

**STATEMENT OF ALI KHAWAR BEFORE THE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS
COMMITTEE ON EDUCATION & WORKFORCE
U.S. HOUSE OF REPRESENTATIVES**

July 22, 2025

Introduction

Chairman Allen, Ranking Member DeSaulnier, and Members of the Subcommittee, thank you for the opportunity to testify today about the United States Department of Labor's Employee Benefits Security Administration (EBSA). EBSA is a critically important federal agency that protects and aids the millions of stakeholders who rely on the nation's employee benefits system, and I was proud to spend almost twenty years as a member of the EBSA team in both Democratic and Republican Administrations. During my time at the agency, I had a variety of roles, including as an Investigator in one of its field offices, and as an Enforcement Advisor in the Office of Enforcement. Most recently, I became a political appointee and was the agency's Acting Assistant Secretary and then Principal Deputy Assistant Secretary during the Biden Administration.

EBSA protects the benefits of America's workers and retirees by ensuring the integrity of private-sector employment-based retirement plans in the United States through its interpretation and enforcement of the Employee Retirement Income Security Act (ERISA). The agency oversees approximately 801,000 private retirement plans that cover over 153 million people and hold about \$14 trillion in assets. It also has regulatory and interpretive responsibilities related to individual retirement accounts (IRAs) covering roughly \$17 trillion in assets. In addition, EBSA has audit authority over the Federal Thrift Savings Plan, which is the world's largest retirement savings plan with 7.25 million participants and over \$938 billion in assets.

EBSA is also charged with overseeing private-sector employment-based group health plans. The agency oversees approximately 2.6 million health plans and 514,000 other welfare benefit plans through its authority under ERISA, the Affordable Care Act, the Health Insurance Portability and Accountability Act (HIPAA), the Mental Health Parity and Addiction Equity Act (MHPAEA), the Genetic Information Nondiscrimination Act (GINA), the Newborns' and Mothers' Health Protection Act, the Women's Health and Cancer Rights Act, the COBRA continuation health coverage provisions, and the No Surprises Act. The vast majority of Americans under age 65 who have health insurance are covered by a health plan that EBSA oversees.

EBSA accomplishes its important mission by developing effective regulations; assisting and educating workers, plan sponsors, fiduciaries, and service providers; and vigorously enforcing the law. Along with the essential private right of action under ERISA, EBSA's enforcement program plays a critical role in upholding ERISA's fundamental promise that when an individual retires, their savings will be there. For example, EBSA has played significant roles in addressing complex financial misconduct, such as its work dealing with the Enron collapse, or its involvement in the Madoff investigations.

EBSA's approach balances enforcement and compliance assistance. EBSA employees provide important compliance and benefit assistance to employers, service providers, retirees, workers, and their dependents. EBSA Benefits Advisors answer queries from the public on a daily basis and work to informally resolve disputes. In fiscal year (FY) 2024, they answered almost 200,000 inquiries and conducted over 2,000 outreach events across the country. Beyond the numbers, the stories behind these metrics are incredibly impactful. One person who called EBSA was told he only had 6 months to live without a heart transplant, but his employer-sponsored health plan denied pre-certification for the transplant as not medically necessary and experimental. His doctors tried to help him appeal, but the transplant was still denied. Without the plan's approval, he could not be placed on the organ donor waiting list.

After reviewing his plan documents and determining he was seeking benefits for a covered service to treat a condition that met the plan's definition of life-threatening, EBSA reached out to the employer to help determine the reason the third-party claims administrator denied the transplant, despite it being a covered service. As a result of EBSA's intervention and within one week of the initial call, the employer reviewed the inquiry and consulted with the health plan. The health plan agreed to approve the heart transplant and placed the participant on a waiting list for an organ.

