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Office of Regulations and Interpretations
Employee Benefits Security Administration Room N – 5655
US Department of Labor
200 Constitution Avenue NW
Washington DC 20210

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To the Honorable Phyllis Borzi:

The Montana Chamber of Commerce appreciates the opportunity to comment on the proposed rules regarding Association Health Plans (AHPs). We welcome a review of existing ERISA law in relation to AHPs, as the current law has encumbered these innovative health care plans.

For over a decade, our “Montana Chamber Choices” Association Health allowed us to cover over 1,500 employers and their 20,000 employees and family members, many of whom would have had difficulty affording coverage otherwise. In addition to the affordable rates, our AHP also offered wellness, dental, vision, and even life benefits.

We discontinued these plans due to the dramatic regulatory changes to AHPs by the Patient Protection and Affordable Care Act in 2010. Since that time, the Montana Chamber has endorsed a self-funded, small-group plan.

While it is impossible to recreate the previous AHP market environment, we welcome any rule changes which will increase the availability of high-quality, affordable health care in Montana. With that in mind, we have several comments regarding the new proposed rules:

1. **Pre-Emption of State Laws:** While we are proud of our track record in providing high-quality care through “Montana Chamber Choices,” we acknowledge that AHPs have historically had problems with insolvency, fraud, and abuse. The proposed rules simply go too far in the other direction. We believe that state-level oversight of Multiple Employer Welfare Arrangements (MEWAs) is a fair arrangement. Therefore, we advocate that state-level oversight remains intact.
2. While the proposed rules dictate that AHP status in large group plans would not change, we are uncertain about the actual authority states would have to regulate AHPs as they have done in the past. This uncertainty may cause drawn-out court battles between the states and Federal government over who has final regulatory authority of AHPs. Lack of clarity in responsibility for oversight will have great regulatory and tax implications for associations, employers, and employees.
3. **Maintain the Current Definition of a “Bona Fide” Association:** We support keeping the definition of “bona fide” focused on associations with a primary purpose other than providing health care coverage. We do not support allowing an association to form with the sole purpose of providing an AHP. Nor do we any additional solvency requirements other than those already required by state law.

4. We support the concepts of “Working Owners” and “Dual Treatment” but with concerns. We feel including the self-employed in AHPs is a positive step to provide high-quality, affordable health care for more people. We recommend further refinement of the “working owners” eligibility, such as requiring a participant’s state or federal income tax filings.

We are encouraged by the U.S. Department of Labor re-examining the rules governing AHPs and looking at ways to build a health care market that benefits employers and employees. We ask that you consider all factors before finalizing this importance piece of health care law. With our recommended changes, we can create a high-quality health care system all Americans can afford and enjoy.

Please feel free to contact me with any questions or concerns on our comments. Thank you. I can be reached at (406) 442-2405 or Webb@MontanaChamber.com.

Sincerely,



Webb Scott Brown
President & CEO