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MAUREEN JOHNSON:
Welcome everyone! We will get started in a few seconds, feel free to introduce yourself in chat. We do have CART captioning available, if you click on the CC button at the bottom of your screen you should be able to view it.

Welcome, feel free to introduce yourself in the chat! Welcome everyone couple people get started in just a few seconds, just waiting for people to enter. Again, please feel free to introduce yourself in the chat. I see we have people from North Dakota, Michigan, it is great to have you all here.

You can ask questions in the chat, there'll be time at the end so we will make sure to allow any questions during that time. We do have CART CAPTIONED available for this webinar, if you'd like to access it please click view subtitles. Again, this webinar is being recorded and will be available within a week as well as a transcript.

Again, I want to thank you all for joining us. I will turn it over to the special interest group cochair Anjali Rao to introduce our presenter.

ANJALI RAO:
Hi, I'm Anjali Rao and I am a pediatrician out of Chicago, I have the pleasure of introducing Law Review number two today -- Lorri Shealy Unumb. At the joy of watching her speak a few weeks ago when she participated in the ECHO autism symposium and you are in for a real treat.

Lorri is phenomenal in what she hasn't done and how she shares her knowledge. She has been instrumental in getting Ryan's law passed in South Carolina inspired by her own journey as the parent of an autistic son. She was named by Autism Speaks to be there director of advocacy and then also founded the autism Academy of South Carolina which was renamed in honor of her and her husband's work. She and her husband has also written a book, 'Autism and the law' and is in the 15th year of conducting the annual autism loss Summit, a gathering of parents and professionals who etiquette from legal changes to medic -- better the lives of people with autism.

In 2018 she was appointed by the governor of South Carolina to serve on the Council of disabilities and special needs which administers waivers and in 2019 she was recruited by the nonprofit trade association The Council of Autism Service Providers as CEO and has observed rapid growth and expansion. I am very excited for the cross professional collaborations that are coming to the world of autism advocacy because we have known this for a while but the pandemic has made it even more important for medical care providers, advocates, family and self advocates, educational providers, all to come together to work together to make the landscape the most favorable and open for autism in the future.

I will turn it over now to let you all be inspired and educated. Thank you.

LORRI UNUMB:
Wow, thank you so much! That was a generous and gracious introduction and I received the petition to speak to all about what you need to know both of them, (mental health parity. This is pretty much everything I'd only just mentioned you captured visually, this is my whole autism background.

I had a different professional background as a lawyer before autism entered my life but for the last 20 years or so I have been both personally and professionally on and off since majority -- and autism journey. I will speak about that how it leads into health insurance and mental health parity issues related to autism.

The most important part part of the 20 year journey is the diagnosis of my firstborn child with autism at approximately 22 months of age, we were living in Washington DC. I barely knew what autism was when Ryan was diagnosed with a landscape was considerably different back then, it wasn't as much of a household word as it is now.

I certainly didn't know about the therapies that the diagnostician recommended my son have when he was diagnosed. But I committed that I was going to research and learned all I could about autism and I committed that I was going to follow the doctor's orders and get him whatever therapies they recommended.

He was triple diagnosed at Johns Hopkins, Georgetown, (unknown name) Medical Center, had been on waiting lists to try and get eight appointment is probably many of you understand. We got the diagnosis of the second and third and they all said he had classic autism.

They all recommended ABA for Ryan. They also recommended some speech and OT. Again, I didn't know anything about any of those therapies, I certainly didn't know anything about ABA. I committed I would get it for him, and I like it maybe many of you, I know their parents on here, I don't know how old your children are.

At the time right was diagnosed in 2003, health insurance coverage for autism therapies and particularly for ABA was unheard of. Where we live, we actually lived in Northern Virginia, we couldn't find insurance to pay one penny of his ABA. We could find coverage for speech and OT but of course because he was two we could also get early intervention services covered through the state.

