



March 12, 2019

Office of the Attorney General
P.O. Box 300152
Montgomery, AL 36130-0152

Re: *David Wit, et al. v. United Behavioral Health*

Attorney General Steve Marshall:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the law remains an issue. Last week, the United States District Court for the Northern District of California issued a landmark ruling illustrating pervasive and deeply damaging discrimination against those with mental health and substance use disorders.

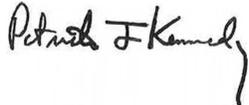
In the class action lawsuit, *Wit v. United Behavioral Health* (“UBH”), case no. 3:14-CV-02346-JVS, the court ruled that UBH used flawed medical necessity criteria to wrongly deny insurance claims for tens of thousands of patients seeking mental health and addiction treatment and, in doing so, violated its fiduciary obligations under the Employee Retirement Income Security Act of 1974 (ERISA). The federal court held that UBH’s internally-developed guidelines for evaluating medical necessity of claims for outpatient, intensive outpatient, and residential treatment of mental health and substance use disorders were inconsistent with generally accepted standards of behavioral health care and were inappropriately influenced by a financial incentive to reduce costs. U.S. Chief Magistrate Judge Joseph C. Spero wrote that UBH’s coverage decisions were based “as much or more on its own bottom line as on the interests of the plan members, to whom it owes a fiduciary duty.” In short, the nation’s largest managed behavioral health care company was found liable for protecting its bottom line at the expense of its vulnerable members.

The *Wit* lawsuit shines a bright spotlight on attempts by insurers to manipulate and exploit medical necessity criteria. The judge’s ruling in the case makes it clear that there should be consequences for disregarding established clinical practice. We urge you to use the court’s ruling, as well as your authority to enforce the Federal Parity Law and related unfair and deceptive business practice laws, to protect the people of your state with mental health and substance use conditions from deceptive and discriminatory practices by health insurance plans.

More specifically, if UBH is adjudicating mental health claims on behalf of UnitedHealthcare's non-ERISA plans in your jurisdiction, we urge you to bring immediate enforcement actions to, at a minimum, enjoin use of their flawed criteria. We also note that UBH is not unique and urge attention and investigation into these widespread discriminatory practices by other insurers.

Thank you for your efforts to protect the residents of your state. If you would like additional information, please feel free to contact us at any time.

Respectfully,



Patrick J. Kennedy
Former U.S. Representative (D-RI)
Founder, The Kennedy Forum



James Ramstad
Former U.S. Representative (R-MN)
Former Fellow, Harvard Institute of Politics



Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Alabama Insurance Commissioner
135 South Union Street
Montgomery, AL 36130

Re: *David Wit, et al. v. United Behavioral Health*

Jim Ridling:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the law remains an issue. Last week, the United States District Court for the Northern District of California issued a landmark ruling illustrating pervasive and deeply damaging discrimination against those with mental health and substance use disorders.

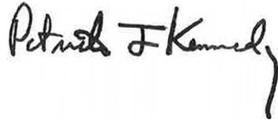
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The *Wit* lawsuit shines a bright spotlight on attempts by insurers to manipulate and exploit medical necessity criteria. The judge's ruling in the case makes it clear that there should be consequences for disregarding established clinical practice.

In light of the court's significant findings, we urge you to use your authority to actively enforce applicable state and federal parity laws on plans operating in your state. More specifically, we urge you to conduct market conduct exams to ensure that health plans provide fair and medically appropriate coverage for their members with mental health and substance use conditions.

We appreciate your commitment to protecting consumers in your role as state insurance regulator and look forward to assisting you in any way.

Respectfully,



Patrick J. Kennedy
Former U.S. Representative (D-RI)
Founder, The Kennedy Forum



James Ramstad
Former U.S. Representative (R-MN)
Former Fellow, Harvard Institute of Politics



Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Texas Children's Hospital
1919 S. Braeswood
Houston, TX 77030

Re: *David Wit, et al. v. United Behavioral Health*

Linda Aldred:

We are writing to you today as cosponsors of the Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) and leaders of major advocacy organizations. When passed more than a decade ago, this law promised equity in the insurance coverage of mental health and substance use disorder treatment.

