



THE PHIA GROUP
EMPOWERING PLANS

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**The Buck Stops...Where?
Pointing Fingers in the Self-Funded
Industry**

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 **Today's Speakers**



Adam V. Russo, Esq.
Chief Executive Officer & Principal


Ron E. Peck, Esq.
Senior Vice President & General Counsel


Jennifer M. McCormick, Esq.
Vice President, Consulting



Brady Bizarro, Esq.
Director, Healthcare Attorney

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EMPOWERING PLANS

An Empowered Plan



THE WORLD CONGRESS
HEALTH VALUE AWARDS

**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!

LEVEL 1
PHIA
CERTIFICATION

LEVEL 2
PHIA
CERTIFICATION

LEVEL 3
PHIA
CERTIFICATION

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Last Month's PGC FAQs

- What do I need to know about state law requirements for self-funded Student Health Plans, or state assessments of self-funded plans?
- Does the ACA require a health plan to cover disabled children over the age of 26?
- For PHI purposes, what is the relevance of legal custodianship of minor children?
- Am I required to provide a translated SPD?

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Overview

- **Problem, Purpose, People**
- **Political Update**
- **The Blame Game**

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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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And the Winner Is...



Warren Buffet says the joint venture will have a CEO in 2 weeks.

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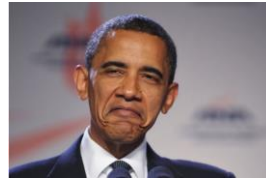
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Trump Admin. Won't Defend ACA in Court

- Feb. 2018 → 20 states sued the federal gov't over Obamacare
 - Texas et al v. United States of America et al, case no. 4:18-cv-00167 (N.D. TX 2018).
 - With individual mandate “repealed,” it, and the rest of the ACA are now unconstitutional.
- June 2018 → Dep't of Justice agrees that the mandate and pre-existing conditions rules are unconstitutional.
- If the court agrees with DOJ, these rules would go away and millions would be impacted.
- A decision is expected this summer.



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New Individual Mandates

- New Jersey
 - 2019 – 9 million residents must obtain coverage.
 - \$695 (or 2.5% of income) penalty.
 - Amounts collected subsidize cost of care for seniors and chronically ill.
- Vermont
 - 2020 – 623,000 residents must obtain coverage.
 - Penalties not set yet (working group commissioned for 2019).
- Who Is Next? California?

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The Blame Game

Gaps In Coverage Are a Huge Culprit!

Quick refresher:

- **Hard gap:** two documents have clearly different language, enabling different conclusions
 - Ex. SPD excludes amounts above what is generally billed by a provider, while the stop-loss policy excludes anything over 150% of Medicare
- **Soft Gap:** different interpretations of the same language by different entities
 - Ex. SPD and stop-loss policy both use the term U&C – but each has a very different idea of what that might mean

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The Blame Game

Gaps In Coverage Are a Huge Culprit!

- Case Study: the classic “illegal acts” fact pattern
- Plan and policy both exclude “illegal acts” in general
 - Plan doesn’t want to apply it to misdemeanors, but carrier does apply its exclusion to misdemeanors

**Plan points its finger at the stop-loss carrier...
...then, Plan points its finger at the TPA**

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The Blame Game

Drafting Plan Documents

- Case Study: Employer didn't read SPD before approving it
- TPA or vendor drafts SPD and presents draft to employer
- Employer approves, in record time! It's *almost* as if the employer didn't even have time to read the document...
- Employee has claim denied, or stop-loss denies a claim

Employer blames the plan drafter for the “error”

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The Blame Game

In-Network Auditing

- Case Study: PPO rates are nonsensical and restrictive!
 - Plan accesses a PPO, but also wants to audit claims
 - Plan sends the claim to an auditor, and the auditor recommends a payable rate based on any number of factors
 - Plan pays the rate but gets sued by provider for underpayment

Plan points finger at auditor...auditor responds with “we just did what you asked”

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The Blame Game

PPO Utilization

- Case Study: Broker blames TPA for allying with a restrictive network
 - Broker places business with TPA
 - Plan incurs large in-network claim, and TPA prices the claim at the network rate
 - Broker and plan want to audit claim, but TPA's hands are tied

Broker points the blame at the TPA

The Blame Game

Overpayments

- Who is at fault – TPAs, plans, providers...?
- Regardless of fault, who *looks* bad?
- Who has something to say about it?
- Who ultimately gets blamed, in whatever form it takes (lawsuit, loss of business ,etc.)?



The Blame Game

Payable Rates

- *Acosta v. Macy's*: Plan paid Medicare rates without proper SPD language
 - Plan blames TPA for both not having language and not following SPD, TPA blames plan for instructing it to pay Medicare rates...
- *Stiso v. Int'l Steel Group*: Plan issued an SPD that was difficult to understand and misleading
 - Plan Sponsor “approves” SPD – but TPA or broker drafts the SPD... Does the Sponsor really know what it’s looking at?

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The Blame Game

Claims Determinations

- *Pac. Shores Hosp. v. United Behavioral Health*: Plan relied on telephone conversations but ignored hospital records
 - Plan has the ultimate responsibility, but the plan hires a TPA to administer claims and do the “hard stuff”...
- *Shaw v. AT&T Umbrella Benefit Plan*: Plan relied on insubstantial evidence and “overused” the same independent medical reviewer

Plan points the finger at its TPA

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The Blame Game

Placing Business

- *Johnson & Towers v. Corporate Synergies Grp.:* Broker placed stop-loss but forgot to submit a certain plan amendment for underwriting
 - Plan pointed finger at broker; broker held liable for violating a fiduciary duty

Does your ASA protect you from liability?

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The Blame Game

Handling Exigent Circumstances

- *Goodman vs. Crittenden Hospital Assoc.:* TPA did poor job of informing members of plan's underfunded status
 - TPA pointed finger at plan...meanwhile, members blamed TPA for essentially lying that the plan was doing fine

What *should* the TPA do in that type of scenario?

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The Blame Game

Not Knowing What's Going On, In General...

- *Connecticut Bulletin HC-108 (12/12/2015):*
 - "A self-funded employer remains legally responsible to pay the claims under the group health plan, but may be financially unable to fulfill its fiduciary obligations **due to the limitations found in the stop loss policy.**"

The state blames stop-loss for a plan's potential failure to pay claims

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