrie@hhs.gov

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Sent: Tuesday, December 21, 2010 12:58 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: MARYSMW9@aol.com; Thomas J. Hart; Karen J. Ward; Caroline Cervarich
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Cam: Attached is the completed spreadsheet as requested. We have also attached three documents that provided additional information as referenced in the spreadsheet by "see attached" in column AV.

In addition, your 12/20/2010 e-mail (see below) contains three questions which we respond to in sequence as follows:

-The Plan was in existence on March 23, 2101 and is in compliance with the grandfather provisions of the PPACA and regulations thereunder

-The Plan currently has a (b)(4) million overall lifetime limit, and a (b)(4) lifetime limit for bariatric surgery. As explained in the Plan's application of November 010 and supplemental response d (b)(4) cember 6, 2010 (copies attached), the Plan is requesting a waiver of the lifetime limits effective January 1, 2011.

-The Plan is a multiemployer collectively bargained plan subject to the Taft-Hartley Act. The master collective bargaining agreement for the majority of the Plan's participating employers was effective July 1, 2008 and expires June 30, 2011.

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Monday, December 20, 2010 3:36 PM
To: Karen J. Ward
Cc: Terry Bright; MARYSMW9@aol.com; Thomas J. Hart
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

- I. Please complete the entire annual limits spreadsheet available at: http://www.hhs.gov/ociio/regulations/annual_limit_waivers.html. 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?

CO METAL9:000091

- Confirm whether your plan provides any lifetime limits.
- Confirm whether the plan was created pursuant to the Taft-Hartley Act and, if applicable, the effective and expiration dates of the collective bargaining agreement.

In order to complete your application, please provide this information by 5:00 pm, December 22, 2010. 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.

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cam.moultrie@hhs.gov

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To: Moultrie, Cam (HHS/OC110)
Cc: terryb@rael-letson.com; MARYSMW9@aol.com; Thomas J. Hart
Subject: FW: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711
Importance: High

Dear Ms. Moultrie: Terry Bright of Rael & Letson forwarded your message to us for response, as he is traveling and unable to respond. We will obtain the information you requested and respond to you no later than Monday Dec. 6.

Thank you,
Karen Ward
Counsel for the Colorado Sheet Metal Workers' Local 9 Family Health Plan

Karen J. Ward
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
kward@slevinhart.com

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CO METAL9:000092

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From: "Moultrie, Cam (HHS/OCIIO)" <Cam.Moultrie@hhs.gov>
Date: Thu, 2 Dec 2010 17:24:28 -0500
To: Terry Bright<terryb@rael-letson.com>
Cc: Habit, Sandra (HHS/OCIIO)<Sandra.Habit@hhs.gov>
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

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I have a couple more questions about your pl

- Your application states that there are (b)(4) participants covered by the Plan. How many individuals are in Schedule A? How many in Schedule B
- What is the effective date of your plan

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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Sent: Wednesday, December 01, 2010 2:07 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

The application for waiver you received from Colorado Sheet Metal Workers Local 9 Family Health Plan was intended to cover both Schedule A and Schedule B, and our calculations were based accordingly.

CO METAL9:000093

From: Moultrie, Cam (HHS/OCIIO) [mailto:Cam.Moultrie@hhs.gov]
Sent: Wednesday, December 01, 2010 10:15 AM
To: Terry Bright
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: RE: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

Just to confirm, are you applying for a waiver for both Schedule A and Schedule B, or just Schedule B?

Cam Moultrie

Cam Lynne Moultrie
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
(301) 492-4174
cam.moultrie@hhs.gov

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From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Monday, November 22, 2010 5:34 PM
To: Moultrie, Cam (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; Caroline Cervarich; MARYSMW9@aol.com
Subject: supplemental information related to 11/1/2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Service Act section 2711

As verbally requested of Dwayne Stephens, Chairman of the Colorado Sheet Metal Workers Local 9 Family Health Plan on Friday, November 19, 2010 the following additional information is provided as a supplement to the Plan's November 1, 2010 Application for Waiver of Annual Limit and Lifetime Limit Requirements of Public Health Services Act Section 2711.

The Plan's current COBRA rate effective 7/1/2010 is (b)(4) (schedule A), (b)(4) (schedule B).

