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Department of Labor Issues Final Rule Expanding Access to More Affordable Health Insurance for Small Employers and Sole Proprietors

Regulatory Background

Prior to the Final Rule, AHPs would only be treated as a single plan that could be large group rated if the association sponsoring the plan was limited to employers with a “genuine organizational relationship,” which required common economic or other interests unrelated to the provision of benefits. DOL rulings required a common industry, such as realtors or CPAs, and in some cases also a limited geographic area. Otherwise, pursuant to ERISA’s “look through” doctrine, the requirements for health care coverage provided by each employer participating in the association depended upon facts particular to that employer, such as the number of employees in the employer group obtaining coverage. For example, health care coverage provided through an association to individuals or to small employers had to comply with requirements for individual and small employer group markets under the Patient Protection and Affordable Care Act (ACA) as well as applicable state laws. This was the case, even if the number of individual participants from all members in aggregate exceeded the small employer group maximum number of employees.

New Rules

An AHP that meets the requirements of the Final Rule will enable working owners, small businesses, and large employers to obtain coverage through the AHP without being rated and otherwise regulated based on the size of each employer. Because each person covered through the AHP can be part of one large group, the AHP can benefit from the larger pool of insureds to negotiate lower health insurance premiums for participating employers and their

covered employees.

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