



January 31, 2018

Preston Rutledge
Assistant Secretary of Labor for Employee Benefits
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave NW
Washington D.C., 20210

RE: Request for Comments on the Proposed Rule “Definition of Employer Under Section 3(5) of ERISA-Association Health Plans” (Docket No. EBSA-2018-0001)

Dear Assistant Secretary Rutledge:

As a leading representative of the 28 million small businesses in America, Small Business Majority writes regarding the proposed changes to the definition of an “employer,” which would broaden the criteria for when employers are able to join association health plans (or AHPs). Small Business Majority is a national small business advocacy organization, founded and run by small business owners to ensure America's entrepreneurs are a key part of an inclusive, equitable and diverse economy. A core part of our work is advocating for policies that will help entrepreneurs and small employers thrive. This includes improving access to reasonable and comprehensive healthcare coverage, which we believe the proposed rule will not accomplish.

In order for small businesses to be able to receive affordable coverage, the small group market's risk pool must be robust and well balanced. This is why we oppose the proposed rule change to make it easier for groups to establish association health plans. The proposed rule would allow associations to operate as a single large employer, which would in turn allow them to be regulated as a large group health plan. Regulations for such plans do not require that they cover certain essential health benefits while also not requiring protections that typically prevent insurers from charging higher fees based on factors like gender and occupation. While this might mean that some small businesses with younger, healthier employees can purchase a cheaper plan, these plans won't provide the coverage they need if someone gets sick. In some cases, an employee getting sick could even cause the business to be kicked off these plans.

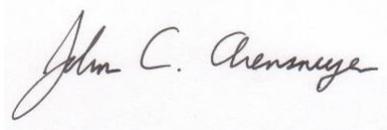
Additionally, it's important to note that the small group market is where the majority of small businesses purchase health coverage, which is why it's crucial to protect this market and ensure it's as strong as possible. We believe the proposed changes will result in disruptions in the small group market by creating separate risk pools for some employers, which would have the unintended consequence of raising premiums for other small businesses. When firms with healthy employees exit the small group market, the risk pool becomes unbalanced, causing rates to soar for the remaining employers and employees. We believe allowing self-employed individuals to enroll in AHPs will have similar repercussions for the individual marketplace.

In addition to providing less comprehensive coverage, these multi-state plans would offer fewer consumer safeguards. In fact, employees covered by these association plans would not actually be protected in the state where they live since the regulations created for a specific plan could supersede state laws that protect consumers from rate increases and poor coverage. If the Department does enact the proposed rule, we would caution against blocking states' ability to regulate AHPs. This would allow state insurance commissioners to continue to enforce rules they deem to be in the best interest of their state's small businesses and consumers.

After years of double-digit premium increases prior to the passage of the Affordable Care Act, many small businesses have seen their health insurance rates stabilize in recent years. In fact, between
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2008 and 2010, the average yearly premium increase in the small-group market was 10.4% according to the Centers for Medicare and Medicaid Services. Between 2011 and 2015, the average increase dropped in half to just 5.2%. However, we believe proposals like the proposed rule change will undo these hard-fought gains for our nation's job creators. We must do everything we can to ensure small businesses can access quality, affordable health coverage so they can focus on running their businesses. This means strengthening the small group and individual exchanges, rather than enacting rules that undermine the ACA and create instability in the health insurance markets.

Sincerely,

A handwritten signature in black ink that reads "John C. Arensmeyer". The signature is written in a cursive style with a large initial "J" and "A".

John Arensmeyer
Founder & CEO