March 14, 2024

Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515-6100

Dear Members of the Committee on Education and the Workforce:

Thank you for the opportunity to provide feedback on opportunities to strengthen the Employee Retirement Income Security Act of 1974 (ERISA) for the millions of Americans and their families who depend on this framework for their health coverage and benefits.

On behalf of our many constituencies, including organized labor, employers, health and welfare plans, benefits administrators, and environmental advocates, **we appreciate the Committee's ongoing engagement with the Tri-Agencies to prioritize rulemaking that would enable ERISA health and welfare plans to use electronic delivery (e-delivery) as a default means for providing plan communications.** This important step would create consistency and alignment in a manner similar to the 2020 E-Delivery Safe Harbor for Employee Pension Benefit Plans (*RIN 1210-AB90*). Currently, under ERISA, health and welfare plans are required by default to print and mail communications to members. As we seek to modernize the law to keep pace with new standards of safety, security, and efficiency, defaulting to e-delivery is a commonsense endeavor.

Consumers enrolled in ERISA plans prefer, benefit from, and are highly accustomed to e-delivery.
Under the leadership of this Committee and others, ERISA plan members already benefit from e-delivery within their pension benefit plans and more. In addition, there is already a wide range of documents — including pension plan documents, utility bills, credit card bills, and others — that ERISA plan members handle electronically. In contrast, paper communications are easy to misplace, easily lost, stolen, or delayed in the mail, and may be inaccessible to members with certain disabilities and those with Limited English Proficiency. E-delivery enables plans to deliver disclosures through secure portals with password protection and multi-factor authentication, as well as a rapid, reliable, and consumer-friendly benefits experience. For example, consumers could search for key terms, quickly navigate to sections of documents, click links to secure web portals with additional information and actions, and even choose their preferred language. *Importantly, e-delivery includes safeguards that enable members to easily opt-in to paper at any time.*

E-delivery would save employers and unions millions of dollars per year in administrative costs. Per internal estimates, the default paper requirement under ERISA costs $400 million per year for health plans alone. These costs are felt most acutely by smaller self-insured plans that may not have the resources or scale to print and mail millions of sheets of paper for their members. The hundreds of millions of dollars spent annually for printing and mailing would be better spent providing health care benefits to the American workforce. In the 2020 e-delivery rule for pension benefit plans, the

Department of Labor (DOL) estimated the rule would save $317 million per year, and $3.2 billion over a decade.[i] The DOL also acknowledged there could be significant savings if the safe harbor were extended to health plans.[ii]

In the next decade alone, e-delivery for ERISA health and welfare plans could help conserve the equivalent of 12 million trees,[iii] or six times the number of trees in Washington, DC[iv] — as well as 12 billion gallons of water, enough water to supply over 40,000 people for an entire decade.[v][vi] Each year, ERISA health and welfare communications amount to as many as 11.4 billion sheets of paper to satisfy default paper ERISA requirements from five decades ago. Printing and mailing these many billions of pages of paper each year contributes to a chain reaction of climate impacts — from the trees felled, to the processing of wood into paper, to the distribution of the paper, to the emissions required to deliver the mail, to the discarded paper that far too often ends up in landfills where it releases potent methane emissions. In fact, paper and cardboard materials comprise the largest share of municipal solid landfill waste.[vii]

The undersigned organizations, on behalf of our many constituencies, appreciate the Committee's willingness to engage with the Tri-Agencies to prioritize rulemaking to enable ERISA health and welfare plans to use default e-delivery. We thank the Committee for the opportunity to provide our feedback to build upon, strengthen, and modernize ERISA as we approach the 50th anniversary of this critical law.

Sincerely,

1. AHIP
2. American Health Policy Institute
3. Blue Cross Blue Shield Association
4. Business Group on Health
5. EarthDay.org
6. Environmental Paper Network (North America)
7. HR Policy Association
8. National Alliance of Healthcare Purchaser Coalitions
9. National Association of Professional Employer Organizations
10. Partnership for Employer-Sponsored Coverage
11. Product Stewardship Institute
12. Professional Fire Fighters of Nevada
13. Self-Insurance Institute of America
14. Silicon Valley Employers Forum
15. The Council of Insurance Agents & Brokers
16. The ERISA Industry Committee
17. Teachers Health Trust
18. UNITE HERE Health Fund
19. UNITE HERE International Union
20. Upstream

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[i] https://www.federalregister.gov/documents/2020/05/27/2020-10951/default-electronic-disclosure-by-employee-pension-benefit-plans-under-erisa.
[ii] www.federalregister.gov/documents/2019/10/23/2019-22901/default-electronic-disclosure-by-employeepension-benefit-plans-under-erisa.

iii Environmental impact estimates were made using the Environmental Paper Network Paper Calculator Version 4.0. Calculated using an estimated 10% recycled content. Does not include the impacts from digital alternatives – only paper reduction. For more information, visit www.papercalculator.org.

iv Casey Trees. 14th Annual Tree Report Card. The State of DC's Trees 2021. https://caseytrees.org/treereportcard2022/

v EPA. 2023. "Statistics and Facts." https://www.epa.gov/watersense/statistics-and-facts.

vi Environmental Paper Network. 2023. Turning the Page on Paper Mandates: Modernizing E-delivery Policies for ERISA Health Plan Disclosures Copy. https://environmentalpaper.org/erisa-and-the-environment-turning-the-page-on-paper-health-benefits-disclosures-copy/.

vii EPA. 2022. "Paper and Paperboard: Material-Specific Data." https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/paper-and-paperboard-material-specific-data.