

Submitted Electronically

May 29, 2026

Internal Revenue Service
Attn: CC:PA:01:PR (Notice 2026-23) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Recommendations for Inclusion on 2026-2027 Priority Guidance Plan (Notice 2026-23)

To Whom It May Concern:

On behalf of The ERISA Industry Committee (ERIC) and our large employer member companies, and pursuant to Notice 2026-23, thank you for the opportunity to provide suggestions and feedback on the 2026-2027 Priority Guidance Plan for the U.S. Department of the Treasury (Department) and the Internal Revenue Service (IRS).

By way of background, ERIC is a national advocacy 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 member companies offer benefits to tens of millions of employees and their families, located in every state, city, and congressional district.

As such, ERIC is very interested in guidance that can help make plan administration less burdensome, more efficient, and better able to serve plan participants. ERIC commends the Department and the IRS for the ambitious guidance plans it has published in previous years. Still, plans and participants would benefit from even more clarity and guidance on a host of topics. Among the multitude of issues deserving of your time and attention, we particularly recommend addressing the following:

Recommendations

Health Issues

I. Improve Implementation of the No Surprises Act to Align with Congressional Intent

Plan sponsors strongly support the intent of the No Surprises Act (NSA), which was designed to address the issue of surprise medical billing and was projected to save \$17 billion over ten years.¹ Unfortunately the opposite has proven true. Research from the Georgetown University Center on Health Insurance Reforms (CHIR) finds that the No Surprises Act (NSA) Independent Dispute Resolution (IDR) process generated at least \$5 billion in total costs through the end of 2024, driven by skyrocketing administrative and payment related costs.² Of the \$5 billion total cost generated through the end of 2024, approximately \$2.24 billion is directly attributed to higher additional payments made by health plans to out-of-network providers.³ The massive volume of cases and higher arbitration payouts are pushing up overall health care costs, which insurers reflect in their pricing, consumer premium projections, and patient out-of-pocket costs.

One does not have to look far to see evidence of the abuse and misuse of the NSA IDR process -- providers have prevailed 80 percent of the time in disputes decided through the IDR process, tilting the balance heavily in favor of a “provider-friendly process,” something that Congress never intended under the NSA. Many IDR awards far exceed the market-based qualifying payment amount (QPA), something that Congress also never intended. This manipulation of the system, combined with confusion regarding existing sub-regulatory guidance, and lawsuits challenging the QPA, has undermined the core purpose of the NSA – to protect patients from overpaying for access to their care.

The IDR process has allowed providers to weaponize arbitration and must be addressed using the full extent of the regulatory authority afforded to the Department as soon as possible, including but not limited to issuing clear guidance that reduces the number of IDR cases, balances the scales in IDR between providers and payers, and focuses IDR entities on the market-based QPA.

¹ [Congressional Budget Office](#). (2021). Estimate for Divisions O Through FF, H.R. 133, Consolidated Appropriations Act, 2021 (Public Law 116-260).

² Hoadley, J., Watts, K., Keith, K., & DeGarmo, E. (2026, March 20). [The No Surprises Act IDR process: An early look at 2025 data](#). Health Affairs Forefront.

³ Ibid.

II. Rescind the 2024 Final Parity Rules and Issue New Rules Implementing the Consolidated Appropriations Act of 2021 Parity Requirements

The Mental Health Parity and Addiction Equity Act (MHPAEA) was intended to generate parity between coverage of treatment services provided to patients with medical and surgical needs and those with mental health and substance use disorder needs. While it does not require self-insured health benefit plans established under the Employee Retirement Income Security Act of 1974 (ERISA) to cover mental health and substance use disorder treatment, if plans choose to do so they are subject to the law. Importantly, these plans continue to voluntarily offer behavioral coverage health benefits to attract and retain talented workers and keep employees healthy and productive.

In 2024, the Departments of Health and Human Services (HHS), Labor (DOL), and the Treasury (the “Departments”) published final rules that significantly altered the ability of health plans, including ERISA health benefit plans, to ensure compliance with MHPAEA’s parity requirements -- without fostering better access to providers and services, including tele-behavioral health services.

