

DOL Rescinds ACA-Skirting Health Plan Rule

Overview

On April 29, 2024, the Department of Labor had rescinded regulations adopted in 2018 that expanded the formation and use of Association Health Plans (AHPs). The agency is finalizing this rule effective within 60 days of its publication in the federal register.

Prior to 2018, the DOL allowed an association of employers to sponsor a single “multiple employer” plan only if certain criteria are met. Once met, the group would be considered a “bona fide” single employer group and thereby gain exemptions from certain regulations that apply to the individual and small-group insurance markets.

The three criteria were:

- Whether the group or association has a business or organizational purpose and functions unrelated to the provision of benefits (the “business purpose” standard);
- Whether the employers share a commonality of interest and genuine organizational relationship unrelated to the provision of benefits (the “commonality” standard); and
- Whether the employers participating in the benefit program exercise control over the program, both in form and in substance (the “control” standard).

Groups or associations that could meet the above three criteria would be considered a single group health plan, which in turn would determine whether they must comply with small-group market or large-group market rules under the Affordable Care Act.

The DOL notes that it is unaware of any AHPs that exist today in reliance on the 2018 regulations, limiting the impact of their rescission. The agency’s decision to rescind the full 2018 AHP rule is intended to resolve any lingering uncertainty over that rule and ensure that the agency’s guidance to the regulated community aligns with federal law.