

Union Calendar No. 724

119TH CONGRESS
2^D SESSION

H. R. 9228

[Report No. 119–826]

To amend the Employee Retirement Income Security Act of 1974 to ensure plan fiduciaries have access to de-identified information relating to health claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2026

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

SEPTEMBER 15, 2026

Additional sponsors: Mrs. SPARTZ and Mrs. HARSHBARGER

SEPTEMBER 15, 2026

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 9, 2026]

A BILL

To amend the Employee Retirement Income Security Act of 1974 to ensure plan fiduciaries have access to de-identified information relating to health claims, 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 the*
 6 *“Health DATA Act of 2026”.*

7 **SEC. 2. INCREASING GROUP HEALTH PLAN ACCESS TO**
 8 **HEALTH DATA.**

9 (a) *GROUP HEALTH PLAN ACCESS TO INFORMA-*
 10 *TION.—*

11 (1) *DEFINITION.—Section 3 of the Employee Re-*
 12 *irement Income Security Act of 1974 (29 U.S.C.*
 13 *1002) is amended by adding at the end the following:*

14 *“(46) NETWORK SERVICE PROVIDER.—*

15 *“(A) IN GENERAL.—The term ‘network serv-*
 16 *ice provider’ means—*

17 *“(i) any person or entity that has an*
 18 *arrangement or contract, direct or indirect,*
 19 *to provide services to a group health plan*
 20 *(as defined in section 733(a)), including a*
 21 *health care provider, health care facility,*
 22 *network or association of providers, service*
 23 *provider offering access to a network of pro-*
 24 *viders, third party administrator, health in-*
 25 *surance issuer (as defined in section*

733(b)), entity providing pharmacy benefit management services, or any other service provider; and

“(ii) any person or entity acting as an intermediary between the group health plan and a person or entity described in subparagraph (A).

“(B) *HEALTH CARE PROVIDER*.—Notwithstanding subparagraph (A), no health care provider shall be considered a network service provider solely in its capacity as a provider of health care services.”.

(2) *IN GENERAL*.—Section 408(b)(2) of such Act (29 U.S.C. 1108(b)(2)) is amended by adding at the end the following:

“(D) No contract or arrangement for services, whether direct or indirect, and no extension or renewal of such contract or arrangement, between a group health plan (as defined in section 733(a)) and any other person or entity, including a network service provider, is reasonable within the meaning of this paragraph unless such contract or arrangement—

“(i) allows the responsible plan fiduciary (as that term is defined in subparagraph (B)(ii)(I)) and the designated agent (which may

1 include the plan sponsor, the plan adminis-
2 trator, or a business associate (other than such
3 other party or entity (or its subsidiaries or af-
4 filiates)) of such fiduciary access to all claims
5 and encounter information described in section
6 724(a)(1)(B), and any documentation, including
7 medical records and policy documents, sup-
8 porting claim payments; and

9 “(i) does not—

10 “(I) limit or delay access by the re-
11 sponsible plan fiduciary or designated agent
12 to claims and encounter information or
13 data for longer than 15 days or a period de-
14 termined appropriate by the Secretary,
15 whichever is shorter;

16 “(II) limit the amount of claims and
17 encounter information or data that the re-
18 sponsible plan fiduciary or designated agent
19 may access pursuant to any request for such
20 information or data;

21 “(III) limit access by the responsible
22 plan fiduciary or designated agent to pric-
23 ing terms for alternative payment arrange-
24 ments or capitated payment arrangements,
25 including—

1 “(aa) *payment calculations and*
2 *formulas;*

3 “(bb) *quality measurements or in-*
4 *dicators;*

5 “(cc) *contract terms;*

6 “(dd) *payment amounts;*

7 “(ee) *measurement periods for all*
8 *incentives; and*

9 “(ff) *other payment methodologies;*

10 “(IV) *limit access by the responsible*
11 *plan fiduciary or designated agent to infor-*
12 *mation regarding overpayments, including*
13 *terms for recovery of overpayments;*

14 “(V) *limit the ability of the group*
15 *health plan, the plan sponsor, or the plan*
16 *administrator of such plan to select an*
17 *auditor and define the scope and frequency*
18 *of audits;*

19 “(VI) *otherwise limit or delay the re-*
20 *sponsible plan fiduciary or designated agent*
21 *from accessing such claims and encounter*
22 *information or data in a daily batch or on*
23 *a daily basis;*

24 “(VII) *limit the disclosure to the re-*
25 *sponsible plan fiduciary or designated agent*

1 *of fees charged to the group health plan re-*
2 *lated to plan administration and claims*
3 *processing, including renegotiation fees, ac-*
4 *cess fees, repricing fees, or enhanced review*
5 *fees;*

