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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

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General Comment

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I am writing to express my concern about the proposed regulation on the basis of the danger it poses to American consumers. At the very least, it is important that the executive order maintains states' ability to protect consumers and ensures that health insurance fulfills its purpose of providing security, rather than betraying that responsibility.

In the case of health insurance in the United States, a comprehensive solution is badly needed. In the meantime, attempts to improve the situation should not repeat mistakes of the past. This executive order attempts to expand freedom of choice for consumers, but "choice" is tricky when unpredictability is high, as it is in matters of health.

While there are benefits to reducing excessive regulation, which can be costly and inconvenient, there is always a trade-off involved. I hope the protections in this executive order can be strengthened to ensure a balance between maximizing freedom and ensuring safety. Leaving the door too far open for the creation of association health plans increases the risk of fraud, plan insolvency, and market instability. This has happened before. Congress strengthened states' regulatory authority in 1982 in response to such fraud.

When it comes to health insurance, fraud and insolvency mean more than just a loss of money; either outcome could have serious health effects on consumers who experience an unexpected loss of coverage. And if market instability results, the plan could have negative effects on many more people than those who freely entered into the health plans in question. Many individuals could experience catastrophic consequences in their personal lives and finances.

If this executive order becomes law, state authority should be clear. If the executive order must contain a provision for exemptions from state regulation, such exemptions should be held to a high standard—the standard of protection our elected representatives would want for their own health plans. It is important that the federal government not hinder states' ability to protect their citizens.