The Plan's COBRA rate to be effective 7/1/2011, in the absence of an approved waiver is projected at (b)(4) (schedule A),

(b)(4) (schedule B).

lan's COBRA rate to be effective 7/1/2011 with an approved waiver is projected at (b)(4) (schedule A), and (b)(4) (schedule B).

W.E.Terry Bright
Rael & Letson
303-902-5874
terryb@rael-letson.com

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CO METAL9:000094

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From: terryb@rael-letson.com

Sent: Friday, December 31, 2010 6:33 PM

To: Habit, Sandra (HHS/OCIIO)

Subject: Re: Colorado Sheet Metal Workers Local #9 Denial Letter for a Waiver of the Annual Limits Requirements 12-31-2010

Your message has been received. Thank you for your consideration.

Sent from my Verizon Wireless BlackBerry

From: "Habit, Sandra (HHS/OCIIO)" <Sandra.Habit@hhs.gov>

Date: Fri, 31 Dec 2010 18:25:53 -0500

To: terryb@rael-letson.com<terryb@rael-letson.com>

Subject: Colorado Sheet Metal Workers Local #9 Denial Letter for a Waiver of the Annual Limits Requirements 12-31-2010

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for **Colorado Sheet Metal Workers Local #9**. HHS has reviewed your application and made its determination. Please see the attached letter. The following plans have been denied:

SCHEDULE A

SCHEDULE B

Please confirm receipt of this letter by replying to this e-mail.

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

Sincerely,

Sandra Habit
Office of Oversight
HHS/OCIIO

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CO METAL9:000096

From: Habit, Sandra (HHS/OCIO)

Sent: Friday, December 31, 2010 6:26 PM

To: terryb@rael-letson.com

Subject: Colorado Sheet Metal Workers Local #9 Denial Letter for a Waiver of the Annual Limits Requirements 12-31-2010

Importance: High

Attachments: January 1 Denial Letter [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 **Colorado Sheet Metal Workers Local #9**. HHS has reviewed your application and made its determination. Please see the attached letter. The following plans have been denied:

SCHEDULE A

SCHEDULE B

Please confirm receipt of this letter by replying to this e-mail.

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

Sincerely,

Sandra Habit
Office of Oversight
HHS/OCIO

CO METAL9:000097



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 *SL*

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 not demonstrated that the requirement of the restricted annual limit 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. Please refer to the interim final regulations codified at 26 CFR § 54.9815-2719T; 29 CFR § 2590.715-2719; and 45 CFR §147.126 for the restricted annual limits, \$750,000 for a plan year beginning on or after September 23, 2010, but before September 23, 2011.

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, Maryland 21244-1850



Date: February 2011

From: Gary Cohen, Acting Director; Office of Oversight 

To: Waiver Applicants

Subject: Reconsideration of Application for a One-Year Waiver of the Annual Limits Requirements of Public Health Service Act Section 2711

As you are aware, we recently denied your application seeking a one-year waiver of the restricted annual limits that can be imposed on plans or policies prior to January 1, 2014 as required by Public Health Service Act Section 2711 and interim final regulations published on June 28, 2010.

We are writing to inform you that there is an opportunity to have your waiver application reconsidered. You may do so by providing supplemental information not included in your original application that explains why the annual limits requirements will result in a significant increase in premiums or a significant decrease in access to benefits for those currently covered by such plan(s) or policy(ies).

In your follow-up submission, please indicate clearly that you are requesting reconsideration of a previously filed application and send it via e-mail or U.S. mail to one of the following addresses:
E-mail: OCIIOversight@hhs.gov (use "reconsideration of denial" in the subject line); or
U.S. Mail: Office of Consumer Information and Insurance Oversight, Office of Oversight; Attn.: James Mayhew; Room 737-F-04, 200 Independence Ave. SW; Washington, DC 20201.

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

From: Moultrie, Cam (HHS/OCIIO)
Sent: Monday, January 03, 2011 5:19 PM
To: Scelzo, Kathleen (HHS/OCIIO)
Cc: Habit, Sandra (HHS/OCIIO)
Subject: RE: Applications

Per our meeting on Friday I talked to Colorado Sheet Metal and they are going to email Kathy more specific information as to the disposition of the benefits if the waiver application is denied. I gave them Kathy's email address and phone number.