Another example illustrates how life-changing EBSA's work to reunite missing participants with their retirement savings can be. EBSA located one individual by sending him a letter to his last address – a homeless shelter – and when he first spoke to EBSA after receiving the letter, he had no ID or email. Due to EBSA's diligence and hard work, this individual received a lump sum of \$82,000 and a monthly payment of over \$750 for the rest of his life.

In FY 2024, EBSA recovered almost \$1.4 billion in direct payments to plans, participants, and beneficiaries. \$544.1 million was from the work of the Benefits Advisors and \$741.9 million was the result of EBSA's civil enforcement program. EBSA's voluntary fiduciary correction program and its abandoned plan program resulted in almost \$100 million in additional payments.

The enforcement program closed 729 civil investigations and 177 criminal investigations in FY 2024. Over 70% of the civil investigations were closed with results, and the criminal enforcement program recorded 161 guilty pleas or convictions. Importantly, EBSA also obtained 324 non-monetary civil corrections related to retirement, health and other welfare plans, including removing 12 fiduciaries, barring 27 individuals from serving as fiduciaries, appointing 23 independent fiduciaries, improving missing participant procedures for 48 plans, and requiring 59 global corrections involving service providers for numerous ERISA-covered health plans.

Enforcement actions make a real difference in people's lives, and EBSA's enforcement can also help plan sponsors trying to navigate compliance issues. One investigation found that a service provider was improperly denying claims for emergency room treatment and urinalysis. Thanks to EBSA's involvement, at least \$20,250,000 will be paid to plan participants as claims are reprocessed. In another case, a service provider was impermissibly excluding treatment for Applied Behavioral Analysis (ABA), a therapy often used to treat children with autism. EBSA's efforts resulted in the removal of the exclusion across 1,000 plan clients, providing access to ABA therapy over a million plan participants and their children.

EBSA also reaches workers, retirees, employers, plan service providers, and the public through its printed materials and website. EBSA website visitors can view consumer information, relevant laws and regulations, technical guidance, seminar and webcast schedules, and other valuable resources. In FY 2024, EBSA distributed almost 200,000 publications and had nearly three million visitors to its website.

Underfunding

EBSA's success is built upon the dedication, professionalism, and expertise of its workforce – employees located in offices across the country who, on a daily basis, are working to protect the retirement, health, and welfare benefits of more than 153 million people. Their work can seem abstract, but these employees are investigating complex crimes, recovering lost benefits, assisting members of the public in navigating denied claims, producing essential employee benefit plan data, writing regulations and exemptions, improving employee benefit plan audit quality, and providing vital education to workers, employers, and service providers alike.

However, the effectiveness of this mission-driven workforce is increasingly under threat by a persistent and serious challenge: chronic underfunding.

EBSA's base appropriation has remained essentially flat for over a decade. Adjusting for cost increases, the agency's base budget has shrunk, even as its statutory responsibilities have expanded, most recently through legislation such as the SECURE Act, SECURE 2.0, and the No Surprises Act. In real terms, EBSA keeps being asked to do significantly more with significantly less.

The disparity is particularly stark when viewed in historical context. In FY 2015, EBSA's budget supported over 960 full-time equivalents (employees). The proposed budget for FY 2026, as outlined in the Trump administration's Department of Labor (DOL) Congressional Budget Justification (CBJ), would support just 640 employees. This CBJ comes after the Trump Administration's Department of Government Efficiency has already wreaked havoc across the government, including at the Department of Labor and EBSA. The CBJ also makes clear that the Trump Administration is not pursuing a renewal of the special funding made available – on a bipartisan basis – to implement the No Surprises Act. If budget requests are statements of values, then we should all be concerned about values underpinning the FY 2026 CBJ. It represents a funding reduction of nearly \$30 million and 150 employees from what EBSA could afford in FY 2025.

These reductions are not just numbers on a page – they impact operations. They do not increase efficiency, they reduce it. Fewer investigators mean fewer cases pursued, on longer timelines, and more civil and criminal violations unaddressed. To make matters worse, EBSA is facing these cuts during a time of heightened economic volatility when more, not less, vigilance is needed.

