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April 14, 2026

The Honorable Anthony P. D'Esposito
Inspector General
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Inspector General D'Esposito:

We write regarding our concerns that the Secretary of Labor (Secretary) has failed to comply with certain requirements of the *Employee Retirement Income Security Act of 1974* (ERISA)¹ establishing the Advisory Council on Employee Welfare and Pension Benefit Plans (ERISA Advisory Council or Council). Media reports have suggested that the Council was placed "on ice" early last year,² and the Secretary subsequently failed to convene the body for any of its four statutorily required meetings throughout the remainder of 2025. Regrettably, our repeated efforts to seek answers directly from the Department of Labor (Department or DOL) have failed to yield answers, including repeated staff inquiries, a formal letter to the Secretary, and a request for written responses from the Secretary for the record following a recent hearing of the Committee on Education and Workforce (Committee). In light of the apparent violations of a clear statutory mandate and the Department's refusal to provide transparency in this matter, we request you initiate an investigation of the current status of the ERISA Advisory Council and the Secretary's compliance with her statutory duties with respect to the Council.

The ERISA Advisory Council was established by Congress more than five decades ago³ with the statutory mission of providing technical expertise to the Department regarding complex issues relating to health care, disability, and retirement plans that cover more than 155 million workers, retirees, and their family members across America.⁴ Its functions are clearly specified under section 512 of ERISA, which, among other things: establishes the Council as a permanent advisory body serving the Department, requires that the Council be convened in public meetings

¹ Pub. L. No. 93-406 (1974).

² Remy Samuels, *ERISA Advisory Council Currently 'On Ice'* (Feb. 28, 2025), <https://www.plansponsor.com/erisa-advisory-council-currently-on-ice/>.

³ 29 U.S.C. § 1142.

⁴ U.S. Dept. of Lab., Emp. Benefits Sec. Admin. *EBSA Restores Nearly \$1.4 Billion to Employee Benefit Plans, Participants, and Beneficiaries* (updated Mar. 24, 2026), <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/ebsa-monetary-results-2025>.

no fewer than four times per year, and charges it with the duty of “advis[ing] the Secretary with respect to the carrying out of his functions under [title I of ERISA] and [submitting to] the Secretary recommendations with respect thereto.”⁵ The Secretary has specific obligations to ensure the Council is able to conduct its work, including a requirement to “furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business.”⁶ In the past, the Department has properly acknowledged that the records of the Council, including the written statements submitted by witnesses, are public records that are not altered by the Department following their submission to the Council.⁷

In its numerous reports issued over the last five decades, the Council has crafted thoughtful recommendations to the Department on a wide range of topics, such as pharmacy benefit manager (PBM) services,⁸ disability benefits and mental health,⁹ and cybersecurity.¹⁰ These recommendations have informed many agency actions, including the Department’s recently proposed rulemaking to improve transparency with respect to PBM fees,¹¹ a top priority of the current Administration.¹²

Unfortunately, recent events have called into question the Secretary’s faithful execution of her legal obligations to ensure that the Council continues its statutorily mandated mission and that the documents released by the Council are free of inappropriate influence. Despite the clear mandate from Congress, the Council has seemingly not been permitted to hold a public meeting since 2024 and reportedly “has no plans to convene in 2026”¹³; the Secretary has apparently failed to provide an Executive Secretary to the Council¹⁴; and the Secretary has not appointed any new Members to the Council, even as the terms of a third of its members have expired. Perhaps most disturbingly, last year, the Department’s website was purged of all 2024 records of the Council without explanation; this included the deletion of all witness testimonies and related supporting materials and reports for 2024. Following our written request for information from

⁵ 29 U.S.C. § 1142(b).

⁶ *Id.*

⁷ 224th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting, 89 Fed. Reg. 76511 (Sept. 18, 2024) (“No deletions, modifications, or redactions will be made to the statements received as they are public records”).

⁸ Advisory Council on Employee Welfare and Pension Benefit Plans, *Report to the Honorable Thomas E. Perez, United States Secretary of Labor, PBM Compensation and Fee Disclosure* (Nov. 2024), <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/about-us/erisa-advisory-council/pbm-compensation-disclosure-report-2014.pdf>.

⁹ Advisory Council on Employee Welfare and Pension Benefit Plans, *Report to the Honorable Julie A. Su, United States Acting Secretary of Labor, Long-Term Disability Benefits and Mental Health Disparity* (Dec. 2023), <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/about-us/erisa-advisory-council/2023-long-term-disability-benefits-and-mental-health-disparity.pdf>.

¹⁰ Advisory Council on Employee Welfare and Pension Benefit Plans, *Report to the Honorable Martin Walsh, United States Secretary of Labor, Cybersecurity Issues Affecting Health Benefit Plans* (Dec. 2022), https://www.dol.gov/sites/dolgov/files/ebsa/pdf_files/2022-cybersecurity-issues-affecting-health-benefit-plans.pdf.

¹¹ Improving Transparency into Pharmacy Benefit Manager Fee Disclosure, 91 Fed. Reg. 4348, 4356-7 (Jan. 30, 2026).

¹² Lowering Drug Prices by Once Again Putting Americans First, Exec. Order No. 14273, 90 Fed. Reg. 16441, 16443 (Apr. 15, 2025).

¹³ Paul Mulholland, *What Happened to the ERISA Advisory Council?* (Feb. 10, 2026), <http://napa-net.org/news/2026/2/what-happened-to-the-erisa-advisory-council/>.

¹⁴ U.S. Dept. of Lab., Emp. Benefits Sec. Admin., Organization Chart, <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/organization-chart> (last visited Apr. 8, 2026) (ERISA Advisory Council Executive Secretary is listed as “Vacant”).

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the Secretary on the status of these documents,¹⁵ the documents were reposted to the Department's website, although no explanation was provided as to why they were deleted and whether any records were altered in this process.

Accordingly, we request the OIG initiate an investigation of the status of the ERISA Advisory Council and the Secretary's compliance with all legal obligations under ERISA with respect to the Council.

Thank you for your consideration of this request.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member



MARK DESAULNIER
Ranking Member
Subcommittee on Health, Employment, Labor, and
Pensions

¹⁵ Letter from Rep. Robert C. "Bobby" Scott and Rep. Mark DeSaulnier to the Hon. Lori Chavez-DeRemer, Sec'y, U.S. Dep't of Lab. (June 2, 2025), https://democrats-edworkforce.house.gov/imo/media/doc/scott_desaulnier_letter_to_dol_re_erisa_advisory_council.pdf.