

# What are Association Health Plans for Small Businesses?

To reduce health insurance costs, some small employers are banding together to offer coverage through an Association Health Plan (AHP). But before you jump on the AHP bandwagon, it's important to know what you're getting into.

## What is an Association Health Plan?

An AHP is an arrangement via which small employers join together and purchase health insurance as a larger group. Through the AHP, small employers can access lower health insurance premiums than if they were to buy the plan on their own. Note that small businesses lacking bargaining power [reportedly pay](#) approximately 8%-18% more than large employers for the same health insurance plans. AHPs help level the playing field so that small employers can be more competitive, particularly in a tight labor market.

When multiple small employers come together as one larger employer, the risk (for the insurer) is spread out among all participants in the group. So, when someone falls ill, the insurer has enough monthly payments to cover the incurred expenses — and can typically charge the group lower premiums as a result.

Despite their benefits, AHPs have a long and contentious history.

## AHP background

AHPs have been in existence for decades and were chiefly regulated at the state level. Originally, AHPs referred to themselves as “employers” or “employee associations,” which enabled them to claim the ERISA exemption from state insurance laws. This exemption resulted in many AHPs [defrauding consumers](#) — by leaving numerous people with unpaid claims — and filing for bankruptcy. ERISA was later amended to stop AHPs from claiming its exemption from state insurance mandates. Now, AHPs must obey not just federal laws such as ERISA, COBRA, and HIPAA but also applicable state insurance laws.

The ACA, as well, joined the crackdown and has been especially influential to AHP reform. Prior to the ACA, AHPs were prone to “*junk plans*,” which is a term used to describe health insurance plans that lack sufficient coverage.

To limit AHP fraud and junk plans, the ACA requires policies obtained through an association to follow the same federal and state rules that apply to individuals and small groups, including accepting people with pre-existing conditions and offering [10 essential health benefits](#). These ACA requirements led to insurers charging higher premiums for

AHPs. (Note that although large groups must accept people with pre-existing conditions, they do not have to provide the 10 essential health benefits.)

In response to the new ACA standards, many AHPs disbanded.

## The DOL intervenes

In June 2018, the DOL published a [final rule](#), which expands ERISA's definition of "employer" and makes it easier for AHPs to buy health insurance as a large group. Essentially, the rule relaxes the "commonality of interest" test for AHPs and permits "working owners" (such as sole proprietors) to participate in AHPs.

One of the most criticized aspects of the final rule is that it will produce more junk plans, since large groups do not have to offer the ACA's 10 essential health benefits.

Avalere, a healthcare research and consulting firm, released a [report](#) estimating the impact of the DOL rule over a 5-year period (2018-2022). Per the report, premiums for new AHPs will be "between \$1,900 to \$4,100 lower than the yearly premiums in the small group market and \$8,700 to \$10,800 lower than the yearly premiums in the individual market by 2022, **depending on the generosity of AHP coverage offered.**" These premium differences assume that the AHP offers "**less-generous benefits than current markets.**" Critics have interpreted "less-generous benefits" to mean junk plans.

Moreover, a number of states contend that the final rule will cause them to spend too many resources on preventing consumer fraud by AHPs. Consequently, in July 2018, a coalition of states filed a lawsuit to block the DOL final rule, which was then struck down by a federal judge in March 2019.

The DOL has appealed the ruling.

## What now?

While the case makes its way through the courts, the blocked ruling stands. This means that unless there's a change in the ruling, AHPs must comply with the ACA plus state laws for the individual and small group markets, which include offering at least the 10 essential health benefits.

## Federal rules for AHPs

With the DOL final rule currently blocked, these are the federal rules for creating an AHP:

- AHP members must have a common interest (or "commonality") and a shared economic purpose unrelated to offering benefits. In other words, providing health insurance cannot be the only reason for creating the AHP. (The DOL final rule permits AHPs to be formed for the sole purpose of buying health insurance.)

- Commonality cannot be based solely on geography. Other factors are considered.
- AHPs cannot include “*working owners*.” Each member must have employees.

## States are making inroads

While we wait to see whether the federal court ruling will remain invalidated, states are expanding their AHP initiatives. Per [Mercer consulting firm](#), states such as Arkansas, Hawaii, Iowa, Kansas, Kentucky, Oklahoma, and South Dakota have AHP laws that rely on the DOL final rule. More recently, Arizona, Florida, and North Carolina have passed similar legislation.

But as noted by Mercer, “*these [state] laws raise issues about ERISA compliance as long as the 2018 rule remains invalidated.*” To eliminate confusion, some states have passed, or are considering, legislation that sets clear guidelines regarding AHPs.

## Interested in joining an AHP?

There’s no blanket health insurance solution for small businesses, which is why you should do your homework before joining an AHP. You might want to:

- Partner with a health insurance broker or a benefits consultant, who can help you make the right decisions for your small business. It’s probably best to work with someone who charges you a fee rather than someone who receives a commission from an association or the insurance company.
- Get a handle on the details. This includes AHPs versus traditional health insurance options, federal and state AHP laws, pros and cons of AHPs as they relate to your small business, available AHP coverage versus your employees’ needs, cost-benefit analysis, potential plan limitations, whether you meet the eligibility requirements for participating in an AHP, and whether you should take the AHP plunge now or wait until later.
- Choose an association that you’re comfortable with (if you decide to forge ahead). Do you know other interested, legally compatible small employers? If so, you can all pool together to provide health insurance as an association. Alternatively, if you’re a member of a trade organization or chamber of commerce that offers an AHP, see what the specifics are for becoming an AHP member. Or, you can use the [U.S. Chamber of Commerce website](#) to search for an AHP.

You should know that despite their controversial history, many AHPs provide generous coverage, or at a minimum ACA-compliant coverage, and are reaping the benefits that come with offering the plan. Just be sure to do your due diligence before taking the leap.