6 *“(VIII) limit the ability of the respon-*
7 *sible plan fiduciary or designated agent to*
8 *request action on any claims or claim pay-*
9 *ments that such fiduciary or agent identi-*
10 *fies as potentially erroneous or fraudulent;*

11 *“(IX) limit public disclosure of de-*
12 *identified or aggregated information; or*

13 *“(X) limit access by the responsible*
14 *plan fiduciary or designated agent to any*
15 *extra-contractual terms containing claims*
16 *payment calculations and formulas, pricing*
17 *methodologies, and other information used*
18 *to determine the dollar value of provider re-*
19 *imbursement.*

20 *“(E)(i) A person or entity shall provide informa-*
21 *tion or data under this paragraph in a manner con-*
22 *sistent with the privacy and security regulations pro-*
23 *mulgated under the Health Insurance Portability and*
24 *Accountability Act (referred to in this paragraph as*
25 *‘HIPAA’).*

1 “(ii) A group health plan that receives a disclo-
2 sure pursuant to subparagraph (B) or (C) shall com-
3 ply with the privacy and security regulations promul-
4 gated under HIPAA.

5 “(iii) Nothing in this subparagraph shall be con-
6 strued to modify the requirements for the creation, re-
7 ceipt, maintenance, or transmission of protected
8 health information under the HIPAA privacy regula-
9 tion (as defined in section 1180(b)(3) of the Social
10 Security Act) as they apply directly or indirectly to
11 a person or an entity pursuant to this paragraph.

12 “(iv) This subparagraph shall not be read to
13 abridge or limit the disclosure requirements under
14 this paragraph or to impose additional privacy or se-
15 curity requirements on network service providers or
16 plan sponsors.

17 “(F) A group health plan receiving information
18 or data under this paragraph may disclose such in-
19 formation only in a manner that is consistent with
20 HIPAA and the privacy and security regulations pro-
21 mulgated thereunder, regardless of their direct or in-
22 direct applicability to the plan or any persons or en-
23 tities that could be or are business associates.

24 “(G) Information made available under this sub-
25 paragraph shall conform to the following standards:

1 “(i) *All claims from a healthcare provider*
2 *shall be provided to the group health plan in ac-*
3 *cordance with transaction standards adopted by*
4 *regulation under HIPAA, as follows:*

5 “(I) *Institutional, professional, and*
6 *dental claims shall be in ASC X12N 837*
7 *format or any subsequent standard ap-*
8 *proved by the Secretary.*

9 “(II) *Pharmacy claims shall be in the*
10 *National Council for Prescription Drug*
11 *Programs format or any subsequent stand-*
12 *ard approved by the Secretary.*

13 “(III) *The files shall contain unmodi-*
14 *fied data taken directly from the files sent*
15 *from the provider. In the event that paper*
16 *claims are sent by the provider, they shall*
17 *be converted to the appropriate standard*
18 *electronic format. The files shall be acces-*
19 *sible to the plan at no cost to the group*
20 *health plan.*

21 “(ii) *All claim payment (or electronic funds*
22 *transfer (EFT)) and electronic remittance advice*
23 *(ERA) notices sent by a network service provider*
24 *shall be made available to the group health plan*
25 *as ASC X12N 835 files, or any subsequent stand-*

1 *ard approved by the Secretary, in accordance*
2 *with standards adopted by regulation under*
3 *HIPAA. The files shall be unmodified copies of*
4 *the files sent by the network service provider to*
5 *the healthcare provider. Files shall be accessible*
6 *at no cost to the group health plan.*

7 *“(iii) All non-claim costs shall be itemized*
8 *and made available to the group health plan in*
9 *real time through a web-based portal, through an*
10 *Application Programming Interface and through*
11 *a downloadable Comma Separated Value file, or*
12 *any subsequent standards approved by the Sec-*
13 *retary.*

14 *“(H) The Secretary shall have authority to im-*
15 *plement subparagraphs (C) through (F) through no-*
16 *tice and comment rulemaking in accordance with sec-*
17 *tion 553 of title 5, United States Code.”.*

18 (3) *CIVIL ENFORCEMENT.—Section 502(c) of*
19 *such Act (29 U.S.C. 1132(c)) is amended by adding*
20 *at the end the following:*

21 *“(14) In the case of an agreement between a group*
22 *health plan (as defined in section 733(a)), or the responsible*
23 *plan fiduciary, the plan sponsor, or the plan administrator*
24 *of such plan, and any other person or entity, including a*
25 *network service provider that violates section 724, the Sec-*

1 retary of Labor may assess a civil penalty against such
2 other person or entity in the amount of up to \$10,000 for
3 each day during which such violation continues. Such pen-
4 alty shall be in addition to other penalties as may be pre-
5 scribed by law.”.

