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UnitedHealthcare Hit With Substance Use Coverage Suit

By **Adam Lidgett**

Law360 (July 12, 2019, 2:24 PM EDT) -- UnitedHealthcare has been hit with a proposed class action accusing the insurer of putting barriers between patients and substance abuse treatment in the midst of an opioid epidemic, even when patients had Employee Retirement Income Security Act plans promising access to such coverage.

The lead plaintiff, only identified as Ryan S., filed a complaint in California federal court on Thursday claiming UnitedHealth Group Inc. and various units have blocked coverage for substance abuse treatment. The plaintiff — who is a recovering heroin addict — says those policies stand in contrast to patients who have ERISA plans calling for that coverage.

“In an effort to increase its bottom line at the expense of plan participants and beneficiaries who have sought and received life-sustaining and life-saving treatment and continuing care for substance use and mental health disorders, UnitedHealthcare has and continues to breach its duties as an ERISA fiduciary and is engaged in at least seven behaviors that violate ERISA, including ERISA’s loyalty and mental health and substance use disorder parity provisions, as well as the governing plan documents,” the complaint says.

While people trying to get covered for substance abuse disorders have traditionally been shortchanged by employers and insurers, various laws have been passed over the years to try and fix the issue, the suit says.

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 barred most ERISA-governed plans from treating coverage for mental health and substance abuse disorder treatment differently than coverage for other services, the suit says.

On top of that, the Affordable Care Act requires various health plans to have “a core package of essential health benefits including mental health and substance use disorder services and laboratory services,” the suit says.

However, the suit says, UnitedHealthcare has blocked patients from getting the care that they need for substance abuse, even with those requirements in place.

The plaintiff, according to one of his attorneys, got out-of-network treatment for his addiction by way of his father’s group health plan, which the plaintiff was a dependent beneficiary of.

Damon D. Eisenbrey, an attorney for the plaintiff, told Law360 on Friday that he expects the proposed class to include 5,000 or more members.

“The insurance companies are making billions of dollars off the American public, the executives at the insurance companies are making tens of millions of dollars a year off the American public; they make more money in a day than the average American makes in a year,” Eisenbrey said. “And as many Americans struggle just to pay rent, utilities and to feed their families, God forbid that they need mental health treatment or substance abuse treatment for themselves or their loved ones because chances are they are not going to get timely access or coverage for the health care that they need.”

The company said in a statement that it disagreed with the suit's claims.

"UnitedHealth Group is working to confront the devastation of the opioid epidemic," the statement said. "With powerful data and analytics guiding our efforts, we are joining with care providers and others to prevent opioid misuse and addiction and guide tailored treatment and recovery support to those who are struggling."

The plaintiff is represented by Daniel J. Callahan, Edward Susolik, Richard T. Collins and Damon D. Eisenbrey of Callahan & Blaine APLC and Lisa S. Kantor and Elizabeth Hopkins of Kantor & Kantor LLP.

Counsel information for the defendants was not immediately available Friday.

The case is Ryan S. v. UnitedHealth Group Inc. et al., case number 8:19-cv-01363, in the U.S. District Court for the Central District of California.

--Editing by Abbie Sarfo.

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