



May 31, 2024

The Honorable Xavier Becerra Secretary  
U.S. Department of Health and Human  
Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Lisa M. Gomez  
Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20002

The Honorable Douglas W. O'Donnell  
Deputy Commissioner for Services and  
Enforcement  
Internal Revenue Service  
U.S. Department of the Treasury  
1111 Constitution Avenue, NW  
Washington, DC 20224

**Re: Requirements Related to the Mental Health Parity and Addiction Equity Act (RIN:  
0938-AU93, 1210-AC11, 1545-BQ29)**

Dear Secretary Becerra, Assistant Secretary Gomez, and Deputy Commissioner O'Donnell:

On behalf of the CEO Alliance for Mental Health (CEO Alliance), a group of the leading organizations in the United States dedicated to improving the lives of people with mental health and substance use conditions, we write to urge the Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (the Departments) to immediately finalize the proposed rule, "Requirements Related to the Mental Health Parity and Addiction Equity Act" (2023 Proposed Rule).

The 2023 Proposed Rule highlights data showing a significant increase in the number of individuals living with anxiety, depression, and other mental health conditions, along with a concerning rise in overdose deaths and deaths by suicide.<sup>1</sup> It also acknowledges insurers' frequent failure to comply with the Mental Health Parity and Addiction Equity Act (MHPAEA) and acknowledges the "devastating consequences" this can have for individuals who "routinely encounter additional barriers to access and are denied needed and potentially lifesaving care for opioid use disorder, eating disorders, autism spectrum disorder, anxiety, depression, and other mental health conditions and substance use disorders."<sup>2</sup> The CEO Alliance appreciates the Departments' acknowledgment of this ongoing problem and supports provisions in the proposed regulation that seek to address the issue.

Unfortunately, since the proposal's release, there has been tremendous pushback from the insurance industry's trade associations, including efforts to water down the regulation's provisions. We strongly urge the Departments to oppose such efforts and maintain the

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<sup>1</sup> <https://www.federalregister.gov/documents/2023/08/03/2023-15945/requirements-related-to-the-mental-health-parity-and-addiction-equity-act>

<sup>2</sup> *ibid*

proposal's strong protections for people with mental health and substance use conditions. The need for these protections is underscored by a recent analysis from RTI International using a large database of claims data from 2021, which found that consumers went out-of-network 3.5 times more often for mental health and substance use clinician office visits than for medical/surgical, a likely consequence of insurers contracting with too few providers.<sup>3</sup> This is reinforced by RTI's finding that "average reimbursement for all medical/surgical clinician office visits was 21.7% higher than for all" mental health and substance use clinicians office visits.<sup>4</sup> These low reimbursement rates disincentivize mental health and substance use providers from participating in insurance networks when compared with their better compensated medical/surgical peers. Counter to the insurance industry trade associations' claims, stronger parity protections would likely lead to fairer reimbursement rates, expanding equitable access to care and consumer choice, while reducing out-of-pocket costs and barriers to needed services.

Most notably, the CEO Alliance supports the 2023 Proposed Rule's basic premise that full compliance with the MHPAEA requires ensuring that plans and issuers are prohibited "from using nonquantitative treatment limitations (NQTLs) to place greater limits on access to mental health and substance use disorder benefits as compared to medical/surgical benefits."<sup>5</sup> To that end, we support the proposal's expanded data collection, evaluation, and reporting requirements for NQTLs and efforts to address issues and concerns related to network composition.<sup>6</sup>

However, we respectfully urge the Departments to eliminate the proposal's NQTL compliance exceptions for "independent professional medical or clinical standards and standards related to fraud, waste, and abuse."<sup>7</sup> Moving forward with these exceptions would be a step backward and undermine the robust policies outlined throughout the rest of the proposed regulation. We do not believe these exceptions, in their current form, can be operationalized in a way that does not create a loophole that would allow some insurers to exploit and avoid complying with the proposed requirements. Additionally, while we understand and support the rationale behind continuing to permit "benefit structures that apply limitations that reflect independent professional medical or clinical standards," we are extremely concerned with the proposal's failure to explicitly define such standards.

The CEO Alliance appreciates the Biden Administration's continued commitment to improving access to behavioral health care for individuals with mental health conditions, including proposals in the President's Budget for Fiscal Year 2025<sup>8</sup> that would strengthen mental health parity protections guaranteed under the MHPAEA. We strongly believe that one of the biggest steps the Administration could take this year to advance mental health care in this country is to finalize the 2023 Proposed Rule.

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<sup>3</sup> <https://www.rti.org/publication/behavioral-health-parity-pervasive-disparities-access-network-care-continue>

<sup>4</sup> *ibid.*

<sup>5</sup> <https://www.federalregister.gov/documents/2023/08/03/2023-15945/requirements-related-to-the-mental-health-parity-and-addiction-equity-act>

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

<sup>8</sup> [https://www.whitehouse.gov/wp-content/uploads/2024/03/budget\\_fy2025.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/03/budget_fy2025.pdf)

If finalized with the changes outlined above, the CEO Alliance believes the 2023 Proposed Rule would move the country closer to achieving the full promise of the MHPAEA by improving enforcement of the law's parity requirements and helping to curb inappropriate treatment limitations and barriers to care that insurers too often place on individuals living with mental health and substance use conditions.

Please don't hesitate to contact Nathaniel Counts, Chief Policy Officer, The Kennedy Forum, at [Nathaniel.Counts@thekennedyforum.org](mailto:Nathaniel.Counts@thekennedyforum.org) with any questions.

Sincerely,



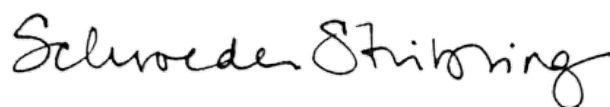
**American Foundation for Suicide Prevention**  
Robert Gebbia  
CEO



**Meadows Mental Health Policy Institute**  
Andy Keller, PhD  
President and CEO



**American Psychiatric Association**  
Saul Levin, MD, MPA, FRCP-E  
CEO & Medical Director



**Mental Health America**  
Schroeder Stribling, MSW  
President and CEO



**American Psychological Association**  
Arthur C. Evans, Jr., PhD  
CEO and Exec. Vice President



**National Alliance on Mental Illness (NAMI)**  
Daniel H. Gillison, Jr.  
CEO



**Massachusetts Association for Mental Health**  
Danna Mauch, PhD  
President and CEO



**National Association for Behavioral Healthcare**  
Shawn Coughlin  
President and CEO



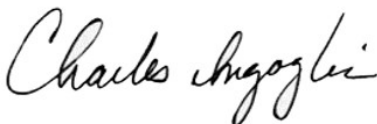
**National Association of Social Workers  
(NASW)**

Anthony Estreet, PhD, MBA, LCSW-C  
CEO



**Peg's Foundation**

Rick Kellar, MBA  
President and CEO



**National Council for Mental Wellbeing**

Charles Ingoglia, MSW  
President and CEO



**The Kennedy Forum**

Rebecca O. Bagley  
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**One Mind**

Garen Staglin, Chairman  
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**Treatment Advocacy Center**

Lisa Dailey  
Executive Director



**Steinberg Institute**

Karen Larsen  
CEO