



Elizabeth G. Taylor
Executive Director

Board of Directors

Ann Kappler
Chair
Prudential Financial, Inc.

William B. Schultz
Vice Chair
Zuckerman Spaeder LLP

Shamina Sneed
Secretary
TCW Group, Inc.

Nick Smirensky, CFA
Treasurer
New York State Health Foundation

L.D. Britt, MD, MPH
Eastern Virginia Medical School

Jeanna Cullins
Fiduciary & Governance Practice Leader
(Ret.)

Joel Ferber
Legal Services of Eastern Missouri

Michele Johnson
Tennessee Justice Center

Arian M. June
Debevoise & Plimpton LLP

Jane Preyer
Environmental Defense Fund (Ret.)

Lourdes A. Rivera
Pregnancy Justice

Donald B. Verrilli, Jr.
Munger, Tolles & Olson

Stephen Williams
Houston Health Department

Ronald L. Wisor, Jr.
Hogan Lovells

Senior Advisor to the Board
Rep. Henry A. Waxman
Waxman Strategies

General Counsel
Marc Fleischaker
Arent Fox, LLP

February 20, 2024

Submitted via www.regulations.gov

U.S. Department of Labor
Office of Regulations and Interpretations
Employee Benefits Security Administration
Attention: RIN 1210-AC16
Room N-5655
200 Constitution Avenue, NW
Washington, DC 20210

**Re: Definition of "Employer" – Association Health Plans
– RIN 1210-AC16**

To Whom It May Concern:

The National Health Law Program (NHeLP) appreciates your consideration of our comments. Founded in 1969, NHeLP is a nonprofit health law firm that protects and advances the health rights of low-income and underserved individuals.

In 2018, NHeLP opposed the Department of Labor's (DOL's) Proposed Rule that would have expanded the definition of "employer" under Section 3(5) of ERISA. We opposed the 2018 Proposed Rule because it would have allowed the creation of association health plans (AHPs) that skirt critical insurance market consumer protections, such as essential health benefits and rating standards. We were disappointed that DOL finalized these provisions in 2018 in its Final Rule.

The 2018 Final AHP Rule also encouraged adverse selection and would have weakened the Affordable Care Act's individual and small group markets, which are critical sources of coverage for millions of people, including many people with pre-existing health conditions and people with disabilities.

For the same reasons that NHeLP opposed the 2018 Proposed Rule, NHeLP now supports DOL's current proposal to rescind the 2018 Final Rule in its entirety.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Abbi Coursolle,
Senior Attorney
(310) 736-1652

coursolle@healthlaw.org

