



March 6, 2018

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

Re: RIN 1210-AB85, Definition of “Employer” under Section 3(5) of ERISA – Association Health Plans

On behalf of Solidarity HealthShare, a Catholic Health Care Sharing Ministry (“HCSM”) that is dedicated to meeting the conscience, cost and community needs of our members, I am writing to offer the following comments on the Department of Labor’s proposed rule to amend the definition of employer for the purposes of forming Association Health Plans (“AHPs”).

Solidarity supports the mission and vision of the Administration to make available a wider array of cost-effective options to help employers and individuals meet their healthcare financing needs. This should include an array of tools including traditional insurance products, expanded access to AHPs, and HCSMs. In addition to facilitating access to cost-effective tools, it is essential that the Administration protect the conscience rights of all parties by, among other actions, ensuring all federal conscience protections are fully enforced and ensuring no regulations are being implemented in ways that would force parties to or assist, in any way, shape or form, in the performance of services and procedures they find morally objectionable.

Over the following pages, I will offer some specific points for the Department to consider as you work to develop a proposed rule. But first, I will provide a little more background on Solidarity and our Catholic approach to healthcare sharing.

A Catholic Solution to Healthcare Sharing

As noted above, Solidarity is a Catholic HCSM that is based in Phoenix and includes members residing throughout the United States. The founders of Solidarity were inspired by the faith-based communities of Christian HCSMs and desired to found a ministry grounded in the religious and ethical teachings of the Catholic Church to fill a void and to restore and rebuild an authentic Catholic healthcare system. While Solidarity is a relatively new entrant to the HCSM sector, the organization’s roots go back to the Melita Christian Fellowship Hospital Aid Plan that has been engaged in healthcare sharing for more than 40 years.

Solidarity HealthShare is driven by three core tenets:

- Protecting our members' **consciences** in line with the teaching of the Catholic Church;
- Helping our members manage their healthcare **costs**; and
- Forming an authentic **community** of members.

Solidarity currently offers multiple sharing options to meet an array of healthcare and budgetary needs. Our goal is to be a solution for as many persons as possible and to help our members achieve optimal health and be good stewards of our limited healthcare resources. Like other HCSMs, Solidarity's sharing options are not insurance or a health plan. As we move further into our second full year of operations, Solidarity is excited about continued growth to achieve our vision of creating an authentic Catholic healthcare system.

Comments on Elements of the Proposed Rule

As noted above, Solidarity supports the Department's actions in this and other regulatory proposals to reform a broken healthcare marketplace by expanding access to alternative types of coverage including by expanding the ability of employers to form AHPs. The proposed rule seeks to balance the demand for more cost-effective arrangements with the need to ensure proper oversight and regulation, including by prohibiting such plans from discriminating against persons based on pre-existing conditions and other health factors, and the need to ensure AHPs have appropriate governance and related structures in place to maintain their operations. We feel the proposed rules strikes the appropriate balance between necessary requirements and member protections without becoming overly burdensome on employers.

Expanding "Commonality of Interest" Criteria

The proposed rule seeks to expand criteria that will allow employers to come together to form AHPs and would permit employers to do so if they are "(1) in the same trade, industry line of business or profession; or (2) have a principal place of business within a region that does not exceed the boundaries of the same State or the same metropolitan area (even if the metropolitan area includes more than one State)." As the Department considers potential modifications to the proposed rule's "commonality of interest" requirement, **I propose that you strongly consider expanding to include employers who are united by shared religious beliefs or moral convictions.**

By permitting AHPs to be formed among employers with shared religious beliefs or moral convictions and be treated as large group plans, the Administration will be able to further expand the number of Americans who stand to benefit via AHPs while doing so in a manner that does not force employers or employees to violate their consciences by paying for insurance coverage that includes services and procedures that conflict with their religious or moral beliefs. While HCSMs are able to meet many of these needs, HCSMs are not for everyone. Enabling AHPs to be organized along the lines of religious beliefs or morals would present another option for employers and employees concerned about these issues. This flexibility would also ease the burden of issuers and third party administrators that are currently tasked with accommodating employer groups that hold religious or moral objections to covering contraceptive services and other objectionable services and procedures. The specific service objections could be documented in the AHP's governing by-laws or similar formal organizational documents and would be transparent and readily accessible to interested employers and employees.

As part of our daily operation, Solidarity is increasingly engaging with employers of varying size who are concerned about their ability to offer support for their employees in ways that does not violate their conscience by forcing them to purchase coverage that includes services and procedures that violate their religious or moral beliefs. These include both non-profit and for-profit entities spanning a number of sectors of our economy. A growing number of these employers are interested in innovative arrangements that address these challenges. By allowing the formation of AHPs based on religious beliefs or moral convictions, the Administration would provide for another option to meet their healthcare financing needs.

Conclusion

In closing, I thank the Department for issuing this proposed rule aimed at increasing access to affordable health coverage tools and strongly urge you to consider expanding the commonality of interest bases by enabling AHPs to be formed based on shared religious beliefs or moral convictions of employers. By taking this action, the Department will enable employers to help meet the healthcare needs of their employees in a way that allows them to refrain from violating their consciences. Such a policy would be consistent with the aims of this Administration to both allow for more affordable access to health insurance and to better protect the conscience rights of the American people. I urge you to strongly consider including this element in the final rule and would be pleased to discuss this topic with appropriate personnel at their convenience.

Sincerely,

Bradley Hahn
CEO
Solidarity HealthShare