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PHIA
GROUP** EMPOWERING PLANS



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**The Affordable Care Act In 2019: A Look Ahead
& Looking Out For You**



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Today's Speakers



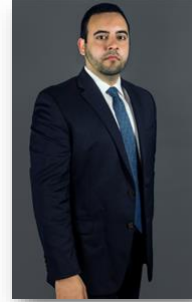
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A Special Shout-Out!

Special Shout-Out to Nicole Johnson
Of



Nicole is an avid fan of our webinars and podcasts!

Thanks for listening!



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Faces of Phia

Jennifer Costa, Director, Recovery Services – Jen oversees Phia's Claim Analysis, Customer Service, and Case Evaluation departments. She ensures client data, questionnaire responses, and case referrals are handled promptly, creating efficiency within our Subrogation and Recovery departments.



Hemant Dua, Sr. Director, Technology – Hemant oversees I.T. infrastructure, application development, and business intelligence. He takes prides in improving both internal and external business processes, using cutting-edge technology. As Hemant creates an efficient work environment, he improves Phia's work product.



Tori Pace, Client Implementation Coordinator – Tori utilizes strong communication and customer service skills to manage client implementations. Tori ensures that all implementations run as efficiently as possible in an effort to enhance overall client satisfaction.



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The New Chairman of the Self Insurance Institute of America

Adam Russo Named as the Self-Insurance Institute of America's (SIIA) Chairman of the Board

January 8, 2019 – The Self-Insurance Institute of America, Inc. (SIIA) today announced its volunteer leadership team for 2019. Amongst the outstanding group of senior industry executives working in furtherance of SIIA's mission of protecting and promoting the business interest of companies involved in the self-insurance marketplace, The Phia Group's own CEO, **Adam Russo**, has been named as chairman of the association's board of directors.

"Adam has for decades dedicated himself to the advancement of employers, employees, and their health benefit plans. He – like all of us – believes self-funding is the best way to offer the most robust coverage for the least cost," remarked The Phia Group's Senior Vice President and General Counsel, Ron E. Peck. "As an active member of SIIA myself, I look forward to experiencing firsthand how Adam's passion and dedication to this industry will help SIIA and its membership achieve the next level of empowerment."



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Overview

- Problem, Purpose, Process
- Last Month's PGC FAQs
- Political Update
 - The Government Shutdown's Impact on Self-Funded Plans
 - The Coming Pharmaceutical Pricing War
- The State of the ACA
 - Obamacare Turns Nine Years Old
 - Obamacare Is Declared Unconstitutional
 - Now What?
- Preparing for ACA 2019
 - Staying Relevant
 - Tools Needed



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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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Last Month's PGC FAQs

- Can you clarify what it means to be a “non-ERISA” self-funded plan? Are they regulated like fully insured plans? Are there blanket rules?
- What are our obligations as a Covered Entity under HIPAA for providing notice regarding our privacy practices?
- What are the three most important considerations for a Plan that wants to cover medical marijuana?



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Political Update



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Gov't Shutdown's Impact on Self-Funded Plans

Health-Related Initiatives Take A Hit

- HHS funding set through September
 - Obamacare, Medicare, Medicaid are insulated
- IRS enforcement may stop, but employers must still comply with the ESRP (employer mandate)
- EEOC is closed and unable to process charges of discrimination against employers
- FDA is impacted
 - 40% of the agency is furloughed
- Indian Health Service is seriously impacted
 - Congress has not approved funding
 - Suspended grants that support tribal health programs as well as preventive health clinics run by the federal gov't
- DOJ is seriously impacted → Why does this affect healthcare?
 - Appeal in the *Texas v. Azar* case has been stayed



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The Coming Pharmaceutical Pricing War

Pharmaceutical Industry Is Preparing For All-Out War

- Drug makers celebrated the New Year by raising prices on more than 250 prescription drugs according to RX Savings Solutions
 - Trump, *"Pfizer & others should be ashamed that they have raised drug prices for no reason. They are merely taking advantage of the poor & others unable to defend themselves... We will respond!"*
- Big Pharma facing increasing pressure from Trump administration → American Patients First plan (May 2018)
 - Considered fiduciary status for PBMs, crackdown on co-pay discount cards, repealed gag law
- Administration plans to tie drug costs to international index
- HHS Sec'y Azar met with powerful Chairman Elijah Cummings (D-MD)



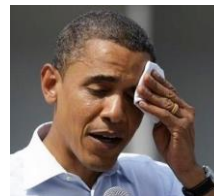
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The State of the Affordable Care Act

The State of the ACA Is . . . Peril!

