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A.D. v. T-Mobile USA, Inc. and United Healthcare Services, Inc.

Case No. 2:15-cv-00180 | U.S. District Court, Western District of Washington

We represent T-Mobile and United Healthcare in a putative class action alleging that the Employee Benefit Plan provided and administered by our clients unlawfully excluded an intensive behavioral intervention treatment called Applied Behavior Analysis (ABA) from among the many treatment options covered by the Plan for autism spectrum disorder. The claim arises out of a self-insured employee health plan and under ERISA and the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). Plaintiffs claim that their son is a beneficiary of the Plan, has autism spectrum disorder, and that plaintiffs made a request in 2014 for ABA treatment coverage that was denied pursuant to the Plan's ABA exclusion. Plaintiffs claim that the Plan is required to pay for ABA pursuant to the MHPAEA. However, in 2014, neither the MHPAEA nor its regulations prevented a plan from defining the scope of the services from excluding ABA. Nor does the MHPAEA generally require that a plan offer specific mental health benefits, or any mental health benefits. Instead, it requires parity between the medical/surgical benefits that a plan offers compared to the mental health benefits it offers. In short, the MHPAEA mandates parity, not coverage. The case involves a novel issue of statutory interpretation and administrative law that has divided district courts in this Circuit. Namely, whether the Interim Final Rules (IFRs) of the MHPAEA, which applied in 2014, permitted a plan to define its scope of services so as to exclude a mental health service such as ABA, where that mental health service had no medical/surgical service analog. The Western District of Washington has held that the answer is yes. It held that the IFRs did allow a plan to define its scope of services to exclude such a mental health service, in the context of Residential Treatment Facilities. However, a U.S. District Court in Oregon held in 2014 that a plan violated the MHPAEA for excluding ABA. The case law is developing, and our case has the potential to significantly impact the legal landscape on this issue. The case is currently pending in the United States District Court, Western District of Washington.