fisherphillips.com

United Benefit Advisors Q&A

What Employers Need to Know About the Proposed Regulations Regarding Association Health Plans

March 13, 2018

Contact: ***UBAmember@fisherphillips.com***

	QUESTION	ANSWER
Q&A-1	When do you feel the rules will be published and in effect?	That is very difficult to predict. We anticipate that the final rules will be issued in the fall to be effective in 2019; however, this is far from certain.
Q&A-2	If an association is looking at establishing a AHP, would you recommend fully insured or self-funded?	That really depends on the facts and circumstances, as well as state law. It is too early to predict what will happen with the AHP rules and whether the DOL will exercise its authority to preempt state laws regulating self-funded MEWAs. Generally, fully-insured MEWAs are subject to less regulation, but this would be difficult to operate on a multi-state basis under the AHP rules because of the states' ability to regulate insurance.

	QUESTION	ANSWER
Q&A-3	Would you explain the difference between AHP, MEWA, and a Captive?	Until the DOL rules are finalized, there is really no legal entity operating as an AHP. But, generally, an AHP will be a MEWA that meets the requirements set forth by the DOL to offer a group health plan as a single employer. A MEWA is a group health (or other welfare) plan offering benefits to employees of one or more unrelated employers. There are two types of MEWAs: a "plan" level or "single employer" MEWA. It is necessary for a fully-insured MEWA to meet the current requirements for treatment as a plan level MEWA to qualify for underwriting as one large group. Alternatively, a MEWA that doesn't meet these requirements will be treated as a collection of plans sponsored by each participating employer. For insured plans, this would mean each participating employer is underwritten based on its own size. A captive can be a funding arrangement sponsored by unrelated employers, but should be designed so that it is not a group health plan by limiting the coverage to the reinsurance portion.