

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

WIT, *et al.*, Plaintiffs

v.

UNITED BEHAVIORAL HEALTH
(operating as OPTUMHEALTH
BEHAVIORAL SOLUTIONS), Defendant

Civil Action No. 3:14-cv-02346-JCS

NOTICE OF NON-CLASS MEMBERSHIP

TO: Any member of a health benefit plan governed by ERISA whose request for coverage of residential treatment services for a mental illness or substance disorder was denied by UBH between May 22, 2011 and June 1, 2017, based solely on any ground other than application of UBH's Level of Care Guidelines or UBH's Coverage Determination Guidelines, who (a) did not file an administrative appeal of such denial; (b) appealed such denial and received all benefits sought; or (c) appealed such denial and was again denied coverage at the administrative level of appeal based solely on any ground other than application of UBH's Level of Care Guidelines or UBH's Coverage Determination Guidelines; and to whom a Notice of Pendency of this Action was previously sent.

A federal court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY

1. Purpose of this Notice

The Court has ordered this Notice be sent to you to let you know that, although you previously received a Notice of Pendency of this Action, you are not a member of the Class as defined by the Court. This Notice may affect your legal rights.

2. Who is Affected by this Change?

This Notice applies to you if all of the following are met:

- You sought coverage for residential treatment services for a mental illness or substance use disorder; and
- UBH denied your request for coverage between May 22, 2011 and June 1, 2017 on any ground other than application of UBH's Level of Care Guidelines or UBH's Coverage Determination Guidelines; and
- You did not subsequently receive a denial of coverage based, in whole or in part, on UBH's Level of Care Guidelines or UBH's Coverage Determination Guidelines; and
- A Notice of Pendency of this Action was previously sent to you.

3. About the Lawsuit

This is a civil lawsuit filed in the United States District Court for the Northern District of California, alleging that defendant United Behavioral Health, or “UBH” (operating as OptumHealth Behavioral Solutions), violated ERISA and certain state laws by developing and applying internal guidelines that were inconsistent with the terms of the class members’ health insurance plans.

On September 19, 2016, the Court ruled that the case should be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure and certified two Classes: the *Wit* Guidelines Class and the *Wit* State Mandate Class. Following a trial in October 2017, the Court ruled in Plaintiffs’ favor on March 5, 2019. The Court’s merits ruling defined the *Wit* Guidelines Class as follows:

Any member of a health benefit plan governed by ERISA whose request for coverage of residential treatment services for a mental illness or substance disorder was denied by UBH, in whole or in part, between May 22, 2011 and June 1, 2017, based upon UBH’s Level of Care Guidelines or UBH’s Coverage Determination Guidelines. The *Wit* Guideline Class excludes members of the *Wit* State Mandate Class defined below.

The Court’s March 5, 2019 ruling defined the *Wit* State Mandate Class as follows:

Any member of a fully-insured health benefit plan governed by both ERISA and the state law of Connecticut, Illinois, Rhode Island, or Texas, whose request for coverage of residential treatment services for a substance use disorder was denied by UBH, in whole or in part, within the Class period, based upon UBH’s Level of Care Guidelines or UBH’s Coverage Determination Guidelines, and not upon the level-of-care criteria mandated by the applicable state law. With respect to plans governed by Texas law, the *Wit* State Mandate Class includes only denials of requests for coverage of substance use disorder services that were sought or received in Texas. The Class period for the *Wit* State Mandate Class includes denials governed by Texas law that occurred between May 22, 2011 and June 1, 2017, denials governed by Illinois law that occurred between August 18, 2011 and [January 1, 2016], denials governed by Connecticut law that occurred between October 1, 2013 and June 1, 2017, and denials governed by Rhode Island law that occurred between July 10, 2015 and June 1, 2017.

4. Why You are Receiving this Notice and How your Legal Rights Are Affected

In order to be a member of the Classes as defined above, among other things, a person must have been denied coverage based, in whole or in part, on UBH’s Level of Care Guidelines or UBH’s Coverage Determination Guidelines. UBH’s records show that you did not receive such a denial. Therefore, notwithstanding the Notice of Pendency you received, you are not, in fact, a class member in this lawsuit and your individual rights and claims are not being addressed or represented in this lawsuit.

Nothing in this Notice is an expression by the Court as to the merits of any claim(s) you may assert. This Notice is intended merely to advise affected individuals that they are ineligible for Class membership.

If you believe that UBH violated the law in connection with its determination of your benefit claim, you may still be able to file an individual claim or lawsuit against United Behavioral Health on your own. You should be aware that any such claim may be subject to a statute of limitations.

5. Additional Information and Inquiries

Additional information about the Action, including copies of the Court's merits ruling and decertification order, is available on the internet at: www.UBHGuidelinesClassAction.com.

The pleadings and other papers filed in the lawsuit are also available for inspection during business hours at the United States District Court, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102.

Any questions you have concerning the matters contained in this Notice should be directed to Plaintiffs' Counsel or the Notice Administrator. **DO NOT CALL THE COURT OR UNITED BEHAVIORAL HEALTH.**

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