

## Concepts for Input: Implementation of HB 290

For your reference: [House Bill 290, 88th Legislature, Regular Session, 2023](#); [Insurance Code Chapter 846](#); [Texas Administrative Code, Title 28, Chapter 7, Subchapter S](#); and [TDI MEWA Form Listings webpage](#).

The comment period closes at 5 p.m. Central time, on September 20, 2023. Submit written comments to [HMAS@tdi.texas.gov](mailto:HMAS@tdi.texas.gov).

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As part of the rulemaking process, the Texas Department of Insurance (TDI) invites your input on the possible changes in multiple employer welfare arrangement (MEWA) processes and structure in light of House Bill (HB) 290, 88th Legislature, Regular Session, 2023. TDI will review and evaluate your responses as it meets its regulatory directives. Thank you for your input on any or all of the following questions.

1. What clarifications or distinctions, if any, should TDI consider when implementing HB 290 concerning the definition of "health benefit plan" under Texas Insurance Code (TIC) §846.001(3) and "comprehensive health benefit plan"?
2. TDI is considering defining "comprehensive health benefit plan" to align with current federal and state law, such that comprehensive coverage is a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness. This definition would incorporate the meaning of "health benefit plan" and the associated exclusions under TIC Chapter 846. How should TDI define "comprehensive health benefit plan"?
3. What are the potential costs and benefits to your organization of pursuing the expanded MEWA path provided in HB 290?
4. What criteria should TDI consider when determining whether a MEWA that provides a comprehensive health benefit plan is structured like a Preferred Provider Benefit Plan or Exclusive Provider Benefit Plan?
5. What general documentation should a MEWA be required to provide to demonstrate compliance with applicable state and federal laws?
6. What specific documentation should a MEWA be required to provide to demonstrate compliance with applicable state and federal laws when the MEWA qualifies as an ERISA single-employer employee welfare benefit plan? In other words, the MEWA qualifies as a bona fide employer group or association under ERISA. TDI is considering requiring documentation similar to the requirements in

[28 TAC §26.301\(g\)](#).

7. What specific documentation should a MEWA be required to provide to demonstrate compliance with applicable state and federal laws when the MEWA does *not* qualify as an ERISA single-employer employee welfare benefit plan?
8. For a MEWA that currently holds an initial or final certificate of authority under TIC Chapter 846, how should it elect to be bound by the provisions of TIC §846.0035 as added by HB 290?
9. What other criteria or suggestions should TDI consider when implementing HB 290?