

March 6, 2018

Via: www.regulations.gov

Office of Regulations and Interpretations, Employee Benefits Security Administration
Attn: RIN 1210-AB85
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

RE: Comments on Proposed Regulations to Facilitate the Formation of Small Business Health Plans

To Whom It May Concern:

On behalf of stakeholders, please see the following comments regarding the Notice of Proposed Rulemaking (NPRM) concerning modifications to regulations of the Employee Retirement Income Security Act (ERISA).

SUMMARY

1. The Notice of Proposed Rulemaking (NPRM) published January 5, 2018 by the Employee Benefits Security Administration does not fulfill a key mandate of Presidential Executive Order 13813, because it does not allow for practical and efficient sales of health coverage plans across state lines.
2. The NPRM establishes no minimum national solvency standards for health insurers. If the goal of allowing sales across state lines is achieved, a failure to establish financial requirements and safeguards will likely result in a “race to the bottom” among some states, and the potential defrauding of consumers nationwide.
3. The President has issued various Orders aimed at reducing regulation and government spending. Implementing the NPRM regulations will necessitate the creation of multiple new permanent state and federal bureaucracies.
4. A lawful method exists, and is within the discretion of the Secretary of Labor, to permit the sales of health coverage plans across state lines. Authorization of this method would increase consumer choice and lower costs, to a much greater extent than the regulations promulgated in the NPRM.

The Problem with Multiple Employer Welfare Arrangements

Following a wave of abuses in the 1980s, Congress amended ERISA to give the individual states broad authority over Multiple Employer Welfare Arrangements (MEWAs). A mechanism was also created to allow the Secretary of Labor to grant waivers, either individually or by class, to exempt MEWAs from some, *but not the most restrictive* (see below), state regulations. As the NPRM makes clear in many places, all Small Business Health Plans (SBHPs) will by definition also be MEWAs.

The NPRM does not alter the status quo regarding MEWAs. Each individual state can set any benefit standards that it chooses. Some will impose *additional* requirements, beyond those already in the Affordable Care Act, partly in order to drive up the cost of SBHPs, and thus prevent them from competing with state-approved, fully-insured exchange plans. Any SBHP that has members in multiple states (such as one that meets the new proposed commonality of interest test via an industry, or a multi-state metropolitan area), would have to meet the benefit standards and financial requirements of *each* of those states – a practical impossibility.

If and when DOL waivers are granted (including a potential blanket “MEWA Class Waiver”), states will, by statute, retain complete jurisdiction over MEWA reserve and solvency requirements. This power alone is enough to give any state the effective ability to block MEWAs, with or without DOL class or individual waivers, from offering SBHPs within its borders. There are no statutory or other requirements for states to set reasonable reserve requirements and solvency standards.

The attached charts demonstrate the extreme variability of present MEWA and related regulations nationwide. More charts may be required upon finalization of the NPRM as presently drafted, as some states may select specific benefit requirements for MEWAs that differ from their standard mandated benefits for individual market or fully insured coverage. Rather than attempt to create plans that can somehow weave their way through this impenetrable regulatory thicket, most stakeholders will simply avoid SBHPs altogether.

Lack of Financial Standards Will Likely Lead to Abuse

Making ERISA plans more accessible will greatly increase choice and reduce costs in healthcare coverage. But without proper financial regulation, it could also lead to undercapitalization and fraud, leaving consumers exposed and demanding that the government bail them out. The NPRM makes various general references to the DOL’s responsibility as co-watchdog over SBHPs. It does not, however, propose any minimum solvency requirements, because ERISA leaves authority over MEWA funding exclusively to the states. Without any standards to enforce, the DOL and the federal government as a whole will have little to do with ensuring the financial stability and integrity of self-insured SBHPs while being held fully responsible in the public eye for any such failure.

While certain states will likely view SBHPs as something to be discouraged or banned outright, other states will see opportunities to generate tax revenue by serving as domiciles for self-insured plans. Competition among individuals and companies is healthy, but competition among governments outdoing each other to attract business leads to laxity and sometimes to a race to the bottom.

Monitoring and enforcing the solvency of insurance companies and trusts is difficult enough without the added factor of interstate competition. This is what led to widespread abuses of ERISA plans in the 1980s, which in turn led to the legislative amendments that made MEWAs impractical as sponsors of health plans. SBHPs are likely to suffer the same problems for the same reasons.

There is no contradiction between a call for less regulation of certain aspects of health coverage, but more of another. The role of government should be to protect citizens from dangers against which they cannot reasonably protect themselves. For instance, few people have the resources to run lab tests on foods and medicines before they swallow them; that’s why the FDA must fulfill that role. Likewise, few are able to access and evaluate solvency and

stability information about insurance carriers, which is why the federal government should establish and enforce clear, unambiguous national standards.

DOL Proposal Would Further Bloat the Federal Bureaucracy

Per p. 70 of the NPRM: *“It will also compel DOL to commit additional resources to AHPs’ oversight.”* This is true in many respects, including some that the NPRM’s authors may not have considered.

As the NPRM acknowledges, historically very few DOL waivers have been granted to MEWAs, and although it implies that more may be granted in the future, the NPRM proposes no standards, procedures, staffing, or budget requirements in order to allow the Secretary to solicit and evaluate waiver applications. Without DOL waivers, MEWAs will be subject to differing benefit requirements in each state, and will often be even less cost-efficient than ACA exchange plans. Yet granting waivers in a fair and responsible fashion will require the DOL to devote considerable additional resources – despite a reduced operating budget.

The NPRM proposes to expand the availability of ERISA plans by loosening Commonality of Interest rules, and by allowing working owners to join group plans. Each of these expansions requires its own set of rules, and its own enforcement. Commonality of Interest may either be across the same “trade, industry, line of business or profession,” or across a geographic area, such as a city, county, or multi-state metropolitan region. All of these definitions are open to interpretation and abuse, giving the DOL yet another burdensome and unfunded obligation.

The greatest proposed expansion of DOL regulatory responsibility is into an area in which it has no current or historical expertise – pre-existing medical conditions (which are referred to in the NPRM as “nondiscrimination” provisions). ERISA has never before required that any employee be offered health benefits, and therefore the DOL has no present capacity to create policy, monitor compliance, or cite violators.

