



STATE OF INDIANA

ERIC J. HOLCOMB, GOVERNOR

Indiana Department of Insurance

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February 20, 2024

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Lisa Gomez
Assistant Secretary
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

RE: Definition of “Employer” – Association Health Plans Proposed Rule [RIN 1210-AC16]
Proposed Rescission of AHP Final Rule

Dear Acting Secretary Su and Assistant Secretary Gomez:

The Indiana Department of Insurance (Department) appreciates the opportunity to comment on the proposed rule, “Definition of ‘Employer’ – Association Health Plans” (Proposed Rule), which will rescind the 2018 Association Health Plans rule (2018 AHP Rule). The Department writes as the chief insurance regulator for the State of Indiana to share comments on the Proposed Rule and express its concerns.

The Department opposes the adoption of the Proposed Rule in its current state and the rescission of the 2018 AHP Rule. The 2018 AHP Rule expanded the definition of “employer,” as defined by ERISA, and made it easier for small group employers and sole proprietors to “band together” to form a single, large group employer for the purpose of ACA market regulation. The 2018 AHP Rule created more lenient criteria for these businesses to band together to form a singular, large group employer, namely: (1) The group must form for at least one substantive reason other than seeking health insurance coverage for its members; (2) its members must be in the same trade/business or geographic area; and (3) the members must keep some semblance of control over the AHP. Numerous sole proprietors and chambers of commerce across the country took advantage of this more lenient criteria to form “new” single, large employer groups for the purpose of ACA market regulation.

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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The promulgation of the 2018 AHP Rule provided a unique opportunity for Hoosiers to come together and work toward finding lower cost health insurance options for business owners and their employees. If the Proposed Rule is enacted in its current form, Hoosier businesses will find themselves with fewer options for obtaining health insurance coverage at a lower cost for themselves and their employees. Ultimately, businesses and consumers alike benefit from having more options, not fewer.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Amy L. Beard".

Amy L. Beard
Commissioner
Indiana Department of Insurance
State of Indiana