

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2026

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

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## 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 ministrators, 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 prie-  
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

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

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

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

15 (b) CIVIL ENFORCEMENT.—

16 (1) IN GENERAL.—Subsection (c) of section  
17 502 of such Act (29 U.S.C. 1132) is amended by  
18 adding at the end the following:

19 “(14) In the case of an agreement between a  
20 group health plan and a health care provider (in-  
21 cluding a health care facility), network or association  
22 of providers, service provider offering access to a  
23 network of providers, third-party administrator, enti-  
24 ty providing pharmacy benefit management services,  
25 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.”.

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