Evidence of the size and complexity of the DOL’s prospective task may be found in the NPRM itself: it devotes more than a third of its proposed new regulatory language to six examples of possible violations of the nondiscrimination provisions. We expect dozens of staff members would have to be either hired or reassigned in order to meet this requirement alone.

Each of the 50 States will also be required to create additional bureaucracies. As discussed above, the NPRM does not include any MEWA waiver provisions, so each state must establish/amend its own minimum benefit requirements. Since most states have adopted ACA requirements as their “floors,” they are not currently in the practice of setting health plan standards. This will require the devotion of considerable new state resources with a default toward caution, delay, and inefficiency.

Irrespective of whether waivers are granted by the DOL, each state will retain jurisdiction over MEWA reserve requirements, and every SBHP will be a MEWA. Although states currently oversee reserve requirements for various types of insurance, they have little experience doing so for self-insured MEWA health plans because to date they have been very rare. In fact, many states completely prohibit self-insured MEWAs from operating within their borders. Even those states that are opposed to ACA and enthusiastic about SBHPs will have no choice but to create/amend MEWA reserve requirements (because none currently exist at the federal level or are proposed in the NPRM), or continue to ban MEWAs plans altogether.

In addition to creating reserve requirements, each state will be required to monitor the solvency of every MEWA that does business within its borders. (See below.) In the case of multi-state MEWAs, there will be considerable redundancy and a confusing hodgepodge of financial reporting requirements, which the small businesses that desperately need relief from ACA's strictures will find it difficult, expensive, or impossible to meet.

The NPRM purports to allow the selling of SBHPs across state lines by allowing, for example, a nationwide association of independent truckers, or an association of diverse businesses sharing a common metropolitan location – such as the tri-state area around New York City – to offer a group plan. Due to ERISA statutory requirements, however, any state which is home to even a single MEWA member has regulatory authority over the MEWA. This will exponentially increase the complexity of offering and administering SBHPs, with a corresponding decrease in their availability and impact.

A Lawful and Preferable Alternative is Available

In consultations with DOL and others prior to issuance of the NPRM, the authors of this comment urged expansion of access to ERISA plans to working owners directly, without the requirement that they first band together in AHP/SBHPs. This recommendation was made specifically to avoid the “MEWA trap” described above. We also recommended imposing uniform national solvency standards, and made specific proposals. Unfortunately, the NPRM has taken the position that the Secretary lacks the authority to interpret ERISA in a fashion that would allow working owners to act as their own groups. This is erroneous.

Pursuant to the broadly worded authority in ERISA § 505, ERISA regulations may be created, rescinded, or modified at the discretion of the Secretary, unless such action conflicts with the explicit language of the statute, as guided by legislative and/or judicial history. Expanding access for working owners and small groups by permitting them to form their own single employer group health plans falls well within all of those bounds. There have been countless modifications to ERISA regulations since 1974, and the NPRM contains many more. There is no logical consistency in finding the NPRM regulations lawful, but giving working owners access to ERISA somehow unlawful.

ERISA § 3 does not set a minimum group size for ERISA plans. The NPRM notes that a minimum group size is only found in 29 CFR 2510.3-3, which is subject to review and modification by DOL. While 29 CFR 2510.3-3 does set a minimum size which excludes working owners from sponsoring their own coverage, this rule could be modified in a manner so as to provide working owners immediate and effective relief that places them on the same playing field as larger employers.

As noted in the proposed regulations, ERISA § 3 does not forbid working owners from “dual status” as both employer and employee. In fact, ERISA § 732(d)(1), 29 CFR 2510.3-3, the Supreme Court in Yates v. Hendon, and DOL's own Advisory Notice 99-04A, all affirm that working owners may have dual status as both employer and employee.

This dual status is implicitly established further in ERISA. ERISA § 4001(b) notes that working owners are considered their own employer, as does IRC § 401(c)(4). For purposes of coverage by the Pension Benefit Guaranty Corporation (PBGC), ERISA § 4021(b)(9) notes that such plans would not be eligible for PBGC assistance, which implies that such plans may exist and operate lawfully and consistent with ERISA, despite a lack of such assistance. At

minimum these pension benefit rules do not detract an interpretation of such in ERISA Title 1, as noted in Yates.

As for Yates, while the decision limits a finding of a working owner qualifying as a participant in a pension plan with at least one unrelated additional employee, this condition is based solely on 29 CFR 2510.3-3 and DOL Advisory Notice 99-04A, which is DOL's interpretation of its own regulation as presently written. DOL's modification of 29 CFR 2510.3-3 would influence both its interpretation as well as the Supreme Court's, as Yates demonstrates a ready willingness to accept the dual status of a working owner based on DOL's view as expressed in 29 CFR 2510.3-3 (the Court notes a lack of alternatives, deeming the definitions of "employee" and "participant" in ERISA to be "uninformative," and noting in Nationwide Mut. Ins. Co. v. Darden that the definition of "employee" is "completely circular and explains nothing").

The prime target for the SBHP proposal, ERISA § 5, as elsewhere in ERISA, requires both an employer and employee, but is silent on "dual status" for working owners. Minimum health plan group size is thus only addressed in a single regulation, which may be modified as the Secretary deems prudent. The prohibition of dual status for some working owners with health plans is found only in 29 CFR 2510.3-3, which is regulatory and not statutory. The proposed regulations concede this point by stating that 29 CFR 2510.3-3 must be modified for the proposed regulations targeting ERISA § 5 to go into effect.

The legal positions taken in the proposed regulations support the Secretary's authority to more broadly modify 29 CFR 2510.3-3. In order to achieve its goals, the proposed regulations correctly assert that group size regulations are malleable at DOL's discretion, so long as the statute does not contain an explicit contrary provision. Group size is an interpretation of ERISA § 3, which is silent on the question, meaning that DOL has broad discretion and flexibility with respect to group size.