In early 2025, ERIC filed a lawsuit against the Departments challenging final rules with the hope that this Administration would recognize that the final rules violate all principles of statutory adherence and should be included among the list of regulations ripe for [deregulation](#). ERIC appreciates that in the interim, the Departments have chosen to exercise their authority to stay enforcement of these [rules](#) while ERIC’s lawsuit is pending and is encouraged by the promise of new proposed rules being issued by the end of this year as expressed in the most recent status report filing with the court.⁴ **We encourage the Department to abide by this and to issue a new proposed rule before the end of the year to ensure employers have the clarity and flexibility they need to offer robust behavioral health benefits for a healthy, productive workforce.**

III. Revise FAQ Part 68 Question 1

Frequently Asked Questions (FAQs) Part 68 explains that under the 2023 U.S. Preventive Services Task Force (USPSTF) recommendations, health plans must cover three U.S. Food and Drug Administration (FDA) approved PrEP formulations (two oral and one injectable) without cost sharing, starting with plan years on or after August 31, 2024. The FAQ also states that plans cannot use medical management techniques to steer patients toward one formulation over another. **ERIC requests IRS collaborate with DOL and HHS to revise the FAQ to clarify that plans may continue to use appropriate medical management tools, and that the same standards applied to other preventive care apply when providing access to these therapies.**

⁴ [Joint Status Report](#), ERISA Indus. Comm. v. Dep’t of Health & Human Servs., No. 1:25-cv-00136-TJK (D.D.C. Mar. 30, 2026), ECF No. 18.

IV. Allow Default Electronic Delivery of Health Plan Communications

Currently, ERISA-covered retirement plans are permitted to furnish plan information to participants in electronic form. The DOL estimated that this policy saves \$3.2 billion over 10 years.⁵ This default electronic delivery (e-delivery) option should be extended to communications of health benefit plan information. It is also more secure than paper mailings due to advancements in encryption technology and can reduce the significant environmental impact of paper production associated with paper mailings.

Moreover, extending this policy to health benefit plans will reduce administrative burdens and costs associated with printing and mailing billions of sheets of paper and provide workers with real-time access to critical information about their health benefits. According to one economic study, the savings associated with allowing for default e-delivery for health benefit plan communications is projected to be \$19.5 billion.⁶

We appreciate that DOL included this policy on its Spring 2026 Unified Agenda and are awaiting the proposed rule to clear the Office of Management and Budget. **ERIC encourages the Department to work with DOL during the regulatory process to adopt this policy through a finalized rule as soon as possible.**

V. Restore Telehealth Access by Reversing the Biden Administration’s Withdrawal of “Frequently Asked Questions (FAQs) About Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation Part 43.”

On June 23, 2020, the Departments issued an FAQ pertaining to the Families First Coronavirus Response Act, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and other health coverage rules. Specifically, it stated that the agencies would take a non-enforcement position for employers wishing to provide telehealth or other remote care services to employees ineligible for employer-sponsored group health plans. Several ERIC member companies, in different industry sectors and with thousands of employees, offered standalone telehealth benefits during this time, reducing the need for employees to leave home or work and risk infection at a physician's office, providing a solution for individuals with limited mobility or access to transportation, and easily connecting families to a provider. During the Biden Administration, this flexibility was allowed to expire on May 11, 2023, causing millions of workers to lose access to a critical telehealth benefit.

Workers not on the employers’ health benefit plan want to utilize the employers’ telehealth program, and employers want to continue offering these comprehensive telehealth benefits to these employees.

⁵ [U.S. Department of Labor](#). (2020, May 21). U.S. Department of Labor announces rule to better deliver retirement plan information options, while saving billions of dollars for plans [News release].

⁶ [Avalere Health](#). (2025, November 25). Cost savings associated with default e-delivery for ERISA health & welfare plan disclosures (Economic Model Memo). The ERISA Industry Committee (ERIC).

We urge the Trump Administration to reaffirm that employers may offer telehealth or other remote care services outlined in the FAQ without penalty as it enhances access to health care, including mental health services.

