



Appeal to DOL on AHP Regulations Continues SIIA's Two-Decade Effort

Twenty-one years ago Larry Thompson worked with SIIA leaders on draft federal legislation to enable association health plans (AHP) under ERISA. That 1997 bill was passed by the House of Representatives but foundered in the Senate, and through the years similar frustrating results occurred twice more.

“This is one of the longest-pursued issues in SIIA’s history along with defense of ERISA protection of self-insurance,” observes Thompson, a former SIIA president who now serves as chairman of the Government Relations Committee. He is founder of Inventavis, provider of strategic guidance to members of the health plan industry.



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Fast forward to last month when Thompson saw a majority of SIIA members attending a “Town Hall” meeting at the Self-Insured Health Plan Executive Forum in Charleston SC support the organization’s continuing pursuit of federal regulations that would allow AHPs to operate nationally. “It was a good idea twenty-one years ago and it still is,” Thompson says.

Last fall a Presidential Executive Order directed federal agencies to guide formation of fully-insured and self-insured AHPs serving employer groups and self-employed individuals that would be able to expand affordable employee health plans in multiple states.

“Today’s challenge is a little different,” Thompson says. *“It is possible that operating under the federal agencies, AHP regulations could be more favorable to our industry than under any of the earlier congressional bills.”*

The wild card, of course, is that AHPs would be seen by individual state regulators as multiple employer welfare arrangements (MEWA) which have been viewed skeptically in some states. With various levels of complexity, state MEWA regulations are a patchwork of rules that would be impossible for any AHP to follow.

Acknowledging this reality, the DOL recently asked for comments from interested

parties on its potential issuance of a “class exemption” that would exempt self-insured MEWAs from the non-solvency requirements of state MEWA laws.

SIIA’s formal comments provided on March 5 reflected its belief that the exemption offers a more reasonable – and appropriate – way of regulating self-insured MEWAs through a uniform set of federal requirements that would govern AHPs’ provision of employee health coverage in multiple states.

“In reviewing the approximately 700 comments the DOL received, it is apparent that smaller employers are universally in favor of the DOL exemption and the traditional insurance industry opposes it,” Thompson said. “Depending on how the issue plays out, there may arise the necessity of broad grassroots activism to demonstrate support of AHPs as a beneficial tool of smaller businesses.”

States have taken various approaches to MEWA regulation. California, for example, has banned formation of new ones. (That’s particularly irritating to Thompson, a longtime Californian.) A total of 23 states have more or less stringent regulations for the groups, and other states are considering regulatory action.

“We don’t know whether the federal agencies will include their decision on a class exemption along with the basic AHP regulations, or will take up those separately,” Thompson said. “A lot will depend on how that works out.”



SIIA's formal comments to the DOL on issuance of a class exemption remain available at www.siaa.org. In summary, SIIA's request to issue the exemption to provide national uniformity were based on these points:

- Self-insured MEWAs offer quality and affordable coverage;
- Such an exemption will promote healthcare choice and competition;
- A class exemption will not put at risk the appropriate regulatory oversight of self-insured MEWAs.
- State financial reserve and contribution requirements will continue to apply;
- Self-insured MEWAs already provide adequate consumer protections.

SIIA also advised that actuarial soundness and underwriting practices should be put in place in developing the Request for Information (RFI) that is a precursor to a potential future rule-making process and can influence final AHP regulations.

Further comments or questions are invited by Ryan Work, SIIA Vice President of Federal Government Relations, at rwork@siaa.org. ■



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