Indiana Department of Insurance
October 15, 2024
Bulletin 276

WITHDRAWAL OF ASSOCIATION HEALTH PLANS BULLETIN 245

This bulletin is directed to all existing association health plans ("AHPs") as defined by IC § 27-8-5-16, existing multiple employer welfare arrangements as defined by IC § 27-1-34-1, small business owners, sole proprietors, insurance producers, third-party administrators as defined by IC § 27-1-25-1, and consumers. The purpose of this bulletin is to announce the Department's position regarding the regulation of AHPs.

On June 19, 2018, the U.S. Department of Labor ("DOL") issued the "Definition of 'Employer' under Section 3(5) of Employer Retirement Income Security Act ("ERISA") – Association Health Plans" final rule ("2018 AHP Rule"). 83 Fed. Reg. 28912. The 2018 AHP Rule redefined "employer" to include sole proprietors and to allow them to function as small group employers. The 2018 AHP Rule also made the criteria for the creation of AHPs more lenient.

On March 28, 2019, the U.S. District Court for the District of Columbia issued a decision invalidating the 2018 AHP Rule's expanded definition of "employer", as well as the more lenient criteria for creating AHPs. *New York v. U.S. Dep't of Labor*, 363 F.Supp. 3d 109 (D.D.C. 2019). The court concluded DOL exceeded its statutory authority by interpreting ERISA in an unreasonably expansive manner in contradiction with ERISA's central purpose, which is the regulation of employment-based relationships. DOL initially appealed the court's decision but later requested a stay in 2021 to engage in formal rulemaking. On December 20, 2023, DOL published a notice of proposed rulemaking to rescind the 2018 AHP Rule.

Following a formal notice and comment period, DOL published a final rule on April 30, 2024, finalizing its proposal to rescind the 2018 AHP Rule. Effective July 1, 2024, the 2018 AHP Rule is rescinded in its entirety. 83 Fed. Reg. 34106. To determine whether a group or association qualifies as an "employer" for the purpose of sponsoring a group health plan under ERISA, DOL is returning to its pre-2018 AHP Rule guidance.

In response to DOL's rescission of the 2018 AHP Rule, the Department withdraws Bulletin 245, titled "Association Health Plans," to maintain compliance with the relevant federal requirements.

Questions regarding this bulletin should be directed to compliance@idoi.in.gov.

INDIANA DEPARTMENT OF INSURANCE

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