

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 health<sup>1</sup>; overdose deaths increased a shocking 30 percent last year<sup>2</sup>, 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.<sup>3</sup> This

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<sup>1</sup> 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/>.

<sup>2</sup> 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](https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20210714.htm).

<sup>3</sup> 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](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 plans<sup>4</sup> – 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 authority<sup>5</sup>, as did President Trump’s Commission on Combating Drug Addiction and the Opioid Crisis.<sup>6</sup> 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

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<sup>4</sup> 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>.

<sup>5</sup> 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>.

<sup>6</sup> 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