



R. Alexander Acosta
United States Department of Labor
900 Constitution Avenue NW
Washington, DC 20210

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

Dear Secretary Acosta:

The Indiana Credit Union League (ICUL) is the association for Indiana's credit unions, with a membership representing 98 percent of the state's credit union assets and their 2.4 million members. We appreciate the opportunity to submit a comment letter regarding this proposed rule for association health plans (AHPs). We are in favor of the expansion of AHPs as an option in the marketplace. This will benefit individuals, their families, and businesses by bringing more health coverage options to more people. However, there is one provision in the proposed rule—Prop. Reg. 2510. 3-5(d)(4)—that will result in unintended negative consequences. The nondiscrimination provision would have a very negative impact on AHPs such as the one serving 88 of our member credit unions in Indiana, as well as hindering the effectiveness of new AHPs.

The AHP that currently serves 88 of our member credit unions is the Credit Union Consortium and has more than 3,800 covered employees and dependents. The composition of the current AHP includes participating groups where up to two-thirds of the covered employees/dependents are in groups that could receive rates based on health factors elsewhere.

The nondiscrimination provision would undermine the approach that has allowed the AHP for Indiana's credit unions to function effectively. AHPs need the option to set rates for individual groups within the AHP based on a process that includes health factors and claims experience in order to represent an attractive option for retention of the groups and better achieve the objective of all participants benefiting from a lower shared administrative cost load. If two similar-sized credit union employee groups within the AHP have health factors/claims experience that justify one with a 4 percent rate increase and the other with a 10 percent rate increase, then not being allowed to base rates on health factors will drive away the lower health factors/claims experience group. The loss of groups will ultimately increase costs for all participants because the shared administrative cost load will increase for all participants when the AHP's size decreases. The loss of groups from the AHP with lower claims experience will subject the AHP to adverse selection.

Another consideration is how the nondiscrimination provision would work against groups within the AHP that take steps to pursue lower claims experience such as wellness programs and education of employees regarding lower cost options for medical procedures or treatments. The incentives to take these steps would be diminished.

We believe that Prop. Reg. 2510. 3-5(d)(4) should be eliminated from the final rule. However, if the provision cannot be eliminated, we would suggest an exception be created for groups that meet the following criteria:

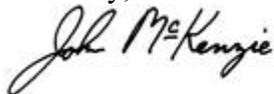
1. AHPs that are affiliated with a legitimate, bona fide trade association; and
2. AHPs that are registered with the applicable state insurance department(s) if they are self-funded; and
3. AHPs that provide group health plans that meet or exceed EHB standards.

The ICUL works with the other state associations for credit unions across the country. There is interest in more AHPs being formed by those state associations. Grandfathering existing AHPs to exempt them from the negative impact of the nondiscrimination provision, allowing them to continue rating groups using health factors, would help existing AHPs such as the one serving Indiana's credit unions. However, it would hinder and constrain the formation of new AHPs by credit union associations in other states, as well as new AHPs formed around other types of associations.

We appreciate the many provisions in the proposed rule that would encourage the growth of AHPs. However, the nondiscrimination provision would have a very negative impact on many existing well-functioning AHPs and discourage the formation of new ones. We contend that the nondiscrimination provision should be eliminated and a different approach taken to establishing safeguards such as those suggested in this letter.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive style with a large, stylized "J" and "M".

John McKenzie, President
Indiana Credit Union League