Have a good week.

Cam

From: Scelzo, Kathleen (HHS/OCIIO)
Sent: Thursday, December 30, 2010 3:03 PM
To: Moultrie, Cam (HHS/OCIIO)
Subject: RE: Applications

Cam,
The phone number is 303-922-1213 for the office in CO and the attorney Thomas Hart 202-797-8700.

Kathleen M. Scelzo, RN, MSN
Rules Compliance Division
Office of Insurance Oversight
Office of Consumer Information and Insurance Oversight (OCIIO) Department of Health and Human Services
7501 Wisconsin Avenue
Bethesda, MD
301-492-4121

-----Original Message-----

From: Moultrie, Cam (HHS/OCIIO)
Sent: Thursday, December 30, 2010 1:59 PM
To: Scelzo, Kathleen (HHS/OCIIO)
Subject: RE: Applications

Hey,

I cannot access the G drive. Can you look up the contact information for Colorado Sheet Metal for me?

Cam

From: Scelzo, Kathleen (HHS/OCIIO)
Sent: Thursday, December 30, 2010 12:47 PM
To: Moultrie, Cam (HHS/OCIIO)
Subject: RE: Applications

Hi Cam,
I have the application that you left. Is all the correspondence with the applicants in their file?

Have a great time in Hawaii!!!!

CO METAL9:000100

Kathleen M. Scelzo, RN, MSN
Rules Compliance Division
Office of Insurance Oversight
Office of Consumer Information and Insurance Oversight (OCIO) Department of Health and Human Services
7501 Wisconsin Avenue
Bethesda, MD
301-492-4121

-----Original Message-----

From: Moultrie, Cam (HHS/OCIO)
Sent: Thursday, December 30, 2010 8:41 AM
To: Scelzo, Kathleen (HHS/OCIO)
Subject: Applications

Hi Kathleen,

I left some unfinished applications in your office. If I get the information today then I will complete them and send them to you and Barbara. If not I will send you the charts.

Thanks for your help.

Cam

CO METAL9:000101

From: Scelzo, Kathleen (HHS/OCIIO)
Sent: Wednesday, January 19, 2011 8:34 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: Response to Request for Supplemental Information Sheet Metal Workers Local 9

Attachments: SMW L 9 FHP Plan A and B Comparison.pdf; SM9 Supplemental Response.pdf

Kathleen M. Scelzo, RN, MSN
Rules Compliance Division
Office of Insurance Oversight
Office of Consumer Information and Insurance Oversight (OCIIO)
Department of Health and Human Services
7501 Wisconsin Avenue
Bethesda, MD
301-492-4121

From: Thomas J. Hart [mailto:thart@slevinhart.com]
Sent: Wednesday, January 05, 2011 12:37 PM
To: Scelzo, Kathleen (HHS/OCIIO)
Cc: Moultrie, Cam (HHS/OCIIO); Terry Bright; Karen J. Ward
Subject: Response to Request for Supplemental Information

Dear Ms. Scelzo,

This office is Counsel to the Sheet Metal Workers Local 9 Family Health Plan (FHP). The attached is a response to the request from Ms. Cam Moultrie of HHS for additional information in support of the request of the FHP for a waiver of the PPACA's annual limitation restriction. Please note that the attached consists of a letter and attachment to it. Feel free to contact me if further information is required.

Sincerely,

Thomas J. Hart

Thomas J. Hart
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
thart@slevinhart.com

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CO METAL9:000102

From: Eve B. Catapang [ecatapang@slevinhart.com]
Sent: Wednesday, January 05, 2011 3:03 PM
To: Habit, Sandra (HHS/OCIO)
Cc: Thomas J. Hart; Karen J. Ward
Subject: FW: Response to Request for Supplemental Information

Attachments: SMW L 9 FHP Plan A and B Comparison.pdf; SM9 Supplemental Response.pdf

Dear Ms. Habit:

Attached please find the email sent out earlier today regarding the above-referenced matter.

