

THE TANGLED WEB OF CONTRACTS



THE PHIA GROUP

EMPOWERING PLANS

May 12, 2016

www.phiagroup.com

PGCReferral@phiagroup.com

Presented By:

Adam V. Russo, Esq.
CEO

Ron E. Peck, Esq.
Senior VP and General Counsel

Christopher M. Aguiar, Esq.
Legal Counsel

Jon A. Jablon, Esq.
Legal Counsel



 THE PHIA GROUP

© The Phia Group, LLC - Copyright 1999-2016

PGCReferral @ phiagroup.com


Contact PGCReferral for all your consulting needs!

Specialties:


- Plan drafting, review, analysis, custom amendments
- ACA compliance questions
- Network, provider, stop-loss, client dispute resolution
- ...and so much more

Features:

- Simple submission process
- Same-day quotes in most cases
- Average turnaround of 8 business days
- Flat, transparent fees
- No surprises



THE PHIA GROUP



© The Phia Group, LLC - Copyright 1999-2016

RECENT EVENTS

- Rolan v. New West Health Services
 - Taking ERISA for Granted

- DOL FAQ Part 31, Question #7
 - You Down With RBP?

- Glenn Michael Dennis vs. PHC-Martinsville, Inc.
 - Fair Market Value of Services

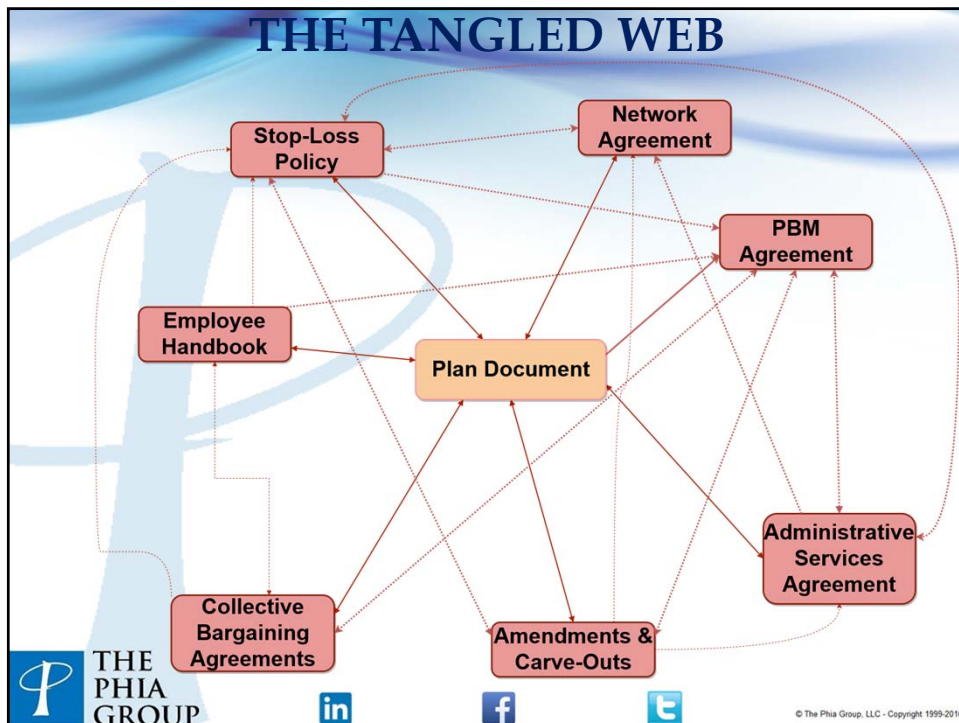
- United leaves the Exchange
 - Fate of the ACA?











© The Phia Group, LLC - Copyright 1999-2016



PLAN DOCUMENT

The seed from which all other relationships grow

- Stop-loss policies insure it
- Amendments & carve-outs change it
- Employee handbooks & CBAs can “supplement” it

 THE PHIA GROUP    © The Phia Group, LLC - Copyright 1999-2016

PLAN DOCUMENT

The seed from which all other relationships grow





- Administrative Services Agreements help manage it
- Network contracts make it irrelevant
- It contains *all* the plan’s rights – cost-containment, subrogation...

 THE PHIA GROUP    © The Phia Group, LLC - Copyright 1999-2016

PLAN DOCUMENT

What to Look Out For




- Who is the Fiduciary?
- Do you Have Subro Rights?
- Do You Pay OON Providers Too Much?
- Are You Compliant?