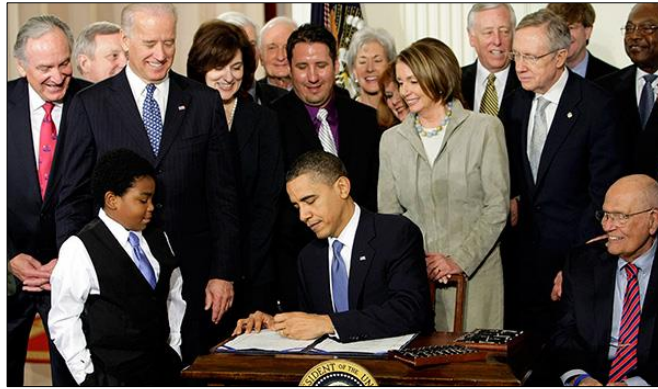
- Legal Peril
 - It was declared unconstitutional (more on that later...)
- Political Peril
 - Divided government
 - Lead-up to 2020 election cycle
 - Executive actions
- Economic Peril
 - Soaring costs will put pressure on the administration



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The Affordable Care Act Turns Nine



"Today, after almost a century of trying; today, after over a year of debate; today, after all the votes have been tallied – health insurance reform becomes law in the United States of America."

President Barack Obama
The White House, The Office of the Press Secretary
March 23, 2010



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The ACA: A Very Brief History

This Year, the ACA Turns Nine



- The Patient Protection and Affordable Care Act (PPACA) was the largest overhaul of the healthcare system since the 1960s
- It extended health insurance coverage to ~15% of Americans who lacked it
- Some Key Provisions
 - Individual Mandate
 - Employer Mandate (businesses with more than 50 full-time employees must offer health insurance)
 - Children can stay on parent's plan until age 26
 - No one who is sick or has a medical condition can be denied insurance
 - Companies can no longer charge women more than men




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ACA: Likes & Dislikes

<ul style="list-style-type: none"> • What Do People Like About the ACA? <ul style="list-style-type: none"> ○ Extension of dependent coverage up to age 26 ○ Guaranteed issue for pre-existing conditions ○ Tax credits for small business who buy insurance ○ Subsidies for exchange enrollees ○ Minimum essential coverage requirement ○ Free preventative services ○ Limits on deductibles and OOP maximums ○ No annual or lifetime dollar limits ○ Medicaid expansion ○ SCHIP program (covers ~9 million children) 	<ul style="list-style-type: none"> • What Do People Dislike About the ACA? <ul style="list-style-type: none"> ○ Individual & employer mandates ○ Burdensome regulations ○ Increase in Medicare payroll tax ○ Higher premiums and fewer choices of insurers <ul style="list-style-type: none"> ○ Up 145% in Arizona (from \$207 to \$507 per month), 71% in Alabama, 67% in Indiana ○ 57% of exchange enrollees have choice of 3 or more insurers in 2017, down from 85% ○ 1/3 of counties will have 1 exchange insurers in 2017, up from 7% ○ Big insurers are leaving (Aetna is pulling out of the exchanges in 2018) ○ Employers dislike the high-cost of implementation
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A Thousand Cuts & Their Impact On You

Trump Promised to Dismantle the ACA. Has He Succeeded?

- Repealed the Individual Mandate
- Eroded ACA Contraceptive Mandate
- Created “Skinny” Plans
- Expanded Association Health Plans
- Shortened Enrollment Period
- Slashed Ads & Budgets
- Ended Cost-Sharing Reduction Payments (CSRPs)





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ACA Declared Unconstitutional

A Texas Federal Judge Declares ACA Unconstitutional

- *Texas v. United States*
 - Case Brought by 20 States in February 2018
 - ACA has Faced Constitutional Challenges Before
 - *NFIB v. Sebelius* (2012) & *King v. Burwell* (2015)
 - Decision in That Case – Legal Exercise of Congressional Tax Power
 - Everyone Pays a Tax (Unless They Buy Insurance)
 - New Challenge – No Mandate, No Payment...No Payment, No Tax!
 - Most Serious Threat to ACA Since 2017
 - Repeal Efforts Failed in the Senate
 - Court's Decision? No Longer a Tax, So Invalid
 - No Severability
 - If One Part is Illegal – It's All Illegal



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Now What?

Post-Texas Ruling: What's Next?

