



Michael Schopf
Senior Policy Analyst Division of Financial Regulation
Department of Consumer and Business Services

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Dear Mr. Schopf,

Thank you for the opportunity to provide comments on the draft AHP Rule. Regence believes two modifications to the draft Rule are necessary to ensure a level playing field and consistent practices for all AHPs.

1. **There should be an option for Associations to sign the filing transmission attesting to the accuracy of materials described in subsection 3 of the Rule.** The Rule requires filing materials the accuracy of which carriers cannot independently verify. For example:
 - a) Subsection 3(b) requires submitting “a statement describing the purpose of the employer association and demonstrating that the employer association been organized and will be maintained in good faith primarily for purposes other than that of obtaining insurance.” *A carrier can ask an association to provide this information, but the carrier cannot attest that the association will be “maintained in good faith.” Carriers can only rely on associations to make those representations.*
 - b) Subsection 3(e) requires submitting “[e]vidence demonstrating that, for purposes of federal law, an ERISA group health plan exists at the employer association level. Consistent with guidance issued by the U.S. Department of Labor, the filing must demonstrate that: (A) The employer association maintaining the group health plan and the individuals benefitting from it are tied by a common economic or representational interest , beyond the provision and receipt of welfare benefits (i.e. a commonality of interest); and (B) The members of the employer association that participate in the plan will exercise control, in both form and substance, over the administration and operation of the health benefit plan coverage.” *Again, carriers would be relying on associations to provide evidence to meet these requirements.*

Regence thinks the fair and reasonable approach would be to include a signature option for associations to sign the submission given that carriers would be relying on materials and representations from the associations. The optional signature approach would give carriers flexibility to require association to sign/attest if so desired or choose not to do so. This likely would improve the accuracy of submitted materials and reduce the frequency of follow-up requests from the Division to a carrier for more information. This modification would have no negative impact on the Division’s review of submitted materials.

2. Subsection 7 should be revised to provide associations 18 months to achieve compliance with the Rule, up to a maximum of up to three years at the Division's discretion.

The current Subsection 7 language does not promote a level playing field among associations. As written, the Division can give an association up to 3 years after the Rule takes effect to achieve compliance. There is not a default transition timeline and, therefore, associations likely will be on different compliance timelines with no consistency. This would create an environment where some associations are meeting more stringent requirements in offering coverage than others for several years. That hurts competition and is unfair. Achieving compliance with the Rule should take no more than 18 months. The Division would ensure a level playing field if it put all associations on the same timeline for achieving compliance with the Rule.

We propose replacing Subsection 7 with the following:

(7) In the case of an employer association that was approved to offer group health benefit coverage prior to the effective date of this rule, the requirements of this rule become on the first date of annual renewal following the effective date of this rule. If an employer association cannot achieve compliance with this rule by that date, the carrier offering coverage to the association may file a transition plan demonstrating how the association will come into compliance with any requirements that are not met within 18 months of the effective date of this rule. The division may allow an employer association to continue offering coverage pursuant to the terms of the transition plan for up to three years if the employer associations provide sufficient evidence that it cannot achieve compliance within 8 months of the effective date of this rule.

Sincerely,
Vince Porter
Director of Government Affairs

Cc: Jim Walton, Guy Thompson