

Association Health Plans in the Trump Era: A Primer from the NAM

Background:

On October 12, President Trump signed Executive Order (EO) 13813 to promote health care choice and competition. The EO covers three areas of leadership and significance for the administration: association health plans (AHPs), short-term, limited-duration insurance (STLDI) and health reimbursement arrangements (HRAs). This primer is focused on AHPs.

Much of this EO is designed to be a strong policy statement on health care competition and choice but also provides actionable direction to the federal agencies to make critical changes and issue proposed rules, if necessary, or revise previously issued guidance. The EO is a tool for President Trump to reform and reshape how the executive branch reviews and interprets laws. In the absence of sweeping legislation to repeal and replace the Patient Protection and Affordable Care Act (ACA), this EO set the course to deregulate and expand health care options as well as possibly create a pathway for the sale of health insurance across state lines through AHPs.

For over a decade, the National Association of Manufacturers has supported efforts to increase small businesses' health insurance options through AHPs. Legislation to enable AHPs passed the House of Representatives last year and was called H.R. 1101, the Small Business Health Fairness Act. It was supported and key voted by the NAM. Senate Republicans have discussed various AHPs proposals but to date, have not yet moved on a bill.

Conceptually, AHPs are not new. Some business associations around the country already offer health insurance to their members under Multi-Employer Welfare Arrangements (MEWAs) and others do not because of ongoing restrictions at the state level or marketplace uncertainty. Manufacturers believe it is time to proliferate AHPs and make this health care option more widely available. Over the course of the past several years, the NAM has urged elected officials to usher in important reforms and the opportunity is now available to help shape the regulatory environment to make group health coverage more accessible.

Current Status:

On Friday, January 5 the Department of Labor issued a notice of proposed rulemaking (NPRM) on advancing AHPs under Title I of the Employee Retirement Income Security Act (ERISA).

The public comment period is open for 60 days and will close on March 6. The proposed rule allows existing associations and groups to form together to provide health insurance to member employers and employees under one group health plan. It also proposes allowing associations and groups to form for the purposes of offering health insurance under the banner of common industry or common geography. However, organizations offering AHPs are required to have a formal organizational structure with a governing body and by-laws as well as governing control functions and activities. There are other aspects

to the proposed rule, including nondiscrimination protections to assure compliance with existing rules under HIPAA/ACA.

The NAM will offer comments to the NPRM and participate in the rulemaking process. The process to achieve a final rule is expected to be a several-months long endeavor but the Department of Labor is anticipated to move expediently as this is a White House priority.

The NPRM can be found here: <https://www.regulations.gov/document?D=EBSA-2018-0001-0001>

Conclusion:

Manufacturers are in a dynamic health care environment that continues to evolve, yet costs continue to rise for many. Rising health costs continue to top the charts as the leading business challenge facing manufacturers according to recent NAM survey data. These ongoing health care cost increases stand in the way of higher wages, hiring new employees, purchasing new equipment and making other needed investments that keep manufacturing production competitive.

While a lot of details are still required to move forward with a final rule after the current comment period closes in March, this commitment to reform health care through the regulatory process incentivizes needed relief that introduces more choice, increased competition and greater efficiencies to benefit manufacturers and other small businesses around the country.

Manufacturers appreciate this decisive action from the President and urge Congress to keep doing its work so that the countless mandates and job-killing taxes associated with Obamacare are permanently repealed.

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