While DOL may feel that modification to an existing regulation is not a desirable approach, the proposed regulations acknowledge that a modification to 29 CFR 2510.3-3 will be necessary to enact the NPRM regulations. (Though the proposed regulations claim in one section that expanding AHPs to permit working owners to join is consistent with 29 CFR 2510.3-3, this claim is demonstrably false by the concession of the need to modify 29 CFR 2510.3-3 in another section.) Thus, the issue is not whether a modification is possible or desirable, but the scope of that modification. The limited exception contemplated by the proposed regulations is to allow working owners to join SBHPs.

An exception to allow working owners to have dual employer/employee status and make their own decisions as to how they sponsor group health plans would avoid the "MEWA trap," and level the playing field for more than 33 million self-employed Americans. No credible legal distinction can be made between the authority of the Secretary to permit one interpretation but not the other, but a huge benefit is to be gained by the approach empowering working owners. By permitting working owners to make their own decisions about their own benefits, DOL would provide the same advantages in making such decisions held by larger businesses. Working owners must compete with larger businesses in all aspects, but DOL has to date inexplicably forbidden working owners from competing in the area of health plan coverage and costs. By forcing working owners to seek coverage in the individual market or an SBHP that is subject to the same, if not more onerous, standards for benefits and funding as the individual market, DOL is adding cost and limiting choice for

working owners compared to larger businesses. This inequity stymies competition and innovation by discouraging the success of and investment in new businesses by working owners.

If statutory language, legislative history, and judicial precedent are all silent on an issue, a regulatory agency has broad discretion to interpret as it sees fit. There are more than 1,500 pages of ERISA legislative history. Nowhere within them is there any mention of minimum group size (which is likely why it was not cited in the proposed regulations or in Yates.) Again, the Secretary has authority to make a positive change for working owners and small businesses.

Please contact me with questions regarding these comments. Thank you.

Regards,

A handwritten signature in cursive script that reads "Alexander Renfro".

Alexander Renfro, Member
Anjo LLC

| Table 1: STATES WITH THE MOST & LEAST MANDATES | | | |
|--|----|-------------------------|----|
| Most Mandated Benefits | | Least Mandated Benefits | |
| Rhode Island | 70 | Idaho | 13 |
| Virginia | 70 | Alabama | 19 |
| Maryland | 67 | Michigan | 23 |
| Minnesota | 65 | Hawaii | 24 |
| Connecticut | 63 | Utah | 26 |

| Table 2: MOST & LEAST POPULAR MANDATES | | | |
|--|----|----------------------------------|---|
| Most Popular Mandates | | Least Popular Mandates | |
| Mammography Screening | 50 | Breast Implant Removal | 1 |
| Maternity Minimum Stay | 50 | Cardiovascular Disease Screening | 1 |
| Breast Reconstruction | 49 | Circumcision | 1 |
| Mental Health Parity | 48 | Gastric Electrical Stimulation | 1 |
| Alcohol & Substance Abuse | 46 | Organ Transplant Donor Coverage | 1 |

