

118TH CONGRESS
1ST SESSION

H. R. 2813

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2023

Mr. GOOD of Virginia (for himself and Mr. WALBERG) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Self-Insurance Protec-
3 tion Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Small and large employers offer health ben-
7 efit plan coverage to employees in self-funded ar-
8 rangements using company assets or a fund, or by
9 paying premiums to purchase fully-insured coverage
10 from a health insurance company.

11 (2) Employers that self-fund health benefit
12 plans will often purchase stop-loss insurance as a fi-
13 nancial risk management tool to protect against ex-
14 cess or unexpected catastrophic health plan claims
15 losses that arise above projected costs paid out of
16 company assets.

17 (3) Stop-loss coverage insures the employer
18 sponsoring the health benefit plan against unfore-
19 seen health plan claims, does not insure the em-
20 ployee health benefit plan itself, and does not pay
21 health care providers for medical services provided to
22 the employees.

23 (4) Employer-sponsored health benefit plans are
24 regulated under the Employee Retirement Income
25 Security Act of 1974, however, States regulate the
26 availability and the coverage terms of stop-loss in-

1 insurance coverage that employers purchase to protect
2 company assets and to protect a fund against excess
3 or unexpected claims losses.

4 (5) Both large and small employers that choose
5 to self-fund must also be able to protect company as-
6 sets or a fund against excess or unexpected claims
7 losses and States must reasonably regulate stop-loss
8 insurance to assure its availability to both large and
9 small employers.

10 **SEC. 3. CERTAIN MEDICAL STOP-LOSS INSURANCE OB-**
11 **TAINED BY CERTAIN PLAN SPONSORS OF**
12 **GROUP HEALTH PLANS NOT INCLUDED**
13 **UNDER THE DEFINITION OF HEALTH INSUR-**
14 **ANCE COVERAGE.**

15 (a) ERISA.—Section 733(b)(1) of the Employee Re-
16 tirement Income Security Act of 1974 (29 U.S.C.
17 1191b(b)(1)) is amended by adding at the end the fol-
18 lowing sentence: “Such term shall not include a stop-loss
19 policy obtained by a self-funded health plan or a plan
20 sponsor of a group health plan that self-funds the health
21 risks of its plan participants to reimburse the plan or
22 sponsor for losses that the plan or sponsor incurs in pro-
23 viding health or medical benefits to such plan participants
24 in excess of a predetermined level set forth in the stop-
25 loss policy obtained by such plan or sponsor.”.

1 (b) PHSA.—Section 2791(b)(1) of the Public Health
2 Service Act (42 U.S.C. 300gg–91(b)(1)) is amended by
3 adding at the end the following new sentence: “Such term
4 shall not include a stop-loss policy obtained by a self-fund-
5 ed health plan or a plan sponsor of a group health plan
6 that self-funds the health risks of its plan participants to
7 reimburse the plan or sponsor for losses that the plan or
8 sponsor incurs in providing health or medical benefits to
9 such plan participants in excess of a predetermined level
10 set forth in the stop-loss policy obtained by such plan or
11 sponsor.”.

12 (c) IRC.—Section 9832(b)(1)(A) of the Internal Rev-
13 enue Code of 1986 is amended by adding at the end the
14 following new sentence: “Such term shall not include a
15 stop-loss policy obtained by a self-funded health plan or
16 a plan sponsor of a group health plan that self-funds the
17 health risks of its plan participants to reimburse the plan
18 or sponsor for losses that the plan or sponsor incurs in
19 providing health or medical benefits to such plan partici-
20 pants in excess of a predetermined level set forth in the
21 stop-loss policy obtained by such plan or sponsor.”.

22 **SEC. 4. EFFECT ON OTHER LAWS.**

23 Section 514(b) of the Employee Retirement Income
24 Security Act of 1974 (29 U.S.C. 1144(b)) is amended by
25 adding at the end the following:

1 “(10) The provisions of this title (including part 7
2 relating to group health plans) shall preempt State laws
3 insofar as they may now or hereafter prevent an employee
4 benefit plan that is a group health plan from insuring
5 against the risk of excess or unexpected health plan claims
6 losses.”.

○