

United States Senate

WASHINGTON, DC 20510

June 6, 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, Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, NW
Washington, DC 20224

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

We write to thank you for proposing rules last summer that will strengthen the Mental Health Parity and Addiction Equity Act of 2008. We urge the Departments of Health and Human Services, Labor, and the Treasury to finalize these strong parity rules as soon as possible, which will go a long way in our shared effort to address the ongoing mental health and substance use disorder (MH/SUD) crisis in this country.

More than two-thirds of the 1 in 5 Americans who experience a mental health condition in any year do not receive any treatment.^{1,2} The consequences are devastating to our communities. In the latest 12 months, nearly 110,000 Americans died of drug overdoses³, and nearly 50,000 Americans died by suicide.⁴ Children have been among the hardest hit, with the effects of the pandemic still being felt by families and communities across the country. Yet, more than 15 years after the Parity Act was enacted with bipartisan support, insurance companies are still preventing patients from getting access to mental health and substance use disorder care. These deliberate practices include low reimbursement rates that keep providers from joining insurance

¹ Milliman, [Access across America: State-by-state insights into the accessibility of care for mental health and substance use disorders](#), December 2023.

² U.S. Substance Abuse and Mental Health Services Administration, [2021 National Survey on Drug Use and Health: Model-Based Estimated Totals](#).

³ Centers for Disease Control and Prevention, National Vital Statistics System, [Provision Drug Overdose Death Counts](#).

⁴ Centers for Disease Control and Prevention, [Suicide Data and Statistics](#).

networks and discourage new providers from entering the field, failure to contract with available providers, and managed care practices that delay critical care to patients or deny it altogether.

A recent review of commercial insurance claims shows that insurers continue to fall short on mental health parity. For instance, Americans seeking care from a psychiatrist were forced to go out of network to obtain care 8.9 times more often than for medical/surgical specialists, and telehealth services were 4.7 times more likely to be out of network in cases where the patient was receiving mental health services. While insurers cite a lack of available providers, there is actually a greater shortage of primary care providers than mental health providers, yet mental health services are still denied at a greater rate. In the last decade, these inequitable practices have not improved overall.⁵

One of the critical practices that prevent people from receiving necessary mental health services is low reimbursement rates. Using Medicare as a benchmark across services, physical health providers are reimbursed 21.7 percent higher on average than MH/SUD providers (124.8% vs. 102.5% of Medicare). The data also reveals that insurers pay significantly higher rates than Medicare to boost their networks for physical health providers but fail to do the same for MH/SUD providers.⁶ When reimbursement rates are low, the money simply isn't there to equip our health care system to treat patients for mental health conditions.

Given this data, we are grateful that the Biden Administration is acting. In the parity rules you proposed last summer, you recognized that “insurers too often make it difficult for families to access mental health treatment, causing millions of consumers to seek care out-of-network at significantly higher costs and pay out of pocket, or defer care altogether.”⁷ These rules will close existing loopholes in the law, expand narrow networks, and prohibit restrictive practices that prevent families from accessing care. Particularly important are the rules that combat the non-quantitative treatment limitations that are being used to deny mental health services to patients. These commonsense parity rules will help Americans suffering from mental health conditions or substance use disorder, reduce costs for taxpayers, and save lives.

We stand by your efforts to make mental health parity a reality and urge you to finalize the proposed rules as soon as possible. With strong rules in place, we can see the victory of this legislation fully realized and we can continue the fight to ensure that all Americans have access to mental health services without stigma.

Sincerely,

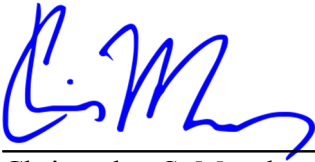
⁵ Two previous reports from Milliman also compared out-of-network utilization and reimbursement rates between MH/SUD and physical health found widespread disparities. The [2017 Milliman Report](#) found widespread disparities across 42 million covered lives for the years 2013 - 2015. The [2019 Milliman Report](#) found widening disparities across 37 million covered lives with the additional years of 2016 and 2017. The disparity data between 2013 and 2021 were nearly identical.

⁶ At the 95th percentile of insurers' in-network reimbursement distribution, physical health providers are paid 279.9% of Medicare, compared to only 164.2% of Medicare for MH/SUD providers. RTI International.

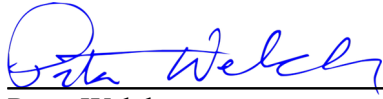
⁷ The White House, [Fact Sheet: Biden-Harris Administration Takes Action to Make It Easier to Access In-Network Mental Health Care](#), 2023.

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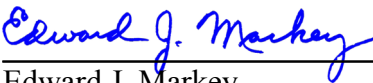
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United States Senator



Alex Padilla
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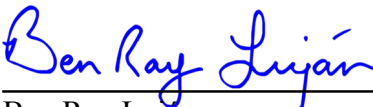
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