| Table 3: TOTAL MANDATES BY STATE | | | |
|----------------------------------|----------------|-------|----------------|
| State | Total Mandates | State | Total Mandates |
| AK | 37 | MT | 39 |
| AL | 19 | NC | 55 |
| AR | 46 | ND | 40 |
| AZ | 35 | NE | 47 |
| CA | 56 | NH | 46 |
| CO | 58 | NJ | 47 |
| CT | 63 | NM | 59 |
| DC | 27 | NV | 45 |
| DE | 29 | NY | 61 |
| FL | 49 | OH | 29 |
| GA | 45 | OK | 43 |
| HI | 24 | OR | 44 |
| IA | 28 | PA | 54 |
| ID | 13 | RI | 70 |
| IL | 49 | SC | 30 |
| IN | 36 | SD | 28 |
| KS | 46 | TN | 41 |
| KY | 47 | TX | 62 |
| LA | 51 | UT | 26 |
| MA | 48 | VA | 70 |
| MD | 67 | VT | 46 |
| ME | 53 | WA | 58 |
| MI | 23 | WI | 43 |
| MN | 65 | WV | 43 |
| MO | 54 | WY | 37 |
| MS | 31 | | |
| TOTAL | | | 2,262 |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|-------------------------|--------------|------------------|-----------------------|------------------------|-------------------------------|--------------|--------------|-----------|--------------|----------------|-----------------------------|------------------------------|-------------------|
| | Bone Mass Measurement | Brain Injury | Breast Reduction | Breast Reconstruction | Cancer Pain Medication | Cervical Cancer/HPV Screening | Chemotherapy | Circumcision | Chlamydia | Cleft Palate | Clinical Trial | Colorectal Cancer Screening | Congenital Bleeding Disorder | Congenital Defect |
| AK | | | | Y | | Y | | | | | | Y | | |
| AL | | | | Y | | | | | | | | Y | | |
| AR | | | | Y | | | | | | | | Y | | |
| AZ | | | | Y | | | Y | | Y | | Y | | Y | |
| CA | Y | | | Y | | Y | | | | | Y | Y | | |
| CO | | | | Y | | | | | | Y | | Y | | Y |
| CT | | | | Y | | Y | | | | | Y | Y | | |
| DC | | | | Y | | Y | | | | | | Y | | |
| DE | | | | Y | | Y | | | | | Y | Y | | |
| FL | Y | | | Y | | | | | | Y | | | | |
| GA | Y | | | Y | | Y | | | Y | | Y | Y | | |
| HI | | | | Y | | | | | | | | | | |
| IA | | | | Y | | | | | | | | | | |
| ID | | | | Y | | | | | | Y | | | | |
| IL | Y | | | Y | | Y | | | | | | Y | | |
| IN | | | | Y | | | | | | Y | | Y | | |
| KS | Y | | | Y | | Y | | | | | | | | |
| KY | Y | | | Y | | Y | | | | | | Y | | |
| LA | Y | | | Y | Y | Y | | | | Y | Y | Y | | |
| MA | | | | Y | | Y | | | | | Y | | | |
| MD | Y | | | Y | | Y | | | Y | Y | Y | Y | | |
| ME | | | Y | Y | | Y | | | | | Y | Y | | |
| MI | | | | Y | | | | | | | | | | |
| MN | | | | Y | | Y | Y | | | Y | Y | Y | | |
| MO | Y | | | Y | | Y | | | | | Y | Y | | |
| MS | | | | Y | | | | | | | | | | |
| MT | | | | Y | | | | | | | | | | |
| NC | Y | | | Y | | Y | | | | Y | Y | Y | | |
| ND | | | | Y | | | | | | | | Y | | |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|-------------------------|--------------|------------------|-----------------------|------------------------|-------------------------------|--------------|--------------|----------|--------------|----------------|-----------------------------|------------------------------|-------------------|
| | Bone Mass Measurement | Brain Injury | Breast Reduction | Breast Reconstruction | Cancer Pain Medication | Cervical Cancer/HPV Screening | Chemotherapy | Circumcision | Clamydia | Cleft Palate | Clinical Trial | Colorectal Cancer Screening | Congenital Bleeding Disorder | Congenital Defect |
| NE | | | | Y | Y | | | | | Y | | Y | | |
| NH | | | | Y | | | | | | | Y | | | |
| NJ | | | | Y | | Y | | | | | | Y | Y | |
| NM | Y | | | Y | | Y | | Y | | | Y | Y | | |
| NV | | | | Y | | Y | | | | | Y | Y | | |
| NY | Y | | | Y | Y | Y | Y | | | | Y | | | |
| OH | | | | Y | | Y | | | | | Y | | | |
| OK | Y | | | Y | | Y | | | | | | Y | | |
| OR | | | | Y | | Y | Y | | | | | Y | | |
| PA | | | | Y | | Y | Y | | | Y | | Y | | |
| RI | | | | Y | Y | Y | Y | | Y | | Y | Y | | |
| SC | Y | | | Y | | Y | | | | Y | | | | |
| SD | | | | Y | | | | | | | | | | |
| TN | Y | | | Y | | Y | Y | | Y | | Y | Y | | |
| TX | Y | Y | | Y | | Y | | | | | | Y | | |
| UT | | | | Y | | | | | | Y | | | | |
| VA | | | | Y | Y | Y | | | | Y | Y | Y | Y | |
| VT | | | | Y | | | | | | | Y | | | |
| WA | | | | Y | | | | | | Y | | Y | | |
| WI | | | | Y | | | | | | Y | Y | | | |
| WV | | | | Y | | Y | | | | | Y | Y | | |
| WY | | | | Y | | Y | | | | | | Y | | |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|-------------------------|-------------------|--------------------------|--------------------------|-------------------|----------------------|----------------------------|-------------------|----------------------|-----------------|------------------------|------------------|------------------|--------------|
| | Contraceptive | Dental Anesthesia | Developmental Disability | Diabetes Self Management | Diabetic Supplies | Drug Abuse Treatment | Early Intervention Service | Emergency Service | Habilitative Service | Hair Prosthesis | Hearing Aids for Minor | Heart Transplant | Home Health Care | Hospice Care |
| AK | | | | Y | Y | Y | | Y | | | | | | |
| AL | | | | | | Y | | | | | | | | |
| AR | Y | Y | | Y | Y | Y | | Y | | | | | | Y |
| AZ | Y | | | Y | Y | | | Y | | | | | Y | |
| CA | Y | Y | | Y | Y | Y | | Y | | | | | Y | |
| CO | | Y | | Y | Y | | Y | Y | | | Y | | Y | Y |
| CT | Y | Y | | | Y | Y | | Y | | Y | Y | | Y | |
| DC | | | | Y | Y | Y | | Y | Y | | | | | |
| DE | Y | | | | Y | Y | | Y | | Y | Y | | | |
| FL | | Y | | Y | Y | Y | | Y | | Y | | | Y | |
| GA | Y | Y | | Y | Y | | | Y | Y | | Y | Y | | |
| HI | Y | | | Y | Y | Y | | Y | | | | | | Y |
| IA | Y | Y | | Y | Y | | | Y | | | | | | |
| ID | | | | | | | | Y | | | | | | |
| IL | Y | Y | | Y | Y | | | Y | Y | | | | | |
| IN | | Y | | Y | Y | | Y | Y | | | | | | |
| KS | Y | Y | | Y | Y | Y | | Y | | | | | | |
| KY | | Y | | Y | Y | | | Y | | | Y | | Y | Y |
| LA | | Y | | | Y | Y | | Y | | | Y | | | |
| MA | Y | | | Y | Y | Y | Y | Y | | Y | | | Y | Y |
| MD | Y | Y | | Y | Y | Y | | Y | | Y | Y | | Y | Y |
| ME | Y | Y | | | Y | Y | | Y | | | Y | | Y | Y |
| MI | | | | Y | Y | Y | | Y | | | | | | Y |
| MN | Y | Y | | Y | Y | Y | | Y | | Y | Y | | | |
| MO | Y | Y | | | Y | Y | | Y | | Y | | | | |
| MS | | Y | | | Y | | | | | | | | | |
| MT | | | | | Y | Y | | Y | | | | | Y | |
| NC | Y | Y | | Y | Y | Y | | Y | | | | | | |
| ND | | Y | | | | Y | | Y | | | Y | | | |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|-------------------------|-----------------------------|------------------------|----------------|----------------|--------------|-------------|-------------|------------|-------------------------|-----------|------------------------|-----------------------|----------------------|
| | HPV Vaccine | Hormone Replacement Therapy | In Vitro Fertilization | Kidney Disease | Long Term Care | Lyme Disease | Lymph Edema | Mammography | Mastectomy | Mastectomy Minimum Stay | Maternity | Maternity Minimum Stay | Mental Health General | Mental Health Parity |
| AK | | | | | | | | Y | | | | Y | | |
| AL | | | | | | | | Y | | | | Y | Y | Y |
| AR | | | Y | | | | | Y | Y | Y | Y | Y | Y | Y |
| AZ | | | | Y | | Y | | Y | Y | Y | | Y | Y | Y |
| CA | | | Y | | | | | Y | Y | Y | Y | Y | Y | Y |
| CO | Y | | | | | | | Y | | | Y | Y | Y | Y |
| CT | | | Y | | | Y | | Y | Y | Y | Y | Y | Y | Y |
| DC | | Y | | | Y | | | Y | | | | Y | Y | Y |
| DE | | | | | | | | Y | | | | Y | | Y |
| FL | | | | | | | | Y | Y | Y | | Y | Y | Y |
| GA | | | Y | | | | | Y | Y | Y | Y | Y | Y | Y |
| HI | | | Y | | | | | Y | | | | Y | Y | Y |
| IA | Y | | | | | | | Y | | | | Y | | Y |
| ID | | | | | | | | Y | | | | Y | | Y |
| IL | Y | | Y | | | | | Y | Y | Y | | Y | Y | Y |
| IN | | | | | | | | Y | Y | | | Y | | Y |
| KS | | | | | | | | Y | Y | Y | Y | Y | Y | Y |
| KY | | | | | Y | | | Y | | | | Y | Y | Y |
| LA | | | Y | | | | | Y | Y | Y | | Y | Y | Y |
| MA | | Y | Y | | | | | Y | | | Y | Y | Y | Y |
| MD | | | Y | | Y | | | Y | | Y | Y | Y | Y | Y |
| ME | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y |
| MI | | | | | | | | Y | | | | Y | Y | |
| MN | Y | | | | | Y | | Y | Y | | Y | Y | Y | Y |
| MO | | | | | | | | Y | Y | Y | Y | Y | Y | Y |
| MS | | | | | | | | Y | | | | Y | Y | Y |
| MT | | | Y | | | | | Y | Y | Y | Y | Y | Y | Y |
| NC | Y | | | | | | | Y | Y | Y | Y | Y | | |
| ND | Y | | | | | | | Y | | | | Y | Y | Y |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|-------------------------|-----------------------------|------------------------|----------------|----------------|--------------|-------------|-------------|------------|-------------------------|-----------|------------------------|-----------------------|----------------------|
| | HPV Vaccine | Hormone Replacement Therapy | In Vitro Fertilization | Kidney Disease | Long Term Care | Lyme Disease | Lymph Edema | Mammography | Mastectomy | Mastectomy Minimum Stay | Maternity | Maternity Minimum Stay | Mental Health General | Mental Health Parity |
| NE | Y | | | | | | | Y | | | | Y | | Y |
| NH | | | | | | | | Y | | | Y | Y | Y | Y |
| NJ | | | Y | | | | | Y | | Y | Y | Y | | Y |
| NM | Y | | Y | | | | | Y | Y | Y | Y | Y | | Y |
| NV | Y | Y | | | | | | Y | | | | Y | Y | Y |
| NY | | Y | | | | | | Y | Y | Y | Y | Y | Y | Y |
| OH | | | | | | | | Y | | | | Y | Y | Y |
| OK | | | | | Y | | | Y | Y | Y | Y | Y | Y | Y |
| OR | | | | | | | | Y | Y | | Y | Y | Y | Y |
| PA | | | | | | | | Y | Y | Y | | Y | | Y |
| RI | | | Y | Y | | Y | | Y | Y | Y | Y | Y | Y | Y |
| SC | | | | | | | | Y | Y | Y | | Y | Y | Y |
| SD | | | | | | | | Y | | | | Y | | Y |
| TN | | | | | | | | Y | | Y | | Y | Y | Y |
| TX | Y | | Y | | | | | Y | | Y | | Y | Y | Y |
| UT | Y | | | | | | | | | | | Y | Y | Y |
| VA | | | | | | | Y | Y | Y | Y | Y | Y | Y | Y |
| VT | | | | | | | | Y | | | Y | Y | Y | Y |
| WA | Y | | | | | | | Y | | | Y | Y | Y | Y |
| WI | | | | Y | | | | Y | | | | | Y | Y |
| WV | | | Y | | Y | | | Y | | Y | | Y | Y | Y |
| WY | | | | Y | | | | Y | | | | Y | | |

