

PUBLIC SUBMISSION

Received: February 13, 2018 Status: Pending_Post Tracking No. 1k2-91he-bqiy 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-0129

Comment on FR Doc # 2017-28103

Submitter Information

Name: anonymous Anonymous

General Comment

The Proposed Rule would broaden the conditions under which associations could sponsor AHPs. This creates many issues:

- It would allow unrelated employers to participate in the AHP as long as they It would allow working owners (e.g. sole proprietors/self-employed individuals without any common law employees) and their dependents to participate in It is important for associations to be able to determine their membership, and whether it should include working owners (or not.)

- Rating, Benefits, Membership and HIPAA Nondiscrimination

The Proposed Rule also states that the HIPAA Nondiscrimination requirements will apply at the employer group level. This means AHPs and issuers will not be allowed to 1) restrict membership in the association itself, 2) provide different benefits, or 3) charge different rates based upon any health factor (e.g. health status, medical condition, medical history, claims experience).

This provision could result in small employers facing higher costs and fewer choices in the market by creating dynamic that will result in adverse selection. As a fallback

position, and at a minimum, the DOL should allow current AHPs to be grandfathered in regards to their current rating practices in order to prevent significant market disruption in the short term.

- Effective Date

While we expect a Final Rule in Late Spring/Early Summer, the Proposed Rule did not discuss an effective date for implementation. Given the provisions contained within the Proposed Rule, there is potential for significant market disruption. It is imperative that the effective date of the new rule allow ample time for the market to adjust to the new requirements. Therefore, the effective date of the rule should be no less than a year after it is published in the Federal Register.