March 6, 2018

The Honorable Alexander Acosta Secretary U.S. Department of Labor 200 Independence Avenue, NW Washington, DC 20210

Ms. Jeanne Klinefelter Wilson
Deputy Assistant Secretary for Policy
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re:

Dear Secretary Acosta and Deputy Assistant Secretary Wilson:

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proposed rule on Association Health Plans (AHPs). The 15 undersigned organizations urge the Department

the Department to make the best use of the collective insight and experience our patients and organizations offer in response to this proposed rule.

In March 2017, our organizations agreed upon three overarching principles to guide any work to reform

1 These principles state that: (1) healthcare must be
adequate, meaning healthcare coverage should cover treatments patients need including all the services
in the essential health benefit package; (2) healthcare should be affordable, enabling patients to access
the treatments they need to live healthy and productive lives; and (3) healthcare should be accessible,
meaning that coverage should be easy to understand and not pose a barrier to care. Enrollment should
be easy to understand, and benefits should be dearly defined.

have on the individuals and families we represent. While AHPs can offer cheaper coverage, they frequently do not adhere to important standards, including financial protections and coverage for essential health benefits. AHPs also have a long history of fraud and insolvency and have historically affected small employers and individuals. Many of these plans collected premiums for health insurance coverage that did not exist and did not pay medical daims --leaving businesses, individuals, and providers with millions of dollars in unpaid bills. For consumers and patients, the results were disastrous. Our organizations are extremely concerned that the proposed rule will once again leave consumers in the lurch with insufficient coverage, unpaid medical bills, and lifelong health implications just as many of these plans did before the Affordable Care Act (ACA) was passed.

In the proposed rule, the Department recommends eliminating and/or altering several standards and regulatory structures that have served to protect patients and consumers, including those related to benefit structure, cost, and oversight. We are deeply concerned about these proposed policies and the potential negative impact on the communities we represent. Therefore, we strongly encourage the Department not to finalize this proposed rule until the needs of our communities have been met. Should you decide to proceed, then any modifications should, at a minimum:

- Require AHPs to comply with the Essential Health Benefits (EHBs) coverage requirements to ensure coverage adequacy, as well as protections from lifetime and annual caps, and annual out-of-pocket maximums;
- Allow the employees of businesses that choose to enroll AHPs to remain eligible for premium tax credits to encourage market choice;
- Require AHPs to provide clear consumer information, including details about coverage, costs, and plan policies, prior to enrollment; and
- Carify and bolster state regulation of AHPs

increase in these outcomes if AHPs are made easily available to consumers without clear transparency about what they do, and do not cover.

Survey data, focus

insurance reveals serious deficiencies in comprehension of the common language and concepts of nce literacy

including: nearly nine out of ten adults had difficulty using health information to make informed decisions about their health⁶; 51 percent of respondents did not understand the basic health insurance terms premium, deductible and copay; and only 16 percent could calculate the cost of an out-of-network lab test. ⁷ Consumers Union has cautioned that it is not enough to know the difference between premiums, deductibles, and copays, one must also understand how these costs must be sequenced to understand how health insurance must be viewed in the context of real world health care needs.⁸

We note that the ACA sought to address many of these concerns by implementing new and evolving measures to help inform and educate consumers about health insurance, including the online Marketplaces, the Summary of Benefits & Coverage, Glossary of Health Care Terms and Actuarial Value,

choice of health plan. These resources are helping consumers make more informed choices by presenting and explaining details about coverage, costs, and plan policies. Yet because most of these helpful tools would not be required resources of AHPs, prospective enrollees of AHPs would not benefit

Protect State Regulatory Authority

The proposed rule raises questions about preemption of state law and future regulatory authority. While the Department states that the proposed rule would not alter existing ERISA statutory provisions governing multiple employer welfare arrangements, we are concerned that the proposed rules will have

framework allowing AHPs to be treated as single multiple-employer plans creates confusion about enforcement authority. In the past, promoters of fraudulent health plans have used this type of regulatory ambiguity to avoid state oversight and enforcement activities that could have otherwise quickly shut down scam operations.¹⁷

States must maintain the ability to protect patients and manage their insurance markets.