VI. Clarify Direct Primary Care Arrangements in Notice 2026-5

Notice 2026-5 includes implementation of Section 71308 of the *One, Big Beautiful Bill Act*, titled “Treatment of Direct Primary Care (DPC) Service Arrangements.” In March 2026, ERIC, along with other large employer groups and stakeholders, shared our views on the Notice in a [letter](#) to the Department and the IRS that outlined the history and congressional intent of DPC-enabling legislation. **We reiterate our ask that the Department and the IRS issue revised guidance clarifying that employers are permitted to pay the DPC Service Arrangements periodic fee on behalf of employees and their dependents enrolled in an High-Deductible Health Plans(HDHPs) and Health Savings Accounts (HSAs) before the deductible is met.**

VII. Modernize Other HDHPs and HSAs Rules

Tens of millions of Americans are enrolled in HDHPs paired with HSAs, including many who have no other affordable options. Modernizing HDHP and HSA rules could vastly improve the coverage these individuals receive. **In order to maximize the ability of HDHPs and HSAs to incentivize high-value health care and smart shopping, there are several actions the IRS should take, including:**

- Give employers the flexibility to offer first-dollar, preventive coverage of high-value services at their discretion. Examples could include the use of onsite employee health centers and chronic care items and services;
- Allow the coordination of HDHP/HSAs with supplemental benefits like TRICARE benefits, partial Medicare enrollment for working seniors, and other appropriate benefits that do not constitute comprehensive health plans and are currently inappropriately labeled as “other coverage”; and
- Provide technical guidance to eliminate the Flexible Spending Account (FSA) spousal glitch for HSA account holders, broadening the definition of dependents to include adult children and domestic partners for the purposes of using HSA funds, and streamlining rollovers from FSAs and Medical Savings Accounts (MSAs) into HSAs.

VIII. Streamline Employer Reporting Requirements under the Affordable Care Act

The previous Congress passed the *Commonsense Reporting Act* that would enable employers to report employer-sponsored health plan information to the IRS immediately before the annual *Affordable Care Act* open enrollment period, instead of 14 months later when the coverage year has ended. **We encourage the IRS to issue best practices on how the agency can improve and simplify the current reporting process.**

Further, we urge the IRS to update processes to reconcile employer-reported coverage information with individuals' income tax returns and receipts of advanced premium tax credits (APTCs). No employer should receive a 226-J penalty letter that is generated due to an individual who inappropriately received a tax credit.

The IRS can reconcile employer reporting, tax filings and APTC receipts before issuing these penalty letters, which will eliminate the majority of 226-J letters currently generated.

IX. Maintain Employer Flexibility in the Provider Nondiscrimination Requirements for Group Health Plans and Health Insurance Issuers in the Group and Individual Markets

ERIC member companies provide high quality, affordable health care coverage for employees and their families. They do so in part by managing their provider networks carefully to ensure robust access to high-quality care, while working to mitigate the rising cost of health care. The Provider Nondiscrimination Requirements for Group Health Plans and Health Insurance Issuers in the Group and Individual Markets remains listed in the NPRM stage on the unified agenda. **ERIC along with several organizations have [called upon](#) the Departments to ensure as little disruption as possible, maintaining the flexibility of employers and carriers to choose who will be in-network. Given the potential impact on plan design, ERIC continues to urge the Departments to proceed with caution as these policies remain under consideration.**

Retirement and Compensation Issues

SECURE 2.0 Guidance

ERIC thanks the IRS, as well as the other ERISA agencies, for the guidance it has published implementing the *SECURE 2.0 Act*. This important piece of legislation contained dozens of updates and enhancements to our voluntary, private-sector retirement system. However, the implementation of its provisions – including the guidance issued by Treasury, IRS, the DOL, and the Pension Benefit Guaranty Corporation (PBGC) – will be crucial to its success. We especially appreciate the final regulations implementing the catch-up regulations published in September 2025. **Therefore, ERIC urges Treasury/IRS to include the following on its 2026-2027 priority guidance plan:**

I. Matching Contributions for Student Loan Payments

Section 110 of the *SECURE 2.0 Act* extended the ability of plan sponsors to establish programs to provide employer contributions that match qualifying employee student loan payments. Many companies are interested in establishing these benefits. Thank you for Notice 2024-63, which provided vital implementing guidance. **ERIC provided technical comments, however, it bears repeating that additional guidance and interagency coordination may be necessary.**

The IRS should confirm that plan sponsors and administrators are permitted to receive information about the amount and date of loan payments either directly from the lender or from a third-party service provider. Some benefit plans engage these third-party service providers to provide holistic financial wellness tools to employees, including those with student loans. These tools provide, with the affirmative consent of the participant, the ability to link student loan information with the retirement plan recordkeeper's platform, permitting the participant to have more information and promoting better financial outcomes.

In this regard, we are concerned by a change by the Department of Education that has impacted the ability of third-party service providers to automatically link this information to a participant's account on a recordkeeper's website. As we understand it, the Department of Education, in interpreting the 2020 *Stop Student Debt Relief Scams (STOP) Act*, has recently required student loan servicers to prevent access to their data in the name of reducing fraud.

