



9/22

September 15, 2010

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

Dear Mr. Mayhew:

This letter constitutes an application by Carlson Restaurants Worldwide for a waiver from the restricted annual limits set forth in the interim final regulations under the Patient Protection and Affordable Care Act for two medical plans. The waiver would apply for the plan year beginning on January 1, 2011 and ending on December 31, 2011.

As required in OCIIO-2010-1, the September 3, 2010 memorandum issued by the HHS Office of Consumer Information and Insurance Oversight, Carlson Restaurants Worldwide is providing the information listed below and the attachments in support of its application for a waiver from the restricted annual limits for the plan year beginning January 1, 2011. Carlson Restaurants Worldwide provides several health plan choices to its various employees under the single plan known as the Carlson Companies, Inc. Employee Benefit Plan. Under the Patient Protection and Affordable Care Act and subsequent regulations, each plan choice is treated as a separate plan for various purposes, including waiver from restricted annual limits. The two plan choices at issue herein are offered to a group of restaurant workers who are primarily paid on an hourly basis, who work irregular hours and who often work less than 40 hours per week. These plan choices, described in the attached SPDs, will be referred to as the “(b)(4) PPO” and the “(b)(4) PPO” for purposes of this application.

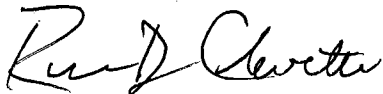
The information on the plans is listed below:

Feature	CRW Plan Provision
Terms of the Plans for Which the Waiver is Being Sought	See the attached SPDs for the (b)(4) PPO and the (b)(4) PPO. These plans are offered to Hourly employees of TGI Fridays and Pick Up Stix, two restaurant chains spread across the United States.
Number of Individuals Covered by These Plans	As of September 15, 2010 there are (b)(4) employees enrolled in the (b)(4) PPO and (b)(4) employees enrolled in the (b)(4) PPO.
Annual Limits and Rates Associated with These Plans	The annual limits of (b)(4) per member and (b)(4) per member are specified in the SPDs. The 2010 rates are shown in Exhibit A. Note that employees pay the majority of the cost of the plans.

Feature	CRW Plan Provision
Reason that Compliance with the Interim Final Regulations would Increase Premiums for Employees	According to our actuary, if Carlson increased the annual limit in both plans to \$750K, the 2011 cost of the plans would increase by (b)(4) million. Given that employees pay the majority of the cost of the plans, the increase in employee contributions would be substantial. With many of our restaurant employees earning (b)(4) /hour, this would be difficult for many of them to afford, and we fear that they might drop our coverage.
Attestation	I attest that these plans were in force prior to September 23, 2010 and that applying an annual limit of \$750K to either or both plans would result in significantly increased premium costs for employees of Carlson Restaurants Worldwide.

If you have any questions about this letter, please contact me directly at 763-212-2601.

Sincerely,



Rick Clevette
 Medical Plan Administrator, Carlson Restaurants Worldwide

EXHIBIT A

2010 Monthly Rates for the (b)(4) PPO and the (b)(4) PPO

Plan	Coverage Tier	2010 Monthly CRW	2010 Monthly Employee	Total 2010 Rate
(b)(4)	Employee Only			
	Employee +1			
	Employee +Family			
	Employee Only		(b)(4)	
	Employee +1			
	Employee +Family			

2011 Monthly Rates for the (b)(4) PPO and the (b)(4) PPO

Plan	Coverage Tier	2011 Monthly CRW	2011 Monthly Employee	Total 2011 Rate
(b)(4)	Employee Only			
	Employee +1			
	Employee +Family			
	Employee Only		(b)(4)	
	Employee +1			
	Employee +Family			

2011 Monthly Rates w/Replacement Plans

Plan	Coverage Tier	2011 Monthly CRW Subsidy	2011 Monthly Employee	Total 2011 Rate
(b)(4)	Employee Only			
	Plan Employee +1			
	Employee +Family			
	Employee Only			
	Plan Employee +1			
	Employee +Family		(b)(4)	
	Employee Only			
	Plan Employee +1			
	Employee +Family			

**Note: New Plan designs represe
More initial out-of-pocket costs to participants**

From: Botwinick, Alexandra (HHS/OCIO)
Sent: Tuesday, October 26, 2010 2:39 PM
To: 'rheinz@Carlson.com'
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Importance: High

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

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for Carlson Restaurants. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail address with a copy to OCIOOversight@hhs.gov.

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

Sincerely,

Alexandra Botwinick

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

CARLSON:000004

EXHIBIT A

2010 Monthly Rates for the (b)(4) PPO and the (b)(4) PPO

Plan	Coverage Tier	2010 Monthly CRW Subsidy	2010 Monthly Employee Contributions	Total 2010 Rate
(b)(4) PPO	Employee Only	—	(b)(4)	—
	Employee + 1	—		—
	Employee + Family	—		—
(b)(4) PPO	Employee Only	—	(b)(4)	—
	Employee + 1	—		—
	Employee + Family	—		—

Pages 6 through 265 redacted for the following reasons:

(b)(4)

From: Heinz, Ronald [rheinz@Carlson.com]
Sent: Tuesday, October 26, 2010 2:46 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Cc: OCIIO Oversight
Subject: RE: Waiver of the Annual Limits Requirements of PHS Act Section 2711

Follow Up Flag: Follow up
Flag Status: Red
Ms. Botwinick-

I wanted to confirm receipt of your letter. Thank you very much for your assistance on this request.

