

House Committee Approves Three Health Care-Related Bills

On March 8, the House Committee on Education and the Workforce approved three health care bills—each of which could play a part in the new health care system if Republicans are successful in their efforts to repeal and replace the Affordable Care Act (ACA).

- The Preserving Employee Wellness Programs Act ([H.R. 1313](#)) aims to provide employers with greater flexibility when designing workplace wellness plans for employees. Notably, the bill covers all workplace wellness programs, regardless of whether they are offered in conjunction with an employer-sponsored health plan, and it establishes different requirements based on this distinction. For wellness programs offered in conjunction with an employer-sponsored health plan, the bill places such programs within the discrimination exceptions of the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), and the Public Health Service Act (PHSA) (i.e., the bill makes these programs permissible under those statutes), provided that two requirements are met:
 1. The program satisfies the ACA’s wellness program requirements; and
 2. Any reward offered under the program falls within the ACA’s limits, regardless of whether such programs are otherwise subject to those limitations.

Additionally, for wellness programs offered in conjunction with an employer-sponsored health plan, the bill clarifies that the ADA’s insurance exemption applies. This allows employers to establish, sponsor, and administer the terms of a bona fide benefit plan that are based on underwriting, classifying, or administering risks.

Finally, the bill includes some other relevant provisions. For example, any workplace wellness program that provides for more favorable treatment of individuals with adverse health factors is deemed to fall within the relevant discrimination exceptions under the ADA, the GINA, and the PHSA. The bill also provides that the collection of information about a manifested disease or disorder of a family member as part of a workplace wellness program does not violate GINA.

- The Self-Insurance Protection Act ([H.R. 1304](#)) clarifies that a stop loss policy is not included within the definition of “health insurance coverage” as defined by ERISA, the Public Health Service Act, and the Internal Revenue Code.
- The Small Business Health Fairness Act of 2017 ([H.R. 1101](#)) allows small employers to band together and offer coverage through association health plans (AHPs). The bill puts forth the provisions concerning the establishment of AHPs (certification requirements, sponsorship requirements, application requirements, participation and coverage requirements, etc.) and enforcement provisions relating to AHPs.

The Self-Insurance Protect Act was approved by voice vote, and the two other bills were approved 22-17 along party lines.

The Preserving Employee Wellness Programs Act appeared to be the most controversial bill at the markup, with Democrats seeking to include language that would add protections aimed at preventing employers from selling personal information collected in wellness screenings or using that information to

discriminate against employees. Of the five amendments offered by Democratic members of the Committee, all were defeated along party lines.