This has had the effect of hindering third-party service providers, such as those contemplated in the Notice, from having the data access described in the Notice. We understand that an application process for trusted third parties may eventually be implemented, but as of now, it has not been. This has the potential both to reduce implementation of the matching programs envisioned by Section 110 of the bipartisan *SECURE 2.0 Act* and to result in worse financial outcomes for plan participants. It also adds to the burden for plan participants, as they will need to manually certify information that could be certified through the service-providers.

We continue to urge Treasury and IRS to coordinate with the Education Department, (a) to alert the Education Department of the implications of the potentially negative consequences of restricting access to bona fide third-party service providers; (b) to urge the Education Department to expeditiously establish a process to permit loan providers to coordinate with these third-party service providers.

II. Clarify the Automatic Enrollment Mandate Exemption for Existing Plans

SECURE 2.0 requires that, beginning in 2025, certain employer plans must include an automatic enrollment feature. However, plans established prior to the date of enactment (“grandfathered” plans) are exempt from this requirement. We provided comments on the IRS’ proposed regulations implementing this provision. In general, the proposed regulations were very helpful. However, as the IRS finalizes these regulations, it should coordinate with the Department of Labor regarding the interaction of automatically-enrolled participants’ contributions in qualified default investment alternatives with the rules surrounding pension-linked emergency savings account (PLESA) funds. **We discussed the potential tension between these requirements in our comment letter, and urge the agencies to work together to avoid legal uncertainty and potential disincentives to establishing PLESAs.**

III. Saver’s Match and Executive Order 14403

The Saver’s Match established in sections 103 and 104 of *SECURE 2.0* poses several complicated issues for retirement plan recordkeepers and participants. The program begins in 2027, and we are thankful the IRS and Treasury are in the process of gathering feedback for implementation. ERIC provided detailed comments in November 2024 in response to a request for information published by the IRS and the Treasury. **Our comments focused on the need for flexibility and administrative ease in administering these new contributions.**

President Trump issued Executive Order 14403 on April 30, 2026 directing the Treasury Department to build by January 1, 2027, a website to help workers such as independent contractors, the self-employed, and those without access to an employer-sponsored retirement plan, find information about IRAs offered by financial institutions accepting the Saver’s Match created by *SECURE 2.0*, among other criteria. The Treasury Department would curate the IRAs listed on the new website, set to be TrumpIRA.gov. Information on the site will be provided regarding costs and quality of the listed IRAs, and will include a menu of investment options that include life-cycle or target date funds, balanced funds, or principal protection funds, with low administrative costs and no contribution or balance requirements. The EO also directs Treasury to administer the Saver’s match and encourage financial institutions to accept Saver’s match contributions. DOL and Treasury are ordered to issue regulations, exemptions, or guidance to ensure that IRAs, including the IRAs listed on TrumpIRA.gov, are transparent and compliant with the prohibited transaction rules.

Finally, the Treasury Department and White House are directed to design legislative recommendations “so that workers lacking access to employer-provided retirement plans, including workers in small businesses, part-time workers, independent contractors, and self-employed workers, have access to a retirement option with low fees, eligibility for the Federal Saver's Match or other matching contributions, diversified index-based investment options, automatic portfolio choices, and portability.”

ERIC is supportive of efforts to promote the Saver’s Match and promote financial education and transparency for workers saving for retirement. As Treasury works to implement this executive order, including designing legislative recommendations, **Treasury should ensure that any such proposals *strengthen* the private-sector provision of employer-provided retirement plans.**

IV. Notice and Disclosure

SECURE 2.0 included a number of provisions addressing notice and disclosure requirements under ERISA and the Internal Revenue Code (Code), including a requirement that regulators make recommendations to Congress for legislative changes. **In working with DOL and PBGC, we urge you to reduce unneeded notices and simplify current disclosures while still providing important information regarding plan costs and financial literacy.** We urge you to use a simple four-part rubric when evaluating proposals:

- the information conveyed in mandatory disclosures should be *simple enough* that an average plan participant without technical expertise can understand it;
- the purpose is to make information *available* should the participant desire to engage;
- a participant should be able to *do something* with the information: for example, contact a plan administrator, modify an investment selection, or claim benefits using information provided; and,
- the tangible benefits to participants of each piece of information disclosed should outweigh the costs of gathering, digesting, and disseminating the information.

