

A photograph of a person's feet wearing blue flip-flops walking on a wooden staircase. The person is stepping on a carpeted step. Below them, a white and grey ball is on the next step down. The background shows the wooden structure of the stairs and a wall with some yellowish stains. A green banner is overlaid on the bottom right of the image.

**THERE ARE TIMES WHEN YOU  
NEED A HELPING HAND.  
LIKE A WHOLE TEAM OF THEM.**

# DOI Rules & Regulations

## Agenda

- YHI updates and housekeeping Items
  - Lindsey Botkin, Your Health Idaho
- Association Health Plans final rule
- Short-Term Limited, Duration proposed rule and overview
  - Kathy McGill, Idaho Department of Insurance
- Q&A

ASSOCIATION HEALTH PLANS  
FINAL RULE  
AND  
SHORT-TERM LIMITED, DURATION  
INSURANCE PROPOSED RULE  
AN OVERVIEW


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# ASSOCIATION HEALTH PLANS FINAL RULE

- Published in Federal Register June 21, 2018 by U.S. Department of Labor
- Establishes a “second pathway” for employers to form an Association Health Plan (AHP), a single-plan Multi-Employer Welfare Arrangement (MEWA)
- Previously existing pathway to form an AHP is still valid
- New pathway allows for greater flexibility and more opportunity for small employers to form AHPs
- May form if primary purpose is to provide health benefits for members, (but there must also be at least one other substantial business purpose)

# SECOND PATHWAY AHP REQUIREMENTS

- At least one substantial business purpose
  - Commonality of interest
  - Formal organizational structure
  - Control by employer members
  - Must abide by non-discrimination provisions
- 
- A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, set against the green background.

# SUBSTANTIAL BUSINESS PURPOSE

Rule does not define, but a substantial business purpose is considered to exist if the entity would be a viable association even in the absence of sponsoring a health plan.

Business purpose need not be for-profit: could include providing business-related educational materials or classes to members; setting business standards or practices, or advancing the interests of an industry.

# COMMONALITY OF INTEREST

Established by:

- Employers in the same trade, industry, line of business or profession; or
- Principal place of business in the same state, city or county; or
- Principal place of business in the same metropolitan area (which could include more than one state)



# FORMAL ORGANIZATIONAL STRUCTURE

The association must have:

- A governing body, and
- By-laws, or other indications of formality

# CONTROL BY EMPLOYER MEMBERS

The employer members that participate in the health benefit program must exercise control over the program both in form and substance.

Generally, control will be considered to be established when:

- Employer members nominate and elect directors, officers, trustees or other members of a governing body;
- Employer members have authority to remove such directors, officers, trustees, etc.; and
- Employer members have the authority and opportunity to approve or veto decision affecting plan design, such as changes in coverage, benefits and premiums.

# NON-DISCRIMINATION

- AHP cannot exclude an employer group based on a health factor of one or more of the member's employees
- AHP must not charge different premiums or otherwise treat an employer member differently based on a health factor
- This adds to existing HIPAA protections prohibiting discrimination in premiums, benefits or eligibility against an individual employee based on a health factor
- AHP can treat employer members or employees differently based on occupation or industry, region, participation in a wellness program, or any other non-health factors permissible for a large employer.

# WORKING OWNERS

- Second pathway allows for working owners (business owners who have no employees) to join AHP, if AHP elects to admit working owners.
- To qualify, a working owner must:
  - Work at least 20 hours per week or 80 hours per month, or
  - Have business earnings of at least enough to pay the costs of the health plan.
- Coverage through the AHP need not be a “last resort” as per the proposed rule.

# EFFECTIVE DATES

- The new pathway is available 9/1/2018 for fully insured AHPs.
- The new pathway is available 1/1/2019 for self-funded AHPs that were in existence as of the publication date of the final rule.
- The new pathway is available 4/1/2019 for all other self-funded AHPs.

# SHORT-TERM, LIMITED DURATION HEALTH PLANS: PROPOSED RULE OVERVIEW

- Proposed rule published in Federal Register 2/21/2018
- Comment period ended 4/23/2018
- Final rule expected to be published soon

# BACKGROUND

On 10/31/2016, a final rule was published that changed the definition of, and requirements for, short-term, limited duration health insurance.

- Short-term, limited duration coverage limited to less than three months (former, less than 12 months)
- Required written disclosure that short-term, limited duration health insurance is not minimum essential coverage (MEC), and that not having MEC could result in a tax penalty.
- Effective for policy years beginning on or after 1/1/2017; however, no federal enforcement actions for such plans sold before 4/1/2017 as long as the plan ends on or before 12/31/2017.

# PROPOSED RULE

- Changes the maximum coverage period of short-term, limited duration insurance back to coverage lasting less than 12 months
- Retains disclosure requirement that short-term, limited duration insurance is not MEC, and a tax penalty could result due to not having MEC in 2018
- Comments requested on whether the coverage should be renewable
- Effective date of 60 days after publication of final rule



# SHORT-TERM, LIMITED DURATION PLANS AND IDAHO LAW

- Current Idaho law limits short-term plans to 12 months or less (41-5203(12), Idaho Code).
- Short-term coverage in Idaho is non-renewable; there must be a gap in coverage before the carrier can issue another short-term policy to the individual.
- The final federal rule will likely not supersede state laws.



# QUESTIONS?

Lindsey is always here and available for training questions at  
[outreach@yourhelathidaho.org](mailto:outreach@yourhelathidaho.org)

All consumer-facing issues must be directed to  
[support@yourhealthidaho.org](mailto:support@yourhealthidaho.org)