



# What the association health plan ruling means

Association health plans (AHPs) allow small companies to pool together to access more affordable health coverage, leaving them more resources to hire more workers or raise salaries. Unfortunately, a judge has questioned the U.S. Department of Labor's (DOL) ability to allow more flexible participation rules for certain types of AHPs. Regardless of the legal outcome, states retain unique regulatory authority over self-insured AHPs and should ensure their state laws allow more individuals and companies to band together to save on health insurance.



## Did the Court conclude that AHPs are illegal?

No. The Court did not strike down AHPs and only focused on two provisions in the new federal rules. One is related to geographic associations that comprise employers from multiple trades or industries—for instance a chamber of commerce offering an AHP—and the ability for sole proprietors or “working owners” to participate in AHPs.

Irrespective of the legal outcome, states can, and should, update their state laws for self-insured AHPs to allow working owners and geographically-based AHPs, as the state has the unique legal authority to do so.

It is also important to remember that AHPs have been allowed for decades and many associations will still meet the criteria to offer an AHP to members. The ruling is clear that related employers in the same industry may still form a “bona fide group” and sponsor an AHP.

Prior to the new AHP rule, “commonality of interest” rules required association members to all be from the same common trade or industry. The new federal AHP rule expanded that definition to include association members within a geographic area—such as an entire state—regardless of the respective trades or industries of the participating employers.

The Court's decision does not affect associations representing a common trade or industry, giving many small employers the opportunity to still benefit from AHPs. And if states open this option for self-insured AHPs, that is a good policy choice.



## Should my state stop efforts to update our state laws to take advantage of the new federal flexibility for AHPs?

States should not let the Court's decision stop efforts to help small employers save money on health insurance by amending laws and regulations surrounding AHPs.

Based on recent precedent, it has been standard that a district court ruling does not take effect until the appeals process is exhausted. States should move forward to ensure they fully leverage new flexibilities for small businesses and entrepreneurs in their state.

AHP bills are gaining bipartisan support in many states as legislators recognize the benefit to small employers who want to provide health insurance coverage for themselves and their employees at a price they can afford.



## Does the Court's decision impact whether a state is allowed to regulate AHPs?

Regardless of the eventual legal outcome, states will retain the regulatory authority over these plans.



## What are the next steps in the case?

The DOL has said they disagree with the ruling. DOL's legal position is strong, and there is a high probability that the full AHP rule will ultimately prevail.

State policymakers should move forward with creating additional flexibility in state law for AHPs. If the entire final rule does prevail, having clear state laws will prevent additional years of waiting for more affordable AHP options to become available.



## If the ruling is upheld, is there still value in updating our laws?

States can open the door to more affordable coverage by updating their laws regardless of the outcome. In addition, inconsistency in state laws make it difficult for associations to offer coverage to members in multiple states. For this reason, states should continue to create more consistency to allow increased options for lower cost health insurance options for small employers. Additionally, giving clarity encourages associations to invest the time and money required to start a new health plan or expand into new states.



## Are other states pausing efforts to update their state laws since the court ruling?

Many legislative bodies have continued to move bills to update their state laws. "From Arizona to Arkansas, to Florida and Kansas, to Kentucky and Oklahoma, many states across the country continue to update their laws.

States should proceed with updating their state laws in order to allow small companies to take advantage of AHPs regardless of the legal outcome.