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***“Legislative Proposals to Improve Health Care Coverage and Provide Lower
Costs for Families”***

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Before the Education and the Workforce Committee

Good morning, Chairwoman Foxx, Ranking Member Scott, and distinguished members of the Committee. Thank you for the opportunity to testify today. I am Lydia Mitts, Associate Director of Affordability Initiatives at Families USA, a non-profit, non-partisan, consumer advocacy organization that has worked since 1982 to promote high-quality, affordable health care for all in this country.

The three bills before you today would make various changes to the requirements governing coverage available to workers. All of these bills would promote the scaling back of employee health plan benefits and shift a greater share of costs to workers. These changes would harm access to affordable, comprehensive coverage, particularly for older and sicker workers.

I would like to specifically address two of the bills before you, starting with the “Preserving Employee Wellness Programs Act.” We have strong concerns that this bill will proliferate the use of wellness programs as a backdoor way to charge sicker workers more for health coverage and will further undercut critical workforce non-discrimination protections.

First, I want to emphasize that we support efforts to provide employees with resources to improve their health and well-being. However, it is critical that these efforts are grounded in evidence, do not open the door to workforce discrimination, and do not threaten workers’ access to affordable health coverage and care. We believe that preserving and strengthening access to care should be a pillar of any workplace wellness efforts. Workplace wellness programs that increase workers’ health care premiums or other health care costs if they do not meet certain

program requirements do the opposite of support well-being; rather these types of programs make it harder for workers to access the clinical care they need to achieve good health.

Background: Evidence on Workplace Wellness Programs and Incentives

Before speaking to the bill specifically, I would like to provide some background on workplace wellness programs and the risks they potentially pose to workers. The RAND Corporation conducted a review of workplace wellness programs, commissioned by the federal government.

This RAND review found that many wellness programs do not provide extensive services beyond health screenings. It found that only 13 percent of all employer wellness programs are considered comprehensive. This means that in addition to health screenings, these programs have comprehensive lifestyle management and disease management services. Perhaps most concerning, just over half of all programs (54 %) provide only limited services across the board, or focus only on providing health screenings.¹ These trends raise significant concerns that many workplace wellness programs are failing to make significant investments in services that could actually help workers improve their overall health and well-being.

RAND also looked at the efficacy of the use of financial incentives to boost participation in wellness programs. It found that incentives can increase participation, particularly in programs that offer very limited services. However, more importantly, RAND found that simply offering a comprehensive program that includes extensive lifestyle management and disease management services is almost equally as effective at generating high participation. Among programs that used no incentives at all, comprehensive programs had 52 percent participation, while limited programs had only 20 percent participation.² RAND stated that their findings, “*question whether employers’ enthusiasm for incentives, which have the unintended consequence of shifting cost to employees with poor health, is warranted.*”³ Put simply, employers should not need to use

¹ Soeren Mattke et al., *Workplace Wellness Programs Study: Final Report*, (Santa Monica, CA: RAND Corporation, 2013), available online at http://www.rand.org/pubs/research_reports/RR254.html.

² Soeren Mattke et al., *Workplace Wellness Programs Study: Final Report*, (Santa Monica, CA: RAND Corporation, 2013), available online at http://www.rand.org/pubs/research_reports/RR254.html.

³ RAND Corporation, *Incentives for Workplace Wellness: They Increase Employee Participation But Building a Better Program Is Almost as Effective*, (Santa Monica, CA: RAND Corporation, 2015), available online at http://www.rand.org/content/dam/rand/pubs/research_briefs/RB9800/RR9842/RAND_RB9842.pdf

incentives at all if they design a wellness program that actually provides meaningful services to their employees.

Wellness Incentives Shift Health Care Costs to Vulnerable Workers

We have long had concerns with wellness program incentives that vary workers' health care premiums or other health care costs based on their completing health screenings or their meeting certain health goals. There is no evidence that charging people more for coverage or care leads to sustained improvements in health outcomes or behaviors— rather it is simply a backdoor way to medically underwrite and shift premium costs to workers in poorer health. Furthermore, premium surcharges tied to completing invasive health screenings undercut key protections of the Americans with Disabilities Act and the Genetic Information Nondiscrimination Act that have prohibited employers from compelling their workers to share sensitive medical and genetic information. Such programs run an equal risk of shifting costs to workers in poorer health, who are more likely to be wary of disclosing sensitive medical information out of fear of discrimination or privacy concerns. Our concerns with these practices are elevated given the earlier mentioned research showing that: 1) more than half of programs do little beyond collect employee health data through screenings; and 2) truly comprehensive wellness programs built to help employees address health problems do not need discriminatory incentives to encourage participation.

