

PUBLIC SUBMISSION

Received: February 22, 2018
Status: Pending_Post
Tracking No. 1k2-91na-qa4m
Comments Due: March 06, 2018
Submission Type: API

Docket: EBSA-2018-0001

Definition of Employer Under Section 3(5) of ERISA-Association Health Plans

Comment On: EBSA-2018-0001-0001

Definition of Employer Under Section 3(5) of ERISA-Association Health Plans

Document: EBSA-2018-0001-DRAFT-0221

Comment on FR Doc # 2017-28103

Submitter Information

Name: Omnidian Anonymous

Address: Seattle, WA, 98104

Organization: Omnidian

General Comment

Our company obtains its health insurance from an Association Health Plan. This vehicle of obtaining coverage has allowed me to offer my employees coverage and that we wouldnt have been able to find the same coverage in small group community-rated market (or exchange). AHPs offer a great value and allow a way to attract and retain talent by providing great benefits.

We are writing today to express concerns about the proposed EBSA-2018-0001. Expansion of AHPs is a great thing for healthcare and offers small and medium sized businesses more options for coverage and also provides for affordability. This is critical when companies are competing for talent. We applaud the goal of expanding AHP coverage, however, there are several provisions in the proposed rule that would negatively impact the market and prevent the expansion of AHPs, while also having significant impact on current insurance markets that could result in rates increasing or selection decreasing:

1) Essential Benefits The proposed rule eliminates the requirement of essential

benefits. The rule must change to maintain essential benefits requirement for Association Health Plans. Failure to make this change will result in only healthy populations drawing towards AHPs and provide unhealthy adverse selection in Individual markets.

2) Require associations to be pre-existing - AHPs should only be able to be formed by existing associations whose leader is willing to serve as a fiduciary. Without this requirement, there could be significant fraud and abuse. For hundreds of years, associations have been serving the interests of their membership. By requiring AHPs to only be able to be offered through an existing Association, this ensures that members needs are represented in the insurance product offerings of the marketplace. Associations should be required to have been in existence for at least 5 years prior to offering an AHP to their existing membership.

3) Rating rules - AHPs should be able to use cost data in assessing rates at the employer level, as is current practice under Washington State law. Failure to allow this factor in rating would inherently result in cross-subsidization and discourage the use and expansion of AHPs. Using one rate for all results in adverse selection, cripples the expansion of AHPs, creates unhealthy community rated/individual markets, and will work against the Administrations goal of providing affordability through AHPs.

States already have community-rated products and rates (that use the one rate for all approach) and products dont meet the needs of business.

4) States Rights - The proposal fails to specify which state laws can still be enforced, including for example, laws relating to qualifications of AHP sponsoring entities, or the covered benefits or rating practices under such plans. Without clarification, the regulatory proposal is unclear, and currently legal challenges will arise if state insurance regulatory authority is not clarified with require to AHPs permitted under the Proposal. It is essential that each States insurance commissioner/officer has the ability and power to regulate the insurance market within the state.

All states should have the right and ability to set rating rules as well as determine if products that go across state lines should be permitted. Without this provision, carriers could avoid regulation and oversight, which would leave unhealthy adverse selection pools throughout the country. The proposed rule should be amended to ensure that all AHPs comply with local state regulations.

5) AHP membership AHPs should retain the right to set business rules as to what membership requirements are (including company size and/or structure). Associations should be allowed to determine if they include working owners (and spouses) this expands coverage to millions of sole proprietors.

6) Effective date With any change comes uncertainty and with uncertainty comes

increased prices. The effective date of this rule needs to be 2020 or later in order to allow enough time for insurance companies to react and adjust without artificially inflating prices (as we saw in abundance with the implementation of ACA). Lack of proper time would result in small businesses having even higher costs and insurance companies continuing to profit in the wake of change.

Association Health Plans can be a vehicle to expand quality and affordability of health care coverage as they have been in the State of Washington. However, the proposed rule would prevent this expansion from occurring and would lead to increased risk of fraud and abuse; lower quality benefits; adverse selection and ultimate deterioration of overall insurance markets.