

February 15, 2024

The Honorable Lisa Gomez  
Assistant Secretary of Labor  
Employee Benefits Security Administration U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Submitted via the Federal eRulemaking Portal: <https://www.regulations.gov>

RE: Definition of 'Employer' – Association Health Plans (RIN 1210-AC16)

Dear Assistant Secretary Gomez,

Asset Solutions Group, Inc. (ASG) appreciates the opportunity to provide comments on the Proposed Rule: "Definition of 'Employer' – Association Health Plans," as published in the Federal Register on December 20, 2023 (88 FR 87968).

ASG is a brokerage/consulting company that represents multiple fully insured Multiple Employer Welfare Arrangement (MEWA) trusts in several western states. We only represent MEWA trusts, eliminating all conflicts that most brokers face when representing both the association and the member employers. Additionally, this focus allows us to better understand ERISA as it pertains to MEWAs and to state insurance law.

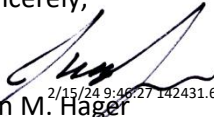
ASG believes that everyone should have access to high-quality health care. We recognize the long-standing role that bona fide associations have played, under pre-2018 guidance, in making health coverage more affordable for certain employers and their workers. Our key recommendations regarding the proposed rule are as follows:

- **Rescind the 2018 AHP Final Rule:** ASG supports the DOL's proposal to rescind the 2018 rule in full. Despite the fact that a majority of the 2018 rule was set aside by the [U.S. District Court for the District of Columbia on March 28, 2019](#), the rule still remains codified in regulation, creating confusion for attorneys trying to give advice to association health plans. Additionally, subsections (a), (d), (f) and (g) that remain essentially duplicate law or regulations elsewhere or are nonsensical without the sections that were set aside.
- **Do Not Proceed with Additional Rulemaking or Guidance:** As the Department of Labor (DOL) outlines in the preamble to the proposed rule, history illustrates the need for a strong regulatory framework for coverage sold to small employers. After the enactment of ERISA, scam operators proliferated in the association market claiming to be exempt from state regulation under ERISA. Recognizing this problem, Congress amended ERISA in 1983 to allow states to protect small employers. Over the past several decades, the DOL and state regulators have created a strong regulatory framework that supports legitimate associations that meet the requirements of current federal guidance as additional options for small group employers. Opening the existing regulatory framework that has been working effectively for decades to new rulemaking or guidance could threaten access to coverage.

- **Do Not Make Changes to Existing AHP Criteria:** Despite their history, bona fide associations are an important source of health insurance coverage for small employers across the country today. Moreover, both the individual and small group markets nationally have been relatively stable in recent years. There is no need to modify existing AHP criteria to support individual or small group market stability.

We appreciate your consideration of our comments. If you have any questions or want additional information, please contact Jon Hager at [Jon@AHPExperts.com](mailto:Jon@AHPExperts.com).

Sincerely,



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Jon M. Hager  
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