

THE WHITE HOUSE
Washington
April 17, 2023

MEMORANDUM FOR RACHEL PATTERSON

FROM: STUART F. DELERY
COUNSEL TO THE PRESIDENT



SUBJECT: LIMITED WAIVER OF EXECUTIVE ORDER 13989
FOR RACHEL PATTERSON

Executive Summary

Pursuant to Section 3 of Executive Order [13989](#) (January 20, 2021) (“Executive Order”), and for the reasons stated below, I hereby grant a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order for Rachel Patterson, with respect to working on health care and disability policy, including Medicare and Medicaid affordability and coverage issues. I have determined this waiver is necessary and it is in the public interest to grant it to enable Ms. Patterson to effectively carry out her duties as the Director of Disability Policy for the Domestic Policy Council (DPC) within the White House Office (WHO).

The Executive Order requires all covered political appointees in the Biden-Harris Administration to abide by several commitments. In particular, Section 1, Paragraph 3 prevents a covered appointee who was a registered lobbyist under the Lobbying Disclosure Act in the two years prior to the date of appointment from (a) participating in particular matters in which he or she lobbied; (b) participating in the specific issue areas in which that particular matter falls; or (c) seeking or accepting employment with any executive agency with respect to which he or she lobbied, within the two years before the date of appointment.

A waiver of the restrictions contained in Section 1, Paragraph 3 of the Executive Order may be granted upon a certification that either the literal application of the restriction is inconsistent with the purpose of the restriction, or that it is in the public interest to grant the waiver.

Ms. Patterson’s role as Director of Disability Policy is critical for a broad range of policy matters which necessarily implicate issues on which she previously lobbied for the Epilepsy Foundation, particularly with respect to health care and disability policy. Under the restrictions in subsection (b) of the Ethics Pledge, Ms. Patterson would be unable to work on certain priority policy matters within DPC due to her past lobbying on Medicare and Medicaid related-legislation, which is intertwined with broader disability policy. If Ms. Patterson is unable to advise on these issues as they relate to individuals with disabilities, she will be severely hindered in her ability to carry out her responsibilities in formulating disability policy within DPC. For these reasons, a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order is both necessary and in the public interest.

Background

Ms. Patterson's professional experience is extensive and reflects more than ten years of understanding and navigating the needs and priorities of the disability community. She is uniquely qualified for the role of Director of Disability Policy at DPC given her professional background, subject matter expertise, and experience working across many facets of disability policy. Ms. Patterson also brings her own lived, personal experiences to the role.

In order to effectively carry out her role and better inform the Administration's policies, the Director of Disability Policy must be able to fully opine on and participate in all matters that intersect with disability policy, including some on which she previously lobbied. While in her role as Senior Director of Federal Relations & Policy at the Epilepsy Foundation, Ms. Patterson primarily advocated before Congress on a broad variety of matters, including Medicare and Medicaid availability, affordability, and coverage (including home and community-based services). A full recusal from these issues would severely impede Ms. Patterson's ability to effectively serve the American people, and particularly those impacted by disability, in her role as Director of Disability Policy.

Analysis

In accordance with Section 3 of Executive Order 13989, it is in the public interest to grant Ms. Patterson a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order to enable her to effectively carry out her duties as Director of Disability Policy at DPC.

In making this assessment, I have considered the factors set forth in Section 3 of the Executive Order, which include: (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment; (ii) the uniqueness of the individual's qualifications to meet the government's needs; (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services.

Government Need

The government has a critical need for Ms. Patterson's services as the Director of Disability Policy at DPC, a position which has been a priority since the beginning of this Administration, given that one in four Americans has a disability. Ms. Patterson will assist in shaping and advising on the President's disability policy in the White House and across the federal government, working on issues spanning the domestic policy arena, including education, health care, housing, and equity. At its core, Ms. Patterson's role is to ensure that the perspective of people with disabilities are at the forefront of the policy development process. However, within the broad umbrella of disability policy, issue areas closely intersect and meaningful recusal from isolatable parts of that policy will be impossible. Ms. Patterson's ability to advise broadly and

completely on proposals impacting the disability community is necessary for success in this role, and accordingly the government's need supports a waiver for this work.

Unique Qualifications

Ms. Patterson will bring significant specialized knowledge of the disability community and relevant stakeholders to her work. She has extensive experience and expertise in disability policy, across a range of issue areas – such as education, health care, employment, and housing – and she has worked at a number of leading disability rights organizations, including the Epilepsy Foundation, the Christopher & Dana Reeve Foundation, and the Association of University Centers on Disabilities.

Ms. Patterson is particularly experienced in federal rule-making, a central focus of this role, and has deep relationships within the disability community, uniquely positioning her to seek input from a range of constituents and to navigate competing stakeholder interests.

Prior Lobbying

Ms. Patterson's prior lobbying activities were rendered exclusively on behalf of a non-profit organization, the Epilepsy Foundation. During the past two years, her lobbying activities have focused almost exclusively on Congress and, occasionally, the Department of Health and Human Services. She did not lobby the White House Office during this period.

Other Limitations

Ms. Patterson's expertise and the centrality of health care coverage within other disability policy questions makes a recusal impractical. However, this waiver is still limited as Ms. Patterson does not need a waiver to participate in all of the specific issue areas in which the particular matters on which she previously lobbied fell. Rather, Ms. Patterson only needs to work on issues pertaining to health care and disability policy, including Medicare and Medicaid and health care coverage for the disability community more broadly.

Conclusion

The significant public interest in the White House's ability to accomplish its public health and economic mission requires Ms. Patterson to fully advise DPC on disability policy, and eliminating pieces of work intertwined with broader policy questions would severely impact her ability to effectively carry out her responsibilities as the Director of Disability Policy. For these reasons, I grant Ms. Patterson a limited waiver of the restrictions in Section 1, Paragraph 3 of the Executive Order. Pursuant to this waiver, Ms. Patterson may work on matters pertaining to health care and disability policy, including Medicare and Medicaid affordability and coverage.

This waiver does not affect Ms. Patterson's obligation to comply with all other applicable government ethics rules and provisions of the Executive Order. Specifically, this waiver does not permit Ms. Patterson to work on particular matters in which she lobbied or other specific issue areas that she lobbied during the previous two years, besides those granted by this waiver.