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THE UNITED STATES DISTRICT COURT
 DISTRICT OF UTAH, CENTRAL DIVISION

<p>A.H., and K.H.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>UNITED HEALTHCARE INSURANCE COMPANY, UNITED BEHAVIORAL HEALTH, and the DELTA PILOTS MEDICAL PLAN (DPMP) INCLUDING A NETWORK OPTION AND OUT-OF-AREA (OOA) OPTION</p> <p style="text-align: center;">Defendants.</p>	<p>COMPLAINT</p> <p>Case No. 1:22-cv-00081 - DBP</p>
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Plaintiffs A.H. and K.H. (“K.H.”), through their undersigned counsel, complain and allege against Defendants, United Healthcare Insurance Company (“UHC”), United Behavioral Health (“UBH”) (collectively “United”) and the Delta Pilots Medical Plan (DPMP) Including a Network Option and Out-of-Area (OOA) Option (“the Plan”) (collectively “Defendants”) as follows:

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PARTIES, JURISDICTION AND VENUE

1. A.H. and K.H. are natural persons residing in Pinellas County, Florida. A.H. is K.H.’s father.
2. United is an insurance company headquartered in Hennepin County, Minnesota and was the insurer and claims administrator, as well as the fiduciary under ERISA for the Plan during the treatment at issue in this case.
3. The Plan is a self-funded employee welfare benefits plan under 29 U.S.C. §1001 *et. seq.*, the Employee Retirement Income Security Act of 1974 (“ERISA”). A.H. was a participant in the Plan and K.H. was a beneficiary of the Plan at all relevant times. A.H. and K.H. continue to be participants and beneficiaries of the Plan.
4. K.H. received medical care and treatment at Uinta Academy (“Uinta”) from October 22, 2019, to December 27, 2020. Uinta is a licensed treatment facility located in Cache County, Utah, which provides sub-acute inpatient treatment to adolescents with mental health, behavioral, and/or substance abuse problems.
5. UHC, acting in its own capacity or through its subsidiary and affiliate United Behavioral Health (“UBH”), denied claims for payment of K.H.’s medical expenses in connection with her treatment at Uinta.
6. This Court has jurisdiction over this case under 29 U.S.C. §1132(e)(1) and 28 U.S.C. §1331.
7. Venue is appropriate under 29 U.S.C. §1132(e)(2) and 28 U.S.C. §1391(c) based on ERISA’s nationwide service of process and venue provisions, because United does business in Utah, has a claims processing facility in Salt Lake City where the appeals in this case were sent, and the Plan has many participants and beneficiaries living in Utah.

8. In addition, A.H. has been informed and reasonably believes that litigating the case outside Utah will likely lead to substantially increased litigation costs for which he will be responsible to pay, which would not be incurred if venue of the case remains in Utah. Finally, in light of the sensitive nature of the medical treatment at issue, it is the Plaintiffs' desire that the case be resolved in the State of Utah where it is more likely their privacy will be preserved.
9. The remedies the Plaintiffs seek under the terms of ERISA and under the Plan are for the benefits due under the terms of the Plan, and pursuant to 29 U.S.C. §1132(a)(1)(B), for appropriate equitable relief under 29 U.S.C. §1132(a)(3) based on the Defendants' violation of the Mental Health Parity and Addiction Equity Act of 2008 ("MHPAEA"), an award of prejudgment interest, and an award of attorney fees and costs pursuant to 29 U.S.C. §1132(g).

BACKGROUND FACTS

K.H.'s Developmental History and Medical Background

10. K.H. was born by emergency cesarian section due to a dangerous pregnancy and induced hypertension, leading to pre-eclampsia.
11. K.H. swallowed fluid upon delivery and spent several days in the NICU.
12. K.H. would cry inconsolably for hours every day as an infant and suffered from acute acid reflux.
13. K.H. developed quickly, despite her pre-mature birth. She had to sleep in a toddler bed before her first birthday because she could already remove herself from her crib and it was unsafe.
14. As a child, K.H. was high energy, imaginative, outgoing, and strong willed.

15. K.H. seemed unaware of how her peers would perceive her and was very bossy as a child. She had bouts of defiance against teachers and was sometimes aggressive with other children if she did not get her way.
16. K.H. was diagnosed with ADHD and Oppositional Defiant Disorder at the age of five.
17. K.H.'s parents brought her to a play therapist and eventually tried medication to help K. with her mental health diagnosis.
18. K.H. did not react well to her medications. At best, some medications would work for a short period of time and then become ineffective.
19. As K.H. grew older, her teachers would constantly reprimand her for not following the rules and K.H. started to lose her self-esteem at a young age.
20. K. could work well with a younger friend who she would lead, or with an older friend who she could follow, but K.H. had a hard time making friends with her peers as she did not handle undefined roles well.
21. By the time K.H. was seven, her parents moved her from Dallas to Houston so that she could be closer to her biological father's family. Being close to this extended family gave K.H. the increased structure and support that she needed.
22. A few weeks after K.H.'s tenth birthday, K.H.'s biological father died in a car accident while on a work trip.
23. K.H. and her mother entered a grief program and K.H. started to see a private grief counselor bi-weekly.
24. K.H.'s mother had to start working after the loss of K.H.'s biological father which led to K.H.'s mother needing to hire a nanny due to the increased work travel.

25. K.H. and her mother found a nanny who worked well, and after some time, that nanny quit unexpectedly.
26. About this same time, K.H.'s grandparents stopped returning K.H.'s calls and they phased K.H. out of their lives.
27. When K.H. was twelve, K.H.'s mother met A.H. and they eventually moved to Florida and got married. K.H. asked A.H. to adopt her, and K.H. was excited to have a sister and a new father figure.
28. A.H.'s ex-wife phased A.H.'s daughter out of K.H.'s life and K.H. quickly lost the sister she was excited to have.
29. Between the ages of ten and twelve, K.H.'s grades started to slip dramatically, and she started showing signs of depression.
30. K.H.'s parents started to find indications of self-harm such as cut marks on her arms and legs around this time.
31. K.H. started to steal from her friends and family and would seem overly remorseful after she was caught.
32. In 2016 and 2017, K.H.'s parents had her reevaluated and K.H. was then diagnosed with Attention Deficit Hyperactivity Disorder – Combined Type, Disruptive Mood Dysregulation Disorder, Unspecified Depressive Disorder, and Oppositional Defiant Disorder.
33. K.H.'s parents worked with the school district to get a 504 plan in place but eventually, it became evident that K.H. needed a more structured environment.
34. K.H.'s parents enrolled her into the Admiral Farragut Academy and they all moved across the state to be with K.H. in this new school.

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