



February 29, 2012

Daniel Maguire
Director

Ms. Suzanne Bach
Mr. Kevin Horahan
Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Attn: RIN 1210-AB51
MEWA Registration Proposed Regulation

Dear Mr. Maguire, Ms. Bach and Mr. Horahan:

AARP appreciates the opportunity to comment on the Department of Labor's Multiple Employer Welfare Arrangement (MEWA) Registration proposed regulation and cease and desist issued pursuant to the Patient Protection and Affordable Care Act (ACA). Waste, fraud, and abuse cost the health care system billions of dollars annually. Although the actual amount is unknown, estimates of health care spending lost to fraud range from 3 percent to 10 percent.

AARP believes that this proposed regulation is a necessary step towards providing more transparency and "sunshine" so businesses, especially small employers, do not spend their hard earned monies to purchase health coverage for their employees only to find that it is non-existent. To the extent that employees also pay all or a portion of health premiums, it will help prevent them from paying twice – once for health premiums, and then again for medical bills when they find out that they have no coverage. AARP is supportive of the Department of Labor's efforts to crack down on fraudulent and abusive health care scams that take advantage of vulnerable employees and small businesses trying to do the right thing by providing health insurance for their employees. We believe that this regulation, as well as the ex parte cease and desist and seizure orders proposed regulation, will make MEWAs more secure for employers to use as a means of providing health coverage for employees.

MEWAs are designed to provide health benefits to employees of two or more unrelated employers who are not party to a collective bargaining agreement. Small businesses sometimes turn to MEWAs as a method to provide health coverage to their employees that is more reasonable in cost than what is available through conventional health insurance. For many smaller employers, it may be the only available option if insurance companies are not willing to provide coverage.

Because some MEWAs took advantage of gaps in the law to avoid state insurance regulations as well as the Department of Labor's inability to move quickly to stop the operations of fraudulent MEWAs, their assets were drained through excessive administrative fees or outright embezzlement. MEWAs frequently have been used by scam artists and criminals to defraud individuals. In some cases, individuals incurred significant medical bills before they learned that claims were not being paid and that they were liable and needed to pay their medical bills themselves. For employers or employee organizations that have paid premiums or made contributions to a MEWA, such scams have left them with little to show for their premium payments. By the time legal proceedings finished, the MEWA had dissipated any assets, leaving no means of recovery.

Although AARP is generally supportive of the regulation, we believe that some additional modifications to the regulation will make it stronger. We believe that the Department should collect more specific financial information from MEWAs on its M-1 registration form. The Department will not be able to identify financial problems early unless it obtains financial information about the operations of the MEWA, including information about, but not limited to, claims reserves, surplus, and investment income. This will enable the Department to make an independent assessment of the financial condition of the MEWA. In addition, we believe that the Department should use its authority to audit MEWAs as it believes is appropriate. These steps will enable the Department to take action to protect the assets of the MEWAs before assets are dissipated, whether the MEWA is being operated fraudulently or merely incompetently.

In addition, posting the M-1 registration forms on the Department's website will enable employers to proactively check to determine if a MEWA they are considering to provide health coverage to their employees has registered with the Department; obviously their employers can also review the information on the form. Perhaps more importantly, if a MEWA has not registered with the Department, the employer can make inquiries. The Department should publicize that this information is available to the public on its website.

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AARP appreciates this opportunity to provide its views on the MEWA registration proposed regulation. If you have any questions, please do not hesitate to contact Leah Cohen Hirsch at 202.434.3770 or Mary Ellen Signorille at 202.434.2072.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Certner
Legislative Counsel & Legislative Policy Director
Government Affairs