



March 6, 2018

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

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

Dear Secretary R. Alexander Acosta:

As the largest and broadest-based business organization in Nevada, the Las Vegas Metro Chamber of Commerce (the “Metro Chamber”) is focused on helping Nevada businesses succeed and create jobs. Since the Metro Chamber’s founding in 1911, its core mission has been to support its members and their employees in achieving these successes. The Metro Chamber is committed to addressing healthcare issues on behalf of its members and their approximately 230,000 employees.

Employers, including those in Nevada, consider various factors when determining whether to sponsor healthcare plans, such as: changes in the delivery and cost of healthcare, coverage of benefits, coordination among the various providers of healthcare, legislative and regulatory mandates, as well as efforts to improve the regional quality of healthcare. As a result, the Metro Chamber fully supports the efforts by the U.S. Department of Labor (“DOL”) to promote and expand healthcare choices to Nevada’s employers and employees, as proposed by DOL in its expanding the availability of Association Health Plans, RIN 1210-AB85.

### ***The Metro Chamber***

For more than 28 years, the Metro Chamber offered quality health insurance plans to more than 2,700-member organizations that covered 21,000 lives from small employers of fewer than fifty employees in Southern Nevada. In the later years of the program, the Metro Chamber created an LLC called Chamber Insurance and Benefits (“CIB”) to help members of the Metro Chamber by providing comprehensive benefits for members, their employees and families. There were between 9 and 10 different plan choices available, all of which were provided through one single carrier, namely Health Plan of Nevada (HMO and POS plans) and its sister company, Sierra



Health & Life (PPO, Dental, Vision and Life). The management and the products that were offered by CIB were well regarded by stakeholders, regulators and customers.

However, as a result of changes in federal law associated with the Affordable Care Act (“ACA”), the number of lives covered by CIB dropped to 16,000 in 2013. In an effort to help our members retain their previous coverage as long as possible, CIB offered an “Early Renewal” on December 1, 2013, as did most carriers and plans, so that those groups most adversely affected (the younger and/or small utilization demographic in particular) could remain on their plans for an additional 11 months into 2014. CIB retained approximately 1,600 groups through this early renewal process, but the entire remaining book of business had to be “mapped over” to ACA-compliant plans upon the following renewal on December 1, 2014. The ACA-compliant plan requirement was put into effect, and the Chamber Health Plan ceased to operate by the end of 2014. Some of the contributing factors were both the statutory requirements of the ACAs insurance market reforms applicable in the small group, the agencies’ implementation of those requirements, and guidance addressing association health plans issued by the Center for Consumer Information and Insurance Oversight (“CCIIO”).

Specifically, in 2011, CCIIO guidance required many of the Chamber Insurance Plan members to be subject to more restrictive “adjusted community rating” guidelines as small group employers versus being included as part of the CIBs overall large employer group arrangement. “Adjusted community rating” along with “rate-band compression” changed the range structure from 5:1 to 3:1; members with younger employees and lower claims experience found themselves facing premium increases of 100-300 percent. Conversely, members with older employees nearing Medicare eligibility age with significant health concerns experienced significant premium decreases, some paying 25 percent less in premiums than prior to the change in guidance.

Another significant change that impacted the Metro Chamber’s “mom & pop” members was the determination that working spouses could no longer qualify as a small group, which meant that a W-2 employee could not be the spouse of the business owner. Under the “Chamber Health Plan”, CIB was able to provide these members small group coverage, which was important to the Metro Chamber’s small business owners. This change alone affected several hundred members, forcing them to seek individual policies that were, in most cases, significantly higher in price. In a recent survey of these former Metro Chamber members who had lost their coverage options with CIB because of the ACA, 90 percent have indicated that they have some level of concern with the costs of healthcare with 80 percent expressing very concerned.

One last factor adversely affecting the Chamber Health Plan and the key item that made it impossible to remain “price advantaged” in the market was that the ACA prescribes that all ACA compliant plans must be sold for the same price to consumers, regardless of where it is bought.