- No Direct Impact on Self-Funded Plans (for now)
 - No Injunction → All Existing ACA Provisions that Apply to Employers, Fully Insured Policies, and Self-funded Plans are Still in Effect
 - The Judge Stayed His Ruling
 - No Effect (for Now) on Plan Design, Cost Containment, Employee Incentives, or Regulatory Compliance
 - No Effect on Enrollment in the Exchanges
- Defendants Have Appealed to the 5th Cir. Court of Appeals in New Orleans → *Texas v. Azar*
 - Legal Experts Expect Ruling to be Overturned
 - Appeal Will be Heard in Early 2019 (**shutdown delay**)
 - Supreme Court Review is Possible



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Trump's Birth Control Coverage Rules Blocked Nationwide

Two Federal Judges Have Ruled Against Trump Administration

- Issue is that the ACA requires birth control services be covered at no additional cost
- The original exemptions
- Trump administration expanded those exemptions and added "moral convictions" as basis to opt out
- Interim rules were previously blocked and that was upheld by an appeals court
- This injunction was just made nationwide



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Developing Guidance on ACA's Employer Mandate

A Future Path to Avoid Employer Mandate Penalties?

- Employer mandate: 1.) offer health coverage to at least 95% of FT EEs (and dependents, and 2.) offer "affordable" health coverage that provides "minimum value" to each FT EE)
- ACA's currently prohibition on HRA reimbursement
- Proposed IRS regulations eliminate prohibition on reimbursing EEs' portion of the cost of individual coverage through an HRA
- Significant departure from IRS's current position
- Nothing is final yet (target date is January 1, 2020)



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The ACA's Road Ahead

Despite the Various Attacks on the ACA, It Is Being Enforced

- The law as written is being enforced
 - E.g. Idaho example
 - E.g. Risk adjustment ruling
- Steps have been taken to stabilize individual market coverage
 - CMS granted state innovation waivers
 - Enrollment processing and training continues
- Democrats have new power in the House
- Blue states have also pledged to protect the ACA



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Preparing for ACA 2019

Don't Let Down Your Guard on Compliance

- Keep up with deadlines!
- Remove references to individual mandate
- Take care of underlying data collection and reporting
- Be on the lookout for penalty letters
- Stay ahead by looking at HHS proposed regulations



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Despite ACA Uncertainty, Stay Relevant!

Plan Designs & Services Needed to Remain Relevant in 2019

1. Advanced Data Management & Reporting / Analytics
2. Integrated Clinical Review & Support (IROs, Nurse Line, Etc.)
3. Stop Loss Management & Procurement
4. Employee Benefit Plan Captives - Administration & Stop-Loss Coordination
5. High Dollar Claim Carveouts & Negotiation - Pre and Post Treatment
6. Rx (Pharmaceutical) & Specialty Rx Plans



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Despite ACA Uncertainty, Stay Relevant!

Plan Designs & Services Needed to Remain Relevant in 2019

7. Customized PPOs, Regional PPOs, and Narrow Network Plans
 - Tiered PPO Solutions
 - Network Optimization & Provider "Removal Options"
 - Direct Provider Contracting & Direct Primary Care
 - The Phia Group's Experience with DPC
8. RBP and Medicare-Based Pricing Plans - OON Only vs. PPO Replacement
9. Community Based Healthcare & Geographically Based Association Health Plans



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Plan Designs & Services Needed to Remain Relevant in 2019

10. Consumer Driven Solution Plans

- High Deductible Health Plans (HDHPs)
- Flexible Spending Accounts (FSAs)
- Health Reimbursement Accounts (HRAs)
- Health Savings Accounts (HSAs)
- Transparent Pricing & Tools to Aid Consumerism



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Despite ACA Uncertainty, Stay Relevant!

Plan Designs & Services Needed to Remain Relevant in 2019

11. Patient Steerage & Incentive Programs

- Plan Incentives
 - Outpatient Services & Hospital Alternatives – No Co-Pay for Urgent Care
 - Generic Prescription Drugs & Supplies – No Co-Pays
 - Patient Audits – Identify Errors or Alternatives & Receive 20% Savings
- Employer Incentives
 - Diapers & Wipes
 - HR Consultations



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Tools Needed

If & When ACA Provisions Are Changed, Stay In Compliance!

- Compliance
 - So... Many... Laws! (ACA, COBRA, ERISA, FMLA, HIPAA, MHPAE, MSPA)
 - Licensing Needs – Old & New
 - IRS Regulations
- Consulting
 - Plan Drafting
 - Vendor Implementation
 - Claim Processing & Appeals
 - Third Party Contract Review
 - Dispute Resolution
- Stay Ahead – Monitor Laws & Learn from Others' Mistakes; Nip Issues in the Bud



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Thank You

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