

June 25, 2023

The Honorable Tim Walberg
Chairman
Committee on Education & the Workforce
U.S. House of Representatives
2266 Rayburn House Office Building
Washington, DC 20515

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education & the Workforce
U.S. House of Representatives
2328 Rayburn House Office Building
Washington, DC 20515

Re: Patient Community Concerns Related to H.R. 2528, the Association Health Plans Act and H.R. 2571, the Self-Insurance Protection Act

Dear Chairman Walberg and Ranking Member Scott,

The undersigned organizations represent millions of people living with a pre-existing condition in the United States. Collectively, we have a unique perspective on what individuals and families need to prevent disease, cure illness, and manage chronic health conditions. The diversity of our organizations and the populations we serve enable us to draw upon a wealth of knowledge and expertise that are critical components of any discussion aimed at improving or reforming our healthcare system.

Today, we write to convey our concerns about two bills scheduled for consideration today by the Committee: H.R. 2528, the Association Health Plans Act and H.R. 2571, the Self-Insurance Protection Act. In the report “Under-covered: How ‘Insurance-Like’ Products Are Leaving Patients Exposed,” many of our organizations documented our concerns with health insurance products that are not required to comply with the patient protections enacted in the Affordable Care Act.ⁱ We are concerned that policies included in the legislation considered today would decrease the number of consumers enrolled in comprehensive health insurance plans and threaten access to quality, affordable healthcare for the patients and consumers we represent.

H.R. 2528, the Association Health Plans Act

Current law allows employers to work together to form a multiple employer welfare arrangement (MEWA) to provide certain benefits to their employees. An Association Health Plan (AHP) — a health benefit plan sponsored by an employer-based association — is one type of MEWA.

Some AHPs can be classified as large employers and are therefore not subject to critical patient protections and state insurance regulations. This can pose risks to employers and their employees. The track record of AHPs and MEWAs in reliably providing comprehensive coverage for consumers is quite poor. According to state insurance regulators, these entities have a long history of fraud and “[making] money at the expense of their participants.” State insurance regulators also say AHPs “have been notoriously prone to insolvencies.”ⁱⁱ

AHPs are not required to provide comprehensive coverage or cover the Essential Health Benefits (EHB). AHPs may also charge higher premiums based on occupation (a loophole that allows discrimination based on gender and other factorsⁱⁱⁱ) or even health status in some cases. As a result, these plans expose enrollees to high financial and health risks and exacerbate rural and/or regional health disparities. Meanwhile, marketing these products can be confusing or misleading and can cause individuals to enroll in plans that do not align with their medical needs or expectations.

AHPs also pose risks to the many consumers who do not enroll in them. AHPs can siphon away healthy individuals from state individual and small-group markets by leveraging the regulatory advantages they enjoy. This leaves the individual and small-group markets smaller and with a larger proportion of individuals with pre-existing conditions, leading to higher premiums and fewer plan choices for those who depend on those markets to access comprehensive coverage.

Despite the harm AHPs can pose to those who enroll in them as well as those who remain in comprehensive insurance plans, the Association Health Plans Act would promote additional enrollment in AHPs for groups that cannot use them today. We believe additional enrollment in AHPs by small employers and the self-employed will weaken patient and consumer protections and lead to higher costs for consumers who rely on comprehensive insurance. Rather than advance the Association Health Plans Act, we urge the Committee to partner with us to set common-sense restrictions that protect patients, consumers, and employers – limiting low-value plans rather than allowing them to proliferate further.

H.R. 2571, the Self-Insurance Protection Act

Stop-loss insurance is intended to be used as a tool to protect a health plan sponsor—typically an employer—from unpredictably high losses due to unexpected claims. As such, it can be an important tool to promote stability for sponsors of health insurance plans, particularly sponsors providing coverage for small numbers of insured individuals, whose unique health needs sometimes necessitate very expensive health services.

We are concerned that HR 2571 would remove an important level of consumer and patient protection by eliminating the ability of states to exercise oversight of stop-loss plans. State insurance commissioners play an important role in the health insurance marketplace. Removing states' ability to regulate stop-loss coverage would lead to less oversight of these plans, which would increase the likelihood of misleading marketing and other fraudulent practices that would prove harmful to employers purchasing stop-loss coverage as well as their employees.

Conclusion

We urge the Committee to reject the bills referenced above and, instead, partner with organizations like ours to identify opportunities to expand affordable, accessible, and adequate healthcare coverage for patients. If you have questions or would like to discuss further, please contact Katie Berge, Senior Director of Federal Government Relations at Katie.Berge@lls.org.

Sincerely,

The Leukemia & Lymphoma Society
American Cancer Society Cancer Action Network
Crohn's & Colitis Foundation
Epilepsy Foundation of America
Muscular Dystrophy Association
National Bleeding Disorders Foundation
National Health Council
National Multiple Sclerosis Society
The AIDS Institute

ⁱ Under-Covered: How “Insurance-Like” Products Are Leaving Patients Exposed. <https://www.ils.org/advocate/under-coveredhow-insurance-products-are-leaving-patients-exposed>

ⁱⁱ National Association of Insurance Commissioners. (2018, March 6). NAIC Letter to Employee Benefits Security administration, U.S. Department of Labor Definition of Employer—Small Business Health Plans RIN 1210- AB85-. NAIC. https://www.naic.org/documents/index_health_reform_section_180306_comments_assoc_plan_nprm.pdf

ⁱⁱⁱ Patient Groups Comments on RIN 1210-AB85; Definition of “Employer” Under Section 3(5) of ERISA— Association Health Plans (2018, August 22.) <https://www.lung.org/getmedia/9d61d488-e40c-4af5-90e4-4bc5d2754dbe/partner-comments-dol-re-rin-1210-ab85.pdf>