

# EXHIBIT 12

**NOTICE OF REMEDY – *Alexander* GUIDELINE CLASS**

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

*ALEXANDER, et al.*, Plaintiffs

v.

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

Civil Action No. 3:14-cv-05337-JCS

**NOTICE OF RELIEF AWARDED IN CLASS ACTION**

**TO:** Any member of a health benefit plan governed by the Employee Retirement Income Security Act (“ERISA”), whose request for coverage of outpatient or intensive outpatient services for a mental illness or substance use disorder was denied by United Behavioral Health (“UBH”), in whole or in part, between December 4, 2011 and June 1, 2017 (“Class Period”), 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.

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

**PLEASE READ THIS NOTICE CAREFULLY – YOUR RIGHTS MAY BE  
AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT**

Additional copies of this Notice may be found on the internet at: [www.UBHGuidelinesClassAction.com](http://www.UBHGuidelinesClassAction.com).

**1. Why did I receive this notice, and why should I read it?**

You are receiving this Notice because your rights may be affected by a class action lawsuit regarding your request for insurance coverage of outpatient or intensive outpatient services for a mental illness or substance use disorder. The federal court in San Francisco, California (the “Court”) has entered a remedies order and judgment in favor of Plaintiffs and the Class they represent. The Court has ruled that when UBH developed and used its Level of Care Guidelines and Coverage Determination Guidelines (together, the “Guidelines”), UBH breached its duties to the Class members and violated federal law. The Court has ordered UBH, among other things, to reprocess each of the Class member’s requests for coverage of outpatient or intensive outpatient services, during the Class Period, that UBH denied, in whole or in part, based on its Guidelines.

If you are a member of the Class, UBH will reprocess your request(s) for coverage denied during the Class Period. As explained below, you also have the right to submit additional information to UBH before it reprocesses your request(s) for coverage. You also are entitled to other relief, described below.

**2. What has the Court ruled?**

This is a civil lawsuit that was filed in 2014 in the United States District Court for the Northern District of California against United Behavioral Health (operating as OptumHealth Behavioral Solutions). On September 19, 2016, the Court appointed Gary Alexander, Corinna Klein, David Haffner, and Michael Driscoll as Class Representatives for the *Alexander* Guideline Class.

In March 2019, the Court ruled, among other things, that UBH had violated ERISA, a federal statute, in two ways: (1) by creating and adopting coverage criteria (its Guidelines) for its use in adjudicating claims for insurance benefits for outpatient or intensive outpatient of a mental illness or substance use disorder, that were more restrictive than generally accepted standards of care and the terms of the Class members’ insurance plans, and thereby breaching the fiduciary duties UBH owed to the Class members; and (2) by using its Guidelines to deny the Class members’ claims for benefits

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for outpatient or intensive outpatient for a mental illness or substance use disorder, which made the denials unreasonable and an abuse of discretion.

In November 2020, the Court issued its order granting relief to the Class to remedy UBH's violations of ERISA. The Court has: (a) issued a declaratory judgment that, among other things, UBH's Guidelines are inconsistent with generally accepted standards of care; (b) ordered UBH to adopt and use guidelines that are consistent with generally accepted standards of care, specifically The American Society of Addiction Medicine Criteria (the ASAM Criteria), the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS), the Child and Adolescent Service Intensity Instrument (CASII), and the Early Childhood Service Intensity Instrument (ECSII); (c) ordered UBH to reprocess the Class members' claims for benefits using these third-party guidelines; (d) mandated that UBH adopt training protocols to ensure its employees and executives are adequately trained on these third-party guidelines and UBH's duties under ERISA; (e) imposed an injunction requiring these reforms; and (f) appointed a Special Master to oversee reprocessing and the injunctive remedies.

**3. Who is a Class member?**

By Order dated September 19, 2016, as amended on March 9, 2017 and November 3, 2020, the Court certified the following class of plaintiffs in this case:

The "***Alexander* Guideline Class**," which includes:

Any member of a health benefit plan governed by ERISA whose request for coverage of outpatient or intensive outpatient 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 Alexander Guideline Class excludes any member of a fully insured plan governed by both ERISA and the state law of Connecticut, Illinois, Rhode Island, or Texas, whose request for coverage of intensive outpatient treatment or outpatient treatment was related to a substance use disorder, except that the Alexander Guideline Class includes members of plans governed by the state law of Texas who were denied coverage of substance use disorder services sought or provided outside of Texas. In addition, with respect to the remedies awarded under Rule 23(b)(3) of the Federal Rules of Civil Procedure only, the Alexander 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 Plaintiff's counsel as part of the official notice plan approved by the Court.