“Preserving Employee Wellness Programs Act” Paves Road for Greater Cost-Shifting to Workers

The “Preserving Employee Wellness Programs Act” would open the door for employers to charge workers and their families even higher health care costs if they refuse to complete invasive health screenings. This would further undercut affordability of coverage and weaken longstanding worker protections. Under current regulations, employers can already charge premium surcharges as high as 30 percent of the premium for employee-only coverage if workers refuse to complete health screenings; based on the average cost of employer-based



employee-only coverage in 2016 that is close to \$2,000 (\$1,930).⁴ This bill would drastically increase this maximum surcharge to 30 percent of the cost of family coverage; based on the average cost of employer-based family coverage, this translates to a premium surcharge of close to \$5,500 (\$5,442)⁵ This change will do nothing to support the health and well-being of workers. Rather, it will just make coverage less affordable for many workers and their families. The bottom line is that efforts to support employee health need to focus on providing evidence-based services, not shifting health care costs to workers.

“Small Business Health Fairness Act” Not the Solution to Improve Affordability of Coverage for Small Businesses

The second bill I would like to speak to is the “Small Business Health Fairness Act.” This bill would exempt association health plans marketed to small businesses from adhering to critical state and federal requirements for small group coverage. These requirements have benefitted small employers and their workers alike. They include protections under the Affordable Care Act that prevent small group plans from charging employers exorbitantly higher premiums because their employees have poorer health, are older, or are disproportionately women. They also include state and federal requirements that small group plans cover comprehensive benefits that meet the needs of a diverse workforce.

By allowing association health plans marketed to small businesses to ignore these key protections, this bill would increase premiums and threaten stable access to comprehensive coverage for many small employers and their workers. Employers with a young workforce that is in pristine health may be able to get lower premiums. However, the rest of small businesses would see coverage become less affordable, whether they sought it through an association or the existing small group market. Small businesses with a workforce that is older, disproportionately

⁴ According to Kaiser Family Foundation/Health Research and Education Trust’s 2016 Employer Benefits Survey the average total premium for employee only coverage in 2016 was \$6,435. Kaiser Family Foundation and Health Research and Education Trust, *2016 Employer Benefits Survey*, (Washington, DC: Kaiser Family Foundation, September, 2016), available online at <http://kff.org/health-costs/report/2016-employer-health-benefits-survey/>

⁵ According to Kaiser Family Foundation/Health Research and Education Trust’s 2016 Employer Benefits Survey the average total premium for family coverage in 2016 was \$18,142. Kaiser Family Foundation and Health Research and Education Trust, *2016 Employer Benefits Survey*, (Washington, DC: Kaiser Family Foundation, September, 2016), available online at <http://kff.org/health-costs/report/2016-employer-health-benefits-survey/>



women, or that has more health problems would suffer the most. On top of this, employees moved to association plans would be at risk of facing skimpier coverage that comes with significantly higher cost-sharing or doesn't cover the care they need. Exempting association health plans from important protections is not the solution to make coverage more affordable for small businesses and their workers. This bill would just move us backward to a two-tiered system that makes it harder to purchase comprehensive, affordable coverage for all but a minority of small businesses.

Threats Posed by Repealing the Affordable Care Act

In closing, I want to note the real threat that Affordable Care Act repeal proposals pose to the health coverage of workers and their families. While they are not before the Committee today, policies are being discussed and considered by the House that would repeal the Affordable Care Act, give large tax breaks to the wealthy, and significantly cut back on financial assistance with coverage for lower- and moderate-income families. These policies would have devastating consequences to millions of working individuals who have gained health insurance under the Affordable Care Act. It is critical that we find solutions to improve affordability of coverage and care for businesses and their workers. However, we need to focus on solutions that do not simply shift health care costs to working families or undermine their access to coverage that fully meets their needs.

In closing, I hope this testimony has provided you with a valuable overview to help inform your deliberations on the legislation before this Committee. Again, thank you for the opportunity to testify before you today.