

119TH CONGRESS
2D SESSION

H. R. 9486

To amend the Employee Retirement Income Security Act of 1974 to increase transparency of group health plan data, prevent discrimination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2026

Mr. TAKANO introduced the following bill; which was referred to the
Committee on Education and Workforce

A BILL

To amend the Employee Retirement Income Security Act of 1974 to increase transparency of group health plan data, prevent discrimination, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Data Access,
5 Transparency, and Affordability Act of 2026” or “Health
6 DATA Act of 2026”.

7 **SEC. 2. INCREASING TRANSPARENCY OF GROUP HEALTH**
8 **PLAN DATA.**

9 (a) GROUP HEALTH PLAN AUDIT RIGHTS.—

1 (1) IN GENERAL.—Section 408(b)(2) of the
2 Employee Retirement Income Security Act of 1974
3 (29 U.S.C. 1108(b)(2)) is amended by inserting
4 after subparagraph (C) the following:

5 “(D) No contract or arrangement for serv-
6 ices, and no extension or renewal of such a con-
7 tract or arrangement, between a group health
8 plan (as defined in section 733(a)) and any
9 other entity, including a health care provider
10 (including a health care facility), network or as-
11 sociation of providers, service provider offering
12 access to a network of providers, third-party ad-
13 ministrator, or entity providing pharmacy ben-
14 efit management services, is reasonable within
15 the meaning of this paragraph unless such con-
16 tract or arrangement—

17 “(i) allows the group health plan to
18 audit all de-identified claims and encounter
19 information or data described in section
20 724(a)(1)(B), provided that such informa-
21 tion or data has been deidentified in ac-
22 cordance with section 164.514 of title 45,
23 Code of Federal Regulations (or successor
24 regulations), to—

1 “(I) ensure that such entity com-
2 plies with the terms of the plan, the
3 terms of the contract or arrangement
4 for services, and the requirements of
5 this title; and

6 “(II) determine the reasonable-
7 ness of compensation received by such
8 entity; and

9 “(ii) does not—

10 “(I) unreasonably limit the num-
11 ber of audits permitted during a given
12 period of time;

13 “(II) limit the number of de-iden-
14 tified claims and encounter informa-
15 tion or data that the group health
16 plan may access during an audit;

17 “(III) limit the disclosure of pric-
18 ing terms for value-based payment ar-
19 rangements or capitated payment ar-
20 rangements, including—

21 “(aa) payment calculations
22 and formulas;

23 “(bb) quality measures;

24 “(cc) contract terms;

25 “(dd) payment amounts;

1 “(ee) measurement periods
2 for all incentives; and

3 “(ff) other payment meth-
4 odologies used by an entity, in-
5 cluding a health care provider
6 (including a health care facility),
7 network or association of pro-
8 viders, service provider offering
9 access to a network of providers,
10 third-party administrator, or en-
11 tity providing pharmacy benefit
12 management services;

13 “(IV) limit the disclosure of over-
14 payments and overpayment recovery
15 terms;

16 “(V) limit the right of the group
17 health plan to select an auditor;

18 “(VI) otherwise limit or unduly
19 delay by greater than 60 calendar
20 days after the date of request the
21 group health plan from auditing any
22 such de-identified claims and encoun-
23 ter information or data; or

24 “(VII) permit the entity to
25 charge a fee beyond the reasonable di-

1 rect costs to provide the required in-
 2 formation and otherwise comply and
 3 assist with an audit request.”.

4 (2) PRIVACY REQUIREMENTS.—

5 (A) IN GENERAL.—Section 408(b)(2) of
 6 the Employee Retirement Income Security Act
 7 of 1974 (29 U.S.C. 1108(b)(2)), as amended by
 8 paragraph (1), is further amended by adding at
 9 the end the following:

10 “(E) PRIVACY REQUIREMENTS.—

11 “(i) IN GENERAL.—An entity shall—

12 “(I) provide data or information
 13 under subparagraph (D) in a manner
 14 consistent with—

15 “(aa) the privacy regulations
 16 promulgated under section
 17 13402(a) of the Health Informa-
 18 tion Technology for Clinical
 19 Health Act (42 U.S.C.
 20 17932(a)); and

21 “(bb) the privacy regulations
 22 promulgated under the Health
 23 Insurance Portability and Ac-
 24 countability Act of 1996 in part
 25 160 and subparts A and E of

part 164 of title 45, Code of Federal Regulations (or successor regulations); and

“(II) to the extent such data or information constitutes protected health information, restrict the use and disclosure of such information for purposes of such privacy regulations.

“(ii) RESTRICTION.—A group health plan shall comply with section 164.504(f) of title 45, Code of Federal Regulations (or a successor regulation), and a plan sponsor shall act in accordance with the terms of the agreement described in such section.”.

(b) CIVIL ENFORCEMENT.—

(1) IN GENERAL.—Subsection (c) of section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following:

“(14) In the case of an agreement between a group health plan and a health care provider (including a health care facility), network or association of providers, service provider offering access to a network of providers, third-party administrator, entity providing pharmacy benefit management services, or other service provider that violates the provisions

1 of section 724, the Secretary may assess a civil pen-
2 alty against such provider, network or association of
3 providers, service provider offering access to a net-
4 work of providers, third-party administrator, entity
5 providing pharmacy benefit management services, or
6 other service provider in the amount of \$10,000 for
7 each day during which such violation continues.
8 Such penalty shall be in addition to other penalties
9 as may be prescribed by law.”.

