

Jointly-Ventured Health Care Plans

Employers A and B wish to share a common plan as a joint venture. Joint venture means that the poor claims experience of A may hurt B and vice versa. In what ways may this be done?

1. A and B are Controlled by Ownership
Where such control exceeds 10% A and B have a controlled going plan.
2. A and B Are Not Controlled by Ownership
 - a. Where such control fails the 10% test, A and B may establish a MEWA (where such is permitted by state statute). Where A and B share common services, as with a group of medical clinics, e.g., the 10% required is waived. The logic of the DOL is that medical clinics sharing a plan are comparable to a controlled group plan. The government of the MEWA is not with A or B but rather with the plan sponsor and trustees of the MEWA.
 - b. Where such control fails the 10% test, A and B may sponsor a VEBA. As such, the VEBA's trust provisions apply and the government of the plan is not with either A or B but rather with the VEBA itself. Since the VEBA requires a *qualified*, or IRS- approved trust, the VEBA must meet certain IRS requirements.

A few of such rules include the following:

- There must be a commonality of employment interests among A and B. Such test would fail if A is an auto dealer and B is a shirt maker, e.g.
- There must be some geographic concentration; if A were in Florida and B were in Oregon, such concentration would not exist.

The reader must take note that with any of the jointly-ventured plans herein cited, the government of the plan rests totally with the new sponsor (trustees in the case of the VEBA and MEWA and the *flagship* or sponsoring employer in the case of the controlled group.