

September 26, 2022

Members of Congress:

On behalf of The ERISA Industry Committee (ERIC), **we urge you to oppose H.R. 7780, the *Mental Health Matters Act*, when it comes to a vote.** The House Education and Labor Committee is the only one of the five committees of jurisdiction in Congress that has utterly failed to work in a bipartisan manner to address mental health or to meaningfully include input from stakeholders, and this bill does not deserve to advance.

ERIC is a national nonprofit organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans.

ERIC opposes this bill because it would significantly increase costs and reduce access to benefits. Plan sponsors are committed to fulfilling their responsibilities as ERISA fiduciaries, which includes making recompense to individuals who were wrongly denied behavioral health benefits. The bill includes provisions that weaponize the Department of Labor (DOL) to sue employers rather than helping them come into compliance. Additionally, the bill proposes doubling the budget for the Employee Benefits Security Administration to fund litigation against plan sponsors, eliminating due process rights for employers. While this may benefit trial lawyers, it will ultimately result in fewer funds dedicated toward providing behavioral health for plan beneficiaries.

The bill would also make it needlessly harder and more expensive to provide benefits. For example, the bill would eliminate discretionary clauses, which grant a plan administrator the authority to interpret the plan document and resolve disputes pursuant to extensive DOL regulations. Upending this process would threaten to gum up the federal courts with expensive and duplicative proceedings. Additionally, the bill would curtail the use of arbitration in resolving disputes quickly and efficiently, to the detriment of workers and retirees.

Even worse, the bill has been amended to add a provision from the *Build Back Better Act* that would impose civil monetary fines on employers for mental health parity violations with no due process for the employer, no responsibility for DOL to explain or help remedy violations, and no consequences for DOL's continued defiance of Congress. Despite congressional mandates in both the *21<sup>st</sup> Century Cures Act* (PL 114-255), and the *Consolidated Appropriations Act* (PL 116-260), DOL still refuses to publish illustrative examples to help employers comply with mental health parity requirements.

Because H.R. 7780 fails to improve behavioral health or employee benefits, and instead raises costs and threatens benefits for employees and their families, **ERIC urges all members to vote NO.** We look forward to working with Congress on effective, bipartisan solutions to improve behavioral health.

Sincerely,