But we couldn't get financial service at 40 hours per week. That was the one that became the focus of my efficacy because it was financially crushing of course to try to pay for 40 hours a week of ABA and not have any assistance from the state, from any program, or form the health insurance we had been paying for our whole working life.

That struck me the wrong way, but I won't tell my whole personal story but I imagine it is familiar to many of you and you are probably somewhat familiar with the health insurance coverage landscape. There was in fact come at that time, only one estate that had passed a law requiring health insurance coverage for evidence-based treatments for autism. That was Indiana.

But the Indiana law had not unfurled properly in 2001. It was on the books, but it wasn't working. It took several more years and families to challenge it before it actually works. When I worked at autism speaks at A map of the United States on the wall in my office and I would color a state green on the map whenever they passed a law that required meaningful coverage for autism therapies and treatments.

This is what that's mapped look like in 2001, of course since before I was maintaining the map but this is what looked like 2001. Here's 2002, 2003, 2004, 2005. You can see that there's absolutely no progress. One time I was a showing at this and someone raised their hand and said "excuse me, your picture is not changing."

I am very aware of that! There is no progress whatsoever for years in terms of requiring insurers to cover autism. Here's a 2006. As
Communications -- Anjali mentions we moved back to South Carolina and I wrote legislation to cover autism care in 2007, that created quite a firestorm because unlike the law in Indiana, which passed more quietly, the law in South Carolina was highly debated for two years and hopefully debated. People heard about it all over the country into families started saying "we want to encourage -- insurance coverage in our states."

It was a catalyst, Ryan's love is a catalyst for the rest of the country to address legislatively the lack of insurance coverage for autism. Texas passed a several mandate that same year. In 2008, five more states passed autism insurance mandates. That is the year I joined Autism Speaks and Autism Speaks really invested very heavily by hiring lobbyists in various states to pursue this and by hiring professional staff, myself included, to pursue insurance coverage for those who want to access ABA.

In 2009, seven more states passed legislation. In 2010 eight more states up to a total of 23. In 2011 six more states for a total of 29. In 2012 we are up to 32 states. 2013, 34, 2014, 38, 2015 43, 2016, 44, 48, and finally in 2019 the 50th state addressed the lack of coverage for autism insurance reform. For autism insurance coverage.

It is quite a journey, I could obviously give a whole webinar, more than an hours worth on the journey to passing autism insurance legislation in all 50 states. But I just wanted to start with that little bit of history so that you will understand how the coverage came to be and we are going to talk a lot about the gaps that still exist in the coverage at the problems with the coverage.

It was a Herculean effort to ensure that there is some coverage all over the country but there are still lots of problems and that is where mental health parity law can be helpful. When you think about if you have a child with autism or you are a person with autism and you are seeking coverage for therapy or treatment and something I want to say on the set is nothing but these insurance laws requires anybody to get coverage or treatment.

This is if you want treatment and financial assistance with it. There are three questions to ask yourself, "is there coverage for the treatment or therapy that I am seeking coverage of? Does the coverage

exist? Is it required by law? Is the coverage is sufficient? Or is it somehow kept restricted? Are the insurance companies providing the coverage in a fair and comprehensive way? Or are you still trying to fight tooth and nail to actually get the coverage that is because of -- required by law?"

That green estate map, even to solidly green now with all of the 50 states should be 50 shades of green because the coverage varies pretty dramatically from state to state. Some of the laws have – talk about the gaps right here. The various laws have gaps and caps.

By a gap I mean certain types of insurance have to cover autism treatments or therapies, but other types of insurance don't. That might be for example if you have a large group policy, the law of your state requires coverage but if you have a small group policy it doesn't. Those are gaps that still exist in the insurance laws.

Also, there are caps uncovered. Depending on your state the law might say that you can get behavior therapy up to $36,000 per year. They have imposed a dollar cap in the statute. These restrictions can also be problematic.