The former “Chamber Health Plan” had an approved 5 percent filed discount off the street rate for Metro Chamber members only. The Metro Chamber had the right to cancel their coverage if they were late on their dues. Without that discount being accessible to the Metro Chamber, the Chamber Health Plan became a commodity.

It should be noted that the Chamber Insurance Plan offered by CIB had been designated as the benchmark plan for essential health benefit (“EHB”) coverage that was required in Nevada beginning in 2014 under ACA guidelines, so the ACA’s EHB requirement did not pose as significant a burden.

### ***Nevada’s Insurance Markets***

In Nevada, the State’s Division of Insurance (“DOI”) has tried to maintain stability in health insurance markets by expediting rate filing for plan year 2018. However, access to high-quality, affordable, small group and individual coverage remains a concern for Nevadans and Nevada small businesses.

For the Metro Chamber, quality and affordable healthcare plans are important to our organization since more than 85 percent of our members are small business employers. Our members seek affordable plans that offer coverage components such as prescription drug coverage, provider choice, hospital care, flexibility in deductible and cost shares, out-of-pocket limits and emergency coverage.

In 2017, Nevada experienced significant challenges that impacted the Nevada Health Link Exchange (the state’s health insurance exchange), including a major healthcare payer leaving 14 of Nevada’s 17 counties without a choice on the exchange. Since then, “on-exchange” plans in 2018 have had rate increases of more than 40 percent. Nevada’s DOI is now looking at various options to bring stability to the individual and small group markets, including establishment of high risk pools and Medicaid buy-in/public health benefit plans. To address increases in premium, Nevada’s health insurers are also shrinking provider networks in order to more directly manage the increasing cost of care. Members and former members have expressed their concerns with the Chamber about the current state of healthcare. They have reported that small employers in Nevada have faced the following challenges:

- Experiencing significant rate increases for the different plans made available with less coverage each proceeding year; one of the Metro Chamber’s members stated that “the first year of coverage under the ACA Platinum Level PPO coverage averaged \$1,000 per month; the second-year rates for Silver Level PPO rose to \$1,400 a month; and this year the pricing for a Bronze Level PPO has risen to \$1,800”;



- Another member stated that they are experiencing “Increasing monthly premiums ranging from 20 to 40 percent per year with fewer benefits being offered as part of their healthcare coverage”;
- Increasing costs are untenable and the options are extremely limited in Nevada, resulting in employers seeking secondary employment to access affordable healthcare coverage;
- Our members and previous members are frustrated that they are no longer able to offer group coverage to their employees because of the increasing costs that they have experienced under the ACA;
- We also received feedback that overall insurance costs have dramatically increased in recent years;

### ***The Proposed Rule***

The Metro Chamber believes the proposed rule by the DOL is a positive development, as it would create new opportunities for our members to access additional healthcare options through chambers of commerce and trade associations. As proposed, these provisions could significantly help small businesses in addressing the healthcare challenges that they face because it would allow them to join association health plans either by industry or geographic region.

In a recent healthcare survey to Metro Chamber members, 65.64 percent of respondents indicated that they would be interested in participating in association-based group health insurance plan with large-group pricing advantages, if it was offered by the Metro Chamber. In a similar survey sent to former Metro Chamber members, 84 percent of respondents would be interested in participating in a healthcare plan that was offered by the Metro Chamber. This is a strong indication for the need of additional healthcare coverage at competitive pricing for small businesses in Nevada. Costs and the scope of coverage are important factors for small businesses and a growing concern for them under existing ACA rules and guidelines.

Becoming part of the larger group would potentially allow small businesses to benefit from fewer regulatory requirements than they currently experience in the small group market. Small businesses would also benefit from a reduction in administrative cost. Becoming part of the larger group would also strengthen small business’ ability to negotiate for more favorable coverage and benefits from providers and give them the ability to self-insure. Over 90 percent



of respondents expressed some level of concern over the costs of healthcare that they provide to their employees through existing group health insurance coverage. In that same survey, 51.61 percent of respondents indicated that their total health insurance costs for their business incurred an increase in the last twelve months, while only 3.23 percent saw a decrease in their costs during the same twelve-month period. Regarding costs, 53.9 percent of members also expressed some level of dissatisfaction with the cost of their business' health insurance coverage.

