



RE: Letter in Support of Plaintiffs in Lawsuit Challenging Federal Final Rule Authorizing Short-Term, Limited-Duration Insurance -- which Undercuts Affordable Care Acts Reforms, especially Mental Health and Substance Use Disorder Parity Coverage

---

To Whom it May Concern:

On September 14, 2018, a lawsuit was filed in the United States District Court for the District of Columbia against the Departments of Treasury, Labor, and Health and Human Services, three individuals in their capacities as Secretaries of those respective Departments, and the U.S. Department of Justice. The suit was brought by the Association for Community Affiliated Plans, the National Alliance on Mental Illness, Mental Health America, the American Psychiatric Association, AIDS United, the National Partnership for Women and Families, and the Little Lobbyists to challenge the short-term, limited-duration insurance (STLDI) coverage final rule.

The final rule significantly expands access to STLDI plans by allowing such plans to be sold for coverage periods of up to 12 months, with renewable or extension periods up to three (3) years.

*The Kennedy Forum and the undersigned organizations stand in support of the plaintiffs and in opposition of the final rule on the grounds that the STLDI final rule is both arbitrary and capricious and will have an adverse effect upon individuals in need of mental health and substance use disorder (MH/SUD) treatment.*

STLDI plans are not meant to serve as the primary form of health insurance coverage of individuals for extended periods of time. Rather, STLDI plans are intended to be temporary solutions to bridge brief coverage gaps until proper health insurance coverage is attained. These plans are not subject to the market reforms set forth by the Affordable Care Act (ACA) and thus are not prohibited from denying coverage or excluding coverage based on preexisting conditions or subjecting consumers to discriminatory medical underwriting practices. Additionally, the plans do not fall under the definition of “individual health insurance coverage” as adopted by the ACA and are therefore not required to offer the essential health benefits or comply with federal parity requirements. As referenced in the complaint as well, these proposed insurance policies are anything but “short-term” or “limited duration” as defined by applicable state and federal laws.

It is the aforementioned market reforms which demonstrate the ACA’s capability of increasing access to affordable healthcare. The final rule repeatedly states its intention is to provide “more affordable alternative coverage options” to consumers, especially “relatively young, relatively healthy” individuals. However, expanding access to STLDI plans as an alternative form of coverage is irreconcilable with the ACA’s purposes and undermines ongoing efforts to reduce the number of underinsured Americans. This is especially true for more vulnerable populations. STLDI plans will likely attract healthier individuals, which will lead to adverse risk selection for ACA marketplace plans who will continue to enroll individuals with

pre-existing conditions and high medical costs. Unfortunately, some consumers who will be purchasing STLDI plans will not be aware that their MH/SUD coverage is severely limited in this form of insurance.

In April 2018, in response to the proposed rules, the Kaiser Family Foundation conducted a review of STLDI products offered on private online insurance marketplaces.<sup>1</sup> They found that 43% of these plans did not cover mental health services, and most did not cover services for SUD treatment or outpatient prescription drugs. Additionally, researchers found that “when short-term plans do cover mental health, substance abuse, and prescription drugs, limitations and exclusions almost always apply....” This clearly demonstrates STLDI plans are ill-equipped to serve a nation with a demonstrated growing need and demand for MH/ SUD services.

The need for MH/SUD services is further indicated by the 2017 National Study on Drug Use and Health (NSDUH) released on September 14, 2018. Incidentally, the “relatively young” population that the final rule indicates will be drawn to STLDI plans is the same age bracket SAMSHA claims is in the most dire need for MH/ SUD services. The study found young adults are currently experiencing increasing rates of serious mental illness, major depression, and suicidality and more Americans are using drugs now than reported two years ago.<sup>2</sup> These findings should be an impetus to increase the accessibility of services for MH/SUD. Instead, the STLDI Final Rule stands in direct contradiction to what is evidently needed.

