

September 22, 2021

The Honorable Bobby Scott
Chair, Committee on Education and Labor
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Scott,

The undersigned organizations that support health coverage parity for mental health and substance use disorders write to thank you for your strong leadership to strengthen enforcement of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Act) in the Committee-passed Build Back Better Act language. We applaud the Committee's inclusion of provisions that provide the U.S. Department of Labor (USDOL) with the essential power to assess civil monetary penalties for parity violations and add \$195 million over five years in funding to the Employee Benefits Security Administration (EBSA) for enforcement. If enacted, both provisions would save lives and increase access to care for millions of Americans.

The Committee's language would correct a significant gap in USDOL's oversight authority by amending the Employee Retirement Income Security Act (ERISA) to give USDOL the authority to levy penalties against health insurers, plan sponsors, and administrators for parity violations. Under current law, USDOL lacks such authority to enforce the Federal Parity Act, the landmark law that prohibits discrimination in the coverage of mental health and substance use disorder care.

Enactment of civil monetary penalty authority for parity would give USDOL a powerful tool to deter parity violations by plans and third-party administrators *before* they lead to Americans being denied mental health and substance use disorder benefits and treatment at a time of unprecedented need. The ongoing COVID-19 pandemic has had deep negative impacts on our nation's mental health¹; overdose deaths increased a shocking 30 percent last year², and inequities in health plans' coverage of mental health and substance use disorder treatment, including low reimbursement and grossly inadequate networks, has grown in recent years.³ This

¹ Audrey Kearney, Liz Hamel, and Mollyann Brodie, "Mental Health Impact of the COVID-19 Pandemic, Kaiser Family Foundation, April 14, 2021, <https://www.kff.org/coronavirus-covid-19/poll-finding/mental-health-impact-of-the-covid-19-pandemic/>.

² CDC, "Drug Overdose Deaths in the U.S. Up 30% in 2020," July 14, 2021, https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20210714.htm.

³ Steve Melek, Stoddard Davenport, and T.J. Gray, "Addiction and mental health vs. physical health: Widening disparities in network use and provider reimbursement," Milliman, November 19, 2019, https://assets.milliman.com/ektron/Addiction_and_mental_health_vs_physical_health_Widening_disparities_in_network_use_and_provider_reimbursement.pdf.

power will position USDOL – which has 1 investigator for every 12,500 plans⁴ – to step in more aggressively when necessary to change plans’ coverage practices, make parity a reality, and increase access to life-saving treatment.

Civil monetary penalty authority to ensure compliance with the Federal Parity Act has enjoyed bipartisan support in the past. President Obama’s Mental Health and Substance Use Disorders Parity Task Force strongly recommended providing this authority⁵, as did President Trump’s Commission on Combating Drug Addiction and the Opioid Crisis.⁶ In fact, former New Jersey Governor Chris Christie, chair of the Commission, stated that the authority is “absolutely necessary” and that the Commission “unequivocally” supported Congressional action to give USDOL the authority to issue penalties.

Our organizations are grateful for your leadership in providing USDOL the powers it needs to help end discrimination against individuals living with mental health and substance use disorders. We stand ready to assist you however we can to enact these critical provisions.

Sincerely,

The Kennedy Forum
A New PATH (Parents for Addiction Treatment & Healing)
AFSCME
American Association on Health and Disability
American Association for the Treatment of Opioid Dependence
American College of Emergency Physicians (ACEP)
The American College of Medical Toxicology (ACMT)
American Foundation for Suicide Prevention
American Psychiatric Association
American Psychological Association
American Society of Addiction Medicine
Association For Ambulatory Behavioral Healthcare (AABH)
Association for Behavioral & Cognitive Therapies
Carter Center Mental Health Program
College of Psychiatric and Neurologic Pharmacists
Community Catalyst
Eating Disorders Coalition
EMDR International Association
Families USA

⁴ U.S. Government Accountability Office, “State and Federal Oversight of Compliance with Parity Requirements Varies, December 2019, <https://www.gao.gov/assets/gao-20-150.pdf>.

⁵ Final Report of The Mental Health & Substance Use Disorder Parity Task Force, October 2016, <https://www.hhs.gov/sites/default/files/mental-health-substance-use-disorder-parity-task-force-final-report.PDF>.

⁶ Recommendation 35 of The President’s Commission on Combating Drug Addiction and the Opioid Crisis, November 2017, <https://facesandvoicesofrecovery.org/wp-content/uploads/2019/06/Final-Report-The-Presidents-Commission-on-Combating-Drug-Addiction-and-The-Opioid-Crisis.pdf>.

Hazelden Betty Ford Foundation
Inseparable
International OCD Foundation
Legal Action Center
McShin Foundation
Meadows Mental Health Policy Institute
Mental Health America
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
The National Alliance to Advance Adolescent Health
National Association for Behavioral Healthcare
National Association for Children's Behavioral Health
National Association for Rural Mental Health
National Association of Addiction Treatment Providers
National Association of Clinical Nurse Specialists
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Social Workers
National Council for Mental Wellbeing
National Education Association
National Federation of Families
NHMH - No Health without Mental Health
Parity Enforcement Coalition
Partnership to End Addiction
Project HEAL
Psychotherapy Action Network
REDC Consortium
Shatterproof
SMART Recovery
Steinberg Institute
Stop Stigma Now (SSN)
Suncoast Harm Reduction Project
Treatment Advocacy Center
The Voices Project
Well Being Trust

Cc: The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable John Yarmuth, Chair, U.S. House Committee on the Budget