




THE PHIA GROUP
EMPOWERING PLANS

Today's Speakers



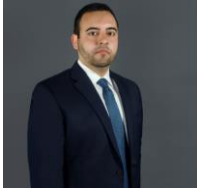
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Looking to stay updated on the latest health insurance industry news?

Click on the link below to follow our LinkedIn page!



Or...

Go to LinkedIn and search for *The Phia Group, LLC*



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An Empowered Plan



The Phia Group, LLC Receives Prestigious World Congress "Health Value Award"

- Of More Than 350 Nominees, The Phia Group Received Award for **Employer Health Plan Under 250 Lives**
- The Industry's Best and Brightest as it Relates to:
 - ✓ Improvement Of Health Outcomes
 - ✓ Reduction Of Costs
 - ✓ Implementation Of Innovative Practices
 - ✓ Value Proposition
 - ✓ Support Better Health Outcomes At Lower Cost
 - ✓ Scalability & Durability
 - ✓ Disruptive Approach

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Phia Certification Has Arrived!



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A Special Shout-Out!

Special Shout-Out to **Cara Rhyner**
of



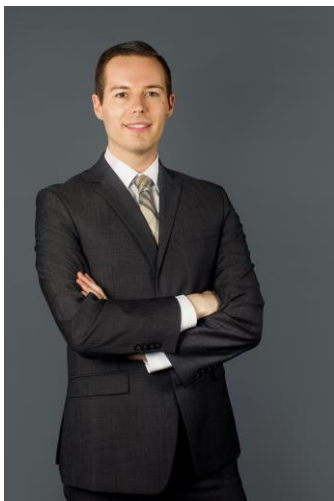
Cara is an avid fan of our webinars and podcasts!

Thanks for listening!

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Client Account Management



Matthew Painten
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Last Month's PGC FAQs

- What can a health plan do to limit or exclude payment for surrogacy benefits?
- What are the considerations involved when converting "school year" salaried employees into year-round salaried employees?
- Can a health plan impose different waiting periods for different classes of employees?

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Overview

- Problem, Purpose, People
- Political Update
- A Subro Update
- Association Health Plans
- Right to Try Law
- QSEHRA (Qualified Small Employer HRA)
- Specialty Drugs
- Fiduciary Fear
- Outrageous Billing

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Problem • Purpose • People



THE PROBLEM

Health Care Costs Too Much and the Price Is Increasing; Employers Are Forced to Offset Costs onto Employees Through Higher Co-Pays and Deductibles.

THE PHIA GROUP'S PURPOSE



To Make Health Benefits Affordable for Employers and Employees.



WHY IS THIS THE PHIA GROUP'S PURPOSE?

Hard Working Americans Deserve Access to High Quality, Affordable Health Care.

WHAT DOES IT MEAN TO "EMPOWER PLANS?"



To Help Employers Maximize Benefits, Minimize Costs, and Take Control of Their Own Plans.



HOW DO WE "EMPOWER PLANS?"

We Start by Promoting and Educating Employers About Self-Funding. Then, We Invent and Implement Cost Containment Services While Delivering Custom Solutions to Meet Specific Client Needs.

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A Supreme Court Pick for a Generation



President Trump chose Judge Brett Kavanaugh of the D.C. Circuit Court of Appeals as his nominee for the Supreme Court at a White House event on Monday night.

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Why This Choice Matters

- SCOTUS Has Already Given Trump Some Major “Wins”
 - Immigration, voting rights, unions, religious beliefs/free speech
- Trump’s Pick Gives SCOTUS a Conservative Majority for a Generation
 - Retiring Justice Anthony Kennedy Was Often the Swing Vote
 - Kavanaugh, 53 could seriously alter health policy
 - Abortion rights, Medicaid, and [Obamacare](#)
- Texas and 18 States Have Sued Fed. Gov’t over ACA
 - How would a Justice Kavanaugh rule?
 - [Seven-Sky v. Holder](#)
 - [Chevron](#) deference and the administrative state
- Maj. Leader McConnell Wants New Pick Confirmed in the Fall
 - Democrats oppose, but cannot stop this
 - But...there is a slim margin (Sen. McCain?)

