

New Rule AHPs on Hold Pending Appeal Decision



On March 28, 2019, the United States District Court for the District of Columbia (the Court) issued a decision striking down portions of the United States Department of Labor's Final Rule on Association Health Plans (AHPs). The decision prevents AHPs that are based on common geography known as New Rule AHPs from being treated as a single employer for health coverage purposes. The decision also prevents working owners that do not meet the requirements of an employer under ERISA from being treated as employer participants within an AHP. The decision does not affect AHPs formed and operating consistent with pre-DOL rule standards, such as those whose commonality is based on common trade, occupation, or profession, often referred to as Old Rule AHPs.

It was expected that the DOL would appeal this decision, which it did on April 26, 2019. However, the DOL did not request that the Court "stay" the ruling as part of the appeal, which would have allowed the ruling to be put on hold awaiting the appeal decision. This means that the District Court's decision will go into effect and will remain in effect unless and until it is reversed on appeal. As a result, UnitedHealthcare will pause quoting any new employer participant groups into existing geography-based New Rule AHPs until we get further direction from the DOL.

The Court's decision impacts AHPs, issuers and employers in all states, not just the states with Attorney Generals participating in the lawsuit.

Under a DOL non-enforcement policy issued on April 29th no action will be taken against parties that honor coverage commitments for the remainder of an existing contract term or plan year. The commitment must have been entered into prior to the District Court decision or shortly after the decision and in good faith reliance on the challenged AHP rule. However, the non-enforcement safe harbor does not allow insurers to enter into new coverage commitments with either AHPs or new employer participants within the existing AHP.

IMPORTANT – This action does NOT impact trade-based Old Rule bona fide employer AHPs that met the requirements in effect prior to the 2018 DOL Final Rule. The decision only affects geography-based New Rule AHPs.

UnitedHealthcare Actions

As a result of the decision, we will suspend quoting all products for employer participants for our existing geography-based New Rule AHP's as soon as possible but no later than May 7, 2019.

We will honor all New Rule AHP employer participant quotes that have previously been released and will continue to install previously sold employer participant groups. The employees and their covered dependents of previously enrolled employer participant groups may continue to enroll in coverage consistent with the terms and conditions of the policy. States where UnitedHealthcare has an active geography-based New Rule AHP include Arizona, Florida, Nevada, Oklahoma, Texas, West Virginia and Wisconsin.

For any quotes coming in after May 7, UnitedHealthcare may reach out to you to see if you would like an alternative quote issued. Automated quotes via portal are disabled for AHP employer participant quotes as of May 7.

We appreciate your business and will continue to monitor the appeal and DOL actions and keep you informed. If you have any questions, please contact your UnitedHealthcare representative.