The Metro Chamber is supportive of the following components of the proposed rule:

- The revisions of the DOLs regulations implementing the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) definition of “employer” to include a qualifying group or association of employers such as chambers of commerce;
- The broadening of the rule determining when an employer association can sponsor the new qualifying association health plans and qualify as a single large plan at the federal level;
- Allowing for the ability of association healthcare plans to be offered to employers within a geographically limited area across industries, or to employers in the same industry without geographic restrictions;
- Allowing association healthcare plans to include small or large employers and sole proprietors, which will give all employers and businesses the opportunity to access these plans;
- Allowing eligibility for sole proprietors who are working 30 hours or more per week or more than 120 hours a month;
- Specifying the requirements for sponsorship of association healthcare plans by qualifying groups of employers or associations, including both organizational, control and management, and non-discrimination requirement.

The Metro Chamber would also like to offer several suggestions that we believe will strengthen the efforts to expand healthcare plans offered by trade associations and chambers of commerce:



- Allow for coverage to be purchased by an employer (including by working owners) from an association healthcare plan regardless of whether that employer/employee has coverage offered from another source (*i.e.*, spouse employer, Marketplace, Medicaid or any other plan offered);
- Clarify and strengthen that under the proposed rule, an eligible working owner and his/her spouse under the association health plan would be eligible for coverage, regardless of whether the working owner-spouse met the 30 hours a week or 120 hours a month working requirement,
- Clarify that the association healthcare plans can be structured in any form, including both fully-insured and self-funded Multiple Employer Welfare Arrangements;
- Maintain and preserve the rule of No Management Carve Out from plans, which permits the small employer to offer coverage to their employees and to contribute to the cost of the employee coverage;
- Allow association health plans to offer more than one plan choice in the small employer group.

The Metro Chamber's members have made clear that the concerns of Nevada's business community need to be addressed in a timely manner. The Metro Chamber applauds the DOL on its efforts in addressing these healthcare concerns with the proposed expansion of association health plans. Therefore, it is the hope of the Metro Chamber that the DOL will expedite and adopt these rules as soon as possible because of the growing need for Nevada's small business to access affordable healthcare options, at least in time to ensure that the Metro Chamber can offer coverage for the 2019 calendar year. The Metro Chamber is fully committed to serving Nevada's business community, which includes the employers, employees and residents through the possibility of once again offering them a healthcare plan through CIB.

The Metro Chamber's reputation as Nevada's leading business association is a result of a strong commitment of generations of visionary leadership, partnerships and engagement over its 107-year history. The Metro Chamber is an integral part of our community's history and a solid foundation to our future successes. The Metro Chamber's commitment to providing reliable and affordable healthcare products is evident in the reputation that it has built in its almost 30 years of operation and considered to be a benchmark plan by many stakeholders in Nevada, including the Nevada's DOI.



It is important to note that CIB has maintained its article of incorporation, business licensing requirements, board of managers and remains in good standing. We estimate that 72 percent of former members who were covered by CIB would rejoin the Metro Chamber because of the stellar reputation, coverage options and affordability that they had previously experienced with CIB. It is our belief that CIB would be able to quickly move forward in offering healthcare options to the business community again as CIB has remained active by offering other benefit products to our members in Southern Nevada since the implementation of the ACA. We are ready to move forward and look forward to the release of the final rule later this year.

Thank you for allowing the Las Vegas Metro Chamber of Commerce to offer its support for the expansion of healthcare by the proposed revisions to the Association Health Plans. If we can be of any assistance or provide you with additional information, please feel free to contact us at 702.641.5822.

Sincerely,

A handwritten signature in black ink that reads "Mary Beth Sewald".

Mary Beth Sewald  
President and CEO

A handwritten signature in black ink that reads "Michael F. Bolognini".

Michael F. Bolognini  
Board of Trustees, Chairman