Fewer benefits advisors mean longer wait times for the public when they call, more unresolved participant complaints, and diminished public education on issues like retirement, mental health,

and COBRA. The Trump Administration itself recognizes the impacts of its cuts. Its FY 2026 Annual Performance Plan states that FY 2026 performance indicators “reflect anticipated reductions in staffing.” The document then shows lowered targets for three key performance metrics in the enforcement program.

Recent problematic legislative proposals claim to enhance ERISA enforcement and address perceived shortcomings in the agency’s transparency, but have significant design flaws. However, these bills overlook the more fundamental issue: the need to properly fund the agency charged with implementation and enforcement. Without sufficient resources, even the strongest laws cannot be effectively administered in a timely manner.

Two of the proposed bills being considered by this Committee would place additional burdens and obstacles on the Secretary’s appropriate exercise of enforcement authority, without evidence that there are significant problems that need to be addressed. One, H.R. 2869, comes after inquiries from the Committee about the timeliness of EBSA investigations. Everyone should agree that it is important to move cases as swiftly as possible within existing resource constraints, and that it is also important to avoid closing cases before documents have been received, violations have been properly investigated, and any issues uncovered have been resolved. EBSA imposes timeliness measures on its staff and monitors the progress on an ongoing basis – this is part of why in November 2023, as EBSA wrote to the Committee, only about 3% of EBSA’s cases open for more than 48 months were in a state of ongoing investigation. Although it is focused on timeliness, the bill ignores EBSA’s staggering resource constraints and the turnover driven by the Trump Administration’s Department of Government Efficiency, which are far more important causes of investigations taking too long.

The second bill, H.R. 2958, is focused on interactions between the Department of Labor and plaintiff’s attorneys and comes after defense attorneys raised complaints about EBSA’s use of Common Interest Agreements. ERISA itself has always recognized that the Secretary of Labor would never have sufficient resources to police employee benefit plans. Thus, in addition to giving the Secretary enforcement authority, Congress wisely created a private right of action to enforce ERISA for fiduciaries, participants and beneficiaries, and it specifically authorized the Secretary of Labor to share information. The reality is that over a 15-year period, EBSA only found 12 investigations where it entered into a common interest agreement. In that time period, EBSA opened over 31,000 investigations. Yet on that record – and while still awaiting the results of a DOL Office of Inspector General audit on EBSA’s information sharing practices that this Committee requested – this bill would impose severe burdens on the Department.

These bills, unfortunately, do not grapple with the reality of EBSA’s fiscal condition and the impact of lost personnel. The right question is not whether EBSA is capable. It has consistently proven that it is by returning thousands of dollars for plan participants and beneficiaries *per investigator per day*. In fiscal years 2021-2024 alone, this agency, with a fraction of the resources it deserves, recovered over \$6.6 billion for plans, participants, and beneficiaries, in addition to essential nonmonetary results that dramatically improved peoples’ lives, particularly for those with health needs. Especially given EBSA’s responsibilities, a more important question that these bills leave unaddressed is this: how long can an agency be starved of resources – and how much more can we ask of it – before its ability to deliver begins to falter?

Conclusion: Investing in Impact

EBSA has shown time and again that it can deliver high-impact results on a lean budget. But continued erosion of its funding base risks undermining the very protections Congress sought to guarantee through ERISA and related legislation.

An investment in EBSA is an investment in the financial security of America's workers – and one with exceptional yield. For every dollar that Congress invests in EBSA, the agency has consistently returned many multiples of that amount in direct payments to plans, participants, and beneficiaries. To maintain this nation's commitment to fair and secure employee benefits, Congress should provide EBSA with the resources it needs so that it can meet both today's demands and tomorrow's challenges.

Thank you again for the opportunity to appear before you today, and I look forward to your questions.