Regards
Ron Heinz

Ron Heinz | Senior Director, Compensation & Benefits, Carlson
phone +1 (763) 212-5300 | fax +1 (763) 212-5832 | rheinz@carlson.com
701 Carlson Parkway | Mailstop 8202 | Minnetonka, MN 55305 | U.S.A.



From: Botwinick, Alexandra (HHS/OCIIO) [mailto:Alexandra.Botwinick@hhs.gov]
Sent: Tuesday, October 26, 2010 1:39 PM
To: Heinz, Ronald
Subject: Waiver of the Annual Limits Requirements of PHS Act Section 2711
Importance: High

Mr. Heinz,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section for Carlson Restaurants. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail address with a copy to OCIIOoversight@hhs.gov.

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

Sincerely,

Alexandra Botwinick

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

CARLSON:000007

From: Heinz, Ronald [rheinz@Carlson.com]
Sent: Thursday, October 21, 2010 5:56 PM
To: Botwinick, Alexandra (HHS/OCIIO)
Cc: Clevette, Rick; Fregia, Mary; Lucksinger, Kristy
Subject: Follow-up on Waiver Request

Attachments: 2011 Rates wo waiver.xlsx
Alex-

As a follow-up to our phone conversation this afternoon, we have updated Exhibit A from our original request to illustrate for you a comparison of monthly rates for the current medical plans for which we are requesting the waiver – the (b)(4) PPO and (b)(4) PPO plans for Carlson Restaurants Worldwide. Exhibit A reflects the following:

- 2010 rates for each of these plans
- 2011 rates for these same plans assuming the request for a waiver is approved
- 2011 rates for replacement designs for these two plans in the event the request for a waiver is denied

With respect to the replacement designs, we would expect most participants in the (b)(4) PPO to elect the (b)(4) Plan” and we would expect most participants in the (b)(4) PPO to elect either the (b)(4) Plan” or the (b)(4) Plan” depending on their evaluation of design features and costs.

Please review and let us know if you have any questions. As we indicated on our call, we are very anxious to get a decision on our waiver so that we can proceed with the communication of our plans for 2011.

Thanks
Ron Heinz

Ron Heinz | Senior Director, Compensation & Benefits, Carlson
phone +1 (763) 212-5300 | fax +1 (763) 212-5832 | rheinz@carlson.com
701 Carlson Parkway | Mailstop 8202 | Minnetonka, MN 55305 | U.S.A.






DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Consumer Information and
Insurance Oversight
Washington, DC 20201

Date: October 2010

From: Steve Larsen, Director, Office of Oversight 

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

Dear Waiver Applicant:

Section 2711(a)(2) of the Public Health Service Act (PHS Act), as added by the Patient Protection and Affordable Care Act (Affordable Care Act), requires the Secretary to impose restrictions on the imposition of annual limits on the dollar value of essential health benefits (as defined in section 1302(b) of the Affordable Care Act) for any participant or beneficiary in a new or existing group health plan or a new policy in the individual market for plan or policy years beginning on or after September 23, 2010 and prior to January 1, 2014. Specifically, the Secretary is granted the authority to determine what constitutes a "restricted annual limit" that can still be imposed under such plans or policies prior to January 1, 2014.

The interim final regulations published on June 28, 2010 (codified at 26 CFR § 54.9815-2719T; 29 CFR § 2590.715-2719; and 45 CFR § 147.126) established such restricted annual limits. The regulations also provided that these restricted annual limits may be waived by the Secretary of Health and Human Services (HHS) if compliance with the interim final regulations would result in a significant decrease in access to benefits or a significant increase in premiums. Pursuant to the regulation, HHS issued guidance on September 3 regarding the scope and process for applying for a waiver.

The Office of Consumer Information and Insurance Oversight, Office of Insurance Oversight received and processed your application for the plan(s) or policy(ies) year beginning January 1, 2011. We have determined that your application has met the criteria to obtain a waiver of the restricted annual limits requirements because compliance with the interim final regulations would result in a significant decrease in access to benefits for those currently covered by such plans or policies, or a significant increase in premiums paid by those covered by such plans or policies. To the extent you make any change to your benefit package after March 23, 2010, you must determine whether the change(s) will trigger loss of grandfathering status pursuant to 45 CFR § 147.140(g)(1).

An approval of your request for waiver of the restricted annual limits requirements granted under this process applies only to the annual limit(s) provided in your application for the plan or policy year beginning between September 23, 2010 and September 23, 2011. This waiver only applies to the annual limits requirements in Section 2711 of the ACA and does not apply to any other requirement of the Affordable Care Act, ERISA, the IRS Code or the PHS Act. Further, a group

health plan or health insurance issuer must reapply for any subsequent plan or policy year prior to January 1, 2014 when this waiver expires in accordance with future guidance from HHS. HHS may modify this waiver approval process memorandum and other relevant information.

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