This is an internal representation. This is not usually show people, but also on my wall I kept with I called the state grade in addition to the green estate map. It shows the more granular fashion, if you look at the top you can see every state and then I have doubted the side all of the different types of health insurance policies and whether coverage exists in that type of policy.

For example, if you look at... This grid is a few years old by the way, don't keep up to date. Alaska's second estate on here. In Alaska, there is coverage if you have a large group plan. Covered with a small plan or individual plan, but at least at the time I created the grid if you were a state employee it was not covered.

There was coverage if you had a qualified health plan under the affordable care act and at that time there was not coverage for individuals on Medicaid. There is now. You can see that it is not just a matter of "does your state have it or not have it?" You have to examine it granular fashion and look at the different types of health insurance people may have.

Ryan, this is Ryan in 2017, I hate to say that Ryan's law in my own state of South Carolina still have gaps in it. When the law passed in 2007, the South Carolina legislature was trying to be cautious and just did their toe in the water. They required the coverage for all estate employees the required coverage for everybody who has a large group plan but they didn't require it for people to go out on an individual plan just for herself. Or for people who have a small group plan, if your employer has fewer than 50 employees then that is a small group plan.

That coverage it still doesn't exist to this day in South Carolina. If I had time to go and challenge it under mental health parity law I think we would prevail but it is not something I have had the chance to do yet but we will talk about it just a minute.

Let's talk about mental health parity law, the mental health parity law is a really strong law that can

help people with autism in a number of ways across a number of fronts which we will talk about here. The basics of mental health parity law are that insurance companies cannot limit mental health coverage or addiction coverage more then they limit medical and surgical coverage. OK?

Historically that might sound obvious but historically it would be very typical to have a health insurance policy that is let's say you have a 90/10 policy for the health insurance pays 90% and you be 10% coinsurance or co-pay.

You select what you consider to be a 90/10 policy and that is what you are told, they pay 90% and you be 10%. But if you go to get treatment for any mental health or substance use problem the insurance will pay at 50% and charge you 50%, and that was legal.

I remember when I had this policy I thought what the heck? Why are you paying it at 50%? I remember taking Ryan for a check up when he was two and my insurance paid for his check 50%. I called them and said I have a 90/10 policy, why are you only paying 50%?

"It is because of the autism attack on his file." Anyways, that was legal. Before parity laws, insurance companies could just decide some of the percentage they are going to pay for mental health clients. That is what mental health parity laws generally prohibit.

Some of you might be thinking that autism is not a mental health condition but for legal purposes it is. For disparity analysis, because it is a DSM diagnosis, it is a mental diagnosis for these purposes.

We'll talk about a handful of different laws, have expressly on a timeline here. Some of them overlap and some of them span a number of years, but this will give you a general idea of what we are going to talk about. The first law I want to talk about past Congress in 1996 and I want to say that this was the first nationwide federal mental health parity law.

The federal mental health parity act went into effect in 1998 carpeted health plans from sending -- prohibited health plans from setting annual or lifetime dollar limits on enrollees mental health benefits that are lower than any such limits on other medical care.

The other thing they would do is see that you have $1 million lifetime limit. Maybe your client has $1 million lifetime limit, but then set a different limit for mental health care. Maybe it would be $100,000. This law that passed Congress said you can't do that, you can't set either a lifetime or annual dollar limit that is different from other benefits for other physical, medical, surgical benefits.

It was very hard for Congress to get this law passed in 1996. A lot of people particularly in the insurance industry, people were highly against it. They said it would drive the cost of insurance up too much. Congress, just like I said the South Carolina legislature tiptoed in 2007, 1996 Congress tiptoed in and so this federal mental health parity requirement did not apply to employers with fewer than 50 employees.

Again, a small group exclusion. Here's an important parity law, it offers some good benefits but it

doesn't apply to all different types of health insurance. Further, the health plans are pretty smart. When this went into effect in 1998 they just changed their policies.

