



February 20, 2024

The Honorable Lisa Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Submitted via the Federal eRulemaking Portal: www.regulations.gov

RE: EBSA Notice Titled “Definition of Employer’ – Association Health Plan,”
RIN 1210-AC16, 88 *Fed Reg.* 87968 (December 20, 2023)

Dear Assistant Secretary Gomez,

Capital Benefits Group (CBG) appreciates the opportunity to comment on the Proposed Rule: “Definition of ‘Employer’ – Association Health Plans”, as published December 20, 2023, in the *Federal Register*.

Capital Benefit Group (CBG) has earned national respect as a leader in Association Health Program (AHP) management. From our strong foundation focused on customer service, CBG has served the Association Health Trust market for over 30 decades. Our experience includes:

- End-to-end management of five (5) **fully-insured** Multiple Employer Welfare Arrangement (MEWA) trusts in Washington State and Oregon
- Over 2200 participating businesses
- 40,000+ enrolled employees
- Retention rates that consistently exceed 90%+

Additionally, we would note:

- All of our plans are fully-insured
- All of our plans are fully compliant with the Affordable Care Act (ACA) and State Regulations
- All of our plans offer access to broad provider networks with comprehensive coverage
 - Medical, Dental, Vision, Life/AD&D, Employee Assistance Program (EAP)
 - Prescription Drug
 - Wellness and Preventative Health
 - Women’s Reproductive Health
 - Mental Health
 - Etc.
 - Ease of Administration
 - Billing
 - Enrollment
 - Customer Service

CBG strongly believes that everyone should have access to high-quality, affordable, comprehensive, and administratively-simple health care. We recognize the critical role that bona fide associations have played, under pre-2018 guidance, for multiple decades. Our key recommendations regarding the proposed rule are as follows:

- Rescind the 2018 AHP Final Rule: While the U.S. District Court for the District of Columbia acted on March 28, 2019, the rule still remains codified and creates unnecessary confusion.
- Fully preserve bona fide/Pathway 1 MEWA's: **Do not proceed with Additional Rulemaking or Guidance.** The DOL and state regulators have created a strong framework that supports legitimate associations. Revisiting the existing regulatory framework that has effectively served small employers, their employees, and families, could effectively threaten access to coverage and care.
- Do not make changes to existing AHP criteria: Bona fide/Pathway 1 associations are critical to small employers in our market. Bona fide/Pathway 1 MEWA's are a reasonable option for employers to provide comprehensive coverage. Moreover, both the individual and small group markets have been effectively stable. CBG does not support rulemaking that would undermine the ability of employers to operate and/or create Pathway 1 MEWA's.

We appreciate your consideration of our comments. Should you have any questions or need additional information, please do not hesitate to contact me at MJHensley@cbgrp.us.

Sincerely,



M. Jonathan Hensley
Chief Executive Officer & Partner