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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

<p>PETER P., individually and on behalf of B.P., a minor,  Plaintiffs,  vs.  UNITED HEALTHCARE INSURANCE COMPANY OF ILLINOIS, UNITED BEHAVIORAL HEALTH/OPTUM, and the STAT ANESTHESIA SPECIALISTS, LTD MEDICAL BENEFIT PLAN,  Defendants.</p>	<p>COMPLAINT  Civil No. 4:21-cv-00093-DN</p>
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Plaintiff Peter P. (“Peter”), individually and on behalf of B.P., a minor, through his undersigned counsel, complains and alleges against Defendants United HealthCare Insurance Company of Illinois and United Behavioral Health/OPTUM (collectively “UBH”) and the Stat Anesthesia Specialists, LTD Medical Benefit Plan (“the Plan”) as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Peter P. (“Peter”) and B.P. (“B.”) are natural persons residing in Will County, Illinois.

Peter is B.’s father.

2. United HealthCare Insurance Company is an insurance company doing business in Utah and throughout the United States and was the claims administrator as well as the fiduciary under ERISA for the Plan during the treatment at issue in this case.
3. United Behavioral Health/OPTUM is an affiliate company specializing in mental health claims and handled the processing of the claims at issue in this case and was the entity responsible for the appeals process in this case.
4. 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”). Peter was a participant in the Plan and B. was a beneficiary of the Plan at all relevant times.
5. B. received medical care and treatment at Turn About Ranch, Inc. (“TAR”) from August 8, 2018 to November 30, 2018. TAR is a licensed residential treatment facility located in Utah, which provides sub-acute inpatient treatment to adolescents with mental health, behavioral, and/or substance abuse problems.
6. United HealthCare Insurance Company, acting in its own capacity or through its subsidiary and affiliate (“UBH”) (or under the brand name Optum), denied claims for payment of B.’s medical expenses in connection with her treatment at TAR. This lawsuit is brought to obtain the Court’s order requiring the Plan to reimburse Peter for the medical expenses he has incurred and paid for B’s treatment.
7. This Court has jurisdiction over this case under 29 U.S.C. §1132(e)(1) and 28 U.S.C. §1331.
8. 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 UBH does business in Utah and the treatment at issue took place in Utah. In addition, venue in Utah

will save the Plaintiffs costs in litigating this case. 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**

#### **B.'s Developmental History and Medical Background**

10. B. was strong willed and aggressive from early childhood. She began exhibiting violent behaviors at a young age and had difficulty keeping friends. Her assaults on her brother prompted Peter and his wife to seek therapy for her when she was eight years old. She was also physically aggressive to her parents.
11. When B. was ten years old, she was moved to a private Catholic school in hopes that more rigid rules and expectations would rein in some of her aggressive tendencies. They also sought help from a new therapist and although B. received therapy for two more years, there was little progress.
12. Peter and his wife continued to struggle with B.'s defiance. B. also began showing symptoms of depression. She lacked empathy and would laugh at inappropriate events. She was drinking alcohol and engaging in unsafe sexual activity.

13. The family again sought a new therapist and B. was diagnosed with Borderline Personality Disorder with histrionic traits, Major Depressive Disorder, and Persistent Depressive Disorder with anxious distress.
14. B.'s condition continued to deteriorate and she was isolated, extremely anxious, and was engaging in self-harm. Psychiatric medications were prescribed but B. was constantly nauseated and irritable when taking the medications and did not appear to be getting any benefit from taking them.
15. In February of 2018, B. was admitted to the hospital with suicidal ideation.
16. B.'s therapist recommended residential treatment as he believed her to be a danger to herself and others.
17. B. was admitted to TAR on August 8, 2018.
18. A psychiatric assessment was completed prior to B.'s admission and residential treatment was determined to be appropriate for her based on:
  - Severe Individual Intra-psychic Disorder (mental, emotional and behavioral)
  - Serious Developmental Disturbances
  - Significant Disturbances in Environmental Relationships
19. A Master Treatment Plan was created for B.'s stay at TAR which identified areas of concern and proposed specific treatment strategies for addressing each area.
20. B. worked very hard during her treatment at TAR and although her progress was slow, she made steady gains in managing her moods, taking responsibility, and developing coping skills.

### **The Appeal**

21. Claims were submitted to UBH for coverage and payment of B.'s treatment at TAR.

22. On August 28, 2018, UBH wrote to TAR and denied coverage for B.’s treatment on the basis that “[t]he facility does not meet service expectations of your benefit plan,” and asserted that B.’s conditions did not meet the UBH Level of Care Guidelines for the Mental Health Residential Center Level of Care (“Guidelines”).

23. Peter appealed the denial in a letter dated January 30, 2019. First, Peter outlined the requirements of ERISA in connection with the appeal process. Among other things, ERISA and its regulations require that all information submitted by a claimant be taken into consideration in evaluating an appeal. Peter argued that in order to understand B.’s conditions and the necessity of her treatment at TAR, it was critical that UBH include *all* of the information he provided with his appeal.

24. Second, Peter discussed the requirements of MHPAEA. He noted that TAR was both a licensed residential treatment facility in the State of Utah and is a CARF certified treatment program. He referred to the definition of residential treatment found in his Plan and argued that TAR clearly met the definition.

25. Peter argued that UBH was imposing limitations on claims for coverage for treatment of mental health conditions that were more restrictive than those for other types of intermediate care, a violation of MHPAEA.

26. Peter then proceeded to discuss B.’s developmental background, the many instances of failed treatment at lower levels of care, and the recommendation of B.’s treating therapist, a psychologist, for residential treatment.

27. Peter cited to therapy notes from B.’s treatment at TAR which demonstrate the medical necessity of her admission at TAR and her ongoing need for residential treatment during her stay at TAR.

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