



May 2019

Parts of AHP Final Rule Are Struck Down by Federal Court

On March 28, 2019, a federal judge [ruled](#) that parts of the Trump administration's [2018 final rule](#) on association health plans (AHPs) were invalid. The court directed the Department of Labor (DOL) to reconsider how the remaining provisions of the final rule are affected.



In its ruling, the court stated that the final rule was an “end-run” around the ACA and that the DOL exceeded its authority under ERISA.

The court specifically struck down two parts of the rule:

- The provision defining “employer” to include associations of disparate employers
- The provision expanding membership in these associations to include working owners without employees

Employers and business owners without employees that have joined an AHP, or are considering doing so, should review how their plans may be affected by the court's ruling. According to the DOL, participants in AHPs affected by the court's decision have a right to benefits as provided by the plan or policy, although these plans may change their rules going forward.

DOL's Newly Proposed Overtime Rule: What's Included

The DOL recently issued a [proposed rule](#) that would change the salary thresholds for the "white collar" overtime exemptions under the Fair Labor Standards Act (FLSA). Under the proposal, the minimum salary level for executive, administrative and professional employees would increase from \$455 to \$679 per week (\$35,308 per year). This is significantly lower than the \$913 salary level set in the 2016 final rule (which never took effect due to an injunction).



The proposal would allow employers to use nondiscretionary bonuses and incentive payments (including commissions) that are paid annually or more frequently to satisfy up to 10 percent of the standard salary level. The minimum salary level for highly compensated employees would also increase from \$100,000 to \$147,414 per year (an increase from the 2016 final rule's annual threshold of \$134,004).

What's next?

The proposed rule does not provide for any automatic adjustments to the salary thresholds. Instead, the DOL is asking for public comments on the proposed rule's language for periodic review to update the salary threshold. Any future update would continue to require notice-and-comment rulemaking.

For more information on the proposed rule, see the DOL's [Notice of Proposed Rulemaking: Overtime Update](#), which includes a [fact sheet](#) and [frequently asked questions](#).

DOJ Supports Federal Court Ruling Invalidating the ACA

On Dec. 14, 2018, a federal judge [ruled](#) in *Texas v. Azar* that the entire Affordable Care Act (ACA) is invalid due to the elimination of the individual mandate penalty in 2019. In response, on March 25, 2019, the U.S. Department of Justice (DOJ) filed a [letter](#) with the 5th Circuit Court of Appeals agreeing with the lower court's ruling. This means that the DOJ believes the lower court's ruling should stand, and the ACA should be struck down as unconstitutional.



Following the ruling, however, the federal judge issued a stay and [partial final judgment](#) in the case. As a result, the ACA will remain in place pending appeal. The Department of Health and Human Services also [confirmed](#) that it will continue administering and enforcing all aspects of the ACA.

All briefs and responses in this appeal are due by mid-May 2019, and oral arguments will be scheduled shortly thereafter. Following oral arguments, a decision on the appeal will be issued. However, many industry experts anticipate that the Supreme Court will likely take up the case, which means that a final decision will not be made until that time.

While these appeals are pending, all existing ACA provisions will continue to be applicable and enforced. Employers and individuals must continue to comply with all other applicable ACA requirements. This ruling does not impact the 2019 Exchange enrollment, the ACA's employer shared responsibility (pay or play) penalties and related reporting requirements, or any other applicable ACA requirement.

Tips for Hiring New Graduates

At colleges across the country, the Class of 2019 is graduating. Thinking of staffing up your business by hiring a new college graduate? Learn some tips on how to prepare these hires for your workplace by watching the video below.



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