ED & WORKFORCE DEMOCRATS

FACT SHEET

House Committee on Education and Workforce
Ranking Member Robert C. "Bobby" Scott

The Consumer Appeal Rights Enforcement Act

Introduced by Rep. Summer Lee (PA-12)

Background:
When working people pay thousands of dollars in premiums, shoulder burdensome copays, deductibles, and coinsurance, and leap through hoops and paperwork, they rightfully expect their insurance to pay for the care they need when they need it. However, the roughly 134 million workers and their families enrolled in job-based health plans covered by the *Employee Retirement Income Security Act* (ERISA) increasingly see their health claims denied.

The Problem:
Consumers have a right to a fair and timely review of their claims and to appeal claim denials under ERISA and the *Affordable Care Act* (ACA). However, in practice, this right may be illusory for many working people because there are no monetary penalties for plans and insurance companies that fail to fully provide consumers with their legal right to appeal. Without monetary penalties, plans and insurance companies face nothing but a slap on the wrist for illegal practices that may systematically deny claims and impede consumers' rights.

The Solution:
The *Consumer Appeal Rights Enforcement Act* empowers the Department of Labor (DOL) to hold insurance companies, plans, and other actors accountable for violations of ERISA's claims procedure regulation and the ACA's external review process (collectively "ERISA Appeal Rights"). Specifically, the bill:

- Provides the Secretary with authority to impose administrative civil monetary penalties for violations of consumers' ERISA Appeal Rights, including enhanced penalties for uncorrected violations and patterns and practices of violations.
- For a plan's failure to have in place compliant processes regarding consumers' ERISA Appeal Rights ("Global Violations"), the Secretary may impose a penalty of up to $1,000 per day for each individual covered under the plan. The Secretary may treble this penalty for violations that are not corrected within 90 days after the plan administrator is informed of the Global Violation.
- For instances in which a plan does not meet its obligations to individual participants and beneficiaries ("Individual Violations") by failing to: provide required notices; respond to claims, appeals, or requests for external review on a timely basis; or respond with all legally required information, the Secretary may impose a penalty of up to $1,000 per day for each such violation.
    - The Secretary may treble this penalty for violations that are not corrected within 90 days after a plan administrator is informed of the Individual Violation.
    - Additionally, in cases in which there is found to be a pattern or practice of Individual Violations, the Secretary may impose an additional penalty of between $100 and $1,000 for each such violation.
- Allows a court to impose monetary penalties for both Global and Individual Violations in cases in which the Secretary seeks only equitable relief to correct such violations.
- Grants the Secretary the authority to enforce violations of consumer protections under ERISA directly against health insurance companies.
- Allows the Secretary to seek appropriate equitable relief to enforce violations of the terms of the plan. Makes a technical correction to allow the Secretary to collect all monetary penalties authorized under ERISA.