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11 Attorneys for Plaintiff
12 MARY CALDWELL,
13 on behalf of herself and all others
14 similarly situated

15 UNITED STATES DISTRICT COURT
16
17 NORTHERN DISTRICT OF CALIFORNIA

18 MARY CALDWELL, on behalf of) Case No.: 4:19-cv-2861
19 herself and all others similarly situated,)
20) **CLASS ACTION**
21)
22 Plaintiff,) **COMPLAINT FOR BENEFITS,**
23) **DETERMINATION OF RIGHTS**
24 v.) **AND BREACH OF FIDUCIARY**
25) **DUTY UNDER ERISA**
26 UNITEDHEALTHCARE INSURANCE)
27 COMPANY; UNITED HEALTHCARE)
28 SERVICES, INC.,)
Defendants.)

1 Plaintiff, Mary Caldwell (“Plaintiff”), on behalf of herself and all others
2 similarly situated, herein sets forth the allegations of her Complaint against Defendants
3 UnitedHealthcare Insurance Company and United HealthCare Services, Inc.

4 INTRODUCTION

5 1. Defendants UnitedHealthcare Insurance Company and United HealthCare
6 Services, Inc. ("hereinafter "United") is in the business of insuring and/or
7 administering health insurance plans (both fully insured and self-insured), most of
8 which are employer-sponsored and governed by the Employee Retirement Income
9 Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, *et seq.* (“United plans”).

10 2. Plaintiff brings this action to address United’s practice of improperly
11 denying claims for surgical treatment of lipedema made by patients under United
12 plans. As set forth below, United denies claims for the surgical treatment of lipedema
13 on the basis they are "unproven." Lipedema is a rare condition that is chronic,
14 progressive, painful, and immobilizing. It involves an abnormal buildup of adipose
15 (fat) tissue, usually in the lower body but sometimes in the arms. Often misdiagnosed
16 as obesity or lymphedema, lipedema primarily affects women. Surgical treatment of
17 lipedema is not unproven It is the only available therapy for this condition and has
18 been the subject of various studies that show its beneficial effect.

19 JURISDICTION AND VENUE

20 3. This action is brought under 29 U.S.C. §§ 1132(a), (e), (f) and (g) as it
21 involves claims by Plaintiff for employee benefits under employee benefit plans
22 regulated and governed by ERISA. Subject matter jurisdiction is predicated under
23 these code sections as well as 28 U.S.C. § 1331 as this action involves a federal
24 question.

25 4. The Court has personal jurisdiction over Defendants because ERISA
26 provides for nationwide service of process, and each Defendant has minimum contacts
27 with the United States. 29 U.S.C. § 1132(e)(2).

28 5. The claims of Plaintiff and the putative class arise out of policies

1 Defendants issued, administered, and/or implemented in this District. Thus, venue is
2 proper in this judicial district pursuant to 29 U.S.C. § 1132(e)(2) (setting forth special
3 venue rules applicable to ERISA actions).

4 THE PARTIES

5 6. Plaintiff was at all relevant times covered under an employee benefit plan
6 regulated by ERISA and pursuant to which Plaintiff is entitled to health care benefits.
7 Plaintiff resides in Alameda County which is located within this District.

8 7. United is a corporation with its principal place of business in Minneapolis,
9 Minnesota. United administers and makes benefit determinations related to ERISA
10 health care plans around the country.

11 SUBSTANTIVE ALLEGATIONS

12 A. Lipedema.

13 8. Lipedema is a rare condition that is chronic, progressive, painful, and
14 immobilizing. It involves an abnormal buildup of adipose (fat) tissue, usually in the
15 lower body but sometimes in the arms. Often misdiagnosed as obesity or lymphedema,
16 lipedema primarily affects women. Symptoms of lipedema include disproportionately
17 large, column-like legs, and disproportionate hips, stomach or buttocks. As lipedema
18 progresses, patients become increasingly heavy in the lower body and expanding fat
19 cells interfere with the pathways of lymphatic vessels. It is estimated that lipedema
20 affects nearly 11% of the adult female population

21 9. One of the most common misconceptions about patients with lipedema is
22 that they suffer, instead, from lifestyle- or diet-induced obesity. Although some
23 patients with lipedema may also have obesity and although the obesity may influence
24 the lipedema subcutaneous adipose tissue, lipedema is a mutually exclusive diagnosis
25 and should be considered as such. Unlike obesity, the adipocyte hypertrophy and
26 swelling associated with lipedema are resistant to change with diet and exercise or
27 bariatric surgery and caloric restriction.

