EDUCATION AND THE WORKFORCE
COMMITTEE CHAIRWOMAN VIRGINIA FOXX

FACT SHEET

THE SELF-INSURANCE PROTECTION ACT

BACKGROUND: Employer-sponsored insurance is one of the leading ways Americans obtain health care coverage. According to the Kaiser Family Foundation, more than 150 million Americans are covered by a health benefit plan offered by an employer. Unfortunately, providing employer-sponsored insurance is increasingly difficult under the 2010 health care law, which has led to higher costs, burdensome mandates, and fewer choices. As Congress works to repeal the government takeover of health care, it must also promote policies that empower employers to offer quality, affordable health insurance coverage to workers and their families. Protecting access to employer-based self-insurance is an important part of that effort.

In 2016, 61 percent of all employers offering health care coverage were self-insured. With this option, employers cover the costs of their employees' medical expenses either by directly reimbursing health care providers or directly reimbursing employees as claims arise. Employers can either process claims in-house or work with a third party administrator. Through a self-insured plan, employers and employees have greater control over their health care dollars and are able to retain savings in years with lower-then-expected costs. Unlike traditional or fully-insured health care plans, self-insured plans are free from the myriad mandates that force employees to purchase specific benefits they may not want or need. Even union leaders have embraced this approach and the flexibility it provides to customize a health care plan to the unique needs of workers and families.

Most self-insured employers also purchase "stop-loss" insurance, a financial risk-management tool designed to protect employers from catastrophic claims expenses. The federal government has never regulated stop-loss insurance, recognizing it is wholly different than traditional health insurance. However, the Obama administration repeatedly signaled interest in regulating stop-loss insurance as health insurance, which would severely restrict access to self-insured plans. Congress must act to provide regulatory certainty for workers and employers and ensure future administrations do not unfairly limit this popular, affordable health care model.

THE SELF-INSURANCE PROTECTION ACT: To ensure workers and employers continue to have access to affordable, flexible health plans through self-insurance, Rep. Phil Roe (R-TN) introduced the *Self-Insurance Protection Act* (H.R. 1304). Part of a broader effort to advance free-market, patient-centered health care solutions, the legislation would amend the *Employee Retirement Income Security Act*, the *Public Health Service Act*, and the Internal Revenue Code to clarify that federal regulators cannot redefine stop-loss insurance as traditional health insurance. H.R. 1304 would preserve self-insurance and:

- **Reaffirm long-standing policies.** Stop-loss insurance is not health insurance, and it has never been considered health insurance under federal law. H.R. 1304 would reaffirm this long-standing policy.

- **Protect access to affordable health care coverage.** By preserving self-insurance, workers and employers will continue to benefit from a health care plan model that has proven to lower costs and provide greater flexibility.

- **Prevent bureaucratic overreach.** Clarifying that regulators cannot redefine stop-loss insurance would prevent future administrations from limiting a popular health care option for workers and employers.