 THE PHIA GROUP    © The Phia Group, LLC - Copyright 1999-2016

AMENDMENTS & CARVE-OUTS

Making changes or treating services differently

- Extension of the SPD
- It must be followed strictly...like the SPD
- It must be nondiscriminatory...like the SPD
- It can conflict with network contracts
- Stop-loss *must* be aware of it

 THE PHIA GROUP    © The Phia Group, LLC - Copyright 1999-2016

AMENDMENTS & CARVE-OUTS

What to Look Out For

- Are You Violating the PPO or PBM Agreement?
- Are Your Carve-Outs Discriminatory?



© The Phia Group, LLC - Copyright 1999-2016

STOP-LOSS POLICY

The way to pay all claims and stay viable

- Underwrites the SPD *only*
- Network contracts, employee handbooks, CBAs, and ASAs can cause gaps in coverage
- All the other documents have a party but don't call stop-loss until it's time to clean up



© The Phia Group, LLC - Copyright 1999-2016

STOP-LOSS POLICY

What to Look Out For

- Does the Policy Have Many Exclusions?
- Will the Carrier Keep Claims Open?
- Will You Be Left High and Dry?



© The Phia Group, LLC - Copyright 1999-2016

EMPLOYEE HANDBOOK & CBA

Promises made to employees

- It's rare, but these can even contradict each other
- Represent basic terms of employment
- Does not "override" SPD, but instead is separate
- Failure to provide promised benefits leads to breach of contract actions (state court, not ERISA)



© The Phia Group, LLC - Copyright 1999-2016

EMPLOYEE HANDBOOK & CBA

What to Look Out For

- Promises of Benefits During Periods of Disability
- Approved Leaves of Absence – Different from SPD?
- Quoted Benefit Levels or Guarantees



© The Phia Group, LLC - Copyright 1999-2016

ADMINISTRATIVE SERVICES AGREEMENTS

How TPA or ASO administers the Plan Document

- Defines rights and responsibilities of the TPA or ASO
- TPAs and ASOs have different priorities and ties
- Can govern claim payment and network access
- *Who is a fiduciary?*



© The Phia Group, LLC - Copyright 1999-2016

ADMINISTRATIVE SERVICES AGREEMENTS

What to Look Out For

- Broken Record: *Who is the Fiduciary?*
- Can You Implement Cost-Containment?
- Are You Locked Into Unfavorable PPO and PBMs?
- Where Does the Administrator's Loyalty Lie?



© The Phia Group, LLC - Copyright 1999-2016

NETWORK AGREEMENT

How the plan pays in-network providers

- Defines payment mechanisms and timeframes
- Often prohibits audits...which may contradict the SPD
- SPD should “adopt” network agreement
- What is a “clean claim?”
- Does the SPD “override” the network agreement?



© The Phia Group, LLC - Copyright 1999-2016

NETWORK AGREEMENT

What to Look Out For

- Can You View Your Claims Data?
- Can You Dispute Charges?
- When is a Claim "Clean?"
- Is Your SPD Irrelevant?



© The Phia Group, LLC - Copyright 1999-2016

PBM AGREEMENT

How the plan pays in-network pharmacies

- Where are Rebates Going?
- Is There Transparency?
- Does the PBM Benefit when Drugs are Expensive?



© The Phia Group, LLC - Copyright 1999-2016

PBM AGREEMENT

What to Look Out For

- Proprietary or Confidential Information
- Where do the Rebates Go?
- Lack of Ability to Cut Costs



© The Phia Group, LLC - Copyright 1999-2016

HOT TOPICS

- RBP in Light of the FAQ
- RBP “Lite” – Target OON and Wrap Claims
- Employers New to Self-Funding Fear Fiduciary Liability
- Specialty Rx and Rising Drug Costs
- Dialysis Carve-Outs – Walking the Line, Avoiding Discrimination & MSPA Violations



© The Phia Group, LLC - Copyright 1999-2016

THANK YOU

PgcReferral @ phiagroup.com

www.phiagroup.com

Check out our podcast: thephiagroup.podomatic.com

Join Us for Our Next Free Webinar: June 15, 2016 at 1:00pm EST
www.phiagroup.com/media/webinars

 **THE
PHIA
GROUP**

© The Phi Group, LLC - Copyright 1999-2016