

Congress of the United States
Washington, DC 20515

February 5, 2024

Assistant Secretary Lisa M. Gomez
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Dear Assistant Secretary Gomez:

We are writing today in response to the Employee Benefits Security Administration's (EBSA) proposed rulemaking entitled "Definition of "Employer"-Association Health Plans" (RIN: 1210-AC16).

It is disappointing that such politically-motivated falsehoods were put forth in the proposed rule, which unfairly characterize association health plans (AHPs) as a substandard option for small business owners and independent contractors to gain coverage, rather than the truth – in many cases, AHPs are a superior option to ACA-compliant individual and small group plans.

It is inappropriate to insinuate that AHPs are any sort of end-run around the Affordable Care Act's requirement that essential health benefits (EHBs) be covered. In fact, according to the Coalition to Protect and Promote Association Health Plans, their members *voluntarily* cover all ten of the ACA's EHBs. Further, AHPs offer access to broader provider networks with lower deductibles for comprehensive coverage, which equally incentivizes both young, healthy individuals and less healthy, high-medical utilizers to enroll.¹ Most importantly, AHPs protect people with pre-existing conditions, as required by both federal and state law.

After the Trump Administration's AHP rule was issued in 2018, many states rushed to promote the formation of new AHPs, seeing well that small business owners, independent contractors, and others would stand to benefit from access to affordable, high-quality employee benefit plans². Unfortunately, after the rule was struck down in federal court after challenge by liberal state attorneys general, the much-needed expansion of AHPs to more Americans was halted.

In their analysis of the 2018 AHP rule, the Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) found that AHP premiums would be "on average, roughly 30 percent lower than premiums for fully regulated small-group coverage."³ CBO and JCT also found that AHPs would provide coverage to 400,000 employees of small employers who did not previously have insurance, which is a coverage gain. As American families struggle with higher

¹ <https://sbecouncil.org/2023/06/07/small-business-coalition-to-congress-urging-an-improvement-in-affordable-health-coverage-choices/>

² [https://www.mercer.com/en-us/insights/law-and-policy/more-states-approve-pathway-association-health-plans/#:~:text=State%20AHP%20Activity,%2C%20Kansas%20\(2019%20Sess](https://www.mercer.com/en-us/insights/law-and-policy/more-states-approve-pathway-association-health-plans/#:~:text=State%20AHP%20Activity,%2C%20Kansas%20(2019%20Sess)

³ https://www.cbo.gov/system/files/2019-01/54915-New_Rules_for_AHPs_STPs.pdf

cost of living under this administration, we shouldn't turn our back on ways to provide quality health coverage at a lower premium.

As the landscape for small business owners and independent contractors to grow and succeed has been in many ways stifled by the rise in inflation and burdensome regulatory regime by this Administration, we feel strongly that comprehensive and affordable coverage options like AHPs should be championed, rather than unfairly maligned.

In closing, we urge that DOL not use rescission of the 2018 rule as an opportunity to impose undue regulatory pressure on existing AHPs or make it more difficult for new AHPs to form. It is clear that the Biden Administration has a political axe to grind against this innovative method for more Americans to acquire quality health insurance.

Thank you for your response and attention to this matter. If you have any questions, please do not hesitate to contact my office.

Sincerely,



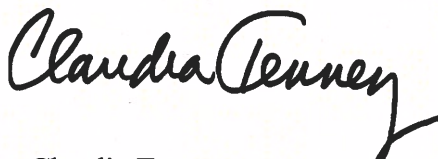
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Member of Congress



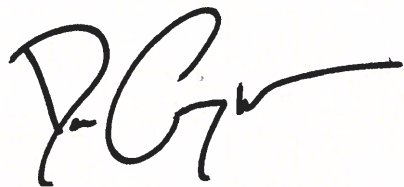
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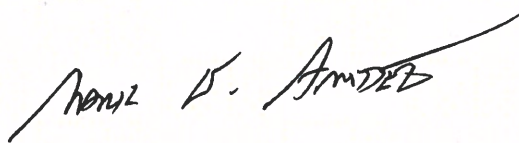
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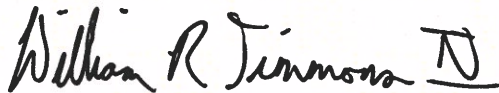
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