New Association Health Plan Rule Will Help Gig Economy Workers

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It's a small step, but at least it's progress. Federal regulators made it easier this week for gig workers to obtain health insurance on a more cost-effective basis, which should help to shore up the ranks of gig workers and make freelance work a more attractive option for a larger pool of talent.

The U.S. Department of Labor (USDOL) released a final rule on June 19 that allows small businesses to join forces to form association health plans (AHPs). According to Labor Secretary Alexander Acosta, AHPs "are about more choice, more access, and more coverage." Association health plans work by allowing small businesses, including self-employed workers, to band together by geography or industry to obtain healthcare coverage as if they were a single large employer.

The good news for the gig economy? The rules include language that confirms "independent contractors" don't become employees simply by participating in AHPs with other contractors and freelancers.

As we reported late last year, President Trump signed an executive order titled "Promoting Healthcare Choice and Competition Across the United States" that instructed the USDOL to draft or revise existing regulations and guidance to reform the Affordable Care Act. It specifically sought to expand small employer access to AHPs, among other things. At the time, AHPs existed only as multiple employer welfare arrangements. Under prior rule, the USDOL only permitted the association of employers to be treated as a single employer if it qualified as a "bona fide group or association" due to the existence of a commonality of interest based on a number of factors. The executive order specifically instructed the USDOL to expand the situations that would satisfy the commonality-of-interest requirement, seeking a less rigorous test so that more loosely related employers, or employers who have no relationship whatsoever, could band together to form an AHP.

Under the new rule, for the first time, working owners without other employees (including sole proprietors and independent contractors) and their families will be permitted to join AHPs, creating a new path to access affordable, quality health coverage.

According to Bloomberg Law, this portion of the rule "addresses concerns from gig companies such as Uber and its health-care partner Stride Health," which asked the USDOL to consider gig economy workers in their calculations when finalizing the rule. This is another step in the right direction when it comes to creating a climate conducive to the growth of the gig economy.

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