

## Court Finds Exclusion for Autism Treatments Violates the Mental Health Parity and Addiction Equity Act

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In *Doe v. United Behavioral Health*, No. 4:19-CV-07316-YGR (N.D. Cal. Mar. 5, 2021) a federal district court in California recently considered a plaintiff's claim that an exclusion from coverage for applied behavior analysis and intensive behavioral therapies (the **ABA/IBT Exclusion**) used to assist children with Autism Spectrum Disorder (**Autism**) violated the federal Mental Health Parity and Addiction Equity Act (the **Parity Act**). The plaintiff, as the representative of her minor son who was diagnosed with Autism, was covered under an employer-sponsored, self-funded group health plan subject to ERISA.

The court held that the ABA/IBT Exclusion violated the Parity Act for two reasons. First, the court found that the ABA/IBT Exclusion, on its face, created a separate treatment limitation applicable only to services for a mental health condition (in this case, Autism). Second, the court concluded that the ABA/IBT Exclusion constituted a more restrictive limitation for a mental health condition than the predominant limitations applied to substantially all medical and surgical benefits under the plan. As the basis for this conclusion, the court noted that, by imposing the ABA/IBT Exclusion, the plan carved out and rejected from coverage a core treatment for Autism, whereas there was no comparable medical/surgical exclusion under the plan.

While the court's decision is precedent only in its jurisdiction in California, employers that sponsor group health plans should take note of this development and stay alert for any similar decisions in other jurisdictions that could broaden its impact.