Gavin Newsom, Governor
State of California
Health and Human Services Agency
DEPARTMENT OF MANAGED HEALTH CARE
980 9th Street, Suite 500
Sacramento, CA 95814
Phone: 916-324-8176 | Fax: 916-255-5241
www.HealthHelp.ca.gov

ALL PLAN LETTER

DATE: May 5, 2020

TO: All Full-Service Health Care Service Plans[1]

FROM: Sarah Ream, Acting General Counsel

SUBJECT: APL 20-019 – Association Health Plans: Extension of "Phase-Out" Period

---

I. Background

On December 9, 2019, the Department of Managed Health Care (DMHC) issued All Plan Letter (APL) 19-024 reminding health plans, solicitors, brokers and others that in California, group coverage may not be sold to individual subscribers directly or "indirectly through any arrangement."[2] A copy of APL 19-024 can be found here.

The APL also reminded plans that California law prohibits them from selling large group coverage to small employers through multi-employer welfare arrangements (MEWAs),[3] association health plans (AHPs),[4] voluntary employees' beneficiary associations (VEBAs)[5] or any similar arrangements (collectively "associations").

[1] APL 19-024 did not specifically exclude specialized health care service plans. However, SB 1375 (2018) does not apply to specialized plans. Accordingly, this APL, and APL 19-024 do not apply to specialized plans.
[2] Health and Safety Code sections 1399.802 and 1399.846. All statutory citations refer to the Health and Safety Code unless otherwise noted.
[3] A MEWA is "an employee welfare benefit plan, or any other arrangement... established or maintained for the purpose of offering or providing [welfare plan benefits] to the employees or two or more employers…or their beneficiaries." 29 U.S.C. section 1002(40)(A).
[4] AHPs are a type of MEWA offered by employer groups and associations to provide health care coverage for employees.
[5] VEBAs are tax-advantaged vehicle for funding certain employee benefits, including health care coverage. Employees can participate in the VEBA based on their common employment-related bond, such as a common employer, coverage under one or more collective bargaining agreements, or membership in a labor union. A VEBA may be, but is not always, associated with an employee welfare benefit plan under ERISA.

Specifically, California law "looks through" the association or arrangement to determine the appropriate market segment for the particular purchaser. Senate Bill 1375 (Stats 2018 ch 700 §3) codified this look-through by expressly stating: "The status of each distinct member of an association shall determine whether that member's association coverage is individual, small group, or large group health coverage."[6]

II. Phase-Out Period Described in APL 19-024

The DMHC understands that some health plans sold large group coverage to small employers and sole proprietors through associations or similar arrangements. In APL 19-024, the DMHC provided a "phase-out" period for health plans with such in-force coverage. The phase-out period began in December 2019 and is scheduled to end June 30, 2020. During the phase-out period, health plans may renew coverage for those small employers currently covered by large group coverage purchased through an association or similar arrangement. The term of those contracts may be for no longer than one year. Health plans may not sell new large group coverage to small employers or sole proprietors during the phase-out period. APL 19-024 stated that beginning July 1, 2020, plans must cease renewing existing large group contracts for small employers.

III. Extension of Phase-Out Period

Due to the COVID-19 state of emergency the DMHC is extending the end of the phase-out period through **October 31, 2020**. Beginning November 1, 2020, health plans may not renew large group coverage for small employers or individuals, regardless of the arrangement by which the small employer or individual purchased the coverage.

If you have questions or concerns regarding this APL, please contact Sarah Ream, Acting General Counsel, at (916) 324-2522 or via email at sarah.ream@dmhc.ca.gov.

---

[6] Section 1357.503, subdivision (a)(2).