

► Any Association Can Offer a Federally-Qualified AHP

A number of national business associations, like the U.S. Chamber of Commerce, are pressing for the creation of Association Health Plans by Congress. Below are arguments in favor of the legislation, presented by the U.S. Chamber, with our response.

U.S. Chamber:

The ability to sponsor an AHP is not limited to national associations -- state and local Chambers of Commerce may also apply for federal AHP certification. The only pre-condition is that the sponsoring association be organized for a purpose other than offering insurance and have been in existence for at least three years.

Reality, Coalition:

True enough. But the likelihood is that few state or local organizations ever will. Chambers and associations with current strong insurance programs will likely evolve into AHPs, in order to continue to compete and avoid the death of their insurance pools from risk selection by competitors. However, the hurdles to new entrants do not go away. At the end of the day, insurance is about assuming, pooling and managing risk, and it will remain a very competitive, technically-difficult enterprise.

Moreover, few local organizations are likely to pull together the resources to create a self-insured AHP and fully escape all state regulations. Self-insured AHPs will be dominated by large national associations and they will be able to sell into all fifty states without regard to any states' rating laws. A local Chamber with a fully-insured AHP domiciled in its home state will be required to comply with state rating laws and face unfair competition from large national self-insured AHPs.

U. S. Chamber:

ERISA preempts costly state benefit mandates and rating restrictions. Chambers of Commerce that revise their affinity health benefit programs to conform with federal AHP requirements would be required only to meet federal requirements and could charge premium rates according to their own membership's experience.

Reality, Coalition:

If their own membership's experience is good, they will stay in business. If it is bad, they will go out of business. To stay in business and compete with other AHPs, they will have to acquire good risk and avoid bad. And in so doing, according to Congressional Budget Office and Mercer, they will help some of the market with lower premiums, but hurt most of the market with higher premiums.

Chambers and other broad-based business associations would be particularly disadvantaged under the legislation because their membership is open to all employers. AHP insurers could cherry pick plans sponsored by Chambers, by targeting single industry associations and other limited membership groups. Again, large national self-insured AHPs could potentially avoid being

selected against through their rating practices, but local fully insured Chamber AHPs would be subject to their state rating laws, making them the prime candidates to be selected against.

State regulations that now limit the aggressive practices that these niche insurers once employed in the small group market would effectively be repealed under the AHP legislation, allowing them carte blanche to cherry pick reputable associations.

U.S. Chamber:

Chambers serving an area that crosses state borders could offer their plans to the regional business community, or forge partnerships with other local Chambers of Commerce and expand the risk pool, reducing per capita costs.

A state or local Chamber that offers a health plan with a unique benefit design that is not available in other states and which does not rely on network negotiated rates could even offer its plan nation-wide -- providing small business owners with health plan options that would never have been possible otherwise.

Small businesses that are growing may employ employees in more than one state but are still too small to assume the risk of self-insuring and consequently must juggle health plans for each state in which they have employees. Through an AHP offered through a regional or national partnership, small businesses can provide uniform coverage to their employees and simplify their administrative overhead in managing health benefits -- and concentrating on making their small businesses bigger.

Reality, Coalition:

See our comments above.

U.S. Chamber:

The Department of Labor now enforces ERISA protections for 136 million Americans. While costly state benefit mandates and rating restrictions will be preempted, federal case law is evolving to guarantee certain state consumer protections for ERISA plans -- which would also apply to AHPs.

Reality, Coalition:

We would like to see what the evolving federal case law is. As it passed the House, this legislation will not protect against separating the market into the “haves” and “have nots.” All the proposed amendments seeking to protect small employers were rejected. In the event federal legislation and oversight prevails, there are no standards to promote the assumption of risk. After AHPs run their course, we’ll be right back where we are today.