Instead of having an annual dollar limit they would impose a limit or how many sessions you get. Perhaps you get 30 sessions per year of OT. Or hospital length of stay, maybe you can only be there for three days. They responded to this requirement for parity by just creating other particles -- protocols.

A number of states were frustrated by the way that insurance companies responded past their own state mental health parity laws. Some of this was well before 1996, it took 30 or 40 years for all of the states to pass mental health parity laws. Actually, I'm not sure if all of them ultimately did. I think that they did.

But, for example, here is California passed a mental health parity law of their own and it just said that we want to be a little bit more perspective -- prescriptive about what we will cover. We don't have to read all of this, but I want to share the collective states around this time went in and passed their own mental health parity laws.

I remember, this is a total aside, but in South Carolina I was just starting to get active in autism advocacy. One of the first times I went to the legislature, I believe this was 2005 or 2006. The autism community was at the legislature – I shouldn't say the community, some fraction of the community was legislature lobbying to be excluded from South Carolina's mental health parity law.

I remember ...

Somebody from the autism Society saying "our parents don't want autism to be called a mental health condition." I thought, are you crazy? Don't worry about what it is called, this law provides all kinds of protections to people who are dealing with the autism diagnosis and have health insurance. Why would you lobby to be excluded?

But they did and lobbied successfully. In South Carolina, the mental health parity law does not include autism as one of the coveted diagnoses. You can see in California, it does include autism under the DSM. Most mental health parity laws don't go through and list a set of mental health conditions. They refer to the DSM.

Anyways, that's what was happening and that time. 2008, Congress came back with a much longer parity law and this is what he wants to talk about. The well stone (name) Mental health parity and addiction equity act of 2008.

Congress basically had 12 years to see how the insurance companies had reacted to the last mental health parity law and said they would be stronger. If they're going to take away dollar limits but impose visit limits people like stronger language. Basically in a nutshell, this law which people call MHPAEA restricted financial limits or visit limits.

So, it didn't just say annual or lifetime dollar limits, it said that you can't put any more restrictions financial requirements or any more restrictive treatment limitations on mental health conditions. A much stronger law and taken it very difficult to get past. A lot of compromises. For example, this law also when it passed in 2008, did not apply to the small group markets.

This protection against discriminatory limitations on mental health applied to large group plans but not for small group plans when is passed in 2008. Let's break down a little bit more about what actually prohibits. As I said, there are two catchphrases. The insurance companies cannot apply or impose disparate or more restrictive financial requirements or treatment limitations. What is meant by financial requirements?

It is not so hard to understand, that would be like co-pays or deductibles. You can't have a $1000 deductible for physical health and a $5000 deductible for mental health, it is all the same. Treatment limitations is broken into two categories. You can't have, or they can have disparate quantitative treatment limits were nonquantitative treatment limitations.

Quantitative treatment limitations, again are a little easier to understand because quantitative basically needs numerical. If you can count it, then let me be a quantitative treatment limitation. An annual dollar limit would be prohibited there. This also prohibits nonquantitative treatment limitations, or NQLs and they're all kinds of conversations about what a prohibited nonquantitative

Like a network requirement, you can't have different network requirements in your mental health sphere then you have for medical and surgical. You can't have different necessity standards that are developed in a different way.

For example if you get a heart claim for a medical surgical side, you reviewed the medical necessity of using a cardiologist. Then if you get a claim for speech therapy on the mental health site for autism you need to use a speech therapist to review the claim, not an orthopedist or cardiologist.

That would be applying a different standard because the standard a sense of the medical surgical side is that they will have an expert in that field reviewing it for medical necessity. That gives you a sense of the kinds of protections that the current federal mental health parity law offers in the autism field. You can't have more restrictive co-pays, more restrictive deductibles, network requirements, preauthorization requirements, that sort of things.

