

Precision Metalforming Association
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March 6, 2018

Ms. Janet K. Song
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

via: regulations.gov

RE: Definition of Employer—Small Business Health Plans RIN 1210-AB85

Dear Ms. Song:

Thank you for the opportunity to submit these comments on behalf of the National Tooling and Machining Association and Precision Metalforming Association concerning the proposed regulation under Title 1 of the Employee Retirement Income Security Act (ERISA) that would broaden the criteria under ERISA section 3(5) for determining when employers may join together in an employer group or association that is treated as the “employer” sponsor of a single multiple-employer “employee welfare benefit plan” and “group health plan” as those terms are defined in Title 1 of ERISA. Our associations are in support of broadening the definition of “employer” and the “commonality of interest” test. However, to succeed, we believe the final rule must also address the red tape and the need to negotiate with fifty different health insurance state jurisdictions that are obstacles to allowing Association Health Plans (AHPs) across state lines.

Our members are small and medium-sized manufacturers averaging roughly 50 employees and are typically classified under the North American Industrial Classification System (NAICS) as 332 (Fabricated Metal Product Manufacturing) and 333 (Machinery Manufacturing). These classifications combined include 80,000 manufacturing establishments with 2.6 million employees. The vast majority of our members do not buy aluminum directly from the mills but from service centers. These companies would all meet the common industry test under the proposed AHP rule.

The National Tooling and Machining Association’s 1,400 member companies design and manufacture special tools, dies, jigs, fixtures, gages, special machines and precision-machined parts. Some firms specialize in experimental research and development work as well as rapid prototyping. Many NTMA members are privately owned small businesses, yet the industry generates sales in excess of \$40 billion a year.

The Precision Metalforming Association is the full-service trade association representing the \$137-billion metalforming industry of North America—the industry that creates precision metal products using stamping, fabricating, spinning, slide forming and roll forming technologies, and other value-added processes. Its nearly 900 member companies also include suppliers of equipment, materials and services to the industry.

Permitting AHPs across state lines has long been a priority for both associations who lobbied Congress more than a decade ago to clarify the ability to create such plans. We support the administration's efforts to further clarify the definition of an employer under ERISA. Under AHPs, small employers will enjoy greater bargaining power, economies of scale, and administrative efficiencies. Such plans will help level the playing field of employer health coverage by giving participating small employers the advantages of federal law currently enjoyed by larger employers and unions.

Particularly in rural areas, smaller businesses have little buying power and few affordable options – this lack of competition continues to contribute to persistent rate increases for our manufacturers.

A January 2018 survey of our members revealed that 34 percent of our members saw an 11-20% health care premium increase in 2017 with 18 percent of respondents facing 20 percent or more spikes in their costs. For businesses who average 72 employees, this is an untenable situation and we believe AHPs will provide manufacturers and businesses across the country with more options.

The NTMA is currently working on a state-by-state basis to help offer health insurance to their members in twelve states, and seeking to expand those offerings. While not nation-wide due to interpretations of current rules, the association hopes to help members within targeted areas to pool their resources together. The association is working with a carrier willing to underwrite across a number of states but filings with each regulatory agency is often prohibitive.

The mismatch of regulatory requirements and bureaucratic red tape is proving a major challenge in some states. For example, Virginia requires that a plan file paperwork with a list of its members before it can even begin offering plans – meaning you cannot offer a plan to companies without first filing but you cannot file without demonstrating you have members in the plan.

Therefore, One Voice supports the administration's efforts to allow AHPs to operate under a uniform set of rules similar to those enjoyed by large employers. We also believe that a single annual filing on behalf of the plan across all states is sufficient and prefer a federal board overseeing the plan. One challenge we have come across is inclusion of sole proprietors in small business group plans. This different type of business structure often creates challenges for the carrier that affects rates for the broader group.

Thank you for your consideration of these comments and your focus on strengthening manufacturing in America and creating jobs.

Sincerely,



Roy Hardy
PMA President



Dave Tilstone
NTMA President