



Appeals Court Reverses Ruling in Landmark Mental Health Case

The Ninth Circuit Court of Appeals reversed the Northern District of California’s decision in the class action of *Wit v. United Behavioral Health* (“UBH”) in favor of UBH. In *Wit*, the district court held that UBH breached its fiduciary duty under ERISA by improperly denying benefits for the treatment of mental health and substance use disorders and that UBH’s guidelines were inconsistent with the generally accepted standards of care (“GASC”). The district court ordered UBH to reprocess over 50,000 claims to determine coverage in accordance with the GASC.

On appeal, the Ninth Circuit reversed the lower court’s decision holding that the district court misapplied the standard of review—abuse of discretion standard—by “substituting its interpretation of the Plans for UBH’s.” The Ninth Circuit noted that “UBH’s interpretation—that the Plans do not require consistency with the GASC—was not unreasonable.” Although the “Plans exclude coverage for treatment inconsistent with the GASC, Plaintiffs did

not show that the Plans mandate coverage for all treatment that is consistent with the GASC.” The Ninth Circuit acknowledged Plaintiffs’ argument that UBH had a conflict of interest because it serves as “plan administrator and insurer for fully insured plans ... [but determined] this would not change the outcome of these facts.”

Unanswered Questions:

As a result of the opinion, the Ninth Circuit’s decision left many questions unanswered. In the opinion, the 11-page reversal did not recite or refer to the facts of this case in its reasoning, so it is unclear as to which specific facts the court considered in its reversal.

Practicing Attorney’s Perspective:

Litigation on mental health parity is fact specific. In the wake of the Wit litigation, legislative and regulatory actions at the federal and state levels have been taken to address behavioral healthcare.

For instance, California Senate Bill 855 addresses the coverage of mental health and substance use disorders by citing to the district court’s opinion in Wit, in an effort to:

- Mandate the application of the GASC as set forth by clinical criteria and guidelines when conducting utilization review of services.
- Codify that any provision in a health plan, that is issued, delivered, amended, or renewed on or after January 1, 2021, that reserves discretionary authority to the plan or an agent of the plan, to (1) determine eligibility for benefits or coverages, (2) interpret the terms of the contract, or (3) provide standards of interpretation or review that are inconsistent with California law, is void and unenforceable.
- Expand the definition of medical necessity for treatment of mental health and substance use disorders and mandate coverage of treatment that is consistent with the generally accepted standards of care.

[Full text of Wit v. United Behavioral Health, No. 3:14-cv-02346-JCS \(9th Cir. 2022\)](#)

[Full text of California Senate Bill 855 – Health Coverage: Mental Health and Substance Use Disorders](#)

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