

March 3, 2018

U.S. Department of Labor  
200 Constitution Avenue NW  
Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
Washington, DC 20210

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

To Whom It May Concern:

Thank you for the opportunity to comment on U.S. Department of Labor's (DOL) proposed regulation ("Proposed Rule" - RIN 1210-AB85) under Title I 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 to form an Association Health Plans (AHP).

I am President and CEO of a small benefits technology and services firm in Seattle, WA. I founded the company nearly 25 years ago with a single employee and have been providing my diverse workforce (now 90 employees) valuable and competitive health benefits through association health plans for nearly two decades. Health benefits are my largest expense only second to wages. In a market where we have to compete heavily for talent, it is critical that I can both offer a high quality benefit package (one that competes with large employers) but also can afford the associated expense of such an offering. Over the years and even now, I could not find the same coverage in the small group community rated market. AHPs have played a significant part in my ability to attract and retain talent by providing great benefits.

I am writing today to express a few concerns about the proposed EBSA-2018-0001. I strongly believe expansion of AHPs is a great thing for healthcare and offers small and midsize sized businesses more options for providing meaningful health coverage. I can't express how critical this is to small companies.

As I applaud the goal of expanding AHP coverage, I'd like to address several provisions in the proposed rule that would negatively impact the market and prevent the expansion of AHPs, while also having significant impact on my current insurance market (Washington State).

These provisions could have an unintended consequence and could result in premium rates increasing.

While the Department's proposed rule aims to expand AHPs, there are several provisions that will deteriorate markets where AHPs currently have been operating and provide an uneven marketplace that would ultimately discourage the successful expansion of AHPs.

Additionally, with any change comes uncertainty and with uncertainty comes increased prices. The **effective date** of this rule needs to be carefully considered. We need 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.

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. We want a rule that maintains the quality of benefits available in the market.

**Nondiscrimination provisions affecting 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 Administration's goal of providing affordability through AHPs. This provision would cause increases in costs for my company and for thousands of small businesses. At a minimum, the Department should provide **grandfathering of existing AHPs**, allowing exemption from revised rules. Grandfathered AHPs should be allowed to continue their current practice of experience rating each employer member, while balancing the Department's concerns about risk selection.

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. I support expansion. As a small business owner I share my concerns about harming a marketplace that is working well for small businesses. We don't want to create an environment where premiums increase.

Thank you again for the opportunity to comment. Please do not hesitate to contact me with any questions at 206-859-2620.

Sincerely,

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