The three questions. "Isn't that coverage? Is the coverage sufficient? Are the interest was providing the coverage any fair way?"

The parity laws cannot assist on all three fronts. So, when I was working with Autism Speaks and traveling the country trying to pass these autism insurance mandate laws, in certain states that was a really – in all of the states it was very difficult. But in some it was insurmountable.

I remember going to Idaho is being told the legislature, there is no way that they will mandate coverage. They do not believe in telling a health insurance company what it must cover. It is

philosophically against what the legislature believes is an appropriate role of government. They said I might as well go home because they would not pass it.

I didn't want to go home and I want to figure out a different way. I went to meet with the insurance Commissioner in Idaho, a man by the name of Dean Cameron who is a very intelligent ...

And perceptive. I explained that there were families in Idaho who has children diagnosed with autism trying to get treatments and therapy and their insurance will pay for it. Is that how you want Idaho to function? These people pay for health insurance, he was Verzi pathetic. He said "let's work together and figure out if there is some kind of bulletin I can issue to require the coverage because we know that the legislature won't do it. They won't inundate it."

We went to the mental health parity law to say that they cannot discriminate against autism by excluding coverage for the primary treatment when you don't exclude, and you don't exclude coverage for the primary treatment of heart disease. So, we used this mental health parity law to help him find the authority to direct insurance companies in Idaho to cover oxen -- autism.

I was thrilled he could step out that way but he really wants to find the solution. I quite agree that the federal mental health parity law gave him the jurisdiction and power to do that. So, there is coverage in Idaho now. That was in April 2019 when he issued the bulletin at the North Dakota insurance Commissioner, I was also meeting with at the same time, and he issued a similar bulletin in July 2018.

In both of the states and that is actually the same way Tennessee ended up getting coverage, it wasn't a law that stepping past the legislature, it was a bulletin issued by the insurance department ...

Another example of using mental health parity law to create the coverage, this is an ABA case where a big corporation had a plan they funded himself, self-funded plan and United healthcare administered that plan. That plan, it didn't have a cap on ABA, it has an outright exclusion and the family at the heart of this case Doe wanted their child to have ABA.

They sued United healthcare and said "you cannot just out right exclude ABA in your policy if you purport to cover autism." The court agreed with them. I know this is a lot of text and I apologize.

If you look at the top, A2, it says "plan shall ensure that the treatment limitations applicable to such mental substance use disorder benefits are no more restrictive than the predominant treatment limitations applied substantially all medical and surgical benefits covered by the plan. And there could be no treatment limitations applicable only to a mental health condition."

The actual policy in this case for this corporation, it's basically says that under mental health "for mental health, neurobiological autism spectrum disorder there is an exclusion for intensive behavioral health therapies such as ABA for autism spectrum disorder."

The court looked at this and says that this outright exclusion creates a separate treatment limitation that is applicable only to services or mental health conditions. Therefore, it violates the parity act. That

is the core of that decision, it is a huge victory for the autism community.

OK, I also sent to mental health parity law can help with the second question regarding whether the coverage is sufficient. Maybe in your state stops at a $30,000 cap. Those would be quantitative treatment limitations. Remember I said you can't have disparate limitations either quantitative or nonquantitative? If a state insurance autism mandate caps coverage based on age or the dollar amount, that would either filing a financial requirement for a quantitative limitation.

A lot of estate autism coverage mandates, if you cover the code and read the book it still says, in South Carolina it still says that coverage stops at age 16. But that is not applied at all because of the insurance companies are aware it violates mental health parity law. They also do not apply the $15,000 cap that appears on the book.

If you find a policy that the coverage is capped it is easy to challenge, write a letter to the insurance company and says that the restriction violate the mental health parity law ...

And you will win. If you have a policy where mental health care applies I think you will bring in that dispute. The third question was "our insurance plans providing the coverage in a fair and conference of way?" That one gets more difficult, just one thing to say that they have the coverage and maybe they have it for age or, or just only for six months and then they decide it is not medically necessary because the child is not making enough progress making too much progress or all of these different regions -- reasons for denying coverage.

