

Publications

DOL Finalizes Association Health Plan Rule, Allowing for Expanded Availability of Association Health Plans

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On June 19, the Department of Labor (“DOL”) released a final rule, “Definition of ‘Employer’ Under Section 3(5) of ERISA—Association Health Plans” (“AHP Final Rule”). 83 Fed. Reg. 28912 (June 21, 2018). The AHP Final Rule – which largely follows the proposed rule – expands the universe of arrangements that can qualify as an association health plan (“AHP”) for purposes of ERISA and also applies large group treatment to qualifying AHP coverage. The AHP Final Rule achieves this by broadening the criteria under ERISA for determining when employers may join together in an association that is treated as the ERISA “employer” of a single group health plan (and by allowing certain self-employed persons to be treated as employers for this purpose). According to the Preamble, the AHP Final Rule “facilitates the adoption and administration of AHPs and expands access to affordable health coverage, especially for employees of small employers and certain self-employed individuals.”

Significantly, the AHP Final Rule creates “two tracks” for AHPs, by allowing both new and existing associations to sponsor AHPs under either the current set of DOL sub-regulatory guidance, or the new AHP Final Rule. The most important consequence for federal law purposes is that AHPs that qualify under existing DOL guidance (limited to the same industry and no “working owners,” i.e., no self-employed persons) may be able to continue to set premium rates employer-by-employer based on the claims experience of each employer.

For more information on the AHP Final Rule changes, please view the memo below.

- [DOL Finalizes Association Health Plan Rule](#)