In light of the ongoing opioid and suicide crises prematurely taking the lives of thousands of Americans, it is irresponsible and unjustifiable to promote the proliferation of scanty insurance plans in the midst of one of the greatest public health crises of our time. We believe all sectors need to be united in the pursuit of a health care system that assures accessibility to affordable care and more equitably treats both mind and body. Therefore, we support NAMI, MHA, APA, and company in their litigation and continued mission for health equity.

Sincerely and Respectfully,

Patrick J. Kennedy  
*Former U.S. Representative (D-RI)*  
*Founder, The Kennedy Forum*  
*Co-Founder, OneMind*

2020 Mom

Ability Network of Delaware

Alliance for Addiction and Mental Health Services Maine

American Art Therapy Association

American Association for Geriatric Psychiatry

American Association for Marriage and Family Therapy

American Association for Psychoanalysis in Clinical Social Work

---

<sup>1</sup> <https://www.kff.org/health-reform/issue-brief/understanding-short-term-limited-duration-health-insurance/>

<sup>2</sup> <https://www.samhsa.gov/data/nsduh/reports-detailed-tables-2017-NSDUH>

American Association of Child & Adolescent Psychiatry  
American Association on Health and Disability  
American Foundation for Suicide Prevention  
American Group Psychotherapy Association  
American Psychiatric Nurses Association  
American Psychological Association  
American Society of Addiction Medicine  
Arizona Psychiatric Society  
Association for Ambulatory Behavioral Healthcare  
Association for Behavioral Healthcare  
Black Network In Children's Emotional Health "Be Nicer"  
Children and Adults with Attention-Deficit Hyperactivity Disorder  
Clinical Social Work Association  
Community Behavioral Healthcare Association of Illinois  
Confederation for Independent Psychoanalytic Societies of the United States  
CURE IL  
Depression and Bipolar Support Alliance  
Eating Disorders Coalition  
Ecker Center for Mental Health  
Empowerment Systems  
EverThrive Illinois  
Facing Addiction with The National Council on Alcoholism and Drug Dependence  
Families USA  
Global Alliance for Behavioral Health and Social Justice  
Health Law Advocates  
Heartland Alliance  
Illinois Association for Behavioral Health  
Illinois Collaboration on Youth  
Illinois Mental Health Counselors Association  
Illinois Psychiatric Society

Legal Action Center

Marie Casciari, Shareholder of DeBofsky Sherman & Casciari P.C.

Mark DeBofsky, Member of DeBofsky Sherman & Casciari P.C.

Mental Health America of Arizona

Mental Health America of Illinois

Mental Health America of Indiana

Mental Health America of Los Angeles

Mental Health Coalition Verde Valley

Mental Health Summit

NAMI Barrington Area

NAMI Chicago

NAMI Dona Ana County

NAMI Illinois

NAMI Miami-Dade County, Inc

NAMI Oregon

NAMI Sedona

National Alliance on Mental Illness New Mexico

National Association for Children's Behavioral Health

National Association of Social Workers

National Association of Social Workers Illinois Chapter

National Council for Behavioral Health

One Mind

Parity Implementation Coalition

Psychiatric Rehabilitation Association of New Mexico

Psychotherapy Action Network

Residential Eating Disorders Consortium

Rosecrance Health Network

TASC, Inc. (Illinois)

Ted Weiss, Weiss Law Firm

Tennessee Association of Alcohol, Drug & other Addiction Services

The American Counseling Association  
The Arizona Council of Human Service Providers  
The Chronic Disease Coalition  
The EMDR International Association  
The JEM Foundation  
The Kennedy Forum Illinois  
The National Alliance to Advance Adolescent Health  
The National Association for Rural Mental Health  
The National Association of County Behavioral Health and Developmental Disability Directors  
The National Federation of Families for Children's Mental Health  
The Sargent Shriver National Center on Poverty Law  
Thresholds  
Thrive Counseling Center  
Treatment Communities of America