

## New Rules Would Expand Access to Association Health Plans for Small Businesses

Last week, the U.S. Department of Labor (DOL) issued [proposed rules](#) to expand access to “Association Health Plans” for small businesses that are unaffiliated, but are in the same line of business or geographic area. An “Association Health Plan” or “AHP” is a group health plan adopted by members of an employer association to provide health coverage for their employees.

The new rules would expand the types of associations that can sponsor an AHP in two ways. Under the proposed rules, employers in the same industry or line of business could band together solely for the purpose of providing group health coverage to their employees. For example, the new rules would allow small employers in such businesses as restaurants, retail sales, health services, senior care and retirement community operations to band together to purchase coverage under a single group health plan. Under the proposed rules, an employer association established for this purpose would not need to serve a function other than enabling the employers to adopt an AHP.

The rules would also permit employers in the same geographic location to form an association for the purpose of adopting an AHP, regardless of the employers’ type of business. The association could be open to any employer with a principal place of business in the same state, or in a metropolitan area spread across bordering states. This change would eliminate the current DOL requirement that the members of an association have a business relationship other than the common health plan.

Under the proposed rules, the employer association would need to have a formal organizational structure, with a governing body and by-laws. The association’s activities, including adopting and maintaining the AHP, would need to be controlled by the members of the association, either directly or through elected representatives.

The proposed rules would prohibit an association from setting different premium rates under the AHP for an employer based on the health status or claims history of its employees. Premium rates and eligibility criteria could vary, however, based on nondiscriminatory job classifications, such as part-time or full-time, or by industry.

by *Judith W. Boyette & Elizabeth J. Masson*



According to the DOL, the proposed rules are intended to give small employers better access to more affordable, high-quality health coverage through an AHP. The proposed rules respond to an [Executive Order](#), directing the DOL to expand access to AHPs for small employers, and “consider ways to promote AHP formation on the basis of common geography or industry.” The DOL will accept comments on the proposed rules through March 6, 2018. Hanson Bridgett’s employee benefits practice group will monitor the rule-making process, and notify clients when the rules become final.

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