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Definition of Employer Under Section 3(5) of ERISA-Association Health Plans

Comment On: EBSA-2018-0001-0001

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Submitter Information

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General Comment

I am writing to oppose the rule. As written there are several items that would make it really difficult for me as a small business owner.

I currently get my company health insurance through an AHP. This has been a great way for me to offer comprehensive benefits to my employees and compete for talent. The benefits that I offer are affordable (when compared to market).

I am particularly concerned about the non discrimination section in the rule and elimination of employer-level rating. While AHPs are a single employer, it is important for the department to allow businesses to come and go from plans and retain some independence. Rating "one rate for all" isn't good for my business or for the AHP that we are a part of. Take the following example:

Two families go to a restaurant for dinner - it is all you can eat buffet for \$20/pp. Each family paid \$80. However, when you look at it closer having one rate for each person isn't necessarily equitable. Family 1 had a family of 2 adults and 2 Teenagers, all who consumed relatively the same amount of food. Family 2 was comprised of 1 adult, 1

elementary child, one toddler and one infant (who is bottle fed). By applying the same simple rate to each person coming to the restaurant Family 2 is effectively subsidizing the meal of Family 1. This is the same for the rating rules (non-discrimination provision) in the proposed rule. While I agree that health questionnaires should not be used in rate-setting, use of claims cost should be allowed as it shows the utilization rate on a plan and effectively gives COGS - a simple business concept that should be considered when pricing any product.

I am also very concerned about the elimination of essential benefits. Please include in the rule-making provisions that protect Americans from Insurance companies denying claims based on pre-existing conditions or from not covering essential needs.