[Sent on behalf of Thomas J. Hart]

Eve B. Catapang
Legal Secretary
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
ecatapang@slevinhart.com

From: Thomas J. Hart
Sent: Wednesday, January 05, 2011 12:37 PM
To: kathleen.scelzo@hhs.gov
Cc: cam.moultrie@hhs.gov; Terry Bright; Karen J. Ward
Subject: Response to Request for Supplemental Information

Dear Ms. Scelzo,

This office is Counsel to the Sheet Metal Workers Local 9 Family Health Plan (FHP). The attached is a response to the request from Ms. Cam Moultrie of HHS for additional information in support of the request of the FHP for a waiver of the PPACA's annual limitation restriction. Please note that the attached consists of a letter and attachment to it. Feel free to contact me if further information is required.

Sincerely,

Thomas J. Hart

Thomas J. Hart
Principal
Slevin & Hart, P.C.
1625 Massachusetts Ave., N.W., Suite 450
Washington, D.C. 20036
202-797-8700 Tel
202-234-8231 Fax
thart@slevinhart.com

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CO METAL9:000103

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CO METAL9:000104

COLORADO SHEET METAL WORKER'S LOCAL 9 FAMILY HEALTH PLAN SUMMARY OF PLAN BENEFITS

Benefit Highlights	Plan A			Plan B	
	In-Network	Out-of-Network	Non-Network Area	In-Network	
Calendar Year Maximum					
Coinsurance Level					
Calendar Year Deductible					
Individual					
Family Maximum					
Annual Out of Pocket					
Included Deductible					
Included Copay					
Individual					
Family Maximum					
Physician's Services					
Office Visit - Non Medicare					
Office Visit - Medicare					
Surgery Performed in Physician's Office					
Allergy Treatments/Injections					
Allergy Serum (Dispensed by the Physician's Office)					(b)(4)
Specialist Office Visit					
Emergency Room					
Preventative Care					
Routine Preventative Care for Dependent children through age 4 (including immunizations) (b)(4) annual maximum.					
Routine Preventative Care for Dependent children age 5 and older subject to (b)(4) maximum per calendar year.					
Immunizations for Dependent children ages 5 through 18. (b)(4) annual maximum.					
Routine Preventative Care for Employees and Spouse subject to a (b)(4) maximum per calendar year.					
Inpatient Hospital - Facility Services (Pre-Certification Required)					
Semi Private Room and Board					
Private Room					
Special Care Units (ICU/CCU)					

Outpatient Facility Services (Pre-Certification Required)

Operating Room, Recovery Room, Procedure Room and Treatment Room

Inpatient Hospital Physician's Visits/Consultations

Inpatient Hospital Professional Services
Surgeon, Radiologist, Pathologist, Anesthesiologist

Multiple Surgical Reduction

Outpatient Professions Services
Surgeon, Radiologist, Pathologist, Anesthesiologist

Emergency and Urgent Care Services

Physician's Office

Hospital Emergency Room (Call CIGNA within 48 hours after admission for admission certificate)