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1 10. There are four stages of lipedema: Stage 1 in which there is a normal skin
2 surface with enlarged hypodermal adipose tissue; Stage 2 with indentations of the skin
3 and underlying adipose tissue similar to a mattress containing larger mounds of
4 adipose tissue that grow as non-encapsulated masses, lipomas and angioliipomas; Stage
5 3 where large extrusions of tissue (skin and adipose tissue) cause gross deformations
6 especially on the thighs and around the knees. Lymphedema, where lymph fluid
7 develops dependently on the feet and hands increasing cranially due to dysfunctional
8 lymphatics, can develop during any stage of lipedema, and is called lipolymphedema
9 or Stage 4 lipedema.

10 11. As lipedema progresses, it causes pain, mobility problems, joint disorders,
11 and other physical problems that prevent patients from engaging in the activities of
12 daily living.

13 12. The only effective treatment for the pain and immobility caused by
14 lipedema is a specialized form of liposuction. This is different from the techniques
15 used for cosmetic liposuction. During this procedure, a solution is injected into the
16 targeted areas. The solution contains epinephrine to help reduce bleeding, bruising, and
17 swelling and lidocaine as a local anesthetic. The surgeon uses a gentle, vacuum-like
18 instrument to remove excess fat. The removal of this tissue allows patients to gain
19 mobility, reduce or eliminate pain, and lead a productive life.

20 **B. United's wrongful denial of lipedema surgery claims.**

21 13. United plans exclude from coverage those medical services that United
22 considers are "unproven."

23 14. "Unproven" is defined in United plans as services:

24 [T]hat are determined not to be effective for treatment of the medical
25 condition and/or not to have a beneficial effect on net health outcomes
26 due to insufficient and inadequate clinical evidence from well-conducted
27 randomized controlled trials or cohort studies in the prevailing published
28 peer-reviewed medical literature.

///
28

1 15. United has followed a consistent practice of denying claims for
2 specialized liposuction to treat advanced lipedema in arms, legs, and other body parts
3 on the basis the treatment is "unproven" pursuant to the above-referenced standardized
4 definition.

5 16. Contrary to United's position, specialized liposuction to treat the
6 symptoms of lipedema is not unproven. It is the only available therapy for this
7 condition and has been the subject of various studies that show its beneficial effect. It
8 is routinely performed at Stanford University Medical Center and other leading
9 medical facilities.

10 **C. United's denial of Mary Caldwell's claim.**

11 17. At all relevant times, Plaintiff Mary Caldwell was covered under an
12 ERISA health plan through her employer.

13 18. Plaintiff was diagnosed with Stage 3 lipedema. Her advanced lipedema
14 has caused her pain, immobility, and other problems.

15 19. Plaintiff requested that United provide coverage for specialized
16 liposuction to treat her advanced lipedema. Her physician submitted information to
17 United setting forth Plaintiff's diagnosis and the proposed treatment.

18 20. On November 28, 2017, United sent a letter to Plaintiff denying coverage
19 for the proposed surgery stating that "these procedures are not proven to be helpful for
20 people with your condition. Your plan does not cover for unproven services."

21 21. Plaintiff appealed this decision.

22 22. On June 1, 2018, United denied the appeal. United stated that:

23 [T]he clinical information and the peer-reviewed literature do not support
24 the use of the service requested in your type of case. The service requested
is an unproven service under the plan.

25 23. Specialized liposuction is the only effective treatment for the pain,
26 immobility and other problems that result from advanced lipedema. In coming to its
27 "unproven" position, United has ignored clinical evidence and various studies

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