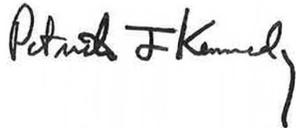
Despite our continued tireless efforts – and numerous regulatory actions and court decisions – compliance with the Federal Parity Law is still a concern. In many cases, your employees continue to be denied care when they need it the most. The most recent example of insurer non-compliance is a recent landmark ruling in a class action lawsuit by the United States District Court for the Northern District of California against United Behavioral Health. Read more [here](#). While significant on its own, the ruling is just one of many similar court decisions showing a disregard for regulatory and legislative compliance. Sadly, United Healthcare is not alone in its actions. Other health plans such as Aetna, Kaiser, Cigna, and Anthem Blue Cross Blue Shield have been subject to recent court decisions and regulatory fines.

We want you to be aware that liability for parity compliance doesn't just rest with health plans. If you are a self-funded employer, you and your Third-Party Administrator (TPA) share fiduciary responsibility under the Employee Retirement Income Security Act of 1974 (ERISA). We urge you to ask the following questions to ensure both your organization's compliance and that your employees are getting the mental health and substance use disorder coverage they need:

- Are you asking your TPA what they are doing to ensure compliance with the Federal Parity Law?
- How are they protecting you from such landmark legal decisions?
- How are they ensuring that your employees and their families have equal access to treatment for mental health and substance use disorders?

By asking these simple questions, you can help to safeguard your employees' mental and physical well-being, and send a clear message that equal access to care must be prioritized.

Respectfully,



Patrick J. Kennedy
Former U.S. Representative (D-RI)
Founder, The Kennedy Forum



James Ramstad
Former U.S. Representative (R-MN)
Former Fellow, Harvard Institute of Politics



Mary Gilbert
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Longworth House Office Building
15 Independence Avenue, SE
Room 1236
Washington, DC 20515-0512

Re: *David Wit, et al. v. United Behavioral Health*

Dear Speaker Pelosi:

The Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder treatment. As cosponsors of the original bill and leaders of major advocacy organizations, more than a decade later we continue to see widespread discrimination by health insurance plans. Patients across the nation are being denied care when they need it the most, despite numerous regulatory actions and court decisions.

The most recent example of insurer non-compliance is a landmark ruling by the United States District Court for the Northern District of California in a class action lawsuit against United Behavioral Health (UBH). The court ruled that UBH developed review criteria for evaluating the medical necessity of claims for outpatient, intensive outpatient, and residential treatment of mental health and substance use disorders that was inconsistent with generally accepted standards of behavioral health care, and wrongly influenced by a financial incentive to suppress costs. More details available [here](#).

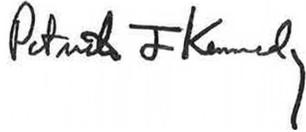
While significant on its own, the ruling is just one of many similar court decisions showing insurers' disregard for the Federal Parity Law. In fact, the ruling found that UBH purposely denied treatment to "mitigate" the Federal Parity Law. Sadly, UBH is not alone in its actions. Other health plans such as Aetna, Kaiser, and Anthem Blue Cross Blue Shield have also been subject to recent court decisions and regulatory fines.

All of us continue to work with policymakers and regulators to ensure full implementation of the Federal Parity Law. This is where we seek your assistance.

To truly make parity a reality, we need your leadership and the leadership of both federal and state governments. We urge you to prioritize ensuring compliance with the Federal Parity Law. If successful, we expect to see a significant decline in litigation as insurers become fully compliant.

As rates of overdoses and suicides continue to decrease U.S. life expectancy, our nation must ensure that people have access to treatment for mental health and substance use disorders. Illegal insurance denials should not stand in their way.

Respectfully,



Patrick J. Kennedy
Former U.S. Representative (D-RI)
Founder, The Kennedy Forum



James Ramstad
Former U.S. Representative (R-MN)
Former Fellow, Harvard Institute of Politics



Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Russell Senate Office Building
2 Constitution Avenue, NE
Room 317
Washington, DC 20510-1702

Re: *David Wit, et al. v. United Behavioral Health*

Dear Majority Leader McConnell:

The Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder treatment. As cosponsors of the original bill and leaders of major advocacy organizations, more than a decade later we continue to see widespread discrimination by health insurance plans. Patients across the nation are being denied care when they need it the most, despite numerous regulatory actions and court decisions.

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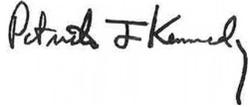
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Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Senator Lamar Alexander, Chair
HELP Committee Majority Office
Dirksen Senate Office Building
100 Constitution Avenue, NE
Room 428
Washington, DC 20510

Re: *David Wit, et al. v. United Behavioral Health*

Chair Alexander:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the federal parity law is lacking.