ER Professional Fees

ER Facility Fees

Urgent Care Facility or Outpatient Facility

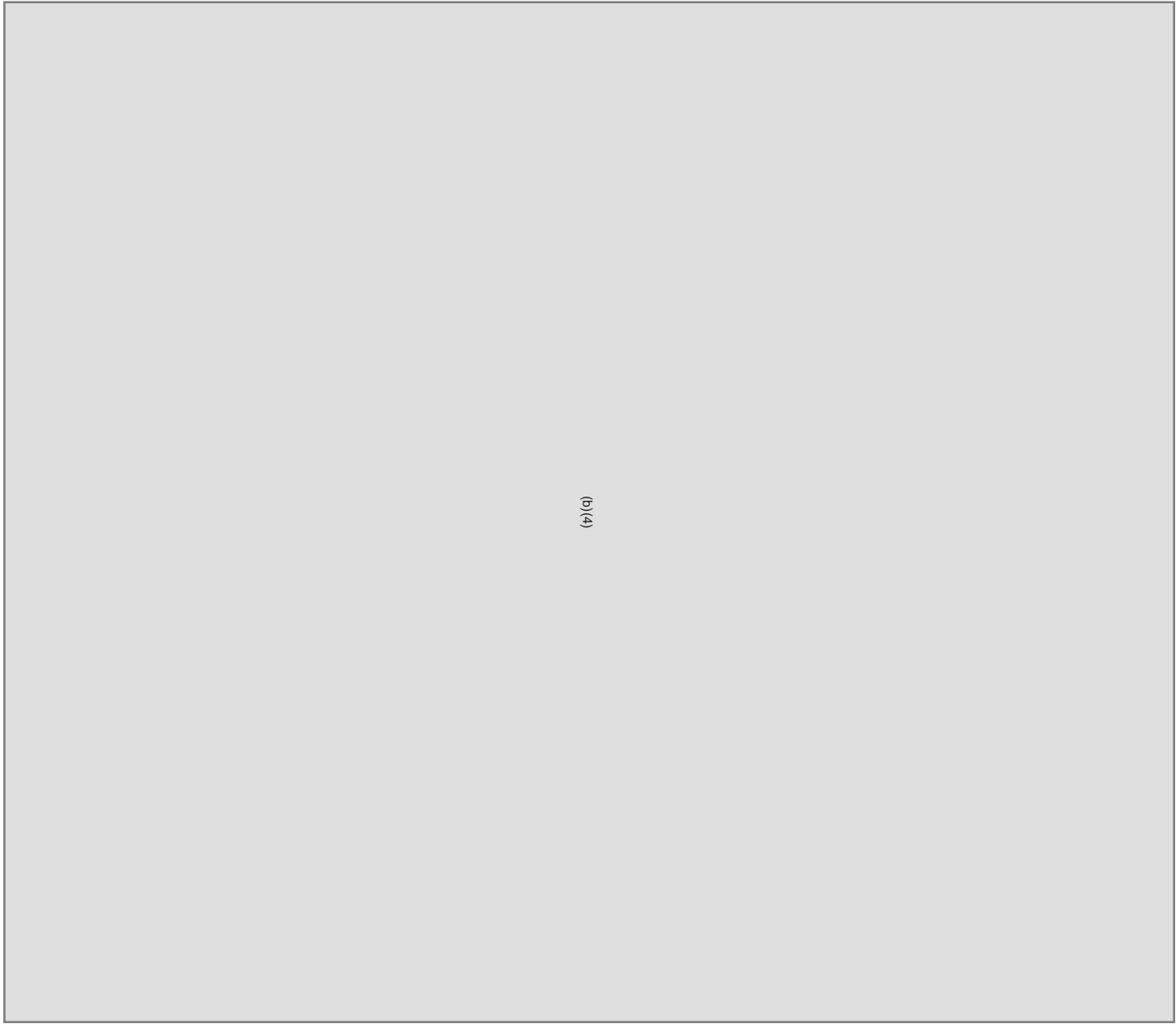
Ambulance

Inpatient Services at Other Health Care Facilities

Skilled Nursing Facility - 90 days maximum per calendar year. Rehabilitation Hospital and Sub-Acute Facilities - no maximum. Respite Care - 90 days lifetime maximum.

Laboratory and Radiology Services (Pre-Authorization Required)

Outpatient Short Term Rehabilitative Therapy



(b)(4)

Includes: Cardiac Rehab (no maximum),
Physical therapy and/or Occupational Therapy
(b)(4) days combined maximum per calendar
year), Speech therapy - (b)(4) per calendar
year.

Chiropractic Services

Home Health Care

(b)(4) days up to a maximum of (b)(4) per
calendar year

Hospice

Inpatient Services
Outpatient Services

Bereavement Counseling (Services provided
as part of Hospice Care)

Inpatient Services
Outpatient Services

Maternity Care Services (Call CIGNA for pre-
admission certification for maternity
admissions when the Hospital stay last or is
expected to last longer than 48 hours for a
vaginal delivery and 96 hours for a C-section)

Initial Visit to Confirm Pregnancy
All Subsequent Prenatal and Postnatal Visits,
and Physician's Delivery Charges
Midwife Services
Delivery Facility (Inpatient Hospital, Birthing
Center)

Abortion

Family Planning Services (Coverage for
contraceptive drugs and devices are covered
under Rx)

Office Visits (Tests, Counseling)

Surgical Sterilization Procedure for

Vasectomy/Tubal Ligation (excludes reversal)

Inpatient Facility
Outpatient Facility
Inpatient Physician's Services
Outpatient Physician's Services
Physician's Office

