



5 Big Things About the DOL's Proposed Rule on Association Health Plans

Carolyn E. Smith

Lawyers and Administrators Meeting
April 12, 2018
Washington, DC





The first BIG things

1. Rules for multiemployer health plans are not affected
2. AHPs will be easier to form
 - Can form association just for health benefits
 - Nationwide associations for the same industry
 - Regional associations in the same state or metropolitan area
3. AHP coverage may be cheaper, but also likely thinner
 - Small group specific ACA insurance mandates will not apply, e.g., requirement to offer EHBs, modified community rating



The next big things

4. Nondiscrimination rules seek to reduce risk selection
 - Association cannot deny an employer membership based on health status of any employee, former employee, or family members
 - Different employer groups may not be treated as distinct groups of similarly-situated individuals in applying HIPAA nondiscrimination rules
5. States continue to have authority to regulate self-funded AHPs
 - States may subject MEWAs to any state law regulating insurance to the extent “not inconsistent” with ERISA
 - DOL has authority to exempt self-funded MEWAs from state laws
 - DOL cannot exempt MEWAs from state laws that relate to reserve requirements or required levels of contributions
 - DOL has not acted on exemptions, but requested comments



One last thing

