



**THE
PHIA
GROUP**

EMPOWERING PLANS

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**Transparency:
Using it to Your Advantage**

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Last Month's PGC FAQs

- Can a self-funded health plan include a binding arbitration clause? What effect does it have?
- How do jurisdictional provisions work in contracts?
- Is a TPA required to provide a broker with access to a member's Explanation of Benefits?

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Overview

- **Problem, Purpose, Process**
- **Political Update**
- **Transparency, Transparency, Transparency!**

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Problem, Purpose, Process

The Problem – Health Care Costs Too Much and The Price is Increasing; Employers are Forced to Offset Costs Through Higher Co-Pays and Deductibles

Our Purpose – To Make Health Benefits Affordable for Employers and Employees

Why? – Because Hard Working Americans Deserve Access to High Quality, Affordable Healthcare

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Problem, Purpose, Process

How Do We Achieve this Purpose? – By Empowering Plans

What Does it Mean to “Empower Plans”? – Create, Manage, Customize and Take Control of Your Plan Through Cost-Containment, Maximizing Benefits While Minimizing Costs

How Do We Empower Plans? –Start by Promoting and Educating About Self-Funding, Implement Cost Containment Services, and Deliver Custom Solutions

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A National Showdown over the ACA



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Trump Admin. Defends ACA (for Now)

- Idaho Had an Anti-Obamacare Plan
 - Sell health plans on the state exchange that violate ACA rules
 - Can deny for pre-existing conditions
 - No need to cover EHBs
- Other States Were Ready to Follow
 - A way for fully-insured and self-insured plans to defy the ACA
- Trump Administration Stepped In
 - CMS warned Idaho that it must enforce the ACA or else the feds would and the state would pay substantial fines
- Obamacare Remains the Law of the Land
- But...There Still May Be a Workaround



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An Alternative Approach

- Trump Pushing to Expand Short-Term Plans & Association Health Plans
 - Short-Term Plans
 - Released Proposed Rule on 2/20
 - Not subject to EHBs, can screen for pre-existing conditions, can impose annual and lifetime limits
 - Extend duration from 90 days to 364 days
 - Association Health Plans
 - Allow more small businesses and self-employed workers to band together
- A Note on Connecticut's \$10,000 Individual Mandate

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One Last Shot to Stabilize Obamacare

- Later This Month, Two Last-Ditch Plans Will Be Voted On
 - Alexander-Murray Bill & Collins-Nelson Bill
- They Would Provide Billions of Federal Money to Stabilize the Exchanges and Flexibility to States
 - Governors Could Pursue ACA 1332 Waivers (w/o Legislative Approval)
 - Waivers change “at least as affordable” as ACA to “of comparable affordability...”
 - “Me Too” Waivers Would Be Expedited
 - Waivers would Last for 6 Years
- New White House Demands May Derail These Bills



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Pricing Transparency – The Plan

- How will the Plan calculate its payable amount?
 - Is it the “black box” approach?
 - Does the Plan Administrator have discretion to determine payable amounts based on “an amount the Plan Administrator deems reasonable?”



Pricing Transparency – The Plan

Notify _____ of how the plan prices claims!

- Stop-loss
- Providers
- Members



Pricing Transparency – The Plan

Does the plan have unwritten “internal” policies?

- “Site-of-service” pricing
 - Physician services provided in a facility setting are sometimes reimbursed at a lesser amount (since there’s a separate facility fee)
- Pre-cert for Rx drugs
- Unwritten medical necessity criteria

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Rebate Transparency – PBMs

- Even providers often don’t know Rx costs!
 - There may be lower-cost drugs with the same or greater results
- Some PBMs keep a portion of rebates, giving *themselves* an incentive...for you to...use them...or something? What?
- PBM contracts are loaded with problems

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Network Transparency – PPOs

- Upside-down DRGs
 - And how stop-loss will treat them...
- Do you have a right to audit your claims?
- Is there a hidden provider contract?
 - Probably the best example of nontransparency

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Policy Transparency – Stop-Loss

- How will the carrier calculate U&C?
 - Prevailing charges in the area?
 - Especially important for RBP!
- Does the carrier have clinical auditing rights?
- Let your carriers know if their policies aren't transparent! (We're all in this together, after all)

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Contract Transparency – Vendors

- State DOIs have been cracking down on undisclosed or nontransparent broker fees
 - Most notably, California
- Is your broker submitting stop-loss claims?
- Are vendors up to HIPAA snuff?
- Direct Primary Care

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“Official” Transparency – The Law

- Form 5500s have been modified slightly to promote transparency
- EOBs and appeals are the most prevalent issue:
 - Must reference specific Plan provisions
 - Must provide clear rationale for denial
 - Must provide any and all relevant documents upon request
- CMS has considered transparency and price increase limits as a way to contain costs

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Provider Transparency – Pricing

- Lots of network or “intermediary contracting” options – but are they all as they seem?
- Watch out for fine print that changes *everything*
 - Ex. Contract listed case rate of \$55,000 – but went on to provide that the contract rate will never be less than a certain percentage of billed charges – which turned out to be much higher than the “case rate”

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Provider Transparency – Pricing

- Generally very positive for the industry
- Puts payors and provider on equal footing
- Supports the free market: equates medical care with nearly all other markets
- Notions of Fair Market Value are still relevant – but without all the surprises

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Provider Transparency – Pricing

HOWEVER...

- Patients want the best care possible...and members (incorrectly!) perceive higher billing to be correlated with higher quality
- Providers can use transparent pricing to artificially inflate their quality perception
- TPAs, brokers, and plans aren't fooled – but patients choose their own providers

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Provider Transparency – Pricing

From Ron Peck's 3/8/18 LinkedIn post:

- “Until they are actually paying for healthcare out of their own pocket, why would they care about how much something costs?”
- “Not only would transparency without patient ‘skin in the game’ not have the positive effect we seek, I argue it would have a negative effect!”
- ““Hey Janet! I see you need a hip replacement. Well, Hospital A charges three-times as much as Hospital B... so... I guess Hospital A must be better! Good thing insurance is paying for it! Thanks transparency!””

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