Fact Sheet
COMMITTEE ON EDUCATION & THE WORKFORCE DEMOCRATS
DEMOCRATS-EDWORKFORCE.HOUSE.GOV
The Hon. Bobby Scott • Ranking Member

The Self-Insurance Protection Act (H.R. 1304)

Rep. Phil Roe (R-TN) introduced the *Self-Insurance Protection Act* (H.R. 1304), which codifies the ability of stop-loss insurance to avoid certain federal regulations that pertain to group health plans. First introduced in 2013 in response to a fear that the Obama administration would attempt to regulate stop-loss plans, Republicans have continued to introduce this bill despite any further action on the federal level to regulate stop-loss insurance.

Currently, employers who choose to provide health benefits to employees through self-insured plans fund claims from a specified pool of assets, rather than through an insurance company such as a fully insured plan. Many self-insured employers elect to purchase stop-loss insurance to protect against unexpected high medical costs, essentially acting as a reinsurance mechanism. While many self-funded plans in conjunction with the purchased stop-loss look like a traditional, fully-insured plan, stop-loss coverage itself is not regulated at the federal level.

While stop-loss can mitigate against risk for self-insured plans, there is concern that the increase in self-insurance and the use of stop-loss both fragments the market and undermines market reforms in the Affordable Care Act (ACA). Self-insurance and stop-loss both come with financial risks for employers and employees. Specifically, stop-loss insurance is not guaranteed, so if an employer suddenly has high medical costs, the stop-loss insurer can refuse to cover the employer or charge an employer an exorbitant amount, a cost which is ultimately passed onto the employees.

The *Self-Insurance Protection Act* (H.R. 1304) would:

- Amend the Public Health Service Act, Employee Retirement Income Security Act of 1974 and the Internal Revenue Code to exempt stop-loss policies obtained by self-insured plans from the definition of "health insurance coverage".
- Codify that stop-loss insurance does not have to comply with the ACA's market reforms, such as limitations on waiting periods.
- Potentially limit states' ability to regulate of stop-loss insurance in order to protect businesses and workers.

Some states have passed laws that attempt to regulate or limit stop-loss insurance, for example, through prohibiting the sale of stop-loss insurance to "small groups" or by setting a statutory minimum financial commitment level by the employer. States have taken on these efforts in attempt to ensure that employees are protected and insurance markets are not undermined by the growth in prevalence of self-insurance in conjunction with stop-loss insurance.