If you have questions about whether you are a member of the *Alexander* Guidelines Class, you may contact the Class Notice Administrator or Class Counsel. See paragraph 18, below.

**4. UBH initially denied my request for coverage, but then I successfully appealed the denial and received all the benefits I had originally requested. Am I class member?**

No. The *Alexander* Guidelines Class excludes anyone whose request for coverage was subsequently approved, in full, following an administrative appeal. If you have questions about whether you are a member of the *Alexander* Guidelines Class, you may contact the Class Notice Administrator or Class Counsel. See paragraph 18, below.

**5. UBH initially denied my request for coverage based on a reason other than its Guidelines. I appealed the denial, and UBH denied coverage again, but this time it cited its Guidelines as a reason for the denial. I did not receive any prior notice of this lawsuit and I did not learn about the lawsuit before July 27, 2017. Am I a class member?**

No. The *Alexander* Guidelines Class excludes anyone whose Guideline-based denial was at the administrative appeal level of review only, and who did not receive actual notice of this lawsuit before the June 27, 2020 deadline to opt out of the class. If you have questions about whether you are a member of the *Alexander* Guidelines Class, you may contact the Class Notice Administrator or Class Counsel. See paragraph 18, below.

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The Class Representatives and Plaintiffs' Counsel represent the *Alexander* Guideline Class and all of the Class members. The Court appointed three law firms as Plaintiffs' Counsel to represent the classes in this case. These firms are Zuckerman Spaeder LLP, 1800 M Street NW, Washington, D.C., 20036; Psych-Appeal, Inc., 8560 West Sunset Boulevard, Suite 500, West Hollywood, CA 90069; and The Maul Firm, 101 Broadway, Suite 3A, Oakland, CA 94607. Further information about this case may be obtained from these firms at [www.zuckerman.com](http://www.zuckerman.com) or [www.psych-appeal.com](http://www.psych-appeal.com). You may also contact Plaintiffs' Counsel at (202) 778-1800 or (310) 598-3690.

Plaintiffs' Counsel agreed to pursue this lawsuit on a contingent-fee basis. The Court will determine whether UBH must pay Plaintiffs' attorneys' fees and expenses. Class members will not have to separately pay anything to Plaintiffs' Counsel.

**7. What does it mean that the Class members' denials will be "reprocessed"?**

If UBH denied some or all of a request for coverage of outpatient or intensive outpatient services for a mental illness or substance use disorder between May 22, 2011 and June 1, 2017, and did so based in whole or in part upon UBH's Level of Care Guidelines or UBH's Coverage Determination Guidelines, UBH must reconsider those requests for coverage in a manner consistent with the Court's Findings of Fact and Conclusions of Law and the Court's Remedies Order, subject to a number of Court-ordered rules, restrictions and prohibitions summarized below, and under the oversight of a Special Master.

**8. May Class members submit additional evidence to UBH?**

Yes. Each Class member and their healthcare providers may (but are not required to) submit to UBH additional evidence relevant to the services for which coverage was denied, including medical records and/or other clinical information concerning the request for coverage at the proposed level of care; and/or records substantiating services received at the requested level of care after a pre-service or concurrent denial, including any bills or claim forms related thereto, whether or not the class member previously submitted a post-service claim to UBH for such services. Class members may submit additional information in any of the following ways:

By online portal: **[UBH to provide before notice is sent]**

By mail: **[UBH to provide before notice is sent]**

By fax: **[UBH to provide before notice is sent]**

**9. Is there a deadline for Class members to submit additional evidence?**

Yes. Any information or documents a Class member wishes UBH to consider in reprocessing his or her requests for coverage during the Class Period must be postmarked or electronically submitted by **\_\_\_\_\_ [90 days after notice issued]**.