6 (4) *EXISTING PROVISIONS VOID.*—Section 410 of
7 such Act (29 U.S.C. 1110) is amended by adding at
8 the end the following:

9 “(c) Any provision in an agreement or instrument
10 shall be void as against public policy if such provision—

11 “(1) delays or limits a group health plan (as de-
12 fined in section 733(a)), or the responsible plan fidu-
13 ciary, the plan sponsor, or the plan administrator of
14 such plan, from accessing the claims and encounter
15 information or data described in section
16 724(a)(1)(B); or

17 “(2) violates the requirements of section
18 408(b)(2).”.

19 (5) *PROHIBITION ON INDEMNIFICATION OF SERV-*
20 *ICE PROVIDERS FOR CIVIL PENALTIES.*—Section
21 410(a) of such Act (29 U.S.C. 1110(a)) is amended—

22 (A) by striking “Except” and inserting “(1)
23 Except”; and

24 (B) by adding at the end the following:

1 “(2) *Except as provided in subsection 410(b)(2), no*
 2 *person or entity subject to a civil enforcement penalty under*
 3 *section 502(c)(13) or 502(c)(14) may be indemnified, di-*
 4 *rectly or indirectly, or otherwise relieved from liability for*
 5 *any penalty, responsibility, obligation, or duty of such per-*
 6 *son or entity under this title.*

7 “(3) *Any provision of a contract or agreement in viola-*
 8 *tion of paragraph (2) shall be void as against public pol-*
 9 *icy.*”.

10 (b) *UPDATED ATTESTATION FOR PRICE AND QUALITY*
 11 *INFORMATION.—Section 724(a)(3) of such Act (29 U.S.C.*
 12 *1185m(a)(3)) is amended to read as follows:*

13 “(3) *ATTESTATION.—*

14 “(A) *IN GENERAL.—Subject to subpara-*
 15 *graph (C), a group health plan or health insur-*
 16 *ance issuer offering group health insurance cov-*
 17 *erage shall annually submit to the Secretary an*
 18 *attestation that such plan or issuer of such cov-*
 19 *erage is in compliance with the requirements of*
 20 *this subsection. Such attestation shall also in-*
 21 *clude a statement verifying that—*

22 “(i) *the information or data described*
 23 *under subparagraphs (A) and (B) of para-*
 24 *graph (1) is available upon request and*
 25 *provided to the group health plan, the plan*

1 sponsor, the plan administrator, or the
2 business associate (other than the con-
3 tracting party or entity or its subsidiaries
4 or affiliates) of such plan, or the issuer in
5 a timely manner; and

6 “(ii) there are no terms in the agree-
7 ment under such paragraph (1) that di-
8 rectly or indirectly restrict or unduly delay
9 a group health plan, the plan sponsor, the
10 plan administrator, a business associate
11 (other than the contracting party or entity
12 or its subsidiaries or affiliates) of such
13 plan, or the issuer from auditing, review-
14 ing, or otherwise accessing such informa-
15 tion.

16 “(B) *LIMITATION ON SUBMISSION.*—A
17 group health plan or issuer offering group health
18 insurance coverage may not enter into an agree-
19 ment with a third-party administrator or other
20 service provider to submit the attestation re-
21 quired under subparagraph (A).

22 “(C) *EXCEPTION.*—In the case of a group
23 health plan or issuer offering group health insur-
24 ance coverage that is unable to obtain the infor-
25 mation or data needed to submit the attestation

1 required under subparagraph (A), such plan or
2 issuer may submit a written statement in lieu of
3 such attestation that includes—

4 “(i) an explanation of why such plan
5 or issuer was unsuccessful in obtaining such
6 information or data, including whether such
7 plan, the plan sponsor, or the plan admin-
8 istrator or issuer was limited or prevented
9 from auditing, reviewing, or otherwise ac-
10 cessing such information or data;

11 “(ii) a description of the efforts made
12 by the group health plan, the plan sponsor,
13 or the plan administrator to remove any
14 gag clause provisions from the agreement
15 under paragraph (1); and

16 “(iii) a description of any response by
17 the third-party administrator or other serv-
18 ice provider with respect to efforts to com-
19 ply with the attestation requirement under
20 subparagraph (A), including the name of
21 the third-party administrator or other serv-
22 ice provider.”.

23 (c) *EFFECTIVE DATE.*—The amendments made by sub-
24 sections (a) and (b) shall apply with respect to a plan be-
25 ginning with the first plan year that begins on or after the

- 1 *date that is 1 year after the date of enactment of this Act*
- 2 *regardless of the date of execution of any contact with a*
- 3 *network service provider.*

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