10 (2) PENALTY COLLECTION.—Paragraph (6) of
11 section 502(a) of such Act, is amended to read as
12 follows:

13 “(6) by the Secretary to collect any civil penalty
14 that the Secretary has imposed or assessed pursuant
15 to this title;”.

16 (c) IMPROVING COLLECTION OF GAG CLAUSE ATTES-
17 TATIONS.—

18 (1) IN GENERAL.—Section 506 of such Act (29
19 U.S.C. 1136) is amended by adding at the end the
20 following:

21 “(d) ATTESTATIONS RELATING TO GROUP HEALTH
22 PLAN DATA.—Notwithstanding subsection (a) of this sec-
23 tion, the Secretary shall collect the attestations required
24 to be submitted under section 724(a)(3). The Secretary
25 shall ensure that any service provider submitting such an

1 attestation on behalf of a group health plan does not have
2 any conflicts of interest with regard to such attestation.”.

3 (2) CONFORMING AMENDMENT.—Section
4 506(a) of such Act (29 U.S.C. 1136(a)) is amended
5 by striking “In order” and inserting “Subject to
6 subsection (d), in order”.

7 **SEC. 3. FIDUCIARY DUTY WITH RESPECT TO PLAN DATA.**

8 Section 3(21)(A)(iii) of the Employee Retirement In-
9 come Security Act (29 U.S.C. 1002(21)(A)(iii)) is amend-
10 ed by striking “such plan.” and inserting the following:
11 “such plan, including any authority over the use, manage-
12 ment, disposition, or safeguarding of data generated, used,
13 or maintained by the plan or a service provider to the plan
14 in connection with the administration of benefits or man-
15 agement of plan assets.”.

16 **SEC. 4. PREVENTING DISCRIMINATION BASED ON PLAN**
17 **DATA.**

18 (a) IN GENERAL.—Part 5 of subtitle B of title I of
19 the Employee Retirement Income Security Act of 1974
20 (29 U.S.C. 1131 et seq.) is amended by adding at the end
21 the following:

22 **“SEC. 524. PREVENTING DISCRIMINATION BASED ON PLAN**
23 **DATA.**

24 “(a) IN GENERAL.—It shall be unlawful for a person
25 specified in subsection (c) to discharge, fine, suspend,

1 expel, discipline, or discriminate against, including by fail-
2 ing to meet the requirements of subsection (a) or (b) of
3 section 702 (related to discrimination in eligibility and
4 premiums for participation in group health plans), a par-
5 ticipant or beneficiary on the basis of information or data
6 described in section 724.

7 “(b) ENFORCEMENT.—

8 “(1) IN GENERAL.—The provisions of section
9 502 shall be applicable in the enforcement of this
10 section, except that in any action brought under sub-
11 section (a)(1)(B) of such section in relation to data
12 or information described in section 724, a partici-
13 pant or beneficiary may not be required to exhaust
14 administrative remedies prior to bringing such ac-
15 tion.

16 “(2) EQUITABLE RELIEF.—In applying section
17 502 for the purposes of this section, the term ‘equi-
18 table relief’ shall include any relief necessary to re-
19 store a participant or beneficiary to the position they
20 would have occupied but for a violation of subsection
21 (a).

22 “(3) CIVIL MONETARY PENALTY.—

23 “(A) IN GENERAL.—In the case of a viola-
24 tion of subsection (a) by a person, the Secretary

1 may assess a civil monetary penalty against
2 such person.

3 “(B) AMOUNT.—The amount of the civil
4 monetary penalty imposed by subparagraph (A)
5 shall be \$100 for each day in the noncompli-
6 ance period with respect to each participant or
7 beneficiary to whom such violation of subsection
8 (a) relates.

9 “(C) NONCOMPLIANCE PERIOD.—For the
10 purposes of this subparagraph, the term ‘non-
11 compliance period’ means, with respect to any
12 violation of subsection (a), the period—

13 “(i) beginning on the date such viola-
14 tion occurs; and

15 “(ii) ending on the date such violation
16 is corrected.

17 “(c) SPECIFIED PERSON.—A person specified in this
18 subsection is any of the following:

19 “(1) An employer.

20 “(2) A plan sponsor.

21 “(3) A plan administrator.

22 “(4) A plan fiduciary.”.

23 (b) RULE OF CONSTRUCTION.—Nothing in this Act,
24 or the amendments made by this Act, shall be construed
25 to limit the application of any Federal or State privacy

1 or civil rights law, including the HIPAA privacy regula-
2 tions, the Genetic Information Nondiscrimination Act of
3 2008 (Public Law 110–233) (including the amendments
4 made by such Act), the Americans with Disabilities Act
5 of 1990 (42 U.S.C. 12101 et seq.), section 504 of the Re-
6 habilitation Act of 1973 (29 U.S.C. 794), section 1557
7 of the Patient Protection and Affordable Care Act (42
8 U.S.C. 18116), title VI of the Civil Rights Act of 1964
9 (42 U.S.C. 2000d), and title VII of the Civil Rights Act
10 of 1964 (42 U.S.C. 2000e).

11 (c) CLERICAL AMENDMENT.—The table of contents
12 in section 1 of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1001 et seq.) is amended by in-
14 serting after the item relating to section 523 the following:

“Sec. 524. Preventing discrimination based on plan data.”.

○