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January 7, 2026

Commissioner James Brown  
Montana Commissioner of Securities and Insurance  
Office of the Montana State Auditor  
840 Helena Ave  
Helena, Montana 59601

**Re: Request for Comments on the Development of Administrative Rules to Implement HB 740**

Dear Commissioner Brown:

On behalf of AHIP, I am writing to submit comments in response to the development of administrative rules to implement House Bill 740 (HB 740). AHIP appreciates the Commissioner of Securities and Insurance's (CSI's) engagement and the chance to offer feedback to support clear, workable rules that protect Montana consumers and employers.

Several provisions in HB 740 attempt to regulate areas traditionally preempted by federal benefits laws under the Employee Retirement Income Security Act of 1974 (ERISA). In response to the specific inquiry on “[h]ow should ‘third-party payer’ be further clarified in administrative rule, especially regarding self-insured employer arrangements, discount plans, and non-traditional payers’ AHIP offers the following recommendation:

**AHIP recommends the CSI exempt ERISA-covered plans from any HB 740 rule provisions. We urge the CSI to clarify the definition of “third-party payer” and the definition of “plan sponsor” do not include ERISA-covered plans.**

AHIP strongly opposes any rules that would regulate self-funded ERISA-covered plans beyond the limits recognized under current federal preemption law. To further provide clarity, AHIP is including the attached legal analysis developed by the Groom Law Group on preemption relative to HB 740 to support our recommendation.

The Supreme Court's decision in *Rutledge v. PCMA* (October 2020) upheld ERISA's preemption provision. This case reinforced the well-established legal principle that state laws are preempted by ERISA when they have a significant impact on essential health plan administration functions or have a direct connection to health plans. The *Rutledge* Court specifically outlined and clarified the limited scope of activities that states may regulate. Further, the Tenth Circuit Court of Appeals decision in *Pharm. Care Mgmt. Ass'n v. Mulready* (August 2023) bolstered the *Rutledge* decision regarding ERISA preemption of state laws that impact benefit design and plan administration.

Employer-provided coverage is the leading source of affordable, comprehensive, and high-quality health coverage in the United States. More than half of Americans receive their health insurance through employer coverage that is governed by ERISA, which affords employers consistency and uniformity of

health plan administration. In Montana, approximately 420,000 residents are covered by self-funded ERISA-covered plans.<sup>1</sup>

ERISA was enacted to incentivize employers to offer robust coverage across the country and is the leading source of affordable, comprehensive, and high-quality health coverage. A key feature of ERISA is that it established uniform standards that apply to all employees and their beneficiaries – including those residing in different states. ERISA’s framework enables health plans and employers to keep administrative costs low by adhering to a uniform, national standard for regulation. Proposals at the state level that would disrupt the ERISA framework by creating a 50-state patchwork of complicated and inconsistent mandates for employer provided coverage could cause confusion and make coverage more expensive for Montana employers and employees.

We appreciate the CSI’s thoughtful consideration and stand ready to collaborate on language that accomplishes HB 740’s goals without encroaching on coverage otherwise subject to ERISA.

Thank you for the opportunity to provide feedback and consideration of our comments.

Sincerely,



Karlee Tebbutt  
Regional Director, State Affairs

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit [www.ahip.org](http://www.ahip.org) to learn how working together, we are Guiding Greater Health.

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<sup>1</sup>[https://ahiporg-production.s3.amazonaws.com/documents/State-Data-Book/202510-AHIP\\_StateDataBook\\_Montana.pdf](https://ahiporg-production.s3.amazonaws.com/documents/State-Data-Book/202510-AHIP_StateDataBook_Montana.pdf)