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Trump Admin. Freezes Billions for ACA

- Risk-Adjustment Payments Worth \$10.4 Billion Halted
 - Federal court in New Mexico decided the payments were based on flawed rules
- Insurance Providers Are Developing Premiums for 2019 and States Are Reviewing Rates
 - Unsurprisingly, insurers are claiming this will increase rates across the board
- The Feds Could Write A New Rule to Fix This...
- \$26 Million in Funds for Sign-Ups Slashed
 - Budget was \$36 million
 - Open enrollments begins in Nov. 2019
 - Consumers could be confused amid new rules



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Midterms Are Looming

- Healthcare Is Squarely on the Ballot This Fall
- The ACA Has Been Undercut
 - Funding was cut
 - Individual mandate was eliminated
 - Payments to insurance companies were cut off



- Association Health Plans/Short-Term Plans Are Popular
- Protections for Pre-Existing Conditions Are Popular
- Pfizer Agreed to Defer Price Increase Until After Midterms



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A Subro Update

Remember *Wurtz v. Rawlings*?

- Preemption on a defensive pleading doesn't preclude attempted enforcement of a state anti-subrogation provision (*Chris – translation please?*)
- What does “relate to” mean?

Footnote #6: ...but that applies to *state law* plans; ERISA plans may have a different result!

***Cognetta v. Bonavita*:** ERISA plans do indeed have a different result! (No surprise there).

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A Subro Update

Spinedex: SPD must clearly explain the plan's subro rights, and must be able to be understood by the average participant

Carpenter Tech: settlement funds placed in a joint checking account have been converted to general assets and are not recoverable by equitable lien!

MBI Energy: á la *Montanile*, funds are traceable even to the attorney

Patchell: Offset not subject to *Montanile* tracing

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Association Health Plans

- Small employers can reap regulatory and financial benefits of large employers
- New rules make it easier to form an AHP!
 - Now, members can be in the same trade, industry, or geography (formerly and)
- Congressional Budget Office expects 4 million Americans to join an AHP by 2023
- *Worried about fraud?* Group sponsoring AHP must have “substantial business purpose unrelated to the provision of health care benefits”

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Right to Try Law

- Terminally ill patients may use drugs that have passed at least Phase 1 (of 4) of the FDA's approval process
- 38 states already had this law
- Opponents suggest that fragile patients and uninformed doctors don't mix well
- This law presupposes informed consent, but isn't designed to require any patient to try any drug

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Right to Try Law

Practical Considerations

- Are health plans required to pay for “right to try” drugs?
- Plan document language
 - Experimental and Investigational
 - Is physician recommendation or approval enough?
- What about stop-loss?

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Q SEHRA, SEHRA

QSEHRA = “Qualified Small Employer Health Reimbursement Arrangement”

- Small businesses (<50) can reimburse for OOP costs and individual market premiums
- Must be funded solely by employer
- Eligible only if there is no group health plan option
- Subject to Title I of ERISA (SPD, reporting, fiduciary, etc.), but not ERISA’s GHP requirements, nor the ACA

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Specialty Drugs

Question: If a health plan’s prescription coverage does not include specialty drugs, can the medical plan also exclude coverage for specialty drugs?

- *What about preventative drugs?*
- *Can the change be made mid-year?*
- *How does §1557 factor in?*

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Specialty Drugs

Question: What are some different options in regards to specialty drug coverage?

- *Can dollar limits be placed on specialty drugs?*
- *What about EHBs?*
- *Will our PBM allow us to play around with coverage?*
- *Is there a distinction between limiting coverage for a treatment, and limiting coverage for a disease?*

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Fiduciary Fear

Dragu v. Motion Picture Industry Health Plan

- A health plan was found to have incorrectly interpreted its own language
 - This can happen to *anyone*
- Plan Administrators may have preconceived notions of what they *think* the SPD says (or what they *think* it means) – but maybe that's not actually what it *does* say or mean!
- Plan required to pay \$30k in claims, plus **\$115,000 in attorney's fees and costs**

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Outrageous Billing

Two main options for out-of-network claims:

| | Wrap Network | RBP |
|-------------|--|---|
| Pros | <ul style="list-style-type: none"> Guaranteed discounts No balance-billing Simple processes | <ul style="list-style-type: none"> Likelihood of deeper savings Claims can be individually analyzed Eliminates medical trend increases |
| Cons | <ul style="list-style-type: none"> Often high negotiation fees Arbitrary and often meager discounts Claims aren't examined individually | <ul style="list-style-type: none"> Possibility of balance-billing Possible stop-loss complications Very easy to do it wrong... |

Outrageous Billing

\$523,400 billed for eye surgery and related care

23% wrap network discount = **\$403,018**

Two high-level options:

- Put it through the wrap network
- Or...don't.
- What are the alternatives?*



Thank You!

**Join us for our next free webinar:
August 14, 2018 at 1:00pm EST
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