| STATE | STATE MANDATED BENEFITS | | | | | | | | | | | | | |
|-------|---------------------------|--------------------------------|--------------------------|--------------------------|---------------------------|-----------------------------|--------------------|-------------------|-----------------------------|-------------------------|---------------------------|--------------------------|--|------------------------|
| | Minimum Hysterectomy Stay | Minimum Testicular Cancer Stay | Morbid Obesity Treatment | Neurodevelopment Therapy | Newborn Hearing Screening | Newborn Sickle Cell Testing | Off Label Drug Use | Oriental Medicine | Orthotic and/or Prosthetics | Ostomy Related Supplies | Other Infertility Service | Ovarian Cancer Screening | Pediatric Asthma Education/Self Management | PKU/Metabolic Disorder |
| AK | | | | | Y | | | | | | | | | Y |
| AL | | | | | | | Y | | | | | | | |
| AR | | | | | | Y | Y | | | | | | | Y |
| AZ | | | | | | | Y | | | | Y | | | Y |
| CA | | | | | | | Y | Y | | Y | | Y | | Y |
| CO | | | | | | | | Y | | | | | | Y |
| CT | | | | | | | Y | Y | Y | | | | | Y |
| DC | | | | | | | | | | | | | | |
| DE | | | | | Y | | Y | | | | | | | Y |
| FL | | | | | Y | | | Y | | | | | | Y |
| GA | | | Y | | | | Y | | | | Y | | | |
| HI | | | | | | | | | | | | | | Y |
| IA | | | | | | | | | | | | | | |
| ID | | | | | | | | | | | | | | |
| IL | | | Y | | | | Y | Y | | Y | Y | | | Y |
| IN | | | Y | | Y | | Y | Y | | | | | | Y |
| KS | | | | | | | Y | | | | | | | |
| KY | | | | | | | | | | | | | | Y |
| LA | | | | | | | | Y | | | | | | Y |
| MA | | | | | Y | | Y | Y | | Y | | | | Y |
| MD | | Y | Y | | Y | | Y | Y | | | | | | Y |
| ME | | | | | | | Y | Y | | | | | | Y |
| MI | | | | | | | Y | | | | | | | |
| MN | | | | | | | Y | | | Y | Y | | | Y |
| MO | | | | | Y | | Y | | | | | | | Y |
| MS | | | | | | | Y | | | | | | | |
| MT | | | | | Y | | | | | Y | | | | Y |
| NC | | | | | Y | | Y | | | | Y | | | |
| ND | | | | | Y | | Y | | | | | | | Y |

