



BENEFIT NEWS BRIEF

Health Plans with Waivers from ACA Annual Limits Must Distribute Notice of Waiver to Participants Annually

In [Client Bulletin 2011-38](#) we discussed the end of the application period for waivers from the annual limits imposed on health plans by the *Affordable Care Act (ACA)*. The ACA allows health plans temporary waivers to the ACA's phase out of annual dollar limits if compliance with the new annual benefit minimums would result in a significant decrease in access to benefits or a significant increase in premiums. These waivers are temporary and after 2014 no waivers of the annual dollar limit provision are allowed. See [Benefits News Briefs 2010-88](#) and [Special Bulletin 2010-90](#) for background information on the waivers and also: <http://www.healthcare.gov/news/factsheets/annuallimit06172011a.html>.

Unless a waiver is obtained, the minimum coverage annual limit is \$1,250,000 for plan years starting after September 23, 2011, \$2,000,000 for plan years starting after September 23, 2012 and no annual dollar limits are permitted with respect to plan years beginning on or after January 1, 2014, even for plans with waivers.

Guidance on how to apply for or renew a plan's annual waiver and the steps needed to maintain the waiver is available by "[clicking here](#)" or at: http://cciio.cms.gov/resources/files/06162011_annual_limit_guidance_2011-2012_final.pdf.

Pursuant to this guidance, applicants who received a new waiver or waiver extension prior to September 22, 2011 must re-submit the information described in the guidance each year **by the end of each calendar year** (Annual Limit Update). Specifically, the first Annual Limit Update must be submitted by December 31, 2012 and the second Annual Limit Update must be submitted by December 31, 2013.

Further, as a condition of receiving an extension of the waiver of annual limit requirements, a group health plan will be required to retain all records pertaining to the application to permit an audit of the waiver application to be conducted. According to the guidance, each plan waiver recipient – whether via a Waiver Extension or a new waiver application – will be required to distribute an updated annual notice to eligible participants (Annual Notice). A Model Annual Notice available at pages 7 and 8 of the guidance or by "[clicking here](#)."

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