

March 12, 2025

The Honorable Lori Chavez-DeRemer
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The Honorable Scott Bessent
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Robert F. Kennedy Jr.
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: “Parity Rule” Litigation

Dear Secretaries Chavez-DeRemer, Kennedy, and Bessent:

The undersigned organizations are dedicated to supporting President Trump and each of your Departments in addressing the mental health and substance use crisis facing our country. The counsel for the ERISA Industry Committee (ERIC) recently wrote to you asking that you stay your implementation of the federal Parity Rule, as they are currently suing this Administration. This is an attack on President Trump’s legacy from his first term and his executive authority in his second term. We write to support you in continuing implementation of the federal Parity law, defending the suit, and delivering on this Administration’s efforts to reduce wasteful spending, promote transparency and efficiency, and Make America Healthy Again.

Implementing the federal Parity Rule solidifies President Trump’s important legacy. The federal Parity Rule implements a bipartisan bill that President Trump signed into law, which codified President Trump’s leadership in parity implementation during his first term. ERIC’s lawsuit seeks to undermine President Trump’s legacy by undoing these advances. It also attacks your Department’s legal authority, seeking to limit your executive power in deciding how you want to enforce parity going forward. We stand by your authority and power to continue to implement parity in a way that builds on President Trump’s work to date and reflects your vision for the Department, and encourage you to vigorously defend against the lawsuit.

The federal Parity Rule advances this Administration’s goals of less wasteful spending, more transparent and efficient government, and Making America Healthy Again. The rule sets up the Administration to ensure that employers and consumers get what they pay for from health insurers, reducing the amount of employer dollars that get lost in health insurer overhead and do not translate to real services for the American worker. The rule’s emphasis on data also aligns with President Trump’s Executive Order on healthcare price transparency, focusing on ensuring that prices are fair and represent the actual amounts paid, helping to reduce overall employer and consumer costs. Further, it makes sure that health insurer denials do not lead to chronic disability and subsequent enrollment onto Medicare and Medicaid, transferring costs onto the public sector (e.g. the taxpayer).

Finally, parity provides your Departments with an additional important tool to realize President Trump’s vision of Making America Healthy Again. As he stated in his recent executive order: “It shall be the policy of the Federal Government to aggressively combat the critical health challenges facing our citizens, including the rising rates of mental health disorders, obesity, diabetes, and other chronic diseases by ensuring people get access to mental health and substance use care – decreasing the likelihood that they will develop chronic diseases and experience overdose.”¹ Parity is the most central policy lever available to the Federal Government for ensuring people get access to mental health and substance use care. The data that the Parity Rule emphasizes is the same data you will

¹ The White House, Establishing [The President’s Make America Healthy Again Commission](#), Feb 2025.

need to “re-direct our national focus, in the public and private sectors, toward understanding and drastically lowering chronic disease rates and ending childhood chronic disease,” while also promoting transparency. ERIC’s lawsuit would limit your use of this tool and undermine your efforts to Make America Healthy Again at the start of this Administration’s term.

Your Departments can address ERIC’s concerns through additional straightforward guidance, without allowing ERIC’s lawsuit to strip your Department of critical executive power and authority. We believe that the Parity Rule and other guidance from your Departments give ample direction to employers on how to comply. But your Departments can offer *additional* guidance, templates, and other resources that address any areas where employers may need additional support. Right now, the Parity Rule gives a lot of deference and flexibility to employers in how they comply, and that greater flexibility might create some additional questions for employers. The Parity Rule came with a stated intention to follow up with more detailed guidance. Your Departments can issue that guidance of what compliance could look like, while still maintaining that deference to employers – further decreasing burden while still promoting flexibility and recognizing the diverse needs of America’s employers.

Your Departments can also take steps to empower employers specifically in working with third-party administrators (TPAs). The Parity Rule opened the door toward limiting liability for employers based on non-compliance by their TPAs, which this Administration can fully execute. The Administration should continue to work with employers to shift liability toward their TPAs, which have more control over the specific processes around parity and more data about compliance than the employers.

This Administration can provide guidance on what employers should expect from their TPAs for parity and how to limit their liability when TPAs fail to fulfill their role. For example, dozens of commenters on the proposed rule suggested template contract provisions similar to HIPAA “business associate agreements” that employers could use with their TPAs to ensure they have access to the information they need to assess compliance. Your Departments could provide these tools as well as guidance on limiting employer liability when TPAs stand in their way of compliance. Your Departments could also explicitly limit employer liability in instances where TPAs impede compliance through guidance that, if employers do not have the necessary information to ensure compliance, then the TPA would be “exercising discretionary authority” and could be liable for non-compliance as a fiduciary. These straightforward steps would address ERIC’s concerns and advance President Trump’s goals, without ceding critical executive power and authority.

ERIC’s lawsuit seeks to limit the power of your Departments to address key policy goals. ERIC’s lawsuit seeks to reverse a key policy achievement of President Trump as healthcare costs continue to rise and more than 400 Americans die each day from the ongoing suicide and overdose epidemics. The mental health community has repeatedly reached out to ERIC members to work on collaborative solutions to no avail. ERIC has failed to provide potential solutions or alternatives to rising costs and declining health. The American worker deserves real ideas and solutions, not just legal roadblocks to the benefits they paid for and need.

ERIC’s lawsuit is out of line with what the American people want and why they elected President Trump. 90% of Americans believe there is a growing mental health crisis in the country and 84% believe mental health should be treated no differently than physical health – supporting rules that make this a reality.² Meanwhile, 60% of Americans view insurers unfavorably. The Departments have the chance to deliver on what the American people want, while also taking commonsense steps to support employers – without letting insurers off the hook when they do not give employers and consumers what they pay for.

ERIC’s lawsuit is also legally inaccurate. The substance of ERIC’s complaints is also against the clear meaning of the laws as written by Congress. ERIC complains that several of the rule updates overstep the law. We believe that the rule enacts Congress’ clear intent behind the law and mainly gives Congress data to determine that that intent is

² Impact Research, [Voters’ View on Mental Health](#), July 2024.

being implemented. In other areas, ERIC complains about vagueness, but the most recent parity report to Congress shows that much of that “vagueness” was actually just deference to employers to let them take an approach to parity that worked best for them. The Parity Rule adheres to federal statutes while working to meet employers where they are. If these spurious claims advance, the lawsuit could cause cascading legal issues that undermine your Department’s ability to achieve its mission and deliver President Trump’s agenda.

To achieve its aims of Making American Healthy Again; addressing waste, fraud, and abuse; and improving efficiency and transparency for a prosperous economy, we stand ready to support this Administration at every step in implementing the federal Parity law and ensuring fair access to mental health and substance use disorder services. We hope to have the chance to meet with your staff and discuss further. Nathaniel Z Counts, JD, Chief Policy Officer of The Kennedy Forum at nathaniel.counts@thekennedyforum.org can coordinate to find a time. Thank you so much for your consideration.

Sincerely,

The Kennedy Forum
American Academy of Child and Adolescent Psychiatry
American Foundation for Suicide Prevention
American Psychiatric Association
American Psychological Association
Eating Disorders Coalition for Research, Policy, & Action
Inseparable
Legal Action Center
Mental Health America
National Council for Mental Wellbeing
REDC Consortium