



H.R. 1304 – Self-Insurance Protection Act (Roe, R-TN)

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FLOOR SCHEDULE:

Scheduled for consideration on April 5, 2017 under a [closed rule](#).

TOPLINE SUMMARY:

H.R. 1304 would protect self-insured employer plans, which provide flexible, affordable health care coverage by clarifying that stop-loss insurance is not health insurance and should not be regulated as such. Stop-loss insurance is a risk management tool that protects self-insured employers against catastrophic claims expenses.

COST:

No Congressional Budget Office (CBO) estimate is available.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 1304 would provide statutory clarity that stop-loss insurance is not considered health insurance under federal law, and prevent future administrations from regulating it as such. While stop-loss insurance has never been federally regulated, the Obama administration indicated interest in regulating it as health insurance, an action that could decrease access to popular and affordable self-insured employer health plans.

Employers offering a health insurance benefit can do so through either by (1) purchasing health insurance from a state-licensed insurance carrier and funding the employer share of premiums for each enrollee (fully-insured plans), or (2) setting aside funds to pay for health benefits as claims are incurred, either directly to health providers or by reimbursing employees (self-insured plans). Employees may still pay a premium under a self-insured plan.

Self-insured plans are regulated under the Employee Retiree Income Security Act (ERISA), the Public Health Service Act (PHSA), and the Internal Revenue Code, but are not required to comply with state insurance regulation requirements, including state benefit mandates. Self-insured plans also do not have to cover all of Obamacare's ten essential health benefits categories. These plans thus provide the employer

with flexibility to tailor benefits specifically to their employees and/or offer the same coverage option across multiple states. They may also be a more cost-effective option because they are exempt from costly one-size-fits-all benefit mandates, and because any dollars not spent on claims can be saved as reserves against future claims or losses.

Unlike the fully-insured plans that contract with a private insurance carrier to manage risk, however, self-insured plans bear the risk associated with providing health benefits and may be vulnerable to unanticipated high-cost claims or high utilization. In order to protect against potential catastrophic loss, self-insured plans often rely on a financial risk management tool known as stop-loss insurance, through which the employer can be reimbursed if employee medical claims exceed a set amount. Stop-loss insurance is not health insurance: the employer is still responsible for paying the employee's claims, as stop-loss cannot be used to insure employees or reimburse health providers.

Employers that offer a health insurance benefit should have the ability to choose whether self-insurance is the best way to ensure affordable health coverage that meets their workforce needs, and stop-loss insurance is an important risk management tool that helps make this option viable for employers.

COMMITTEE ACTION:

This bill was introduced by Representative Roe (R-TN) on March 2, 2017 and referred to the House Committee on Education and Workforce, where a mark-up was held and the bill was reported by voice vote.

Read the Committee Report [here](#).

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Paragraph 3, United States Constitution."

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