Department of Government Affairs
Phone: (301) 628-5094 • Fax: (301) 628-5348
http://www.anapoliticalpower.org

AMERICAN NURSES ASSOCIATION

Association Health Plans

Position

ANA opposes efforts to exempt new insurance pools such as association health plans from state insurance laws and regulations.

Background

The Employee Retirement Income Security Act (ERISA), which was passed in 1974, preempts or excludes from state regulation health plans provided by employers who self-insure. The vast majority of patient protection and access laws have been enacted at the state level. Therefore, participants in ERISA plans are denied protections (such as malpractice laws that allow insurance plans to be sued for harmful denials of health care coverage) that are generally required by state insurance regulations. ERISA itself allows for such minimal recovery that it is not worthwhile to bring such suits in federal court. The Department of Labor (DOL) is primarily responsible for enforcing ERISA.

There have been efforts in recent years to exempt multiple employer welfare arrangements (MEWAs) and association health plans (AHPs) from state regulation and place them instead under ERISA. These proposals would allow small employers to band together to purchase employee health coverage that is exempt from state mandated health insurance requirements.

Rationale

ANA opposes AHPs because they would pre-empt important protections provided by state laws and regulations. These important protections guarantee a minimal level of coverage. They ensure that plans cover services such as maternity care, cancer screenings, mental health services, and home health care. By removing coverage for cost-effective benefits such as well-child care, AHPs could drive up the cost of health care. ANA is particularly concerned that these AHPs would be exempt from state laws that guarantee access to advanced practice registered nurses such as nurse midwives, nurse practitioners, and clinical nurse specialists.

ANA is also concerned that these types of plans are prone to fraud and undercapitalization. An experiment in the 1980s and early 1990s with MEWAs resulted in mass disruptions from plan insolvencies. (In a 1992 report, the General Accounting Office (GAO) states that MEWA failures left at least 398,000 consumers with over $123 million in unpaid claims.) The DOL is not equipped to replicate the needed enforcement functions of state insurance departments. A recent GAO report found that it would take DOL's current investigative staff 90 years to do a baseline assessment of noncompliance.

Continued →

AMERICAN NURSES ASSOCIATION

Department of Government Affairs
Phone: (301) 628-5094 • Fax: (301) 628-5348
http://www.anapoliticalpower.org

In addition, AHPs would do little to cover the uninsured. In fact, AHPs are expected to result in higher premiums for those who currently have health insurance. The Congressional Budget Office (CBO) released a report in 2000 that estimated that AHPs would cover less than two percent of the 44 million then uninsured Americans while raising premiums for three out of four workers. Disturbingly, CBO estimated that 10,000 workers with expensive health care needs would lose their insurance if AHP provisions were enacted.