

# BACK TO BASICS: PLAN LANGUAGE 101



THE  
PHIA  
GROUP

EMPOWERING PLANS

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**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

# OVERVIEW

- **Recent Events**
- **Cost-Containment and Compliance:**
  - Definitions
  - Exclusions
  - Discretion
  - Payable Amounts
  - Subrogation
  - In General

# RECENT EVENTS

- Circuit Split re: EOB timeframes
- New wellness rules
- Transgender issues & HHS rules
- Contraceptive case remanded
- PDM update

# DEFINITIONS

- Dependent
  - Same-sex marriage, domestic partners
- Genetic testing & pre-certification/authorization
- Mental Health Parity
  - Autism
  - Reference-based pricing & claim negotiation
- Leaves of Absence
  - Where are they written? Stop-loss concerns?

# DEFINITIONS

- U&C, Reasonableness, R&A, etc.
- Assignment of Benefits
  - Revocation, prohibition
- Experimental, Medically Necessary
  - Off-label use, drug compounding
  - “According to standard policies”
  - Largest frequency of stop-loss gaps (behind U&C)
    - How conservative is your vendor?



# EXCLUSIONS

- **Illegal Acts**
  - Felony vs. misdemeanor vs. infraction
  - Causal vs. temporal link
- **Hazardous Activities**
  - May vary by group location (and stop-loss location!)
- **Domestic Violence & Medical Condition Exemption**
  - “Documented” vs. “Diagnosed”
- **Excess**
  - Just defining U&C isn’t enough

# EXCLUSIONS

- Contraception
  - Exemptions? Self-certification?



- Specialty Drugs
  - General rule
  - Discrimination issues



# DISCRETION

- Standards of review
- Practical effects of discretion
- Limitations on discretion
  - Reasonable standard
  - Best interests of plan and participants
  - Issues of fact vs. issues of law

# PAYABLE AMOUNTS

- Negotiated rates are the be-all and end-all
  - Yes, that most certainly *does* include PPO contracts
- PPO vs. SPD
  - Make sure the SPD lines up with the PPO – none of this “U&C across the board” nonsense
- Percentage of Medicare
  - Specific vs. general
  - Authority to negotiate up to X%

# SUBROGATION

- Signed subrogation agreements
- Exclusion for third-party liability
- Common fund / made-whole
  - “But I’m a state law plan!”
- Offset
- Aftermath of *Montanile*
  - ...how is *your* vendor doing?



# IN GENERAL

- Plan Document vs. Summary Plan Description
  - Same document? Different document?
  - Conflicts between them
- Translation requirements
- SMMs and SMRs
- Medicare issues
  - Can't incentivize or change benefits due to eligibility

# IN GENERAL

- Who is the fiduciary?
  - Keeping PACE with the trends...
- Does the plan have the rights it needs?
- Does the plan take advantage of those rights?
- Who is making sure the plan is compliant?
- “Who ya gonna call?”



# THANK YOU

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