



# U.S. CHAMBER OF COMMERCE HEALTH POLICY ISSUE BRIEF

## Association Health Plans (AHPs)

In alignment with the Administration's commitment to reducing health care costs for small businesses, the Department of Labor's (DOL's) 2018 final rule on AHPs enables small businesses and self-employed individuals to band together and purchase more robust coverage in the large group market. The final rule established criteria for determining when an association can be treated as an "employer" for purposes of offering a single group health plan to all member companies' employees. Two key provisions in the rule:

1. Allow an association with membership within a common geographic area to offer an AHP; and
2. Permit a dual classification of working owners as both employers and employees.

### WHY DOES IT MATTER?

The number of small businesses offering health coverage has declined substantially over the years, from 47% in 2000 to 29% in 2016, in part because many entrepreneurs and small employers simply can't afford to offer high-priced comprehensive plans.

The U.S. Congressional Budget Office estimates that 400,000 people who would have been uninsured will enroll in AHPs and 3.6 million other people will elect to enroll in an AHP, resulting in 4 million additional people electing to participate in an AHP within the next year.

### KEY FACTS

AHPs operating under the DOL's final rule are subject to the same Affordable Care Act consumer protections as other self-insured and large group plans and provide comprehensive benefits.

These new AHPs will be subject to state insurance law requirements including licensing, registration, certification, financial reporting, examination, and auditing (among others) to ensure compliance. For self-insured AHPs, any state law that regulates insurance may also apply to the AHP to the extent that it is not inconsistent with the Employee Retirement Income Security Act (ERISA).

### THE LATEST

Despite overwhelming support for the AHP final rule from the business community, 9 months after its promulgation the U.S. District Court for the District of Columbia ruled that the DOL's regulation violates ERISA and concluded that the regulation's two key provisions are unlawful.

While the establishment of new AHPs and/or the enrollment of new individuals under an existing plan is prohibited, current AHPs can continue to operate pending a resolution to the court case. The Chamber, along with the National Federation of Independent Business, more than 85 associations, chambers of commerce, and state attorneys general, filed an amicus with the appellate court defending the AHP rule.

### OUR POSITION

As a strong advocate for the expansion of flexible and affordable health coverage choices for every American, the Chamber supports the AHP final rule as it provides small businesses with a new affordable way to provide their employees with the same robust coverage options traditionally enjoyed by large employers.

The U.S. Chamber of Commerce remains diligently at work to provide solutions for the 20,000 workers who are currently covered under AHPs and the more than 300,000 workers who were expected to enroll within the year of the final rule's 2018 promulgation. To learn more about the Chamber's recent activity, please visit our AHP webpage at the link below.

[www.uschamber.com/ahp-overview](http://www.uschamber.com/ahp-overview)