Or maybe it is in a school setting, community setting, home setting and they restricted to one type of setting. All of these restrictions are "mental health parity law can really help with. Most likely they are not limiting at the place of service for let's say diabetes. Can you not get the shot that you need while you are in a school?

I doubt there is a restriction like that of diabetes.

GYASI BURKS ABBOTT:
Can ask a question? Someone was asking This is only for children. I think you suggested that with the ages that it is not only for children.

LORRI SHEALY UNUMB:
That's correct. It applies across the board. I speak later about how there are different types of insurance plans at mental health parity law doesn't apply to, I will ensure that you minute applied to anybody if you have the correct plan.

This is where the nonquantitative treatment limitations come in. We have seen a case where someone was treating inpatient therapy into the insurance company says that the cover inpatient therapy only if they have two acute mental health episodes in the last few months.

Do you have to have two heart attacks before you get admitted? There are all of these restrictions that

don't make any sense. The way that you defeat the event the insurance company and say it is a nonquantitative treatment limitation you are applied only to autism or mental health conditions. That you're not applying it to medical surgical benefits and you cannot do it.

So, just to summarize where we are on current parity requirements. The health insurers cannot charge higher co-pays or limited number of visits or days of her mental health more than they do for physical health. They cannot engage in all of these managed-care practices that are more restrictive for mental health and physical health.

This last one I haven't touched on yet. This just came in the Congress of 2020 budget bill tacked on a line ...

That says USA patient or provider thinks eight insurance companies does dying care because it is applied in a nonquantitative treatment limitation you now have the right to write to the insurance company and say "we want you to disclose all of the nonquantitative treatment limitations you are applying in mental health to autism." I cast the Association that I believe this is been with Harvard and the Kennedy forum in trying to write to all of the insurance companies on behalf of autism clients and to request a copy of all of the nonquantitative treatment limitations so that we can see what the insurance companies have their policies that are causing problems for us.

Perhaps not surprisingly, almost all of the insurance companies have failed to respond or meaningfully. We are collecting that data to present to Congress that even if it is required in 2021 on the best budget bill insurance companies disclose they are not doing it.

I would say that this is an ongoing area of advocacy but a stronger position for our community. I think I have enough time... I will skip over the affordable care act of 2010 and I will come back to it. We talked about the autism insurance mandates which span primarily from 2007-2019.

I want to talk quickly about Wit versus at UnitedHealth which is an important piece of litigation which is not a mental health parity case but it is similar with autism coverage as well. Let's see...

This is Max, not the baby, the older guy named Max. He had a substance abuse problem. He had a pretty serious substance abuse problem that he tried to deal with in a variety of ways. He met with doctors.

He decided to get his life together and seek more serious treatment. I believe you looking for inpatient residential treatment. He had United healthcare and his policy indicated that it would cover inpatient residential for substance abuse issues. But Max sought preauthorization for his residential stay and it was denied.

The insurance company decided, they reviewed his records and decided he did not meet and decided it was not medically necessary despite not he thought it was and his doctors thought it was. So, there was a lawsuit called Wit versus United behavioral health about this kind of denial.

There were 11 plaintiffs, some adults and adolescents. All with mental health and substance use disorders and issues seeking intensive outpatient or residential treatment. All of them were seeking some kind of treatment for their substance use disorder and all of them were denied care because United behavioral health decided it wasn't medically necessary.

There were 50,000 class members in that situation, with more than 67,000 claims for coverage that had been denied. There is a firm called Zuckerman Spader that brought this dispute under the ERISA law but it wasn't brought under the mental health parity but it is related.

It was brought under ERISA stating that mental health care -- United healthcare was unlawfully denying claim when it was using its judgment in saying it wasn't medically necessary for all of these plaintiffs. This was the certificate of coverage, basically United healthcare utilized its own level of care guidelines. Do you see the document on the right?

