



**February 20, 2024**

Lisa Gomez  
Assistant Secretary of Labor  
Employee Benefits Security Administration  
Department of Labor

Submitted via [regulations.gov](https://www.regulations.gov).

**RE: “Definition of “Employer”-Association Health Plans” (RIN 1210–AC16)**

Dear Secretary Gomez,

United States of Care (USofCare) is pleased to submit comments to the Employee Benefits Security Administration (EBSA) regarding the proposed rule entitled “Definition of “Employer”-Association Health Plans.”

[USofCare](#) is a nonpartisan nonprofit working to ensure everyone has access to quality, affordable health care regardless of health status, social need, or income. We drive change at the state and federal level in partnership with everyday people, business leaders, health care innovators, fellow advocates, and policymakers. Together, we advocate for new solutions to tackle our shared health care challenges — [solutions](#) that people of every demographic tell us will bring them peace of mind and make a positive impact on their lives.

**USofCare applauds EBSA for protecting consumers’ access to care through the proposed rule.** If enacted, the proposed rule will rescind the previous 2018 regulation promulgated by the Department of Labor weakening the requirements for an association to be considered an employer under the Employer Retirement Income Security Act (ERISA). USofCare’s vision for a better health care system for all is grounded in the belief that people must have access to *comprehensive* care. Last fall, we submitted [comments](#) in support of the Administration’s proposed rule to establish consumer protections against short-term, limited duration health insurance plans, which have long utilized [concerning tactics](#) to enroll people in extremely narrow coverage.

Similarly, **USofCare believes that the coverage offered by Association Health Plans (AHPs) is often insufficient to meet people’s comprehensive health care needs.** Under the 2018 rule, AHPs with a broad enough membership base could be considered a large-group market insurer, meaning that they are [not held](#) to the same federal Affordable Care Act (ACA) standards required of other insurers. This exemption means that qualifying AHPs do not have to provide the same consumer protections of other plans, including that they [do not have to cover](#) the set of ten [Essential Health Benefits](#) (EHBs), aren’t required to meet minimum actuarial value standards, and aren’t prohibited from excluding or charging higher premiums to employers on the basis of age, gender, occupation, or other factors. Without these EHB protections, plans would be subjected to [inconsistent](#) pre-ACA coverage requirements, meaning that people may not have coverage for the critical services, like maternity care or mental health treatments, that they have come to depend on.

AHPs offering benefits to large employer groups typically qualify as Multiple Employer Welfare Arrangements (MEWAs), but, as noted in the preamble to the proposed rule, many

self-regulated MEWAs have often [defrauded consumers](#) or have been [financially insolvent](#) and unable to pay its enrollees' claims. **We urge EBSA to finalize the proposed rule to rescind the 2018 regulation, as we share the concern that policies like the 2018 regulation could push people to enroll in plans that do not comprehensively meet their health needs, have often engaged in fraudulent and [insolvent](#) activity, and lack [consistent federal and state oversight](#).** This is especially important given that [millions of people](#) are currently losing coverage due to Medicaid and CHIP redeterminations.

Thank you for the opportunity to respond to the proposed rule. If finalized, it will build towards USofCare's mission of ensuring that everyone has comprehensive, high-quality, affordable, personalizable, and understandable health care. Please reach out to Liz Hagan, Director of Policy Solutions, at [LHagan@usofcare.org](mailto:LHagan@usofcare.org) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Lisa Hunter". The signature is written in a cursive, flowing style.

**Lisa Hunter (she/her)**

Senior Director for Policy & External Affairs  
United States of Care