We continue to urge you to liberalize the use of electronic delivery, which both reduces costs and provides more opportunities for interactivity and easy access for participants to vital information.

Other Issues

In addition to these and other *SECURE 2.0*-related issues, we hope you'll provide plan sponsors with needed guidance regarding the following:

V. Trump Accounts

ERIC appreciated the helpful guidance that was included in Notice 2025-68, which explains a wide range of implementation issues relating to Trump accounts. However, additional operational questions remain. The IRS and Treasury have said that they intend to issue proposed regulations reflecting and adding to the guidance issued in the Notice, and that they are working to harmonize guidance with the Department of Labor. Large employers hoping to facilitate Trump account contributions have raised a number of concerns that should be addressed. Some of these issues, which we raised in a letter on February 20, 2026, include the need for a common remitter, guidance about the application of ERISA and the prohibited transaction rules, non-discrimination relief, and guidance about the applicable documentation requirements, among other operational questions. We look forward to continuing to work with you to make these accounts workable and valuable for American workers and their families.

VI. Codify Employee Choice Plans

Plan sponsors and participants alike benefit from flexibility and customization in benefits offerings. "Employee choice" programs permit an employee, in certain circumstances, to allocate part of an employer's discretionary retirement plan contribution to a pre-tax educational assistance program, a health savings account, or a retiree health reimbursement account. The IRS gave one such program its blessing in Private Letter Ruling (PLR) 202434006, however, this was only applicable to the requestor. **We urge the IRS to codify this PLR in generally-applicable guidance.** The IRS should also consider whether there are other benefits that should qualify for similar treatment.

VII. In-service Distributions

Under Code Section 401(a)(36), as amended by the *Pension Protection Act of 2006* and the *Bipartisan Miners Act of 2019*, employers are permitted to offer an in-service distribution option. However, it is unclear how an early retirement subsidy should be considered for purposes of Code Section 411(d)(6), the anti-cutback rule. In Notice 2007-8, the IRS asked for stakeholder input on this question, but has not issued guidance. **This issue should be addressed so employers considering offering this option have clarity.**

VIII. Paid Leave

For decades, employers like ERIC member companies design and implement gold-standard paid leave benefits that support and empower their nationwide workforces. Unfortunately, a growing patchwork of inconsistent state and local paid leave laws make it impossible for employers to design consistent, uniform benefits to all employees regardless of work location.

In the past, ERIC has asked the IRS to provide definitive guidance on the taxation of paid leave benefits. Revenue Ruling 2025-4 and Notice 2026-6, pertaining to the taxation of contributions to and benefits provided by a state program, is a helpful start.

Should the IRS prioritize guidance on private-sector paid leave plans, we would look forward to providing technical input from the large employer perspective.

IX. Missing Participants

ERIC's member companies are especially susceptible to difficulties when trying to locate missing participants because their plans tend to be larger and more complex, with more significant acquisition histories that span decades. *SECURE 2.0* authorized a federal searchable "lost and found" to help participants locate their benefit. We also appreciated the guidance in Revenue Ruling 2025-15, which clarified some taxation-related issues. However, the agencies should also do more both to address outstanding withholding and reporting questions and to update best practices guidance to protect plans that take reasonable steps, consistent with cost-benefit considerations, to identify missing participants.

X. Remote Witnessing

During the COVID-19 pandemic, IRS extended relief from its requirement that permitted certain participant elections be witnessed in the physical presence of a notary public or plan representative. The IRS has subsequently proposed a regulation to extend this relief. **ERIC supported the proposed regulation and urges IRS to finalize the regulation.**

Conclusion

In the case of each of these recommendations, and pursuant to Notice 2026-23, ERIC believes that the guidance requested above would resolve issues affecting broad classes of taxpayers, including employee benefit plans, plan sponsors, and plan participants. The recommended guidance would address several unanswered questions and also reduce burdens. This guidance would modernize and streamline current requirements, could be administered in a uniform manner, and would not require extraordinarily complicated regulatory drafting.

Thank you for the opportunity to provide these recommendations. If we can be of further assistance, please contact our policy leads, [Melissa Bartlett](#), Senior Vice President for Health Policy, or [Andy Banducci](#), Senior Vice President for Retirement and Compensation Policy.

Sincerely,



James P. Gelfand
President and CEO