

**Opening Remarks of Congresswoman Lisa Blunt Rochester**  
***“Expanding Affordable Health Care Options:***  
***Examining the Department of Labor’s Proposed Rule on Association Health Plans”***  
**Subcommittee on Health, Employment, Labor, and Pensions**  
**Tuesday March 20, 2018 at 10 a.m.**

Thank you, Chairman Walberg.

Today’s hearing comes just days before the eighth anniversary of the Affordable Care Act, or the ACA – legislation that has helped 20 million people gain health coverage, including 38,000 Delawareans, and also expanded protections to millions more across the country who have pre-existing conditions.

Over the past year, we have also seen continual efforts by the administration and Congressional Republicans to undermine that progress – including one of many failed attempts to repeal the law this time last year. But with Congress’ inability to pass legislation to repeal and replace the ACA, the administration has been unyielding in its attacks – refusing to faithfully implement the law of the land.

The Department of Labor’s proposed rule to expand association health plans is yet another attempt to sabotage American’s access to comprehensive, affordable health coverage.

Under current law, health insurance coverage offered through a group or association to individuals or small employers is generally treated like individual or small group coverage. This means businesses and individuals with health insurance through associations have the same protections as people in state-regulated individual and small group markets. This includes coverage of essential health benefits, including maternity care and substance abuse disorder treatment, and prohibitions against being charged more based on gender.

Under current Department of Labor sub-regulatory guidance, there are strict criteria under which employer association health coverage is treated as a single, large group ERISA-covered plan, and thus exempt from adhering to these rules. The use of this strict criteria in this way helps protect against cherry-picking only healthy consumers for the sole purpose of providing health coverage that has nothing to do with actual employment.

The Department’s proposed rule would weaken the criteria for associations to be able to purchase insurance exempt from certain federal consumer protections. Simply put, this rule takes us backwards.

While the rule’s proponents claim it will help small businesses, in fact, this rule could limit access to comprehensive coverage for many small businesses and their workers, increase costs, and threaten access for those with pre-existing conditions. Troublingly, it also has the potential to leave small businesses and their workers on the hook for millions in unpaid medical bills.

First, this proposed rule would limit access to comprehensive health coverage. Without guaranteed coverage for essential health benefits, such as maternity care, mental health treatment, and

substance use treatment. This means people may be left with skimpy and inadequate coverage that neither gives them access to the care they need nor offers adequate financial protection against serious medical conditions.

Second, the proposed rule will increase costs and threaten coverage for people with pre-existing conditions. As healthier and lower cost consumers get cheap plans with skimpy benefits that may not meet their health needs, older or sicker consumers would be left behind in the traditional market with skyrocketing costs, making it difficult to obtain coverage.

Third, the proposed rule could potentially leave small businesses and their workers on the hook for millions in unpaid medical bills. As we have seen through testimony in previous hearings on this topic, association health plans have a long history of insolvencies, scams, and fraud. Between 2000 and 2002, scams impacted more than 200,000 people and left more than \$252 million in unpaid medical bills. As we all know, those who do not learn history are doomed to repeat it. The Coalition Against Insurance Fraud stated that under the rule “small businesses and their workers will face a large and intolerable risk of fraud.”<sup>1</sup> It seems to me that a common sense approach to supporting small businesses and helping them thrive would not and should not include needlessly exposing them to the insolvencies, scams, and fraud that could force them to shutter their doors for good.

**Taken together, the Department of Labor’s (DOL) proposed rule will leave some with cheaper coverage that fails to meet their basic health needs, and leave everyone else with higher costs.**

The gaps in this rule’s justification and analysis provided by the Department are troubling. Members of Congress and the general public would benefit from hearing directly from DOL, which is why Members of this Committee have requested more information from the Department, to no avail. I hope the Majority will join us in having an open and honest discussion about the real effect this proposed rule will have on small businesses and their employees.

As pointed out in a comment letter submitted by 17 state Attorneys General, including Matt Denn, Attorney General of my home state of Delaware, the rule would reverse critical consumer protections and “unduly expand access to AHPs without sufficient justification or consideration of the consequences.”<sup>2</sup>

Rather than continuing a campaign of interference, I hope the administration and my Republican colleagues will join with Democrats to find ways to strengthen the ACA and increase access to affordable, comprehensive health coverage.

I thank the witnesses for joining us here today. I yield back.

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<sup>1</sup> <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB85/00041.pdf>

<sup>2</sup> <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB85/00669.pdf>