

February 15, 2024

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

Attention: Proposed Rescission of AHP Final Rule RIN 1210-AC16

To Whom It May Concern:

We are pleased to offer our comments on the Department of Labor’s (Department or DOL) proposal to rescind the 2018 rule “Definition of Employer—Association Health Plans” (2018 AHP Rule). We write as the chief insurance regulators of our respective states and members of the National Association of Insurance Commissioners (NAIC).

We support a return to the Department’s pre-2018 AHP Rule guidance as it has been expressed in Advisory Opinions over the past 30 years, in the DOL publication *MEWAs Multiple Employer Welfare Arrangements under the Employee Retirement Income Security Act (ERISA): A Guide to Federal and State Regulation*, and in the explanations of DOL’s pre-rule guidance in this NPRM. We appreciate that both the 2018 AHP Rule and the pre-2018 AHP Rule guidance preserves State Insurance Department regulatory authority over MEWAs, including AHPs (largely indirectly in the case of fully-insured MEWAs; directly in the case of non-fully-insured MEWAs). Given the long and troubled history of MEWAs, this authority was given to the states in recognition that states remain in the best position to monitor closely what is happening in their insurance markets and have the tools in place to respond quickly to any issues.

As the NAIC stated in its comments to the proposed 2018 AHP rule, we want to reiterate that coordination between DOL and State Insurance Departments must remain a priority. The NAIC has enjoyed a long-standing cooperative relationship with the DOL, especially with respect to MEWAs. The DOL and states have worked together to identify bad actors and support the coordinated use of state and federal tools to prevent harm to consumers. We need to remain vigilant as any perceived changes to the regulatory landscape provide opportunities for unscrupulous actors to take advantage of potential ambiguities. We look forward to continuing to work together to guard against MEWA fraud, abuse and insolvencies that ultimately harm consumers.

We thank you for the opportunity to comment and look forward to continuing to work together to protect consumers in this shared space.

Sincerely,

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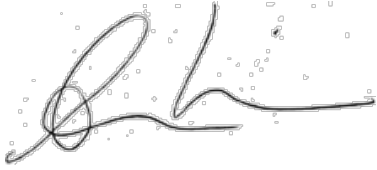
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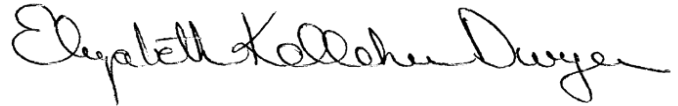
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