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Insurance Bulletin No. 204

Impact of Federal District Court Ruling in State of New York v. United States Department of Labor on Vermont Association Health Plans

April 23, 2019

The purpose of this bulletin is to provide guidance for association health plans (AHPs) and multiple employer welfare arrangements (MEWAs) operating in Vermont under Rule I-2018-01 on the regulatory impact of the U.S. District Court for the District of Columbia’s decision in *State of New York v. United States Department of Labor*, issued on March 28, 2019. In that decision, the court found that the U.S. Department of Labor’s (DOL) AHP rule, which modified the definition of “employer” to allow more employer groups and associations to form AHPs, exceeded its rulemaking authority under the Employee Retirement Income Security Act of 1974. The court vacated the rule and remanded it to the DOL for reconsideration.

At this time, the outcome of the litigation remains uncertain. On April 3, 2019, the DOL issued guidance stating that it disagreed with the court’s ruling and was considering all available options, including appealing the court’s decision and requesting a stay pending appeal. The Department is developing a plan to address potential changes at the federal level to ensure that coverage provided by AHPs and MEWAs to small businesses is not disrupted. To be clear, insurers must honor existing AHP policies and pay valid claims.

Until such time as the court’s decision is stayed or vacated, however, the Department lacks a legal basis on which to approve new AHPs or MEWAs, and existing AHPs and MEWAs do not have the authority to enroll new employer groups or market coverage to potential new groups. AHPs and MEWAs operating under Rule I-2018-01 are therefore prohibited from advertising to or enrolling new employer groups and shall post a public-facing notice prominently on their websites stating that new groups cannot be accepted until this Bulletin is rescinded or superseded.

Inquiries about this Bulletin should be directed to Emily Brown, Director of Rates and Forms for Life and Health (emily.brown@vermont.gov).



Michael S. Pieciak, Commissioner

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Date