| STATE | STATE MANDATED BENEFITS | | | | | |
|-------|-------------------------|---------------|----------------|--------------------|-----------------|-------------|
| | Testicular Cancer | TMJ Disorders | Varicose Veins | Visioncare Service | Well Child Care | Wilms Tumor |
| AK | | | | | Y | |
| AL | | | | | | |
| AR | | Y | | | Y | |
| AZ | Y | | | | Y | Y |
| CA | | | | | Y | |
| CO | | | | | Y | |
| CT | | Y | | | Y | |
| DC | | | | | Y | |
| DE | | | | | Y | |
| FL | | Y | | | Y | |
| GA | | Y | | Y | Y | |
| HI | | | | | Y | |
| IA | | | | | Y | |
| ID | | | | | | |
| IL | | Y | | | | |
| IN | | | | | | |
| KS | | | | | | |
| KY | | Y | | | Y | |
| LA | | | | | Y | |
| MA | Y | | | | Y | |
| MD | Y | Y | | | Y | |
| ME | | | Y | | | |
| MI | | | | | | |
| MN | | Y | | | Y | |
| MO | | | | | Y | |
| MS | | Y | | | Y | |
| MT | | | | | Y | |
| NC | | Y | | | Y | |
| ND | | Y | | | | |

| STATE | STATE MANDATED BENEFITS | | | | | |
|-------|-------------------------|---------------|----------------|--------------------|-----------------|-------------|
| | Testicular Cancer | TMJ Disorders | Varicose Veins | Visioncare Service | Well Child Care | Wilms Tumor |
| NE | | Y | | | Y | |
| NH | | | | | | |
| NJ | | | | | Y | Y |
| NM | | Y | | | Y | |
| NV | | Y | | | | |
| NY | | | | | Y | |
| OH | | | | | Y | |
| OK | | | | | Y | |
| OR | | | | | | |
| PA | | | | | Y | |
| RI | | | | | Y | |
| SC | | | | | | |
| SD | | | | | | |
| TN | | | | | | |
| TX | | Y | | | Y | |
| UT | | | | | Y | |
| VA | | Y | | | Y | |
| VT | | Y | | | | |
| WA | | Y | | | | |
| WI | | Y | | | Y | |
| WV | | Y | | | Y | |
| WY | | | | | | |

| State | STATE MANDATED PROVIDERS | | | | | | | | | | | | |
|-------|--------------------------|------------------|-------------------------|--------------|--------------|---------|-----------|-----------|----------------------|-----------------------|-------------|------------------------------|---------------------------|
| | Acupuncturist | Athletic Trainer | Birthing Center/Midwife | Chiropracist | Chiropractor | Dentist | Denturist | Dietician | Drug Abuse Counselor | First Nurse Assistant | Lay Midwife | Licensed Health Professional | Marriage/Family Therapist |
| AK | Y | | | | Y | Y | | | Y | | | | Y |
| AL | | | | | Y | Y | | | Y | | | | |
| AR | | Y | | | Y | Y | | | Y | | | Y | |
| AZ | | | | | Y | Y | | | | | | | |
| CA | Y | | | | Y | Y | | | | | | | |
| CO | | | Y | Y | Y | Y | | | | | Y | Y | Y |
| CT | | | | | Y | Y | | | | | | | Y |
| DC | | | | | | | | | | | | | |
| DE | | | | | Y | | | | | | | | |
| FL | Y | | Y | | Y | | | | | | | | Y |
| GA | | Y | | | Y | | | | | Y | | | |
| HI | | | | | | | | | | | | | |
| IA | | | | | Y | Y | | | | | | | |
| ID | | | | | | | | | | | | | |
| IL | | | | | Y | | | | | | | | Y |
| IN | | | | | Y | | | | | | | Y | |
| KS | | | | | Y | Y | | | | | | | |
| KY | | | | Y | Y | | | | | Y | | | |
| LA | | | | | Y | Y | | | | Y | | | Y |
| MA | | | | | Y | Y | | | | | Y | | |
| MD | | | | | Y | Y | | | | | | Y | Y |
| ME | Y | | | | Y | Y | | | | Y | Y | | Y |
| MI | | | Y | | Y | Y | | | | | Y | | |
| MN | | | | | Y | Y | | Y | | | | Y | Y |
| MO | | | | | Y | Y | | | | | | | |
| MS | | | | | Y | Y | | | | | | | Y |
| MT | Y | | | | Y | Y | Y | | | | | | |
| NC | | | Y | | Y | Y | | | | | | | Y |
| ND | | | | | Y | | | | | | | | |
| NE | | | | | Y | Y | | | | | | | |
| NH | | | Y | | Y | | | | | | Y | | Y |

| State | STATE MANDATED PROVIDERS | | | | | | | | | | | | |
|-------|--------------------------|------------------|-------------------------|--------------|--------------|---------|-----------|-----------|----------------------|-----------------------|-------------|------------------------------|---------------------------|
| | Acupuncturist | Athletic Trainer | Birthing Center/Midwife | Chiroprapist | Chiropractor | Dentist | Denturist | Dietician | Drug Abuse Counselor | First Nurse Assistant | Lay Midwife | Licensed Health Professional | Marriage/Family Therapist |
| NJ | | | | Y | Y | Y | | | | | | | |
| NM | Y | | Y | | Y | Y | | | | | Y | | |
| NV | Y | | Y | | Y | Y | | | Y | | | Y | Y |
| NY | | | | | Y | | | | Y | | | | |
| OH | | | | | Y | Y | Y | | | | | | |
| OK | | | | | Y | Y | | | | | | | |
| OR | Y | | | | | Y | Y | | | | | | |
| PA | | | Y | | Y | Y | | | Y | | | | Y |
| RI | Y | | Y | | Y | | | | Y | Y | Y | Y | Y |
| SC | | | | | Y | | | | | | | | |
| SD | | | | | Y | Y | | | | | | Y | |
| TN | | | | | Y | Y | | | | | | | |
| TX | Y | | | | Y | Y | | Y | | Y | | | Y |
| UT | | | | | | | | | | | | Y | |
| VA | Y | | | Y | Y | Y | | | | | | | Y |
| VT | | Y | | | Y | | | | | | | | |
| WA | Y | | Y | Y | Y | Y | Y | | | | | Y | |
| WI | | | | | Y | Y | | | | | | Y | |
| WV | | | | | Y | | | | | | | | |
| WY | | | | | Y | Y | | Y | | | | Y | |

