



March 6, 2018

The Honorable Alexander Acosta
Secretary
U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210

Dear Secretary Acosta:

We write to express our concerns regarding the United States Department of Labor's (DOL) proposed rule, "Definition of "Employer" under Section 3(5) of ERISA – Association Health Plans," published in the Federal Register on January 5, 2018 to change the standards that govern association health plans (AHPs). If adopted as final, this rule would gut important consumer protections, jeopardize access to affordable coverage and leave the District unable to protect our residents from fraud and abuse.

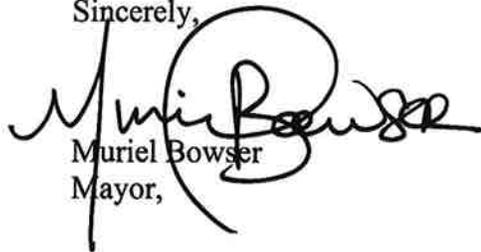
Previous administrations from both parties have worked to address fraud, abuse and insolvency in AHPs, including through Republican-led efforts in 1982 to ensure both states and the DOL were authorized to regulate these types of plans for the protection of businesses and consumers. The proposed rule disregards this record of bipartisanship by eliminating protections and oversight and creating new ambiguity on whether and to what extent AHPs would continue to be subject to state oversight.

In addition to creating loopholes to state insurance laws, this new rule would also allow for discrimination against women, older adults, and people with pre-existing conditions by exempting AHPs from consumer protections, such as the essential health benefits (EHBs) requirement, rate reforms, guaranteed issue, and single-risk pool requirements found in the Affordable Care Act (ACA). AHPs could refuse to cover maternity and mental health benefits; discriminate in rates by charging women, older adults, smaller businesses or certain industries higher rates; and engage in marketing practices to keep sicker small groups and people out. While the proposed rule does maintain the 1996 nondiscrimination standards, these are of limited utility where there is no EHB, rate reforms, guaranteed issue, and single-risk pool requirements.

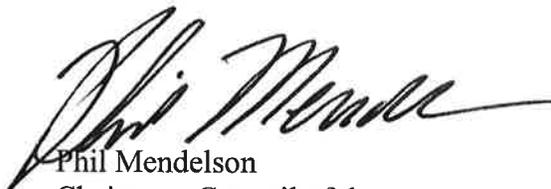
Under the ACA, we have made historic gains in expanding health care coverage to District residents. More than 96 percent of District residents now have health insurance coverage, which has helped create pathways to, and provided financial security among, the middle class. We rank among the top four states with the lowest uninsured rate in the country¹. The proposed rule would reverse this process by allowing these plans to cherry-pick the healthiest businesses and individuals, leaving sicker individuals in an increasingly destabilized market. That means that some people will be left with no affordable health insurance options. That is an unacceptable option for the more than 700,000 residents of Washington, DC.

We urge you to revise the proposed rule to make clear that there is no preemption of state laws and state oversight. We will continue to fight to ensure that all DC residents, no matter their background or situation, have access to the robust, affordable health care coverage they need and deserve.

Sincerely,



Muriel Bowser
Mayor,



Phil Mendelson
Chairman, Council of the
District of Columbia

¹ <https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-260.pdf>