



## Proposed Rule to Expand Association Health Plans *The Trump Administration's Latest Step to Sabotage Health Coverage*

### Background

Under current law, health insurance coverage offered through a group or association to individuals or small employers is generally treated like individual or small group coverage. This means these plans must cover essential health benefits and are prohibited from charging consumers more based on health status. Under current Department of Labor (DOL) sub-regulatory guidance, there are narrow circumstances where employer association health coverage is treated as a single ERISA-covered plan. For example, an association must have sufficient common economic or representational interest – or "commonality of interest" – to be considered a bona fide group or association of employers. These criteria help protect against cherry-picking only healthy consumers for the sole purpose of providing health coverage that has nothing to do with actual employment.

### The Proposed Rule

On January 4, 2018, the DOL issued a proposed rule that would weaken the criteria for associations to be able to purchase insurance exempt from certain federal consumer protections. The proposed rule expands the "commonality of interest" to include employers that are in the same trade, industry, line of business, or profession or have a principal place of business in the same state or city, even if the metropolitan area crosses state lines. This could cause many workers to be stuck in junk plans with fewer consumer protections.

The proposal would:

- **Limit access to comprehensive health coverage.** Without guaranteed coverage for needed benefits, such as maternity care, mental health treatment, and substance use treatment, people may be left with skimpy and inadequate coverage that neither gives them access to the care they need nor offers adequate financial protection against serious medical conditions. In fact, the proposed rule explicitly states that some association health plans, *"might thrive by delivering savings to members by other means, such as by offering less comprehensive benefits."*
- **Increase costs and threaten coverage for people with pre-existing conditions.** As healthier and lower cost consumers get cheap plans with skimpy benefits that may not meet their health needs, this could leave older, sicker, and higher cost consumers or consumers with pre-existing conditions behind in the traditional market with skyrocketing costs, making it difficult to obtain coverage.
- **Leave consumers exposed to fraud and with fewer protections.** Consumers in association health plans may have little recourse for problems or complaints, and no guarantee that they will have the coverage they need when they need it. While the proposed rule suggests states could still ensure consumer protections, it is unclear how this would work in practice. Even the DOL suggests that it could use an exemption authority to prevent this from happening.