



Owen & Associates

Association of Health Plans

Final Rule Released

June 20, 2018

The Trump Administration released a final rule regarding Association Health Plans. The rule was in response to an executive order issued by President Trump on October 12 to expand the availability of AHPs, short-term limited duration insurance policies and HRAs. The proposal calls for a revision to ERISA in order to redefine "employer" to allow more groups to qualify as associations and treating health coverage sponsored by an employer association as a single group health plan that would not be subject to the ACA's essential health benefits.

The final rule does not differ much from the proposed rule that came out in January, and the Congressional Budget Office now estimates that 4 million Americans, including 400,000 who otherwise would lack insurance, will join an AHP by 2023.

The goal of the rule is to provide small-business owners, employees of small businesses and family members of working owners/employees more coverage options, more affordable pricing, enhanced ability to self-insure, less regulatory burden and complexity, and reduced administrative costs.

The rule does this by eliminating the requirement that an association exist for a bona fide purpose other than offering health coverage. To qualify under the rule, employers would need to be either in the same trade, industry, line of business or profession, or have a principal place of business within a region that does not exceed the boundaries of the same state or the same metropolitan area. Therefore, AHPs could cross state lines if the metropolitan area includes more than one state. These plans would be subject to state regulation of insurance and plans across multiple states could be subject to varying rules. The Department of Labor has committed to continuing to partner with states to protect consumers and enforce state regulations.

Under the final rule, self-employed individuals, sole proprietors and common-law employees would be permitted to join an AHP. These individuals would be treated as an employee of the trade or business for purposes of being covered by the AHP. The proposal includes non-discrimination protections to avoid potential of adverse selection. It would require that the association not restrict membership based on any health factor, as defined in the HIPAA/ACA health nondiscrimination rules.

The final rule has staggered dates for implementation: (1) All associations (new or existing) may establish a fully insured AHP on September 1, 2018. (2) Existing associations that sponsored an AHP on or before the date the final rule was published may establish a self-funded AHP on January 1, 2019. (3) All other associations (new or existing) may establish a self-funded AHP on April 1, 2019.