| State | STATE MANDATED PROVIDERS | | | | | | | | | | | | |
|-------|--------------------------|------------|-------|---------------|-------------------|--------------------|-------------------|------------------------|----------|-------------|--------------|-----------|----------------------------|
| | Massage Therapist | Naturopath | Nurse | Nurse Midwife | Nurse Anesthetist | Nurse Practitioner | Psychiatric Nurse | Occupational Therapist | Optician | Optometrist | Oral Surgeon | Osteopath | Pain Management Specialist |
| AK | | Y | | Y | | Y | | Y | | Y | | Y | |
| AL | | | | | Y | | | | | Y | | | |
| AR | | | | | Y | | | | | Y | | Y | |
| AZ | | | | | | Y | | Y | | Y | | Y | |
| CA | | | | Y | | Y | Y | Y | | Y | | | |
| CO | | | Y | Y | Y | Y | Y | | | Y | Y | Y | Y |
| CT | | | | Y | | Y | Y | Y | | Y | | | Y |
| DC | | | | | | | | | | | | | |
| DE | | | | Y | | Y | | | | Y | | | |
| FL | | | | Y | | | Y | Y | | Y | Y | Y | |
| GA | | | | | | | | | | Y | | | |
| HI | | | | | | Y | | | | Y | | | |
| IA | | | Y | | | Y | | | | Y | | | |
| ID | | | | | | | | | | | | | |
| IL | | | | | | | | | | | | Y | |
| IN | | | | | Y | | | | | | Y | | |
| KS | | | | | Y | Y | | | | Y | Y | Y | Y |
| KY | | | | | | | | | | Y | | Y | |
| LA | | | | | | | | Y | | Y | | | |
| MA | | | Y | Y | Y | Y | Y | | | Y | | | |
| MD | Y | | | Y | Y | Y | | | | Y | | | |
| ME | | | | Y | Y | Y | Y | | | Y | | | |
| MI | | | | Y | | | | | | Y | Y | | |
| MN | | | Y | Y | Y | Y | Y | Y | Y | Y | | Y | |
| MO | | | | | | Y | | | | Y | | | |
| MS | | | | Y | Y | Y | Y | | | Y | | | |
| MT | | Y | | Y | Y | Y | | | | | | | |
| NC | | | Y | Y | Y | Y | Y | | | Y | | | |
| ND | | | Y | Y | Y | Y | Y | | | | | | |
| NE | | | | | | | | | | Y | | Y | |
| NH | Y | | | Y | | Y | | | | Y | Y | Y | |

| State | STATE MANDATED PROVIDERS | | | | | | | | | | | | |
|-------|--------------------------|------------|-------|---------------|-------------------|--------------------|-------------------|------------------------|----------|-------------|--------------|-----------|----------------------------|
| | Massage Therapist | Naturopath | Nurse | Nurse Midwife | Nurse Anesthetist | Nurse Practitioner | Psychiatric Nurse | Occupational Therapist | Optician | Optometrist | Oral Surgeon | Osteopath | Pain Management Specialist |
| NJ | | | Y | Y | | | | | | Y | | | |
| NM | | | | Y | Y | Y | | | | Y | | Y | |
| NV | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | |
| NY | | | Y | Y | | | | Y | | Y | | | |
| OH | | | | Y | | | Y | | | Y | | Y | |
| OK | | | | Y | | | | | | Y | | Y | |
| OR | | | | | | Y | | | | Y | | | |
| PA | | | Y | Y | Y | Y | Y | Y | | Y | | Y | |
| RI | | | | | | Y | Y | | Y | Y | Y | Y | |
| SC | | | | | | | | | | Y | | | |
| SD | | | | Y | Y | Y | | | | Y | | Y | |
| TN | | | | Y | | Y | | | | Y | | | |
| TX | | | | | | Y | | Y | | Y | | Y | |
| UT | Y | | | | | | | | | | | | |
| VA | | | | Y | Y | | Y | | Y | Y | | Y | |
| VT | | Y | | | | | | | | Y | | | |
| WA | Y | Y | Y | Y | Y | Y | | | | Y | | Y | |
| WI | | | | | | Y | | | | Y | | | |
| WV | | | | Y | | Y | Y | | | Y | | Y | |
| WY | | | | | Y | Y | Y | Y | | Y | | Y | |

