

## **Section 1**

The Short Title: The American Healthshare Plans Act of 2020.

## **Section 2**

Amends ERISA to allow healthshare pools to be deemed employers for purposes of offering a group health plan or group health insurance coverage.

### **Definition of Healthshare Pools:**

Healthshare pools are defined as any entities formed and maintained in good faith for a purpose that includes forming a risk pool to offer group health insurance, and which do not condition membership in the pool on any health status-related factor relating to an individual.

The healthshare pool may be in conjunction with a health insurance issuer that offers group health insurance coverage through the pool.

Notwithstanding any other provision of law, a healthshare pool may cover prescription or nonprescription drugs as the only benefit of the plan or coverage.

### **Who is Covered:**

Whatever health coverage the pool offers must be made available to all members of the pool. If the members of the pool are employers, the coverage must be made available to the employer-members' employees. Dependents of members and dependents of employee-members may also be covered.

### **Insurance Rates:**

The rates for health coverage a healthshare pool offers are to be established by the pool or a health insurance issuer contracting with the pool on a policy or product specific basis. These rates may vary for individuals covered through the pool, subject to Sections 701 and 702 of ERISA, which prohibit discrimination based on pre-existing conditions and health status.

### **Protections Against Discrimination:**

A healthshare pool may not offer coverage to any member of the pool unless the same coverage is offered to all such members of the pool. However, health insurance issuers and plans are not required to provide coverage outside their service area. Issuers and plans also are not prevented from underwriting or excluding or limiting the coverage of any individual, subject to Sections 701 and 702 of ERISA, which prohibit discrimination based on pre-existing conditions and health status.

### **Types of Insurance Offered:**

Healthshare pools may provide group health insurance coverage through a contract with a health insurance issuer, or a group health plan through self-insurance.

### **Geographic Regions:**

There is no limit to the number of healthshare pools that may operate in a given geographic area.

### **Administrative Services:**

The healthshare pool may provide administrative services for members including (but not limited to) accounting, billing, and enrollment information.

### **Mechanics of Enrollment:**

Individuals may enroll themselves and, if applicable, their dependents. Employers may enroll their employees and, if applicable, the dependents of those employees.

### **Eligibility to Join:**

An individual (and that individual's dependents, if applicable) is eligible to be a member of a healthshare pool if that individual is any of the following:

1. A member of an entity that establishes or joins a healthshare pool;
2. An employee of a member of an entity that establishes or joins a healthshare pool; or
3. An employee of an entity controlled by a member of an entity that establishes or joins a healthshare pool.

### **Rules of Enrollment:**

Healthshare pools may establish rules of enrollment and re-enrollment of members. Such rules must be applied consistently to all members of the pool and not based on any health status-related factor, in accordance with Sections 701 and 702 of ERISA.

### **No Joint Employer Relationship:**

Participating in or facilitating a group health plan or group health insurance coverage under this section does not establish under any federal or state law either a joint employer relationship or an employer relationship for any purpose other than offering health insurance coverage.

### **Definition of "Dependent":**

The term "dependent" has the same meaning under this Act as it does under the state law applying to such plan or coverage. The term may include the spouse and children of the individual involved.

## **Section 3**

### **Conforming Amendments:**

Membership in a healthshare pool shall not by itself cause a person to be a fiduciary with respect to the group health plan or group health insurance coverage.

Notwithstanding any other provision of law, any group health plan or group health insurance coverage offered by an entity under this Act may offer prescription or nonprescription drugs as the only benefit of the plan or coverage.