

House E&W Passes Employer Health Data Access Bill Despite Privacy Concerns

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The House Education & the Workforce Committee advanced the Health Data Access, Transparency and Affordability Act to the chamber floor Thursday (June 25), a bill that would require a broader scope of health claims and encounter data be made available to employer-sponsored group health plans from pharmacy benefit managers and other network service providers.

The committee voted 18-15 to pass the bill. Democrats were opposed, with committee ranking Democrat Rep. Robert Scott (VA) saying the bill fails to strike the proper balance between transparency and plan enrollee privacy.

Scott said he supports the bill's passage goal of providing tools for plan fiduciaries to hold service providers accountable but opposed the latest version's lack of input from one of its original sponsors during the 118th Congress, Rep. Mark Tanako (D-CA).

"The bill grants employers open-ended access to far more data than necessary, including employee medical records," Scott said. "It also lacks adequate guardrails to protect sensitive information and ensure that workers are not subject to discrimination by their employer or health plan. Moreover, as drafted, the bill does not clearly ensure that the data is de-identified in a manner consistent with HIPAA."

Tanako argued that while a previous version of the bill became stronger following bipartisan collaboration on strengthening data transparency while effectively protecting the privacy of plan participants, the current bill dramatically broadens the scope of data that is shared through employer-sponsored health plans, including by needlessly granting employers access to workers' medical records with no guardrails or explanation as to why certain data needs to be shared and what it is to be used for.

Republicans rejected an amendment from Tanako that aimed to cement patient privacy and security by ensuring plan fiduciaries' access to data is for the purpose of conducting audits of their service providers. The amendment also would have clarified that individuals with authority over plan data must handle that data in a manner consistent with fiduciary standards under the Employee Retirement

Income Security Act (ERISA), and included clearer protections for workers from discrimination and retaliation based on plan data using enforcement tools from the Department of Labor.

The bill is heavily supported by major employer groups, however, and many of them say passing the bill would bolster employers' ability to leverage health care data in improving health outcomes and lower costs for care for their employees.

Rep. Robert Onder (R-MO), the current bill's lead sponsor, said the bill includes no measures that would preempt the Health Insurance Portability and Accountability Act or give employers access to medical records. Rather, Onder says, the bill's aim is to give employers much-needed access to claims data by expanding the scope of data, increasing the timeliness and frequency of reporting, and specifying the format in which the data must be provided to plan sponsors.

"At its core, this legislation is about transparency and accountability. Plan fiduciaries cannot effectively oversee health plans, evaluate network service performance, identify improper payments, or fulfill their responsibilities to plan participants if they are denied access to basic information about how those plans are being administered," Onder said. -- *Gabrielle Wanneh* (gwanneh@iwppnews.com)