

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 PARTIAL DECERTIFICATION OF CLASS ACTION

TO: Any member of a health benefit plan governed by the Employee Retirement Income Security Act (“ERISA”) whose request for coverage of residential treatment services for a mental illness or substance use disorder was denied by United Behavioral Health (“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, and was not subsequently approved in full, following an administrative appeal.

YOU ARE NOT BEING SUED.

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

PLEASE READ THIS ENTIRE NOTICE CAREFULLY.

YOU MAY NEED TO ACT QUICKLY TO PROTECT YOUR LEGAL RIGHTS.

1. Purpose of this Notice

You were previously sent a Notice of Pendency informing you that a Class had been certified in this lawsuit, and that you may be a member of the Class. You were given an opportunity to opt out of Class membership. If you did not opt out, you are still a member of the Class. The Court has ordered this Notice be sent to you to let you know that a change to the Class Certification Order may affect your legal rights.

2. 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 (operating as OptumHealth Behavioral Solutions), violated ERISA and certain state laws by developing, adopting, and/or applying its Level of Care Guidelines and Coverage Determination Guidelines to the Class members’ requests for coverage of residential treatment for their mental health conditions and/or substance use disorders. The Plaintiffs alleged two legal claims:

(1) **The Breach of Fiduciary Duty Claim:** Plaintiffs alleged (a) that UBH breached its fiduciary duty of loyalty by developing and adopting Guidelines to serve its own interests, rather than the interests of the Class members; (b) that UBH breached its fiduciary duty of care by failing to use due care, skill, and prudence to develop its Guidelines; and (c) that UBH breached its fiduciary duty to adhere to plan terms by using Guidelines that were more restrictive than generally accepted standards of care to deny the Class members’ requests for coverage; and

(2) **The Denial of Benefits Claim:** Plaintiffs alleged that UBH wrongfully denied the Class members’ claims for benefits for residential treatment because its Guidelines were inconsistent with certain terms of the Class members’ health plans and/or applicable state law.

On September 19, 2016, the District 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”—to pursue both the Breach of Fiduciary Duty Claim and the Denial of Benefits Claim. After a trial, the District Court ruled in Plaintiffs’ favor on both claims, and UBH appealed from the judgment.

On August 22, 2023, the United States Court of Appeals for the Ninth Circuit (the “Appeals Court”) held, among other things, that the District Court made a mistake in certifying the Denial of Benefits Claim for class treatment, and that the District Court’s ruling on the Breach of Fiduciary Duty Claim was also mistaken to the extent it was based on the same error. The Appeals Court then returned the case to the District Court for further proceedings.

On September 4, 2024, the Appeals Court further ruled that the Denial of Benefits Claim is not subject to any further litigation in this case; the Plaintiffs would not be allowed to seek to certify a new or different class for the Denial of Benefits Claim; and judgment must be entered in favor of UBH and against the individual named Plaintiffs on the Denial of Benefits Claim.

After the Appeals Court returned the case to the District Court, the District Court reinstated its prior ruling that UBH breached its fiduciary duties of loyalty and care. Following the Appeals Court’s decisions, the District Court also ruled that judgment must be entered in favor of UBH and against Plaintiffs and the Class on the claim that UBH breached its duty to adhere to plan terms.

3. What has Changed

The Appeals Court’s and District Court’s rulings mean that the Class members’ Denial of Benefits Claims are no longer part of this case, and their individual rights relating to that claim are no longer being addressed or represented in this lawsuit. This result is called a “partial decertification” of the Classes in this case.

On October 27, 2023, the District Court issued an order staying decertification of the Denial of Benefits Claim until 120 days after this Notice of Partial Class Decertification is sent to the Class.

4. How Your Legal Rights May Be Affected

The partial decertification ruling means that you may file your own lawsuit to assert a Denial of Benefits Claim against United Behavioral Health. If you wish to bring such a claim, you should be aware that **you may have a limited amount of time** in which to do so before the statute of limitations bars your claim.

The Court stayed the partial decertification ruling until **120 days** after this Notice is sent. This means that, 120 days after this Notice is mailed, the statute of limitations on your individual claim(s), if any, will resume running (or begin to run). You may have only a short amount of time after that to file your lawsuit before it is barred.

