

Point32Health

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February 20, 2024

The Honorable Julie Su
Acting Secretary of Labor
Department of Labor, EBSA/ ORI
200 Constitution Ave. NW, Rm. N-5655
Washington, DC 20210

Submitted electronically via the Federal Regulations <http://www.regulations.gov>

Re: RIN 1210-AC16, Definition of Employer-Association Health Plans

Dear Acting Secretary Su:

Point32Health welcomes the opportunity to provide insights concerning the Proposed Rule: Definition of “Employer”-Association Health Plans.

Who We Are

Point32Health is a leading health and well-being organization, delivering an ever-better healthcare experience to everyone in our communities. Building on the quality, nonprofit heritage of our founding organizations, Tufts Health Plan and Harvard Pilgrim Health Care, we leverage our experience and expertise to help people find their version of healthier living through a broad range of health plans and tools that make navigating health and wellbeing easier.

Our programs take a 360-degree view of health for our members -- no matter their age, health, identity, or income. Our foundation works with communities to support, advocate, and advance healthier lives for everyone and our Institute works to improve population health. We use empathy to understand what’s important to those we serve, always making their priorities our own. We work to guide and empower people by bringing together wide-ranging partners and perspectives to create new approaches that make a real difference for both our industry and our 2.2 million members across the United States. We are proud that our Harvard Pilgrim Health Care Commercial Combined HMO, PPO and POS plans in Massachusetts and Maine, our Exchange HMO plans in Massachusetts and Maine, as well as Tufts Health Plan’s Medicaid and Exchange HMO plans, have received full Health Equity Accreditation from the National Committee for Quality Assurance (NCQA). And we are consistently a highly rated Medicare Advantage plan. For eight years, from Star 2016 (measurement year 2014) to Star 2023 (measurement year 2021), our Tufts Medicare Preferred HMO plan received a 5-star rating from the Centers for Medicare & Medicaid Services, the highest rating possible. For Star 2024 (measurement year 2022), we achieved a 4.5 star rating.

We are proud that Point32Health was recently recognized for the second year in a row as one of the 50 most community-minded companies in the nation by Points of Light, the world’s largest nonprofit dedicated to volunteer service. A national standard for corporate citizenship, The Civic 50 showcases



Guiding and empowering
healthier lives



how leading companies are incorporating social impact, civic engagement, and community integration into their practices and values.

Our Comments on the Proposed Rule

We value the Department of Labor's (DOL) initiative to reevaluate the regulatory treatment of Association Health Plans (AHPs). We support DOL's proposal to revoke the 2018 AHP Final Rule and uphold the pre-2018 guidance for pathway 1 AHPs. However, we would prefer Pathway 1 guidance to be clearly codified rather than relying solely on a multitude of sub-regulatory measures and DOL opinions that have been issued over time.

We encourage federal policymakers to seek other ways to increase the affordability of small group coverage. In a 2023 survey commissioned by the National Federation of Independent Business (NFIB), results reveal that only 56% of small businesses with employees provide health insurance to their staff, while [44%](#) do not. A significant disparity emerges based on business size: [89%](#) of small businesses with 30 or more employees offer health insurance, whereas only [39%](#) of those with fewer than 10 employees do so. Among the [44%](#) of small businesses not offering health insurance, [65%](#) cite cost as the primary barrier, deeming it too expensive to provide coverage. According to the Kaiser Family Foundation, the percentage of small employers offering coverage has dropped significantly from the turn of the century. In 2023, the annual Kaiser Family Foundation Employer Benefit Survey indicated only [50%](#) of firms size 3-49 were offering health coverage, down from [63%](#) in 1999.

The Affordable Care Act, included provisions for a tax credit for small employers. However, relatively few small employers were able to access the credit because of a complex set of regulatory criteria. We encourage federal policymakers to make subsidies for small employers available in a more streamlined fashion so that small employers can access subsidies outside of ACA exchanges as well as through SHOP exchanges. A revamped tax credit where small employers could be confident the subsidy was available to them for a more extended period of time (e.g. 5 years) and simpler eligibility criteria could be helpful in reversing this troubling trend in small employer offer rates. We also encourage the Administration to seek flexible ways that waivers can be used to advance stability in the small group market.

Please let us know if we can provide additional assistance. We can be reached at Christina.Nyquist@Point32Health.org.

Sincerely,
Christina Nyquist