

Congress of the United States
Washington, DC 20515

September 29, 2022

Greg Adams, Chair and CEO
Kaiser Foundation Health Plan, Inc. and Hospitals
1 Kaiser Plaza
Oakland, CA 94612

Dr. Richard Issacs, CEO and Executive Director
The Permanente Medical Group, Inc.
1950 Franklin St.
Oakland, CA 94612

Dear Mr. Adams and Dr. Issacs,

We write to express our grave concerns over the consistently substandard behavioral health services provided to patients enrolled in Kaiser Permanente plans throughout California. According to reports, Kaiser patients covered by Medicare, Medi-Cal, Covered California, and Federal Employee Health Benefits Program have received inadequate mental health treatment. We have jurisdiction and special stewardship responsibilities over these federally funded policies. For years, allegations of non-compliant mental health care have prompted investigations of Kaiser’s behavioral health services.¹ But we are concerned with reports that patient mental health complaints have increased since labor negotiations with Kaiser’s workforce have stalled.² Without taking a position in the ongoing labor dispute, we write to express our concerns that any resulting understaffing of Kaiser’s mental health services is likely to contribute to Kaiser’s shortcoming related to federal and state requirements that Kaiser provide timely mental health care.³

According to our review of the evidence, we believe that Kaiser has been denying patients timely behavioral health care for years. Kaiser has repeatedly and consistently been found in violation of state mental health coverage laws for nearly a decade, according to public reports.⁴ In 2013, Kaiser received a \$4 million fine for failing to provide patients with regular access to mental health care.⁵ This incident was followed by additional citations in 2015 and a report finding that many Kaiser patients—including 22% in

1 “Kaiser Fined \$4 Million Over Mental Health Access,” *SF Gate* (June 25, 2013) (online at <https://www.sfgate.com/health/article/Kaiser-fined-4-million-over-mental-health-access-4622014.php>).

2 “California Regulators Launch Investigation into Kaiser’s Mental Health Care During Strike,” *SF Gate* (Sept. 2, 2022) (online at <https://www.sfgate.com/bayarea/article/Kaiser-investigated-amid-therapist-strike-17413609.php>).

3 “California Law Aims to Strengthen Access to Mental Health Services,” *California Healthline* (Oct. 29, 2021) (online at <https://californiahealthline.org/news/article/california-law-aims-to-strengthen-access-to-mental-health-services/>).

4 “Kaiser Fined \$4 Million Over Mental Health Access,” *SF Gate* (June 25, 2013) (online at <https://www.sfgate.com/health/article/Kaiser-fined-4-million-over-mental-health-access-4622014.php>); “Kaiser Permanente Faulted Again for Mental Health Care Lapses in California,” *Kaiser Health News* (Feb. 25, 2015) (online at <https://khn.org/news/kaiser-permanente-faulted-again-for-mental-health-care-in-california/>).

5 “Kaiser Fined \$4 Million Over Mental Health Access,” *SF Gate* (June 25, 2013) (online at <https://www.sfgate.com/health/article/Kaiser-fined-4-million-over-mental-health-access-4622014.php>).

Northern California—were denied timely access to mental health care.⁶ In 2017, Kaiser was yet again found to have violated laws requiring timely treatment of mental health conditions, leading California regulators to appoint an outside consultant to monitor Kaiser’s progress towards compliance.⁷ This May, following a 20% increase in complaints, California regulators launched a “non-routine survey” of Kaiser’s behavioral health services.⁸ While Kaiser has publicly applauded its efforts to address these concerns,⁹ we believe that in reality, these issues are ongoing and worsening.

We are concerned that Kaiser appears to be failing to comply with its obligation under the law to provide timely behavioral health care, according to public reports.¹⁰ In recent weeks, an increasing number of patients have filed complaints alleging that they were unable to receive timely mental health care through Kaiser.¹¹ In response, California regulators have launched yet another investigation into Kaiser’s mental health compliance.¹²

We believe that Kaiser’s strong record of providing other high-quality medical services cannot make up for substandard and non-compliant behavioral health coverage.

Research demonstrates that higher staffing levels correlate with improved patient outcomes for mental health conditions.¹³ We encourage you to consider taking sensible measures like investing only a slightly greater part of Kaiser’s ample revenue to expand its workforce. We believe that taking such measures could improve the work of your dedicated behavioral health professionals and could help Kaiser lower the ratio of new patients assigned to staff. We believe Kaiser could comply with its timely mental health obligations by ensuring that sufficient staff are available for patients to schedule follow-up appointments within ten days, even if meeting this objective requires Kaiser to offer coverage for out-of-network care. We are confident such changes would allow Kaiser’s mental health professionals to deliver high-quality care, including having time within scheduled work hours to complete patients’ charts, respond to patients’ inquiries, and coordinate patients’ care with other providers.

⁶ “Kaiser Permanente Faulted Again for Mental Health Care Lapses in California,” *Kaiser Health News* (Feb. 25, 2015) (online at <https://khn.org/news/kaiser-permanente-faulted-again-for-mental-health-care-in-california/>).

⁷ Settlement Reached on Kaiser Permanente’s Repeated Mental Health Care Deficiencies,” *California Healthline* (July 19, 2017) (online at <https://californiahealthline.org/news/settlement-reached-on-kaiser-permanentes-repeated-mental-health-care-deficiencies/>).

⁸ “Kaiser Behavioral Health Care on the Hot Seat After California Complaints,” *Sacramento Bee* (May 23, 2022) (online at <https://www.sacbee.com/article261612882.html>).

⁹ See, e.g., a response to an investigation by the Department of Managed Care, in which Kaiser asserts that it is “focused on innovating and developing new ways to meet our members’ needs including taking action to address the national shortage of caregivers; significantly expanding our ability to provide virtual care to patients who want it; embedding mental health professionals in primary care clinics, pediatric settings, and emergency departments; and continuing to expand our collaborative care programs that have proven to effectively treat patients who have anxiety and depression diagnoses.” Kaiser Permanente, “Our Response to DMHC Survey of Behavioral Health Services” (May 18, 2022) (online at <https://about.kaiserpermanente.org/our-story/news/our-perspective/our-response-to-dmhc-survey-of-behavioral-health-services>).

¹⁰ “California Regulators Launch Investigation into Kaiser’s Mental Health Care During Strike,” *SF Gate* (Sept. 2, 2022) (online at <https://www.sfgate.com/bayarea/article/Kaiser-investigated-amid-therapist-strike-17413609.php>).

¹¹ *Id.*

¹² *Id.*

¹³ Matthew Tyler Boden, et al., “Mental Health Treatment Quality, Access, and Satisfaction: Optimizing Staffing in and Era of Fiscal Accountability,” *Psychiatric Services*, 70(3): 168-175 (Mar.1, 2019) (online at <https://pubmed.ncbi.nlm.nih.gov/30497325/>).

In the best interests of your enrollees, and of the taxpayers who fund much of their coverage, we encourage you to improve mental health care coverage. We believe that starts with improving staffing and rectifying the serious deficiencies in behavioral health services that are tarnishing Kaiser's hard-earned reputation for quality care.

Sincerely,



Katie Porter
Member of Congress



Julia Brownley
Member of Congress



Mike Levin
Member of Congress

cc: Governor Gavin Newsom
Sal Rosselli, President, National Union of Healthcare Workers