Nothing in this Notice is an expression by the Court as to the merits of any individual’s Denial of Benefits Claim(s). This Notice is intended only to advise you of the partial decertification of the Class and status of the case. If you believe you may wish to file your own Denial of Benefits Claim, **you should consult with an attorney as soon as possible**.

Because the Breach of Fiduciary Duty claim was not decertified, and judgment on the merits of that claim will be entered in this case, **you will be precluded in the future from bringing your own lawsuit to assert the same Breach of Fiduciary Duty claim against UBH**.

5. Status of the Breach of Fiduciary Duty Claim and Remedies

As explained in Section 2 above, judgment will be entered in this case: (1) in favor of Plaintiffs and the Class on the Breach of Fiduciary Duty Claims that UBH breached its duties of loyalty and care; and (2) against Plaintiffs and the Class on the Breach of Fiduciary Duty Claim that UBH breached its duty to comply with plan terms.

On February 3, 2026, the District Court issued an Amended Remedies Order awarding declaratory and injunctive relief to the Classes for UBH’s breaches of its fiduciary duties of loyalty and care. The Amended Remedies Order provides, among other things, that:

- UBH is not allowed to use the Guidelines that were at issue in this case to implement any ERISA plan’s requirement that services must be consistent with generally accepted standards of care; and
- For the next five years, if UBH adopts criteria to implement any ERISA plan’s requirement that services must be consistent with generally accepted standards of care, those criteria must accurately reflect generally accepted standards of care, as established by the District Court and state law.

The full Amended Remedies Order is available on the class action website at www.UBHGuidelinesClassAction.com.

6. Full Definitions of the Certified Classes

The *Wit* Guidelines Class is defined 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 use 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, and was not subsequently approved in full, following an administrative appeal.

The *Wit* Guideline Class excludes members of the *Wit* State Mandate Class, as defined below.

In addition, with respect to remedies awarded under Rule 23(b)(3) of the Federal Rules of Civil Procedure only, the *Wit* Guideline Class excludes individuals who meet the requirement set forth in the first sentence of the Class definition based only upon a denial at the administrative appeal level of UBH's coverage determination process and: 1) to whom an individual notice of this action was not sent; and 2) who did not receive actual notice of this action before the applicable deadline to opt out of the Class from the website maintained by Plaintiffs' counsel as part of the official notice plan approved by the Court.

The *Wit* State Mandate Class is defined 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, and was not subsequently approved, in full, following an administrative appeal; except that with respect to remedies awarded under Rule 23(b)(3) of the Federal Rules of Civil Procedure only, the *Wit* State Mandate Class excludes individuals who meet the requirement set forth in the previous sentence based only upon a denial at the administrative appeal level of UBH's coverage determination process and: 1) to whom an individual notice of this action was not sent; and 2) who did not receive actual notice of this action before the applicable deadline to opt out of the Class from the website maintained by Plaintiffs' counsel as part of the official notice plan approved by the Court.

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.

7. Additional Information and Inquiries

Additional information about the lawsuit, including copies of the District Court's merits rulings, amended remedies order, and decertification order, along with the Appeals Court's ruling, 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 ABOUT THIS LAWSUIT OR THE ISSUES ADDRESSED IN THIS NOTICE.** However, you are free to contact United Behavioral Health about other issues relating to your insurance or other health benefit coverage that are not related to this lawsuit or this Notice.

Plaintiffs' Counsel:

Caroline E. Reynolds
Jason S. Cowart
ZUCKERMAN SPAEDER LLP
2100 L Street NW, Suite 400
Washington, DC 20037
Tel: (202) 778-1800

Meiram Bendat
PSYCH-APPEAL, INC.
7 West Figueroa Street, Suite 300
Santa Barbara, CA 93101
Tel: (310) 598-3690 x.101

Notice Administrator: *UBH Guidelines Class Litigation*

c/o A.B. DATA, LTD.
P.O. Box 173116
Milwaukee, WI 53217
Tel: (877) 884-3642