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THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

MARK Z., and M.Z., Plaintiffs, vs. PRIORITY HEALTH MANAGED BENEFITS, INC., and the MICHIGAN DENTAL ASSOCIATION HEALTH PLAN, Defendants.	COMPLAINT Case No. 2:21-cv-00650 - JNP
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Plaintiffs Mark Z. (“Mark”), and M.Z. through their undersigned counsel, complain and allege against Defendants Priority Health Managed Benefits, Inc. (“PHMB”) and the Michigan Dental Association Health Plan (“the Plan”) as follows:

PARTIES, JURISDICTION AND VENUE

1. Mark and M.Z. are natural persons residing in Washtenaw County, Michigan. Mark is M.Z.’s father.
2. PHMB is a third-party administration company and was the claims administrator 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”). Mark was a participant in the Plan and M.Z. was a beneficiary of the Plan at all relevant times.
4. M.Z. received medical care and treatment at Evoke at Entrada (“Evoke”) from July 20, 2018 to October 23, 2018, and Vista Sage (“Vista”) from October 24, 2018 to May 9, 2019. Evoke is a licensed wilderness therapy program located in Utah which provides sub-acute short-term stabilization and assessment for adolescents with mental health, behavioral, and/or substance abuse problems. Vista is a licensed residential treatment program, also located in Utah. Vista provides sub-acute inpatient treatment for adolescent girls with mental health, behavioral, and/or substance abuse problems.
5. PHMB, acting as agent and claims administrator for the Plan, denied claims for payment of M.Z.’s medical expenses in connection with her treatment at Evoke and Vista. This lawsuit is brought to obtain the Court’s order requiring the Plan to reimburse Mark for the medical expenses he incurred and paid for M.Z.’s treatment.
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 the Plan provides coverage for treatment received throughout the United States and the treatment at issue took place in Utah. In addition, venue in Utah will save the Plaintiffs costs in litigating this case. In addition, 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.

8. 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

M.Z.'s Developmental History and Medical Background

9. M.Z. was adopted at birth and was in the neonatal intensive care unit for a week before Mark and his wife, Paula, took her home. M.Z.'s birth father had a history of schizophrenia, bipolar disorder, and depression. M.Z.'s birth mother had a history of seizures and anxiety.
10. M.Z. was an active child and, although she interacted with other children she preferred the company of adults. She began speech therapy at three years of age when she started pre-school. M.Z. had difficulty identifying social cues and assisting her with that difficulty was added to her therapy.
11. M.Z. was struggling with completing her school work as early as second grade, and Mark and Paula sought an evaluation from their pediatrician. He diagnosed M.Z. with attention deficit/hyperactivity disorder ("ADHD") and M.Z. started taking medication for that condition.
12. Approximately one year later, a second assessment was done and M.Z. was also diagnosed with anxiety and depression. An Individualized Education Plan ("IEP") was

developed for M.Z. to assist her in school. She was being bullied, was acting out, and had poor peer relationships.

13. When she was in sixth grade, M.Z. was having difficulty sleeping and was diagnosed with sleep apnea. She began engaging in self-harm behavior (cutting), and she started seeing a psychiatrist. She was prescribed medication to address her depression, anxiety, ADHD and impulsivity.
14. Mark and Paula moved M.Z. to a new middle school because of the bullying she had been experiencing, but her self-harm continued. M.Z. began experimenting with drugs and alcohol. She was also engaging in risky sexual behaviors.
15. When M.Z. was sixteen, her doctor recommended participation in an outpatient adolescent treatment program, but the program failed to improve M.Z.'s conditions.
16. After M.Z.'s friends became aware that she was cutting herself, they called the police, who came to the family's home to investigate. M.Z. had started a partial hospitalization program a few days prior to the incident and continued in that program.
17. M.Z. had to do community service and school detention after she was caught with cigarettes at school.
18. On M.Z.'s seventeenth birthday, she was caught stealing money and gift cards from a fellow track team member. She was kicked off the team and was suspended from school for four days.
19. On one occasion when the family was preparing to leave for vacation, M.Z. had a severe panic attack. She begged to be allowed to stay behind with a friend's family. However, during her parents' absence, M.Z. continued using drugs and alcohol and was not staying

where she was supposed to be staying. When Mark and Paula got home, they discovered that M.Z. had a warrant for her arrest due to prior instances of theft.

20. Mark and Paula were gravely concerned with the deterioration of M.Z.'s condition and sought advice from her psychiatrist and an educational consultant who recommended that she receive treatment at Evoke.

21. M.Z. did well at Evoke and her conditions stabilized. Her therapist at Evoke recommended an updated psychological assessment. As a result of the assessment, M.Z. was diagnosed with:

F43.20 Attachment Disorder
F33.1 Major Depressive Disorder, recurrent, moderate, anxious distress
F41.1 Generalized Anxiety Disorder
Borderline Personality Disorder
F12.20 Cannabis Use Disorder, in early remission in a controlled environment, severe
Sedative, Hypnotic, or Anxiolytic Use Disorder, in sustained remission in a controlled environment, severe
F90.0 Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive Type
Z62.820 Parent-Child Relational Problem

22. Staff at Evoke strongly recommended ongoing residential treatment for M.Z. following her discharge from the program at Evoke.

Evoke Claims and Appeal

23. M.Z. was admitted at Evoke on July 20, 2018, and was discharged on October 23, 2018. Claims were submitted to PHMB for coverage and payment of the expenses associated with M.Z.'s treatment at Evoke. On January 11, 2019, PHMB wrote and denied coverage on the basis that wilderness therapy programs were not a covered benefit under the terms of the Plan.
24. Mark and Paula appealed the denial of coverage on March 29, 2019. They alerted PHMB to its responsibilities under ERISA including the necessity to provide them with a full and

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