

117TH CONGRESS
2D SESSION

H. R. 8345

To prohibit an employer from terminating the coverage of an employee under a group health plan while the employer is engaged in a lock-out, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2022

Mrs. AXNE (for herself, Ms. NORTON, Ms. JACKSON LEE, Ms. TITUS, Ms. WILLIAMS of Georgia, Mr. POCAN, and Ms. NEWMAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To prohibit an employer from terminating the coverage of an employee under a group health plan while the employer is engaged in a lock-out, 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 “Locked Out Workers
5 Healthcare Protection Act”.

6 **SEC. 2. CONTINUATION OF COVERAGE UNDER A GROUP**
7 **HEALTH PLAN DURING A LOCK-OUT.**

8 (a) IN GENERAL.—Section 8(a) of the National
9 Labor Relations Act (29 U.S.C. 158(a)) is amended—

1 (1) in paragraph (5), by striking the period and
2 inserting “; and”; and

3 (2) by adding at the end the following:

4 “(6) to terminate or alter the coverage of an
5 employee under a group health plan during the pe-
6 riod that such employer is taking action to lock-out,
7 suspend, or otherwise withhold employment from the
8 employee in order to influence the position of such
9 employee or the representative of such employee in
10 collective bargaining prior to a strike.”.

11 (b) DEFINITIONS.—Section 2 of the National Labor
12 Relations Act (29 U.S.C. 152) is amended by adding at
13 the end the following:

14 “(15) The term ‘group health plan’ has the meaning
15 given the term under section 607(1) of the Employee Re-
16 tirement Income Security Act of 1974 (29 U.S.C.
17 1167(1)).”.

18 (c) PENALTIES.—Section 12 of the National Labor
19 Relations Act (29 U.S.C. 162) is amended—

20 (1) by striking “SEC. 12. Any person” and in-
21 serting the following:

22 **“SEC. 12. PENALTIES.**

23 “(a) VIOLATIONS FOR INTERFERENCE WITH THE
24 BOARD.—Any person”; and

25 (2) by adding at the end the following:

1 “(b) CIVIL PENALTIES FOR UNFAIR LABOR PRAC-
2 TICES RELATED TO COVERAGE UNDER A GROUP HEALTH
3 PLAN DURING A LOCK-OUT.—Any employer who commits
4 an unfair labor practice within the meaning of section
5 8(a)(6) shall be subject to a civil penalty in an amount
6 not to exceed \$75,000 for each violation, except that, with
7 respect to such an unfair labor practice that coincides with
8 the discharge of an employee or that results in other seri-
9 ous economic harm to an employee, the Board shall double
10 the amount of such penalty, to an amount not to exceed
11 \$150,000, in any case where the employer has within the
12 preceding 5 years committed another violation of section
13 8(a)(6). A civil penalty under this subsection shall be in
14 addition to any other remedy ordered by the Board.

15 “(c) CONSIDERATIONS.—In determining the amount
16 of any civil penalty under subsection (b) or (d), the Board
17 shall consider—

18 “(1) the gravity of the actions of the employer
19 resulting in the penalty, including the impact of such
20 actions on the charging party or on other persons
21 seeking to exercise rights guaranteed by this Act;

22 “(2) the size of the employer;

23 “(3) the history of previous unfair labor prac-
24 tices or other actions by the employer resulting in a
25 penalty; and

1 “(4) the public interest.

2 “(d) DIRECTOR AND OFFICER LIABILITY.—If the
3 Board determines, based on the particular facts and cir-
4 cumstances presented, that a director or officer’s personal
5 liability is warranted, a civil penalty for a violation de-
6 scribed in subsection (b) may also be assessed against any
7 director or officer of the employer who directed or com-
8 mitted the violation, or had actual or constructive knowl-
9 edge of and the authority to prevent the violation and
10 failed to prevent the violation.”.

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