

Association Health Plans:

An Update on NAR's Plan of Action

On June 21, 2018, the U.S. Department of Labor (DOL) issued a new rule opening the door for small employers and self-employed individuals, including real estate professionals, to participate in Association Health Plans (AHPs). AHPs are “large group” plans that often offer more coverage options at lower cost than the “individual” and “small group” insurance markets where many NAR members purchase their health coverage. NAR created the detailed plan of action outlined below to determine whether and how AHPs can offer health insurance solutions to members and their families under the rule. While NAR has made significant progress, there is still a number of concrete steps to take before finding workable solutions.

After the new rule was issued, more than a dozen states filed suit to overturn the rule or issued conflicting legal guidance that has created an uncertain legal landscape for insurance providers. As a result, at this time, no national carrier is offering a nationwide AHP option to any national trade association until the court weighs in or more states issue rules providing some certainty that expanded AHPs will be acceptable.

NAR remains committed to vigorously engaging insurers and pursuing nationwide and/or regional options that could offer additional health insurance options to members. There are also a number of state and local REALTOR® associations already pursuing health insurance solutions for members for which NAR could offer support based on what NAR has and continues to learn. Successful state and local implementation could serve as an example for insurers and set the stage for a national plan down the road.

NAR PLAN OF ACTION

Phase I – Department of Labor Regulation

1. Advocate for Health Insurance Options for Real Estate Professionals.

For more than a decade, NAR has been advocating for expanding healthcare options such as AHPs to small employers and self-employed individuals, including real estate professionals. Our extensive lobbying efforts, congressional testimony, and data research helped lay the groundwork for a potential regulatory solution.

Status: Ongoing ☑

2. Ensure that Real Estate Professionals Are Eligible for Regulatory Flexibility.

When DOL proposed this rule, NAR, along with a number of state and local associations and nearly 150 members, provided comments to ensure that self-employed individuals would remain in the final rule and successfully advocated to remove proposed eligibility requirements that otherwise would have severely limited NAR member eligibility.

Status: June 2018 ☑

Phase II – Research and Outreach

1. Secure Partnerships with Key Insurance Experts and Legal Consultants.

Since DOL opened the door to a potential regulatory solution, NAR has been collaborating with insurance consultants and legal experts to determine the range of options available to NAR members and their families. New partnerships have been forged, such as with other trade associations uniting in coalition to advocate for broad adoption of AHPs.

Status: Ongoing ☑

2. Research and Data Collection.

While NAR already has substantial data on the health insurance needs of members and their families, NAR has employed outside consultants to gather additional data requested by insurance companies to offer a more complete picture of the membership and determine what health benefits and premium costs would be competitive and attractive to members and be sustainable.

- a. NAR Member Survey: In July 2018, NAR surveyed 364,000 members and received 16,590 completed responses.
- b. Focus Groups were conducted across the country in August (Arlington, VA; St. Louis, MO; and Portland, OR) to augment the survey data and drill down into particular member insurance needs and concerns. Click [here](#) for more.
- c. Survey of State & Local Associations: Given the uncertain legal landscape due to conflicting state laws and litigation, in October, NAR may be able to learn more from local and state efforts to find AHP and other insurance solutions.

Status: July-October 2018 ☒

3. Insurer Negotiations

As NAR continues to conduct research, and states and courts provide some legal certainty, NAR will continue to engage with insurers about potential nationwide, regional, state, and local AHP options that benefit our members.

Status: Ongoing ☒

Phase III – Legal Certainty

1. Build Coalition to Engage in State Regulatory Challenges

Ongoing uncertainty remains with how states may regulate AHPs under DOL’s new rule. NAR is a founding steering member of the “Coalition to Protect and Promote AHPs,” which is working with state and federal regulators to find solutions in support of the new AHP rule. Working independently and through this coalition will allow NAR to help provide clarity in overcoming state regulatory hurdles while preserving flexibility under the rule. [Read the Press Release.](#) [See state-by-state activity.](#)

Status: Ongoing ☒

2. Monitor and Engage in Federal Legal Challenges

Since the final rule was released, legal challenges have been filed which increases uncertainty for insurance companies considering offering an AHP option. NAR will seek every opportunity to weigh in on behalf of NAR members and ensure that AHPs remain a viable option for self-employed real estate professionals. [Read about the case.](#)

Status: Ongoing ☒

3. Work with State and Federal Regulators to Provide Certainty

Both federal and state governments jointly regulate AHPs. NAR has been working with DOL to provide guidance to implement and clarify aspects of the final rule. While the rule opens the door to small employer and sole proprietor participation in AHPs, each state will regulate and approve association plans. In partnership with state and local REALTOR® Associations, NAR will engage state insurance commissioners individually and in coalition to protect consumers while preserving rule flexibility.

Status: Ongoing ☒

4. Create a Toolkit to Support State & Local Efforts

The DOL rule enables associations to offer one health plan across state lines if the plan is limited to a single industry or a multi-industry plan is limited to one state or metropolitan area. A number of state and local REALTOR® associations are already pursuing the second option and NAR will support these efforts by sharing data and experience. [Learn more.](#)

Status: October 2018 ☒

5. Petition the Department of Labor for an Authoritative Advisory Opinion

Based on initial feedback from insurers, there remains significant uncertainty with how the new regulation functions, including how it intersects with state insurance laws and treats self-employed/sole proprietors. Associations interested in offering a health plan often start by creating a legal memo and seeking a DOL Advisory Opinion to provide legal certainty to insurers and state insurance departments. NAR has taken the initial steps toward securing an Opinion.

Status: October 2018 ☐

6. Work with Congress to Support the DOL AHP rule

Depending on the outcome of state litigation and regulations, there may be a basis to go back to Congress to clarify key provisions of the DOL rule or the interplay of state and federal authority. Conversations are occurring now and are ongoing, should such clarity become necessary.

Status: Ongoing ☒