Timeline of VT and Federal Association Health Plan Rules

- **January 4, 2018** – Department of Labor (DOL) proposes AHP rule
- **May 16, 2018** – H.892/Act 131 Signed by governor

  (b) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 regulating association health plans in order to protect Vermont consumers and promote the stability of Vermont's health insurance markets, to the extent permitted under federal law, including rules regarding licensure, solvency and reserve requirements, and rating requirements.

  (c) The provisions of section 3661 of this title shall apply to association health plans.
- **June 19, 2018** – Final federal rule released – Notably the final rule did not preempt the state.

  Applies to fully insured AHPs beginning on September 1, 2018; existing self-insured AHPs beginning on January 1, 2019; new self-insured AHPs on April 1, 2019
- **August 1, 2018** – DFR files emergency rule effective immediately and proposed final rule
- **August 20, 2018** – DOL sends letter to PA confirming that its final rule does not modify states' authority to regulate AHPs.
- **October 31, 2018** – LCAR receives DFR rule
- **November 29, 2018** – LCAR mtg on rule, LCAR postpones action
- **December 13, 2018** – LCAR mtg on rule – LCAR votes to object to rule

  Senator Bray made the motion. He focused on the language of the statute and the admission by DFR that the presence of AHPs will negatively impact the marketplace.
- **December 14, 2018** – LCAR sends letter to DFR detailing its decision
- **January 10, 2019** – LCAR discussion on DFR's response to LCAR's objection to the rule.

  LCAR maintained its objection
- **January 25, 2019** – DFR AHP Rule goes into effect
- **March 28, 2019** – Federal district court vacates the federal rule

  On March 28, 2019, Judge John D. Bates of the District of Columbia found major provisions of the Department of Labor's (DOL's) final rule on association health plans (AHPs) to be unlawful. The rule's interpretation of "employer" to include working owners and groups without a true commonality of interest was unreasonable and, as Judge Bates put it, "clearly an end-run around the [Affordable Care Act]." The court set aside these parts of the regulation and remanded the rule to the DOL to determine how the rule's severability provision affects the remaining provisions. From here, the DOL could opt to rescind the rule altogether, try to revise it in a way that comports with Judge Bates' decision, or appeal the decision to the Court of Appeals for the D.C. Circuit. [Health Affairs Blog, Court Invalidates Rule On Association Health Plans, Katie Keith, March 29, 2019]
- **April 16, 2018 –** HCA sends letter to DFR Commissioner Pieciak requesting that DFR prohibit the marketing and selling of AHP products to Vermonters pursuant to the March 28 federal district court ruling

- **April 23, 2019 –** DFR releases Insurance Bulletin #204

  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.

- **April 29, 2019 –** DOL Statement and Q&A on the Federal district court ruling in State of NY v. United States DOL Concerning DOL's Final Rule on AHPs

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