They had this document that guided them on how to make these decisions would authorize and care. These level of care guidelines basically had the effect of... The claimant was united health violated their duty and wrongfully denied claims by using its own guidelines instead of using generally accepted standards of care in the community.

Basically, the claimant was that in this green circle here, you say in your policy you have coverage for residential care, intensive outpatient care, outpatient care but when you apply your own guidelines to authorize claims, you are essentially shrinking that care that you promised in your policy and you are not providing which would have been required if you had used generally accepted standards of care in the community.

In this case there were two questions. What are generally accepted standards of care? Do generally accepted standards of care exist in the substance use disorder community? Again, not an autism case very similar analysis.

On question number one what are generally accepted standards of care? Not really a hard question. They are the standards that have achieved widespread acceptance among the relevant professionals in a behavioral health. Question number two, "Arthur generally accepted standard of care in the substance use disorder community?" Well, the lawyers for the plaintiffs argued that there are generally accepted standards of care and offered the following as evidence.

First, there is a manual called the American Society for addiction medicine criteria which is put out this very large part manual. I have it on my desk. It is called 'Treatment criteria for substance related and co-occurring condition'. There are other documents that showed people who work in medicine is typically rely on these sources to define what are generally accepted standards of care.

The court looked at all of that evidence and basically said that the ASAM criteria are the most widely accepted articulation of the standards of care for how to conduct a comprehensive multidimensional assessment of a patient with substance related disorder, translate into patient treatment needs and match those in need to to the appropriate level of care.

The parties agreed that LUCAS was generally accepted standards of care and the adolescent level of care and CASII was the generally accepted standards for children and adolescents. There were all these articulations out the community and the addiction community articulating generally accepting standards.

Treatment professionals in this specialty agreed that he should treat the underlying conditions and symptoms, treated co-occurring conditions, treat the least intensive level of care that is safe and effective, air on the side of caution, effective treatment includes services to maintain function, does this sound familiar? Determine duration based on individual needs, taking unique needs of children and adolescents into account, and... Make level of care decisions based on a multidimensional assessment.

The court says "we can read these standards and determine standards and health you didn't seem to base your decision based on factors. Instead, you used your internal guidelines and at every level of care is an issue in this case there is an excessive emphasis on addressing acute symptoms and stabilizing crises while ignoring the effective treatment of members underlying treatments."

Basically they were not following it generally accepted standards and just addressing the crisis and turn the backup. The court says that the defect was pervasive and resulted in a significantly narrower scope of coverage that is consistent with generally accepted standards of care. Finally, UBH breached its fiduciary duty by violating its duty of loyalty, due care, and to comply with plan terms by adopting these internal guidelines that are unreasonable.

I want to read all of this, but the court noted that there were financial incentives that infected the guideline developed process command court noted that multiple sources in United quite confused to determine generally accepted standards like peer-reviewed studies, guidelines, professional organizations, and guidelines by government agencies.

It is a great case but here are the two bad sides. One was that Max didn't get to see the court rule in his favor. He died of his substance use disorder before the court was able to rule that he could get covered. Sorry, I get choked up talking about that.

It was a class action that covered many people, but I just think it is sad that this guy never got to see his claim vindicated. The second piece of news is that the case got repealed last month. It was in California went up to the ninth Circuit Court of appeals they reversed it. I believe this is ongoing litigation, I suspect that there will be a motion for reconsideration another level of appeal, I haven't read the reversal and it is very short and cursory and it doesn't make a lot of sense to me.

It is ongoing to but here's the bright side. Remember this timeline? The last piece I have our enhanced state mental health parity laws. What has happened is that a number of states have looked at this case and said they are going to make it state law. It is obvious that insurance companies should not be able to use their internal guidelines when they are generally accepted standards in the development community. A number of states have already enacted laws basically codify this.

