COMMITTEE ON
EDUCATION AND WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

May 27, 2026

The Honorable Daniel Aronowitz
Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Assistant Secretary Aronowitz:

Thank you again for testifying before the Subcommittee on Health, Employment, Labor, and Pensions at the hearing titled "Examining the Policies and Priorities of the Employee Benefits Security Administration." Enclosed are additional questions submitted by Subcommittee members following the hearing. Please provide written responses no later than June 17, 2026, for inclusion in the hearing record. Responses should be sent to Katerina Kerska of the Committee staff who can be contacted at (202) 226-9435 or Katerina.Kerska@mail.house.gov.

We appreciate your contribution to the work of the Subcommittee.

Sincerely,

Rick W. Allen
Chairman
Subcommittee on Health, Employment, Labor, and Pensions

Questions for the Record

Committee on Education and Workforce
Subcommittee on Health, Employment, Labor, and Pensions hearing titled: "Examining the Policies and Priorities of the Employee Benefits Security Administration"

Thursday, April 16, 2026
10:15 A.M.

Questions for Assistant Secretary Daniel Aronowitz

Representative Bob Onder (R-MO)

1. What existing authority does EBSA have to compel payers to pay providers within the statutory 30-day timeline following an IDR decision, under the *No Surprises Act*?

2. Does EBSA have existing enforcement authority to levy fines for non-compliance with the statutory 30-day payment timeline?

3. Some states have held that they have no enforcement authority for *No Surprises Act* violations under ERISA plans. Does EBSA take primary responsibility for enforcement? If not, what enforcement authority is delegated to states?

4. According to data from AHIP and Blue Cross Blue Shield, of the 0.7% of claims eligible for IDR, only 6.6% go to arbitration. That means roughly 93% of eligible claims are resolved without IDR. Does that align with EBSA's data, and based on that data, would you say that the goal of using IDR as a last resort, as Congress intended, has been achieved?

5. A recent GAO report found that the *No Surprises Act* has successfully encouraged more in network contracting between clinicians and insurers, and that inflation adjusted in network costs are decreasing. Despite these findings from a nonpartisan government source, some have argued, based on the fact that IDR awards are often higher than the QPA, that IDR determinations are significantly above historical in network and out of network rates. However, research from ndp Analytics contradicts that narrative. Their analysis compared Q4 2024 QPAs in CMS's Public Use Files to median in network rates disclosed under the Transparency in Coverage data. They found that 60% of QPAs were below the corresponding median in network rate. On average, the median in network rate was nearly 300% higher than the reported QPA. Allowing policy decisions to rely on inaccurate or misleading QPAs risks serious unintended consequences for both patients and clinicians. That is why the *No Surprises Act* required the tri-agencies to conduct QPA audits. The Biden Administration failed to complete these statutorily required audits. Can you provide an update on the tri agencies' work on QPA audits, and a timeline for when those audits will occur?

Representative Virginia Foxx (R-NC)

1. Health care costs continue to rise, and provider consolidation is one of the main drivers of these increases. Perverse economic incentives have driven hospitals to acquire provider offices and incorrectly bill for services. What should be done to ensure that hospitals are not allowed to tack on hidden facility fees and upcharges billed to commercial payers for outpatient services?

2. This Committee has championed legislation to increase transparency in the health care market.
    a) Why is it important for an employer to have access to the health data of its own plan in order to design a plan that provides quality health care for lower costs?
    b) What are the limits on health care data transparency under current law, and how can Congress give employers the tools they need to lower costs?

3. Many of us have heard feedback from health plan sponsors that certain service providers are placing limitations on who the plan can share its data with, including business associates such as brokers.
    a) How do these limitations hinder a plan sponsor's ability to use its own data?
    b) How is access to a health plan's data crucial to the role that brokers play in lowering health care costs?

Representative Ryan Mackenzie (R-PA)

I've heard concerns that the Biden Administration's overreaching amendments to the qualified professional asset manager (QPAM) exemption, under which asset managers are disqualified if any affiliate enters a DPA or NPA or receives foreign convictions, have negative impacts on the efficient administration of retirement plan assets, thereby harming participants and beneficiaries in those plans. This approach significantly increases the number of well-respected managers who face potential disqualification for DPAs, NPAs, or convictions committed by affiliates far removed from acting as an ERISA fiduciary. It is also a position repudiated in the first Trump Administration.

