

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GENOMIND, INC.
2200 Renaissance Boulevard, Suite 100
King of Prussia, PA 19406

Plaintiff,

v.

UNITEDHEALTH GROUP INC.
9900 Bren Rd E
Minnetonka, MN, 55343-4402,

UNITED HEALTHCARE SERVICES, INC.
9900 Bren Rd E, Ste 300W
Minnetonka, MN, 55343-4402,

UNITED HEALTHCARE INSURANCE
COMPANY
185 Asylum St
Hartford, CT, 06103-3408,

UNITED HEALTHCARE SERVICE LLC
9900 Bren Rd E
Minnetonka, MN 55343,

UNITED BEHAVIORAL HEALTH
425 Market St FL 18
San Francisco, CA, 94105-2532,

UMR, INC.
115 W Wausau Ave
Wausau, WI 54401,

OXFORD HEALTH PLANS, LLC
48 Monroe Tpke
Trumbull, CT, 06611-1341,

OPTUM, INC.
11000 Optum Cir
Eden Prairie, MN, 55344-2503

Defendants.

Civil Action No. _____

COMPLAINT

Plaintiff Genomind, Inc. (“Genomind”), based upon personal knowledge as to itself and its own acts, and information and belief as to all other matters formed after an inquiry reasonable under the circumstances, asserts the following in support of its claims against Defendants UnitedHealth Group Inc. and certain of its subsidiaries (collectively, “United,” “UHC,” or “Defendant”):

INTRODUCTION

1. Plaintiff Genomind is a high-quality and well-recognized genetic laboratory that regularly provides medically necessary genetic testing to patients who are beneficiaries under health insurance plans issued or administered by United (“United Insureds”). Many are governed by the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1001, *et seq.* (“United ERISA Insureds”).

2. Defendant UnitedHealth Group Inc., through its wholly-owned and controlled subsidiaries, including Defendants United HealthCare Services, Inc., United HealthCare Insurance Company, United HealthCare Service LLC, United Behavioral Health, UMR, Inc.,¹ Oxford Health Plans, LLC, and Optum, Inc. (collectively “United,” “UHC,” or “Defendant”), is a fully integrated company that is in the business of insuring and administering commercial health insurance plans (“United Plans”). Many of those plans are governed by ERISA.

3. United administers all United Plans. In that role, United decides what the written terms of the United Plans mean. One way it does so is by interpreting common written plan terms through medical policies, adjudicating claims pursuant to those policies, and then paying resulting claims.

¹ In bringing this action against United, Genomind explicitly is not bringing direct claims against UMR, Inc. (“UMR”), a UnitedHealthcare subsidiary. Genomind’s only claims against UMR, as part of United, is with respect to the ERISA claims relating to the United ERISA Insureds identified herein.

4. As detailed herein, United engaged in a persistent course of conduct in which it misled Genomind concerning coverage that would be, and was, available for services provided by Genomind to patients insured by United Plans.

5. Reasonably relying on United's misrepresentations and other misconduct, Genomind developed an entirely new version of its genetic test and provided genetic testing services with the expectation of being paid by United, only to have United withhold such payment without reasonable basis and then mislead about why claims were not being paid. Through this action, Genomind seeks appropriate legal and equitable remedies.

6. Genomind is further suing United under ERISA, pursuant to patient-executed assignments of benefits, to remedy United's wrongful denial of Genomind's claims.

THE PARTIES

Plaintiff

7. Plaintiff Genomind was founded in 2009 with the vision of bringing personalized medicine to neuropsychiatry. Its business provides a proprietary, saliva-based genetic test that predicts patient response to psychiatric medications. The results allow behavioral health providers to prescribe medications that are properly tailored for their patients' genetic makeup, and are therefore more likely to be efficacious and/or well-tolerated. Genomind is a Pennsylvania corporation, with its executive headquarters and testing facility located in King of Prussia, Pennsylvania.

Defendant

8. Defendant UnitedHealth Group Inc. is a Minnesota corporation with its principal place of business in Minnetonka, Minnesota. It is a fully integrated company that is in the business of insuring and administering commercial health insurance plans. Defendant UnitedHealth Group Inc. operates as, and owns the trademark to, "UnitedHealthcare."

9. Defendants United HealthCare Services, Inc., United HealthCare Insurance Company, United HealthCare Service LLC, United Behavioral Health, UMR, Inc., Oxford Health Plans, LLC, and Optum, Inc. are wholly-owned and controlled subsidiaries of Defendant UnitedHealth Group Inc. UnitedHealthcare's subsidiaries do not operate independently and in their own interests, but serve solely to fulfill the purpose, goals, and policies of UnitedHealth Group Inc.

JURISDICTION AND VENUE

10. Genomind asserts subject matter jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction), 29 U.S.C. § 1132(e) (ERISA), and 28 U.S.C. § 1367 (supplemental jurisdiction, for the state-law claims asserted herein).

11. Venue is appropriate under 28 U.S.C. § 1391(b)(2) because Plaintiff Genomind is headquartered in this District, and Defendant United's misconduct was directed to Genomind in this District. Venue is also appropriate under 28 U.S.C. § 1391(b)(1) and (c)(2) because Genomind's claims arise from United transacting business in this District, with Genomind and certain United Insureds.

FACTUAL ALLEGATIONS

Behavioral Health Background

12. The burden of mental health treatment in this country is massive and growing. According to the National Institute of Mental Health, from 2009 to 2013, mental health expenditures in this country group grew from \$147 billion to more than \$201 billion, as efforts were made to treat the nearly 45 million Americans experiencing mental illness (representing one in six people). It is estimated that depression will represent the number one global health burden by 2030, highlighting the need to provide effective and efficient treatment.

13. The problem that faces the behavioral health community, as well as the health insurance industry, is that treatment is empirical and resource intensive. Finding safe and effective treatment for mental health patients can take months of trial and error, with many patients not responding to the first prescribed medication, and many going through multiple failures lasting 8-12 weeks per trial. At the same time, the side effects can become intolerable, while the patients suffer a diminished quality of life and may become so disillusioned that non-compliance becomes a significant problem.

14. It is generally understood, that genetic variations among patients can render various psychiatric medications ineffective or increase the risk of serious side effects. Being able to identify those variations, therefore, maximizes the possibility that the most appropriate medication will be selected for each patient early in the treatment process. This both reduces adverse consequences if the wrong medication is selected and reduces reliance on the blind trial and error method. Genomind's services address that problem.

Genomind's Services

15. Genomind provides pharmacogenetics testing through its proprietary product, the Genomind® Professional PGx Express™. Prior to August 5, 2019, Genomind's product was known as the Genecept Assay®.² A variation of this product, Genomind® Professional PGx Express™ Core Anxiety and Depression, was created in direct response to discussions with United, as described herein.

16. Genomind tests are performed on the patient's saliva, which is obtained either through a spit sample or from a cheek swab. The saliva samples are taken in the office of the

² The terms the Genomind® Professional PGx Express™ and the Genecept Assay® are used interchangeably in this document.

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