Infertility Treatment

Durable Medical Equipment

External Prosthetic Appliance (Limits on
replacements)

(b)(4)

Dental Care Due to a Medical Condition or Injury (Limited to charges made for a continuous course of dental treatment started within six months of an injury to sound, natural teeth)

Physician's Office

Inpatient Facility

Outpatient Surgical Facility

Physician's Services

Bariatric Surgery (b)(4) lifetime maximum)

Physician's Office

Inpatient Facility

Outpatient Surgical Facility

Physician's Services

Prescription Drugs (CIGNA Pharmacy Retail Drug Program Generic Push, Incentive Formulary Plan) - 30 day supply

CIGNA Te-Drug Mail Order Drug Program - 90 day supply

Mental Health and Substance Abuse (Lifetime equivalent of 40 inpatient days for mental health and substance abuse treatment combined)

Inpatient

Outpatient

Substance Abuse Intensive Outpatient program

Vision Care

Both Plan A and Plan B

Accident and Sickness Weekly Benefits - Employee Only

Weekly Benefit

Benefits Commence: 1st Day Accident; 8th Day Sickness

Maximum Period Payable

(b)(4)

**Life and Accidental Death and
Dismemberment Benefits - Employee Only**
Death Benefit
AD&D Benefit

(b)(4)

SLEVIN & HART, P.C.

THOMAS J. HART
Member of the Firm

Attorneys at Law
1625 Massachusetts Avenue, N.W., Suite 450
Washington, D.C. 20036
(202) 797-8700
Fax (202) 234-8231

Thart@slevinhart.com



January 5, 2011.

By Electronic Mail

Department of Health and Human Services
Attn: Kathleen Scelzo
Office of Consumer Information and Insurance Oversight
200 Independence Avenue, S.W.
Washington, D. C. 20201

Re: Colorado Sheet Metal Workers' Local 9 Family Health Plan –
Application for Waiver of Annual Limit Requirements of Public Health Service
Act Section 2711

Dear Ms. Scelzo:

This Firm is counsel to the Colorado Sheet Metal Workers' Local 9 Family Health Plan ("Plan"). We write on behalf of the Plan's Board of Trustees in response to the January 3, 2011 telephone request by Ms. Cam Lynn Moultrie of HHS that the Plan provide additional information in support of its request for a waiver of the annual limit requirements of the Patient Protection and Affordable Care Act of 2010 ("Act") effective January 1, 2011. She asked too that, in her absence, we direct our response to you by today's date.

We first wish to confirm, as Ms. Moultrie informed us, that the Plan's application for a waiver is still pending and that the letter received by the Plan's benefit consultant, Mr. Terry Bright of Rael and Letson, on December 31, 2010 via email denying the application was sent in error.

In response to Ms. Moultrie's request for additional information concerning the decrease in access to benefits that would be suffered by participants in the event of a denial of the waiver application, such as the reduction or elimination of benefits, we submit the following.

As a multiemployer Taft Hartley plan in which employer contribution rates are set by collective bargaining agreements that, as a practical matter, cannot be changed mid-term or unilaterally, the Board of Trustees is severely limited in its ability either to increase Plan income or generate through savings the funds needed to maintain benefits if the Act's scheduled increase in annual limits to \$750,000 becomes effective January 1, 2011. The collective bargaining agreements anticipate that the employers' contributions will result in specified benefits. The

Trustees' sole option is to reduce or eliminate benefits. Because of the short time frame inherent in HHS' information request, the Trustees have not yet had an opportunity to make a final decision regarding the actual benefit decreases that would be needed to offset the additional cost to the Plan resulting from imposition of a \$750,000 annual limit (the Plan's current overall annual limit is (b)(4)). The Trustees have already implemented the only step within their power to increase income: increasing the premiums paid by retirees (both Medicare eligible and those not yet eligible for Medicare) effective January 1, 2011 (from (b)(4) to (b)(4)/month and from (b)(4) to (b)(4)/month for coverage for a Medicare eligible retiree or retiree and spouse, respectively, and from (b)(4) to (b)(4)/month for a non-Medicare retiree). These increases were implemented in order to meet expected increases in providing care for those groups before consideration of changes to the annual limit. It is too soon to know whether this increase will by itself result in a loss of benefits to retirees or make the cost of coverage unaffordable to them.

