



Building Industry Association of Washington
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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:

As one of the largest home building associations in America, representing nearly 8000 members, the Building Industry Association of Washington (BIAW) appreciates the opportunity to comment on the Proposed Rule: “Definition of ‘Employer’ – Association Health Plans”, as published December 20, 2023, in the *Federal Register*.

For over 35 years, the BIAW Health Insurance Program has set the standard among association health plans with its commitment to excellence in pricing, comprehensive benefit plan designs, and superior customer service. We proudly note:

- Over 750 member companies with nearly 15,000 employees and their families participate in our program.
- Our fully-insured plans are all entirely compliant with the Affordable Care Act (ACA) with broad provider network access:
 - Medical, Dental, Vision, Life/AD&D, Employee Assistance Program (EAP)
 - Prescription Drug
 - Mental Health
 - Wellness and Preventative Health
 - Etc.

The BIAW believes in 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.
- **Do not proceed with Additional Rulemaking or Guidance.** The DOL and state regulators have created a strong framework that supports legitimate (bona fide/Pathway 1) 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 programs, like the BIAW Health Insurance Program are critical to our members and their families. BIAW does not support rulemaking that would undermine the ability of employers to operate or create Pathway 1 MEWA's.

We appreciate your consideration of our comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'G. Lane', with a long horizontal flourish extending to the right.

Gregory D. Lane
Executive Vice President