| State | STATE MANDATED PROVIDERS | | | | | | | | | | |
|-------|--------------------------|----------------------|------------|--------------------|---------------------|------------|------------------------|--------------|--------------------------|---------------|--------------------------|
| | Pastoral Counselor | Pediatric Specialist | Pharmacist | Physical Therapist | Physician Assistant | Podiatrist | Professional Counselor | Psychologist | Public or Other Facility | Social Worker | Speech/Hearing Therapist |
| AK | | | | Y | Y | | | Y | | Y | Y |
| AL | | | Y | | Y | Y | | Y | | | |
| AR | | | | | | Y | Y | Y | | | Y |
| AZ | | | | | | Y | | Y | Y | | Y |
| CA | | | | | | Y | Y | Y | Y | Y | Y |
| CO | | | | | | Y | Y | Y | | Y | |
| CT | | | | Y | | | | Y | Y | Y | |
| DC | | | Y | | | | | | | | Y |
| DE | | | | | Y | Y | | | | | |
| FL | | | | | Y | Y | Y | Y | Y | Y | |
| GA | | | | | | | | Y | | | |
| HI | | | | | | | | Y | | | |
| IA | | | | | Y | | | | | | |
| ID | | | | | | | | | Y | | Y |
| IL | | | | | | Y | Y | Y | | Y | Y |
| IN | | | | | | | | Y | | | |
| KS | | | Y | Y | Y | Y | | Y | | Y | |
| KY | | | | | Y | Y | | Y | | Y | |
| LA | | | | Y | | Y | | Y | Y | Y | Y |
| MA | | Y | | | | Y | Y | Y | | Y | Y |
| MD | | | | Y | Y | Y | | Y | Y | Y | |
| ME | Y | | | | | | | Y | Y | Y | |
| MI | | | | | Y | Y | | Y | | | |
| MN | | | Y | Y | | Y | | Y | Y | Y | Y |
| MO | | | | | | Y | | Y | | | Y |
| MS | | | | | | | Y | Y | Y | Y | |
| MT | | | | Y | Y | | Y | Y | Y | Y | |
| NC | Y | | Y | | Y | Y | Y | Y | Y | Y | |
| ND | | | | | | | Y | Y | | Y | |
| NE | | | | | | Y | | Y | Y | | |
| NH | Y | | | | | Y | Y | Y | | Y | |

| State | STATE MANDATED COVERED PERSONS | | | | | | | | | | | |
|-------|--------------------------------|------------------------|-----------------------|-------------------------|-------------------------|-----------------|---------------|--------------------|--------------------|---------|------------------------|------------------------------|
| | Adopted Children | Continuation Dependent | Continuation Employee | Conversion to Non Group | Dependent Student/Adult | Foster Children | Grandchildren | Disabled Dependent | Legal Non Resident | Newborn | Non Custodial Children | Domestic Partner/Civil Union |
| AK | Y | | | | | | | | | Y | | |
| AL | | | | | | | | | | Y | | |
| AR | Y | Y | Y | Y | | | | Y | | Y | Y | |
| AZ | Y | Y | | Y | Y | | | Y | Y | Y | | |
| CA | Y | Y | Y | Y | | | | Y | | Y | | Y |
| CO | Y | | Y | Y | Y | | | Y | | Y | | |
| CT | Y | Y | Y | | Y | | | Y | | Y | Y | Y |
| DC | | Y | Y | Y | | | Y | | | Y | Y | Y |
| DE | | Y | | | Y | | | | | Y | | |
| FL | Y | Y | Y | Y | Y | | Y | Y | | Y | | |
| GA | Y | Y | Y | Y | Y | | | Y | | Y | | |
| HI | Y | | Y | | | | | Y | | Y | | Y |
| IA | Y | Y | Y | Y | Y | | | Y | | Y | | Y |
| ID | Y | | | Y | Y | | | Y | | Y | | |
| IL | Y | Y | Y | Y | Y | | | Y | | Y | | |
| IN | Y | Y | Y | Y | Y | | | Y | | Y | | |
| KS | Y | Y | Y | Y | | | | | | Y | | |
| KY | Y | Y | Y | Y | Y | | | Y | | Y | | |
| LA | Y | Y | Y | Y | Y | | | Y | | Y | | |
| MA | Y | Y | Y | | | | | Y | | Y | | |
| MD | Y | Y | Y | Y | Y | | Y | Y | | Y | | Y |
| ME | Y | Y | Y | Y | Y | | | | Y | Y | Y | Y |
| MI | | | | Y | | | | Y | | Y | | |
| MN | Y | Y | Y | Y | Y | | Y | Y | | Y | Y | |
| MO | | Y | Y | Y | Y | | | Y | | Y | | |
| MS | Y | Y | Y | | | | | Y | | Y | | |
| MT | Y | Y | Y | Y | Y | | | Y | | Y | Y | |
| NC | Y | Y | Y | Y | | Y | | Y | | Y | | |

| State | STATE MANDATED COVERED PERSONS | | | | | | | | | | | |
|-------|--------------------------------|------------------------|-----------------------|-------------------------|-------------------------|-----------------|---------------|--------------------|--------------------|---------|------------------------|------------------------------|
| | Adopted Children | Continuation Dependent | Continuation Employee | Conversion to Non Group | Dependent Student/Adult | Foster Children | Grandchildren | Disabled Dependent | Legal Non Resident | Newborn | Non Custodial Children | Domestic Partner/Civil Union |
| ND | Y | Y | Y | Y | Y | | | Y | | Y | Y | |
| NE | Y | Y | Y | Y | Y | | | Y | | Y | | |
| NH | Y | Y | Y | | Y | | | Y | | Y | | Y |
| NJ | | Y | Y | Y | Y | | | Y | | Y | | Y |
| NM | Y | Y | Y | Y | Y | | | Y | | Y | Y | Y |
| NV | Y | Y | Y | Y | | | | Y | | Y | | |
| NY | Y | Y | Y | Y | Y | | Y | Y | | Y | Y | |
| OH | Y | Y | Y | Y | | | | Y | | Y | Y | |
| OK | Y | Y | Y | | | | | | | Y | | |
| OR | Y | Y | Y | Y | Y | | | | | Y | Y | Y |
| PA | Y | Y | Y | Y | Y | | | Y | | Y | | Y |
| RI | Y | Y | Y | Y | Y | | | Y | | Y | | Y |
| SC | Y | Y | Y | Y | | | | Y | | Y | | |
| SD | Y | Y | Y | Y | Y | | | Y | | Y | | |
| TN | Y | Y | Y | Y | Y | | | Y | | Y | Y | |
| TX | Y | Y | Y | Y | Y | | Y | Y | | Y | | |
| UT | Y | Y | Y | Y | Y | | | Y | | Y | Y | |
| VA | Y | Y | Y | Y | Y | | | Y | | Y | | |
| VT | Y | Y | Y | Y | Y | | | Y | | Y | | Y |
| WA | Y | Y | Y | Y | Y | | | Y | | Y | | Y |
| WI | Y | Y | Y | Y | | | Y | Y | | Y | | |
| WV | Y | Y | Y | Y | Y | | | | | Y | | Y |
| WY | Y | Y | Y | Y | | | | Y | | Y | Y | |