

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:13cv176**

**L.B., a minor, by and through her** )  
**Guardian, ANN BROCK** )  
 )  
**Plaintiff,** )  
 )  
**Vs.** )  
 )  
**UNITED BEHAVIORAL** )  
**HEALTH, INC., et al.,** )  
 )  
**Defendants.** )  
\_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the court on defendants’ Motion for Stay and for Entry of Order of Remand (#42). Having considered the motion and reviewed the pleadings, the court will grant the motion, stay the case, and remand it for reconsideration.

Plaintiff brought this action on March 13, 2013 to obtain health insurance benefits that she was denied. Defendant Wells Fargo & Company Health Plan is an employee welfare benefit plan governed by the Employee Retirement Income Security Act (“ERISA”). The plan is administered by defendant United Behavioral Health, Inc. (“UBH”).

After a series of extensions granted by the court to allow the parties opportunity to reach a settlement, the matter proceeded to mediation on August 16, 2013. After the unsuccessful mediation, the parties resumed their briefing on plaintiff’s Motion for Leave to File Extrinsic Materials and to Correct Administrative Record (#30); defendant’s Motion for Stay and for Entry of Order of Remand (#42); and the cross-motions for summary judgment (## 59, 62). The court held a hearing on October 3, 2013 to discuss the status of the case and its proper disposition moving forward. The principal issue discussed at the hearing was the deficiency of the

administrative record. Two letters from plaintiff's doctors recommending her admission to the residential treatment facility were not considered by UBH in its benefits determination. At the hearing, the court determined that before it could overturn such a determination, UBH must be given the opportunity to consider such letters. Accordingly, the court ruled that it would it would remand the case back to the claims administrator for reconsideration.

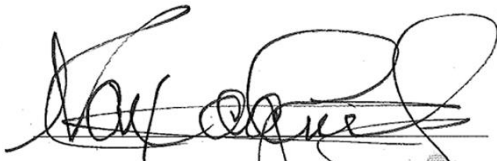
The other issue discussed at the hearing was the UBH's consideration of the Level of Care Guidelines in plaintiff's benefits determination. The court allowed additional briefing on whether such guidelines are properly considered as matter of the Plan in evaluating plaintiff's claim. Having read and considered the briefs however, the court has decided to reserve ruling on this issue if and when this matter returns. Accordingly, the court enters the following Order.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that defendant's Motion for Stay and for Entry of Order of Remand (#42) is **GRANTED**. The court will stay this matter and remand it back to the claims administrator for a reevaluation of plaintiff's claim based upon the recently added evidence.

The court directs the Clerk that this matter is to be **ADMINISTRATIVELY CLOSED**. If and when the parties wish to reopen the case, they should file with the court a Motion to Reopen.

Signed: November 4, 2013



Max O. Cogburn Jr.  
United States District Judge