**10. What clinical criteria will UBH use in reprocessing the Class members' claims?**

UBH is prohibited from using its own Guidelines in reprocessing the Class members' claims. Instead it must use the American Society of Addiction Medicine Criteria (the ASAM Criteria), the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS), the Child and Adolescent Service Intensity Instrument (CASII), or the Early Childhood Service Intensity Instrument (ECSII).

**11. Has the Court imposed other rules for UBH to follow in reprocessing Class members' claims?**

Yes. In reprocessing the Class members' requests for coverage on remand, UBH is prohibited from: (i) denying a request on any ground other than the lack of medical necessity or the clinical inappropriateness of the services, as determined according to the clinical criteria required by the Court, except exclusions or limitations UBH cited in its original written notification of denial to the Class member; (ii) re-evaluating any coverage determination made with respect to a class member other than the requests for coverage that are subject to reprocessing; and (iii) seeking to recoup or offset, from the class member or their provider(s), any amounts UBH pays pursuant to the Court's Remedies Order, including by withholding or reducing any benefits authorized in connection with any subsequent request for coverage by the class member.

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**12. Is there a deadline for UBH to reprocess the Class members' denials?**

UBH must reprocess all Class members' denials by \_\_\_\_\_ [*1 year after notice issued*].

**13. What happens if a Class member's denial is wholly or partially reversed (i.e., if UBH determines that it should have covered some or all of a denied claim)?**

If, following a full and fair review of all of the available information and application of the relevant Court-ordered criteria, UBH determines in good faith that the requested services at the requested level of care were consistent with generally accepted standards of care and therefore coverage should be approved on remand, in whole or in part, UBH will notify the class member of its determination (including specific and detailed findings supporting the determination), and will calculate the amount of benefits the class member is owed under the terms of the applicable plan in effect at the time the request for coverage was originally received, and will pay the Class member such wrongfully withheld benefits, plus interest. In calculating the amount of benefits owed, UBH shall include unpaid benefits owed for all services the class member received at the level of care at issue in the reprocessed coverage determination that UBH finds are consistent with the criteria listed in Paragraph 2. UBH will not be required to cause benefits to be paid for a service the Class member received at a level of care that is different than the one previously requested and denied. Details regarding how UBH will make such calculations are set forth on pages 93-94 of the Court's Remedies Order. UBH may not offset against the benefits calculated any benefits previously paid to the class member or his or her provider in connection with other services requested by the member.

**14. What happens if UBH determines that a Class member's request for coverage was properly denied?**

If, following a full and fair review of all of the available information and application of the relevant Court-ordered criteria, UBH determines in good faith that coverage is not available to the class member in whole or in part, the Class member may avail himself or herself of all rights to administrative appeal, including external appeal, available pursuant to ERISA and the class member's plan and/or any causes of action arising from such adverse benefit determination.

**15. What will the Special Master be doing?**

The Special Master will serve as an independent monitor to oversee and verify UBH's compliance with the Court's Remedies Order, including UBH's faithful implementation of the Court-ordered training program, disclosures and reprocessing procedures.

**16. Has UBH appealed the decision?**

[*Status of appeal to be added once notice of appeal is filed*]

**17. Can I exclude myself from this case?**

As set forth in Notices of Pendency of Class Action previously issued in this case, the deadline for exclusion was July 27, 2017.

**18. How can I get more information?**

Additional information about the Action, including copies of the Court's Findings of Fact and Conclusions of Law (Mar. 5, 2019), and the Court's Remedies Order (Nov. 3, 2020), are available at: [www.UBHGuidelinesClassAction.com](http://www.UBHGuidelinesClassAction.com).

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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Tel: (202) 778-1800

**Class Notice Administrator:**

UBH Guideline Class Notice Administrator  
c/o A.B. DATA, LTD.  
P.O. Box 173005  
Milwaukee, WI 53217  
Tel: (800) 985-7155

This Notice does not fully describe all of the claims and contentions of the parties or all of the orders or relief issued by the Court. The pleadings and other papers filed in this lawsuit are available for inspection during business hours at the United States District Court, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102.

**19. Correcting your mailing address**

If this Notice was sent to your correct mailing address, you do not have to do anything to receive further notices concerning this litigation. If this Notice was forwarded by the postal service, or if it was sent to an individual or address that is not correct or current, you should immediately contact the Class Notice Administrator at the address provided in paragraph 18, above.