

AHP Interest Heats Up After DOL Rule Finalization



The self-insurance industry's appetite for federally-structured association health plans (AHP) has been whetted by the U.S. Department of Labor's (DOL) recently released final rule that expands the definition of larger employer groups to allow small employers and self-employed individuals to band together in offering health insurance to association members. Notably, self-insured AHPs would be treated as multi-employer welfare arrangements (MEWA) under state law.

The new rules have stimulated an immediate spike of interest in AHPs according to Larry Thompson, chairman of SIA's Government Relations Committee and founding chairman of Inventavis.

"Interest among our industry is very high because the AHP opportunity comes at a time when the small group fully-insured market is so costly and seeking solutions," he said.

Thompson will lead a session that will cover all aspects of the new movement toward AHPs at SIA's National Conference and Expo next month in Austin.

"The DOL rules are definitely an improvement over what has existed to date," Thompson said. *"They expanded the options for AHPs that will operate as multiple employer welfare arrangements in all states where MEWAs are recognized."*



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For many the AHP opportunity is yet a glass half full because it does not offer complete exemption from state-by-state regulation as individual employers enjoy under ERISA. “Many hoped the DOL would erase the boundaries of state lines to offer uniform plans to members throughout the country,” Thompson said.

The DOL’s final rule did not include the “class exemption” that would have given ERISA preemption and that SIA advocated in CEO Mike Ferguson’s letter to the DOL which asked for legal uniformity conforming to ERISA. Ferguson pointed out that federal preemption would pose no threat to consumer interests because of the regulatory protections already provided by federal laws ERISA and the Affordable Care Act (ACA).

Thompson said that 23 states now welcome MEWAs, notably not including his home state of California. “Multi-state AHPs will still operate in a patchwork manner among the states but the difference now is that smaller employers and solo practitioners will enjoy the opportunity of coverage. Hopefully, we’ll see progress on complete federal preemption in the future.”

Providers of stop-loss insurance for self-insured health plans are following the accelerated development of AHPs closely according to Jim Hoitt, senior vice president-captives division of Berkley Accident and Health, a leading provider of stop-loss insurance to self-insured group captives.

“It’s very early in the game for us as we follow growth of the AHP category,” he said. “The DOL rules include some limitations on underwriting methods and even information-gathering that we have

always needed to follow,” Hoitt said.

He posed the example of a new association plan being formed and choosing to be self-insured with stop-loss coverage.

“One of our questions would be about the group’s claims experience which, of course, does not exist,” Hoitt said. “Another question would be about rate history, which also does not exist. We have pretty big challenges facing this market that we will have to sort out over time.”

Hoitt suggested that some new AHPs would need to fully-insure their risk for a period of time before migrating to self-insurance with stop-loss coverage.

One example of a successful multi-state association health plan is the Automotive Wholesalers Association of New England (AWANE) which has operated for 30 years according to executive director Philip Healy who reports that his plan is a self-insured or fully-insured MEWA depending on the requirements of its members’ states of Maine, New Hampshire, Connecticut and Massachusetts.

“An exemption from state regulation would enable us to look at expanding to other states,” Healy said. “This is a goal that SIA has been pursuing for many years. For the industry as a whole, expanding the AHP concept is a very encouraging development for small businesses that don’t have the staff or expertise to handle the regulatory compliance and administration a health plan requires,” Healy said.





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“By banding together, these small businesses will enjoy the purchasing power of larger businesses.”

Healy noted that the current drivers of health care cost increases are mainly drug inflation and high-cost claims. “Joining an AHP will give businesses plan flexibility they wouldn’t otherwise attain, along with the administrative support they need for efficiency.

“Association health plans are just as much about service as they are about low cost,” Healy said. “If a business can buy insurance at five to ten percent lower cost and get the service it needs, it’s a home run.”

SIIA will continue to advocate for AHP exemption from state-by-state regulation with the DOL and Congress according to Ryan Work, vice president-government relations. “We will have ongoing discussions with the DOL about a class-exemption for AHPs, a stated goal of this administration,” Work said. “A sure federal preemption may only be possible if Congress changes the law to provide it. SIIA has been advocating for that and will continue to do so.” Home district advocacy to members of Congress will become an important aspect of the campaign at some point. SIIA members can learn how to participate by emailing Ryan Work at rwork@siaa.org. ■