UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MARTIN J. WALSH, Secretary of Labor, United States Department of Labor,	**COMPLAINT FOR ERISA VIOLATIONS**
Plaintiff,	Civil Action No. 21-cv-4519
v.	
UNITED BEHAVIORAL HEALTH and UNITEDHEALTHCARE INSURANCE COMPANY,	
Defendants.	

PRELIMINARY STATEMENT

Plaintiff, Martin J. Walsh, Secretary of Labor, United States Department of Labor (the "Secretary"), alleges as follows:

1. The Secretary brings this action to enjoin and remedy violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, *et seq.* ("ERISA"). Defendants United Behavioral Health ("UBH") and UnitedHealthcare Insurance Company ("UHIC") administer employee health plans under ERISA's jurisdiction.

2. The Mental Health Parity and Addiction Equity Act of 2008 ("MHPAEA"), incorporated as ERISA § 712, 29 U.S.C. § 1185a, prohibits ERISA-covered health plans from imposing treatment limitations on mental health and substance use disorder benefits ("mental health benefits") that are more restrictive than the treatment limitations they impose on medical and surgical (also called "medical/surgical") benefits. This action primarily concerns two separate practices by UBH and UHIC (collectively, "United") that violated MHPAEA.

3. First, United set policies and procedures and adjudicated claims for benefits in such a way that they caused the ERISA-covered health plans they administered to systematically

reimburse participants and beneficiaries for out-of-network mental health services in a more restrictive manner than United reimbursed them for out-of-network medical and surgical services.

4. Second, United imposed a concurrent review program to limit benefits for outpatient mental health benefits in a way that was broader and more aggressive than the programs in place for analogous medical and surgical benefits.

5. In doing so, United violated MHPAEA and also breached its fiduciary duties of loyalty and prudence, as well as its fiduciary duty to administer the plans in accordance with their terms only insofar as those terms are consistent with ERISA. ERISA §§ 404(a)(1)(A), (B), & (D), 29 U.S.C. §§ 1104(a)(1)(A), (B), & (D).

6. As a result of United's violations, many participants and beneficiaries did not receive the mental health benefits to which they were entitled under their ERISA-covered health plans.

7. Accordingly, the Secretary brings the following claims for relief under ERISA §§ 502(a)(2) and (a)(5), 29 U.S.C. §§ 1132(a)(2) & (a)(5).

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1), and general federal question jurisdiction, 28 U.S.C. § 1331.

9. Venue with respect to this action lies in the United States District Court for the Eastern District of New York, pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because, during the relevant period, United administered ERISA-covered health plans within this District, and many of the breaches described herein took place in this District.

PARTIES

10. Plaintiff the Secretary is vested with authority under ERISA §§ 502(a)(2) and (5), 29 U.S.C. § 1132(a)(2) & (5), to enforce Title I of ERISA by, among other things, filing and prosecuting claims against fiduciaries who breach their duties under Title I of ERISA.

11. Defendant UBH provides mental health services to ERISA-covered health plans ("Client Plans"), including managing access to providers of mental health services and products for the participants and beneficiaries of these plans and designing benefits packages for them.

12. The Client Plans, which are not parties to this lawsuit, were welfare plans established by employers to provide health benefits to their employees pursuant to ERISA § 3(1), 29 U.S.C. § 1002(1).

13. At times relevant to this action, UBH was a fiduciary to Client Plans under ERISA § 3(21)(a)(iii), 29 U.S.C. § 1002(21)(a)(iii), because, in implementing a reimbursement reduction on behalf of ERISA-covered plans and causing those plans to reduce the amounts paid to participants and beneficiaries on claims, it exercised discretionary authority or discretionary responsibility in the administration of the ERISA-covered plans for which it managed mental health benefits.

14. At times relevant to this action, UBH was also a fiduciary to Client Plans under ERISA § 3(21)(a)(iii), 29 U.S.C. § 1002(21)(a)(iii), because, in implementing an outlier management program that caused ERISA-covered plans to deny claims for mental health benefits, UBH exercised discretionary authority or discretionary responsibility in the administration of the ERISA-covered plans for which it managed mental health benefits.

15. Defendant UHIC provides services to Client Plans, including claims processing and adjudication.

16. At times relevant to this action, UHIC was a named fiduciary to Client Plans under ERISA § 402(a)(1), 29 U.S.C. § 1102(a)(1), by the terms of the Client Plans' documents.

17. At times relevant to this action, UHIC was also a functional fiduciary to Client Plans under ERISA § 3(21)(a)(iii), 29 U.S.C. § 1002(21)(a)(iii), because, as explained in Client Plans' plan documents, UHIC had exclusive authority and sole and absolute discretion to interpret and to apply the rules of Client Plan and determine claims for Plan benefits and because, in processing claims for mental health benefits for the Client Plans, UHIC exercised discretionary authority or discretionary responsibility in the administration of the Client Plans.

18. UBH and UHIC are both subsidiaries of United Healthcare Group Incorporated ("UHG"), which is not a party to this lawsuit.

GENERAL ALLEGATIONS

19. At all relevant times, and since at least from 2013 until to present, UBH has designed and managed mental health benefits for Client Plans.

20. For the fully-insured Client Plans -- that is, those Plans for which United and its affiliates are responsible for paying claims -- UBH is responsible for and executes plan design and management of mental health benefits.

21. For self-funded Client Plans -- that is, those Plans that, themselves, pay claims -- UBH made recommendations and Client Plans accepted UBH's recommendations respecting plan design and management.

22. For self-funded Client Plans, UBH also reviewed and monitored claims data to track Plans' compliance with MHPAEA.

23. At all relevant times, and since at least 2013 to present, UHIC has served as claims administrator for Client Plans serviced by UBH.

24. UHIC has exclusive authority and sole discretion to interpret and apply the rules of Client Plans and to adjudicate claims for mental health benefits.

25. UHIC relies on the policies set by UBH to adjudicate claims for mental health benefits on behalf of Client Plans.

26. For fully-insured Client Plans, UHIC was responsible for paying claims. Therefore, United and UHG were adversely impacted by higher claims payments.

27. For self-funded Client Plans, United and UHG marketed their fee-based services based on projected costs. Because higher claims payments were less attractive to plan sponsors, United and UHG's ability to attract and retain business was adversely impacted by higher claims payments.

ERISA VIOLATIONS

Out-of-Network Reimbursement Rate Reduction

28. UBH and United Healthcare ("UHC") -- UBH's counterpart for medical/surgical benefits, also a subsidiary of UHG, and, like UHG, not a party to this lawsuit -- have established networks of providers that have agreed to accept their set rates as full payment for treatment and services, and not to seek additional reimbursement from participants and beneficiaries of Client Plans.

29. When participants and beneficiaries of Client Plans visit out-of-network providers, they generally incur out-of-pocket costs and they may demand reimbursements from the Client Plans, subject to terms and rate limits established by UBH and UHC.

30. To set these limits for mental health treatments, UBH started with a third party rate set by Medicare or by an independent vendor such as Fair Health or Viant.

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