
PRESERVING EMPLOYEE WELLNESS PROGRAMS ACT

BACKGROUND: Employers continue to develop innovative strategies to help lower health care costs for their employees. It is important for federal policies to support this innovation, especially as working families struggle under the 2010 failed health care law that has led to soaring costs and fewer choices. One of the tools employers are increasingly using to help contain costs and promote a healthy workforce is employee wellness programs. A recent survey showed that 61 percent of all employers offer their employees the ability to enroll in a wellness program.

Wellness programs provide employees and their families certain incentives — including lower health care premiums — for making healthy lifestyle choices, such as exercising, quitting smoking, and maintaining appropriate cholesterol levels. This free-market health care solution has long received bipartisan support. In fact, one of the only bipartisan provisions in the *Affordable Care Act* allowed employers to discount health insurance premiums by up to 30 percent (or up to 50 percent under certain conditions) for employees who voluntarily participate in a wellness program.

However, in recent years, the Equal Employment Opportunity Commission (EEOC) has taken steps to undermine the use of employee wellness programs by pursuing costly litigation against employers and publishing restrictive new rules. The commission's partisan actions are contrary to the bipartisan will of Congress, defied the responsible policies of three federal agencies, and created significant regulatory confusion and legal uncertainty for employers. The American Benefits Council recently testified that "the future of workplace wellness programs is at risk" because of inconsistent regulations. Unless Congress acts, EEOC's misguided actions will leave workers and their families with limited access to popular wellness programs and the benefits they provide. Unless Congress acts, EEOC's misguided actions will leave workers and their families with limited access to popular wellness programs and the benefits they provide.

H.R. 1313: Preserving wellness programs and ensuring employers have the legal certainty they need to help lower health care costs for workers must be part of the process of repealing Obamacare and replacing it with patient-centered solutions. The *Preserving Employee Wellness Programs Act* (H.R. 1313) reaffirms existing law to allow employee wellness programs to be tied to responsible financial incentives. Introduced by Rep. Virginia Foxx (R-NC), chairwoman of the House Committee on Education and the Workforce, H.R. 1313 would bring uniformity to the regulation of wellness programs and clarify that such programs are consistent with the *Americans with Disabilities Act* and the *Genetic Information Nondiscrimination Act*. As a result, H.R. 1313 would:

- **Protect employee wellness plans.** By eliminating red tape, employers will have the legal certainty they need to reward workers for healthy lifestyle choices.
- **Reassert congressional intent.** Congress approved bipartisan policies to encourage the development of employee wellness programs. EEOC's actions have had the opposite effect, contrary to congressional intent.
- **Encourage lower health care costs.** Wellness plans can lead to lower health insurance premiums for employees and provide individuals with greater control over their health care dollars.
- **Promote a healthy workforce.** Employee wellness programs can improve the health and well-being of America's workers, and as a result, strengthen our nation's economy.