

# America's Leading State Attorneys General Think Expanding Association Health Plans to Small Businesses Is a Good Idea

May 17, 2018

The Honorable R. Alexander Acosta, Secretary  
U.S. Department of Labor  
Employee Benefits Security Administration  
200 Constitution Ave NW  
Washington, DC 20210

Re: State Attorneys General on Notice of Proposed Rulemaking to *Expand Access to Healthcare Through Small Business Health Plans* (Department of Labor)

Dear Secretary Acosta:

The undersigned state Attorneys General, representing 14 states, join together in support of the Department's Notice of Proposed Rulemaking which seeks to broaden the criteria of an "employer" under Section 3(5) of the Employee Retirement Income Security Act (ERISA) to encompass "workers with a commonality of interest." This proposal would allow for more small businesses to become eligible to participate in Association Health Plans (AHPs), which stand to provide lower-cost healthcare options than what is currently available to them today. We applaud your efforts in seeking to allow these small businesses the ability to join together to offer more affordable, quality health insurance for the hard-working employees in our states.

Federal regulations currently require that members of AHPs be in the same industry and that they be involved in the day-to-day decision-making of a business. This narrow regulation prevents many small businesses from associating with one another for the purposes of providing employer-sponsored health insurance coverage. As you are probably aware, only about one-half of small businesses offer employer-sponsored health insurance, leaving approximately 11 million employees of small businesses without this type of coverage. We believe that the proposed rule, by broadening the types of small businesses that would be eligible to join AHPs, would provide more affordable healthcare coverage options to small business employees. In an uncertain legal and regulatory environment where healthcare costs continue to rise and choices are limited, Americans need more options and elements of predictability for affordable healthcare.

As Attorneys General, it is our responsibility to protect our residents from a number of different issues impacting our states. We are pleased that the proposed rule includes important protections so that AHPs would not have the ability to charge individuals higher premiums or refuse to admit employees to a plan based on negative health and

other risk factors. We understand the Employee Benefits Security Administration will monitor compliance with these protections, and we look forward to ensuring this to be the case.

More recently, in order to protect the states from federal overreach and an unlawful and burdensome healthcare regime, a coalition of 20 states filed a lawsuit challenging the constitutionality of the Affordable Care Act (ACA). In the current uncertain legal and regulatory environment, we believe that all Americans should be provided with options for health insurance. For decades, AHPs have been and continue to be innovative and viable solutions, and for that we are pleased by the promise that the proposed rule has for our states.

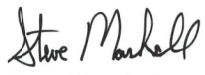
Our nation's small businesses are critical to our economic vitality, and we are hopeful that the proposed rule will be adopted and implemented in a timely manner. As such, we will continue to monitor the details and the effectiveness of the rule, as well as provide any necessary support and feedback as it gets implemented. We will further continue to support initiatives such as these which provide the small businesses and employees in our states more opportunities to thrive.

Thank you for taking a leading role on this issue. We are confident your efforts will lead to meaningful results for our states, and we look forward to supporting this effort in any way that we can.

Sincerely,



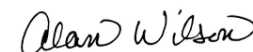
Christopher M. Carr  
Georgia Attorney General



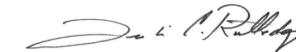
Steve Marshall  
Alabama Attorney General



Cynthia H. Coffman  
Colorado Attorney General



Alan Wilson  
South Carolina Attorney General



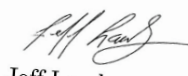
Leslie Rutledge  
Arkansas Attorney General



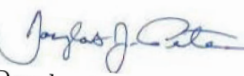
Pam Bondi  
Florida Attorney General



Curtis T. Hill Jr.  
Indiana Attorney General



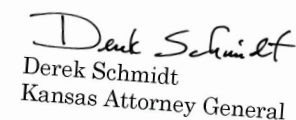
Jeff Landry  
Louisiana Attorney General



Douglas J. Peterson  
Nebraska Attorney General



Marty J. Jackley  
South Dakota Attorney General



Derek Schmidt  
Kansas Attorney General



Josh Hawley  
Missouri Attorney General



Mike Hunter  
Oklahoma Attorney General



Brad Schimel  
Wisconsin Attorney General

## We Agree.

**JCN** Job  
Creators  
Network