Last week, the United States District Court for the Northern District of California issued a landmark ruling illustrating pervasive and deeply damaging discrimination against those with mental health and substance use disorders. In the class action lawsuit, *Wit v. United Behavioral Health* (“UBH”), the court ruled that UBH used flawed medical necessity criteria to wrongly deny insurance claims for tens of thousands of patients seeking mental health and addiction treatment.

The *Wit* lawsuit shines a bright spotlight on attempts by insurers to manipulate and exploit medical necessity criteria. The judge’s ruling in the case makes it clear that more oversight is needed to ensure that Congress’ intent of fair and equivalent treatment is realized for the millions of Americans with mental health and substance use conditions.

In light of the court’s significant findings, we urge you to use your oversight authority to hold insurance companies accountable. More specifically, we urge you to hold public hearings to reveal whether health plans are circumventing the federal parity law and, in doing so, jeopardizing the health and well-being of countless individuals and families.

We appreciate your leadership and ongoing commitment to protecting the well-being of the people and look forward to assisting you in any way.

Respectfully,



Patrick J. Kennedy
Former U.S. Representative (D-RI)
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James Ramstad
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Mary Giliberti
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Mental Health America (MHA)



March 12, 2019

Congresswoman Diana DeGette, Chair
House Energy & Commerce Subcommittee on Oversight & Investigations Majority Office
Rayburn House Office Building
50 Independence Avenue, SW
Room 2125
Washington, DC 20515-6115

Re: *David Wit, et al. v. United Behavioral Health*

Chair DeGette:

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March 12, 2019

Senator Patty Murray, Ranking Member
HELP Committee Minority Office
Dirksen Senate Office Building
100 Constitution Avenue, NE
Room 644
Washington, DC 20510

Re: *David Wit, et al. v. United Behavioral Health*

Ranking Member Murray:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the federal parity law is lacking.

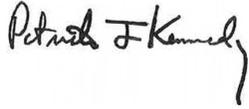
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Former U.S. Representative (D-RI)
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Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

Congressman Brett Guthrie, Ranking Member
House Energy & Commerce Subcommittee on Oversight & Investigations Minority Office
Rayburn House Office Building
50 Independence Avenue, SW
Room 2322A
Washington, DC 20515-6115

Re: *David Wit, et al. v. United Behavioral Health*

Ranking Member Guthrie:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the federal parity law is lacking.

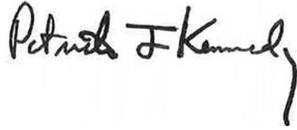
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National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

The ERISA Industry Committee
701 8th Street NW, Suite 610
Washington, DC 20001

Re: *David Wit, et al. v. United Behavioral Health*

Dear Ms. Guarisco Fildes:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the federal parity law is lacking.

Last week, the United States District Court for the Northern District of California issued a landmark ruling illustrating pervasive and deeply damaging discrimination against those with mental health and substance use disorders. In the class action lawsuit, *Wit v. United Behavioral Health* (“UBH”), the court ruled that UBH used flawed medical necessity criteria to wrongly deny insurance claims for tens of thousands of patients seeking mental health and substance use treatment in violation of its fiduciary duties under ERISA.

The *Wit* lawsuit shines a bright spotlight on attempts by insurers to manipulate and exploit medical necessity criteria. Considering the court’s significant findings, we urge employers to ask their Third-Party Administrators (TPAs) what TPAs are doing to ensure compliance with the federal parity law, how they are protecting employers that share fiduciary responsibility under ERISA, and, most importantly, how TPAs are ensuring that people are not consistently denied care under inappropriate standards.

We appreciate your commitment to protecting and encouraging the health and financial well-being of employers’ workers, retirees, and families and look forward to assisting you in any way.

Respectfully,

Patrick J. Kennedy
Former U.S. Representative (D-RI)
Founder, The Kennedy Forum



James Ramstad
Former U.S. Representative (R-MN)
Former Fellow, Harvard Institute of Politics



Mary Giliberti
Chief Executive Officer
National Alliance on Mental Illness (NAMI)



Paul Gionfriddo
President and CEO
Mental Health America (MHA)



March 12, 2019

American Benefits Council
1501 M Street NW, Suite 600
Washington D.C. 20005

Re: *David Wit, et al. v. United Behavioral Health*

Dear Mr. Klein:

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) mandated equity in the insurance coverage of mental health and substance use disorder care. As cosponsors of the original bill and leaders of major advocacy organizations, we know that compliance with the federal parity law is lacking.

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Respectfully,

Patrick J. Kennedy
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