[INSERT YOUR LOGO HERE IF APPLICABLE]

Date

Name of Company

Company Address Line 1

Company Address Line 2

Dear [Name of company CEO]:

I am writing on behalf of [your organization name], an organization that [insert your mission/vision], to make sure that you are aware of recent regulatory fines and a landmark federal court decision involving health plans’ coverage of mental health and addiction treatment.

As head of [company name] that offers health insurance coverage to its employees and their families, you may be interested in these recent developments, both for their potential legal implications and the possibility that health insurers – including third party administrators of self-funded plans ­– may be wrongly denying your employees needed care.

A number of state insurance departments and attorneys general have recently issued fines against health insurers for violations of the federal Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Law) and state-based parity laws that mirror it. The Federal Parity Law and state equivalents require insurers to treat illnesses of the brain, such as depression and addiction, no more restrictively than illnesses of the body, such as diabetes and cancer.

Unfortunately, recent data from the actuarial firm Milliman has found huge disparities between insurers’ coverage of mental health and addiction treatment and their coverage of other medical conditions.[[1]](#footnote-1) The Milliman data is reinforced by findings from state officials who have examined mental health and addiction coverage and found numerous violations. Recent findings and fines include:

* **New York** – The Health Care Bureau of the Attorney General’s Office found systemic parity violations among insurers in the state. It reached eight agreements with seven insurers, penalizing them $3 million and returning more than $2 million to consumers who had been wrongly denied reimbursement. After these settlements, complaints to the Health Care Bureau dropped by 60 percent.
* **Pennsylvania** – The Pennsylvania Insurance Department fined Aetna $190,000 for numerous violations of the Federal Parity Law. These violations included incorrect application of copays, coinsurance, and visit limits, as well as more than a dozen discriminatory nonquantitative treatment limitations, including prior authorization and step therapy requirements.
* **Rhode Island** – Blue Cross & Blue Shield of Rhode Island agreed to pay $5 million after the Department of Business Regulation found violations in the coverage of mental health and addiction care due to discriminatory prior authorization requirements, more frequent concurrent reviews of inpatient care, and inequitable prescription drug coverage.
* **California** – The Department of Managed Health Care has fined Kaiser Permanente millions of dollars over the past few years for violating parity and other mental health and addiction coverage laws.
* **Oregon** – The Department of Consumer and Business Services fined Pioneer Educators Health Trust $100,000, Regence BlueCross BlueShield of Oregon $100,000, United Healthcare $110,000 and Kaiser Foundation Health Plan of the Northwest $250,000 for violating mental health insurance laws.
* **Massachusetts** – The Attorney General required Tufts Health Plan to revise coverage policies and pay $90K in fines due to violations of parity laws and illegal restrictions on autism services.

Similar violations are most certainly happening in other states. In fact, in a recent landmark legal decision, [*Wit v. United Behavioral Health*](http://www.psych-appeal.com/wp-content/uploads/2019/03/Wit-v.-UBH.pdf)(UBH*)*, a federal judge in the Northern District of California ruled that UBH violated its fiduciary duty under the federal ERISA law by allowing financial considerations and a desire to “mitigate” the Federal Parity Law to guide the construction of deeply flawed medical necessity criteria that were used to determine coverage for mental health and addiction services. These criteria were inconsistent with generally accepted standards of care and resulted in the denial of mental health and addiction treatment services to more than 50,000 UBH members who were part of the *Wit* class action lawsuit.

Again, UBH – the largest managed behavioral health care company in the country – is most certainly not alone in its offenses. For [name of company], there could be substantial liability if its health plans are self-funded and its third-party administrator administers benefits in a way that violates federal law. Of course, there are also important questions to ask about the economic cost of employees not being able to seek help for mental health and addiction challenges as well. Mental health conditions such as depression and anxiety take a massive toll in the workplace. And untreated addiction, particularly opioid use disorder, is a major contributing factor to labor shortages. Any company that is not closely examining is mental health and addiction treatment insurance coverage is missing a key opportunity to improve staff well-being and productivity.

[Your organization name], urges you to take these issues seriously and ask your health insurance company or administrator the following questions:

* What are you doing to ensure compliance with the federal and state parity laws?
* How are you protecting me from legal decisions such as *Wit v. United Behavioral Health*?
* How are you ensuring that my employees and their families have equal access to treatment for mental health and addiction concerns?

Thank you for your attention to this critical issue. For far too long, those with mental health and substance use disorders have faced a separate and unequal system of care. As life expectancy in the U.S. continues to decline largely due to overdoses and suicides, we must all do our part to hold insurers accountable. Nothing should stand in the way of getting help.

Sincerely,

[Your signature]

[Your name and title, organization name]

[Your phone number and email address]

1. “Addiction and mental health vs. physical health: Analyzing disparities in network use and provider reimbursement rates,” Milliman, December 2017, <http://www.milliman.com/uploadedFiles/insight/2017/NQTLDisparityAnalysis.pdf> [↑](#footnote-ref-1)