For example, Senate Bill 855 passed in California a couple of years ago says that a health insurance company shall base any medical necessity necessity on a current generally accepted standards of mental health substance use disorder care.

They said that in conducting a review, the planet shall apply the criteria and guidelines as set forth in the most recent versions of the treatment criteria developed by the nonprofit professional association for the relevant clinical specialty. The plants cannot apply different additional conflicting or more restrictive utilization review criteria than the criteria set forth in these sources.

While we may ultimately lose the victory in the Wit case which is yet to be determined because it is on appeal, it almost matter or won't matter more and more states passed these laws because of the states are saying that they will outlaw this altogether and it doesn't apply just to United.

Every health insurance company in California, the health insurance companies – let's go back to autism, they cannot make medical necessity determinations using their own internal guidelines anymore. They have to use the relevant guidelines developed by the community.

For example, in the ABA world. This is the document put out by the BACB 12 years ago, 'Applied behavior analysis treatment of autism spectrum disorder'. This now applies to CASP, they transferred the intellectual... A couple of years ago. This set forth who appropriate providers are, what the delivery model should look like, how much supervision is required, how you work with caregivers, discharge and transition planning.

Health insurance companies have to utilize this document or something similar, they cannot come up with their own guidelines. Oregon passed, I believe Oregon has since passed the same law in Illinois as well, it is spending some other states.

...

I will make two quick points. I said I come back to the affordable care act of 2010, the only reason why I have the affordable care act, it is not a mental health parity law but it is relevant for this reason. Remember how I said the mental health parity law didn't apply to small group plans? New paragraph that changed with the affordable care act of 2010. It said the mental health parity law should apply to small group plans as well. Now it does apply to small group plans. We actually have an appeal guide free on our website and I just accepted, excerpted a couple of pages.

This table shows whether mental health parity requirements apply in all of these different types of health insurance coverage. If you have a commercial large group plan, yes. A commercial smoker plan, yes. A commercial small group plan that is grandfathered – do you remember under the ACA there are certain planned that her grandfather? Mental health parity doesn't apply.

If you have a question about whether a particular policy that you have or you are working with and whether mental health parity protections apply I recommend you go on to the CAS Pete website,

CSP.org to look at our guide this is a 40 page table that tells you what applies. You pick up last point, if you are still with me you are probably a legal geek. There is a gathering every fall called the autism loss Summit, just an independent gathering. We have been doing it for 16 years. Anybody and everybody is welcome. It is a bite assortment of parents and providers into self advocates and legislators and lobbyists. Professionals. They are interested in shaping the laws of autism and antibody is welcome. We did it via Zoom and this is the most recent one. In my hometown of Columbia, South Carolina. It is coming up in October. This year's will be in Oklahoma.

If your eyes are glazed over or you are asleep it might not be for you. I will stop and if there any questions I can answer?

ANJALI RAO:
Thank you boring. Maybe time for one question. I see a question from Camilla, "how do we find out where our state stands in all of this?"

LORRI UNUMB:
The Autism Speaks website is probably the best. If you want to tell me the state and might know? I see somebody asked how many years the court case took two result, three so far. It is still going.

ANJALI RAO:
The person mentioned Nevada.

LORRI UNUMB:
Nevada does have legislation on the books, I can't recall off the top of my head if their caps have been stricken officially. It was a $36,000 cap but the law is in place.

Is there anything else I can answer quickly?

ANJALI RAO:
We should be all set... I see a couple of questions but we are all out of time. I want to thank you again Lori for this presentation. Is it OK to provide your email for those who still have questions?

LORRI UNUMB:
Absolutely.

ANJALI RAO:
Great. I want to thank you for joining us for our webinar series. Our next webinar will be on April 28, we hope you'll join us. Thank you! Enjoy the rest of your day.

LORRI UNUMB:
Thank you everyone!

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