

IRS and DOL Issue Guidance on Association Health Plans

Both the IRS and Department of Labor (DOL) have issued new compliance guidance for association health plans (AHPs). On June 21, 2018, the DOL published a [final rule](#) that expands the ability of employers to join together to form AHPs. According to the DOL, these changes will expand access to affordable, high-quality health insurance coverage for small businesses.

The new guidance issued provides that:

- Participating in an AHP does not cause a small employer to become subject to the Affordable Care Act's (ACA) employer shared responsibility rules.

- An AHP is a group health plan and a multiple employer welfare arrangement that is subject to ERISA's requirements.

The final rules will become effective on the following dates:

- **Sept. 1, 2018**—Final rule applies to fully insured AHPs.
- **Jan. 1, 2019**—Final rule applies to existing self-insured AHPs.
- **April 1, 2019**—Final rule applies to new self-insured AHPs.

Action Steps

Small employers that are considering joining an AHP should understand their compliance obligations with respect to this type of plan. Although AHPs may avoid some ACA reforms for the small group market, these plans remain subject to many other legal requirements, including any applicable state regulations.

For more information on this guidance, please contact Baldwin Krystyn Sherman Partners today.

DID YOU KNOW?

The Tax Cuts and Jobs Act, which was signed into law last December, reduces the ACA's individual shared responsibility (or individual mandate) penalty to zero, effective beginning in 2019.

As a result, beginning in 2019, individuals will no longer be penalized for failing to obtain acceptable health insurance coverage. Despite the repeal of the individual mandate penalty, employers and individuals must continue to comply with all other ACA provisions.

Medicare Part D Notices Are Due Before Oct. 15

Each year, Medicare Part D requires group health plan sponsors to disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan's prescription drug coverage is creditable. Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals **before Oct. 15, 2018**—the start date of the annual enrollment period for Medicare Part D. CMS has provided [model disclosure notices](#) for employers to use.

Employers should confirm whether their health plans' prescription drug coverage is creditable or non-creditable and prepare to send their Medicare Part D disclosure notices before Oct. 15, 2018. To make the process easier, employers often include Medicare Part D notices in open enrollment packets they send out prior to Oct. 15.