



March 2, 2018

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

Re: Proposed Regulation: Definition of “Employer” Under Security Administration, Department of Labor

To Whom It May Concern:

The Ohio Credit Union League (OCUL) welcomes the opportunity to submit comments concerning the proposed regulation which would alter the definition of “employer” as it relates to Association Health Plans (AHP). Overall, we believe the proposed regulation contains many positive changes intended to reduce regulatory constraints on AHPs. However, we are particularly concerned with the proposed section 2510.3-5(d)(4) and request its removal.

As the trade association representing Ohio’s 284 credit unions and their nearly three million members, we work collaboratively with various other state and national credit union associations to help create a strong and efficient operating environment. As non-profit financial cooperatives, credit unions provide services and products to their member-owners which are non-predatory and consumer-friendly. Embodying the cooperative philosophy, OCUL and other associations work collaboratively to provide credit unions and their members with products and tools to further their “people helping people” mission.

While we support and welcome decreased regulation which empowers AHPs to provide a competitive and much needed option in the marketplace, we are concerned with the proposed change to section 2510.3-5(d)(4) which states that “In applying the nondiscrimination provisions of paragraphs (d)(2) and (3) of this section, the group or association may not treat different employer members of the group or association as distinct groups of similarly-situated individuals.” Historically, the success of AHPs has been based on combining volume to reduce the overall administrative costs for all participants, while appropriately risk-rating individual groups within the AHP based on a multitude of factors. This new provision is counter to the entire proposed regulation’s objective: expand access to more affordable health coverage by permitting small employers to form AHPs, such as credit unions. Should AHPs no longer be able to risk-rate individual groups, those groups within an AHP with lower health claims’ history or experience will have a higher rate, resulting in adverse selection. To ensure the proposed regulation meets its stated objective the non-discrimination clause referenced above should be removed in its entirety.

We appreciate the Department of Labor taking the opportunity to modernize regulations pertaining to AHPs to maximize the utility of such plans so that employers can provide competitive health insurance to their employees. We respectfully request the non-discrimination clause be struck from the proposed regulation. Thank you for your consideration and opportunity to provide industry feedback.

Respectfully,

A handwritten signature in black ink, appearing to be 'John A. ...'.

A handwritten signature in black ink, appearing to be 'Michele ...'.





Paul L. Mercer  
President

Miriah Lee  
Manager of Policy Impact



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