1. Do you plan to re-examine the Biden DOL's 2024 amendments to the exemption, which failed to address cost implications and other potential unintended consequences and that act as an extraterritorial influence on the US retirement industry, as well as QPAM disqualification more broadly?

2. Do you plan to engage with stakeholders to restore a reasonable and efficient framework for operating under the QPAM exemption?

3. Is this urgent matter a near term priority for the Department?

Representative Robert C. "Bobby" Scott (D-VA)

1. The Advisory Council on Employee Welfare and Pension Benefit Plans (Council) is established by section 512 of ERISA and must meet at least four times per year. The Department is also required by law to support the Council's operations, including by providing "an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business." However, this statutorily mandated body has reportedly been frozen and has not been convened since 2024.
    a. What is the current status of the Council?
    b. Has the Department provided all statutorily mandated resources and staff to the Council since you took office?
    c. When will the Department appoint new members to fill existing vacancies?
    d. When will the Council's four statutorily mandated meetings be held in 2026?
    e. Is the Council currently under review by the Administration? If so, who is conducting such review? What is the statutory authority that would permit such a review of a statutorily mandated body?

2. In June 2024, then-Assistant Secretary Lisa Gomez testified that EBSA has "less than 1 investigator" for every 13,900 ERISA-covered health, retirement and other benefit plans. Media reports indicate that EBSA has lost approximately 40% of its investigators since then, though your Budget request does not provide any details regarding this matter.
    a. How many investigative staff did EBSA have (including those hired with supplemental appropriations) at the time Assistant Secretary Gomez spoke with the Committee in June 2024? How many does EBSA currently have? How many would EBSA have if the cuts proposed in your budget were enacted?
    b. Do you believe that the ratio of investigators to plans described by the former Assistant Secretary is sufficient to protect the benefits of 155 million Americans and to fully enforce the requirements of ERISA? Similarly, do you believe the ratio that would result under your proposed budget would be sufficient?
    c. Does EBSA plan to hire more investigative staff and, if so, how many? How many investigators per plan will the agency have after you have completed hiring? Please explain how you believe this number will be sufficient?

3. As you are aware, ERISA requires fiduciaries to act "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims." 29 U.S.C. § 1104(a)(1)(B). In 2014, the Supreme Court unanimously held in *Fifth Third Bancorp v. Dudenhoeffer* that there is no "special presumption of prudence" afforded to fiduciaries in ESOP cases and that "the same standard of prudence applies to all ERISA fiduciaries." 573 U.S. 409, 417 (2014).

    With that background, it would be helpful for the Committee to understand the justification for EBSA's new approach with respect to the duty of prudence under ERISA. EBSA recently released Field Assistance Bulletin No. 2026-01, which stated, among other things, that the agency will "prioritize" enforcement of breaches of the duty of loyalty, rather than the duty of prudence, and will "avoid second-guess[ing] process-

based fiduciary judgments." Additionally, EBSA's proposed rule on *Fiduciary Duties in Selecting Designated Investment Alternatives* would create a process-based safe harbor that would provide that the fiduciary "is presumed to have met the duties under section 404(a)(1)(B) of ERISA of such fiduciary and is entitled to significant deference." 91 Fed. Reg. 16,088,16,136 (to be codified at 29 C.F.R. § 2550.404a-6(f)).

a. What is EBSA's statutory authority for creating this process-based safe harbor?
b. Does the regulation require any assessment of whether the fiduciary's decisions are, in fact, those that a "prudent man acting in a like capacity and familiar with such matters" would make, consistent with the clear text of section 404 of ERISA? Or will simply following the process described effectively exempt fiduciaries from this requirement?
c. How do you reconcile the presumption of prudence described in the proposed rule with the Supreme Court's unanimous holding in *Dudenhoeffer*, which directly contradicts EBSA's proposed regulation?