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United And Cigna Cheat Patients On Benefit Money, Suits Say

By **Adam Lidgett**

Law360 (April 3, 2020, 4:57 PM EDT) -- Cigna and UnitedHealth Group's behavioral health services arms have colluded with a cost-containment middleman to cheat patients on payments for out-of-network mental health and addiction treatment and underpay providers, according to a series of new proposed class actions.

The Thursday lawsuits — four in all — center on claims that Cigna Behavioral Health and United Behavioral Health worked with fellow defendant Viant Inc. to short payments for claims related to substance use and mental health treatment. A group of patients brought two of the suits, while a group of behavioral health providers launched the other two.

Matthew M. Lavin, an attorney for the plaintiffs, told Law360 on Friday that there would collectively be millions of members of the patient classes, and at least 10,000 members of the provider classes.

"Viant is probably one of them most notorious entities in behavioral health care," he told Law360.

The patients' lawsuits contained allegations under the Employee Retirement Income Security Act and the Racketeer Influenced and Corrupt Organizations Act.

They said they all had insurance policies that offered benefits out of network, and that United and Cigna both charged higher premiums for those plans since patients have more freedom to pick providers. But the patients said that the insurers had Viant — a unit of MultiPlan Inc. — negotiate the amounts United and Cigna would eventually have to pay for such services.

That relationship, the patient suits said, led to them getting underpaid for out-of-network treatment. The patients said they were responsible for coughing up the difference between what the insurers paid and what the insurers should have paid — an amount the patients said could be as high as hundreds of thousands of dollars a person.

Moreover, "every excess dollar paid by a patient is a dollar that [Cigna or United] unjustly retained and used to pay a kick-back to Viant," the patients said.

As for the providers' suits, instead of ERISA claims, they feature RICO, breach of contract and other allegations.

The providers said they sent submitted payment claims to United or Cigna, and the insurers gave those claims to Viant "to reprice at a substantially lower rate than [the insurers] had been paying."

Because of the purported collusion between the insurers and Viant, the providers said they ended up shouldering the costs of treatment they provide to patients.

"Cigna and United's use of Viant to systematically underpay treatment costs for addicts and the mentally ill is, sadly, just today's example of insurers placing profits before behavioral health patients," Lavin said in a statement. "Regulators have so far ignored complaints from patients and providers alike, so our clients are left with no alternative to seek justice in the courts for themselves and for the millions of others who have been harmed by these unethical practices."

United said in a statement to Law360 that it would "vigorously defend" itself against the allegations.

"We are committed to helping people access the mental health and substance use treatments they need, and reimbursing providers, including out-of-network providers, consistent with the terms of members' benefit plans," it said.

Representatives for the other defendants did not immediately respond to requests for comment on Friday.

The plaintiffs are represented by Matthew M. Lavin and Wendy A. Mitchell of Napoli Shkolnik PLLC.

Counsel information for the defendants was not immediately available on Friday.

The cases are Pacific Recovery Solutions et al. v. United Behavioral Health et al., case number 3:20-cv-02249, Pacific Recovery Solutions et al. v. Cigna Behavioral Health Inc. et al., case number 3:20-cv-02251, LD et al. v. United Behavioral Health et al., case number 5:20-cv-02254, and RJ v. Cigna Behavioral Health Inc. et al., case number 5:20-cv-02255, in the U.S. District Court for the Northern District of California.

--Editing by Adam LoBelia.

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