Although not presuming that a waiver will be denied, the Plan's benefit consultant has recommended to the Trustees significant changes to the Plan's benefit structure in the event of a denial. His recommendations are based upon expected (but as yet unconfirmed) cost data from the Plan's third party network provider and claims payer and a projection that savings and/or additional income of (b)(4) during 2011 must be generated. Depending on the results of the cost proposals received, he will recommend that one or more of the following alternative changes be implemented:

- (a) elimination of all out-of-network benefits under Schedule A (which covers the vast majority of participants);
- (b) elimination of Schedule A entirely, thereby moving all participants to Schedule B which provides lower benefits (such as in-network only benefits, higher deductibles, copays and higher rates of co-insurance);
- (c) additional premium increases for retirees and/or reductions in, or elimination of, retiree benefits entirely; and/or
- (d) elimination of ancillary benefits such as dental, vision, disease management and wellness programs.

A chart showing the reductions in benefits resulting from elimination of in-network benefits and the replacement of Schedule A benefits with those of Schedule B are attached. The denial of a waiver clearly will result in a significant reduction in benefits for all participants, as well as the real possibility that benefits will effectively be eliminated for retirees and participants who reside or work in areas not covered by the Plan's network of providers (because the Plan is a construction industry plan, covered employees sometimes work on job sites away from their home regions for extended periods of time). Retirees, at the moment, receive benefits under the Schedules applicable to their last employer.

In light of the foregoing, the Trustees believe that the request for a waiver is warranted and respectfully request that it be granted.

If you need anything further, please do not hesitate to contact us.

Sincerely,



Thomas J. Hart

Enclosure

Cc (w/ encl.): Board of Trustees
Terry Bright, Rael & Letson
Mary Martin, Plan Administrator
Cam Lynn Moultrie, HHS
Sandra Habit, HHS

335104v3

From: Botwinick, Alexandra (HHS/OCIIO)

Sent: Tuesday, January 18, 2011 12:36 PM

To: 'Terryb@rael-letson.com'

Cc: Habit, Sandra (HHS/OCIIO)

Subject: Colorado Sheet Metal Workers Local 9 Family Health Plan Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

Attachments: July 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 Colorado Sheet Metal Workers Local 9 Family Health Plan. 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


CO METAL9:000113



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Consumer Information and
Insurance Oversight
Washington, DC 20201

Date: November 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 July 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.

From: Botwinick, Alexandra (HHS/OCIIO)
Sent: Wednesday, January 19, 2011 7:54 AM
To: Habit, Sandra (HHS/OCIIO)
Subject: FW: Colorado Sheet Metal Workers Local 9 Family Health Plan Waiver of the Annual Limits Requirements of PHS Act Section 2711

Alexandra Botwinick

Office of Oversight
HHS/OCIIO
(301) 492-4177
alexandra.botwinick@hhs.gov

From: Terry Bright [mailto:terryb@rael-letson.com]
Sent: Tuesday, January 18, 2011 2:34 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Cc: Karen J. Ward; Thomas J. Hart; MARYSMW9@aol.com
Subject: RE: Colorado Sheet Metal Workers Local 9 Family Health Plan Waiver of the Annual Limits Requirements of PHS Act Section 2711

Ms. Botwinick: We have received your determination on the above referenced client Plan's waiver application. We would like to note that your letter appears to have a typographical error, in that it refers to a plan year beginning July 1, 2011. Please be advised that the actual plan year for the Plan, as reported in the waiver application, is a calendar year beginning January 1, 2011.

W.E.Terry Bright
Rael & Letson
650-356-2352 (office)
303-902-5874 (mobile)
303-794-0990 (fax)
terryb@rael-letson.com

From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Tuesday, January 18, 2011 10:36 AM
To: Terry Bright
Cc: Habit, Sandra (HHS/OCIIO)
Subject: Colorado Sheet Metal Workers Local 9 Family Health Plan Waiver of the Annual Limits Requirements of PHS Act Section 2711
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 Colorado Sheet Metal Workers Local 9 Family Health Plan. HHS has reviewed your application and made its determination. Please see the attached letter.

CO METAL9:000116

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

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