




**THE
PHIA
GROUP** EMPOWERING PLANS



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Transparency: A Building Block of Self-Funding



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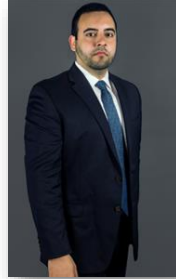
Today's Speakers



Ron E. Peck, Esq.
Senior Vice President
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Jennifer M. McCormick, Esq.
Vice President, Consulting



Brady C. Bizarro, Esq.
Director, Legal Compliance
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A Special Shout-Out!

Special Shout-Out to Dan Dacosta

of



Dan is an avid fan of our webinars and podcasts!

Thanks for listening!



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Faces of Phia

Lyneka Hubbert, Claim Negotiator, Provider Relations – Lyneka helps our clients and their health plans sustain reference-based pricing programs. By working with medical providers to enforce plan document language and protecting the member, Lyneka works diligently to create the best outcome for both our clients and their plan members. Lyneka's dedication and work ethic are admirable and make her a true asset to The Phia Group's Provider Relations team.



Tomasz Olszewski, Senior Claim and Case Support Analyst – Tomasz reviews patients' claims data to identify charges and claim notes that are related to an incident being investigated by The Phia Group. These key pieces of information help to produce a listing of claims paid by the plan, which The Phia Group provides to attorneys, adjusters, and providers for reimbursement.

Zachariah John, Manager of Development – Zachariah oversees the IT Applications Development Team at The Phia Group. Zachariah and his team are responsible for our internal applications that help analyze client data for subrogation purposes. In addition to keeping The Phia Group's internal applications secure, Zachariah is always available to answer questions and assist clients.



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Overview

- Problem, Purpose, Process
- Last Month's PGC FAQs
- Political Update
- Health Plan Pricing Transparency
 - Brand-Name Drugs & OOP
- Provider Billing Transparency
 - New CMS Chargemaster Transparency Rule
- PPO Transparency
- Stop-Loss Policy Transparency
- Your Transparency To-Dos



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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

- What do we need to know about coverage of transgender-related benefits?
 - ACA Sec. 1557: race, color, national origin, age, disability, sex
 - Who is subject to sec. 1557?
- How is preventive care related to HSAs?
 - HDHP & “other coverage”
 - Incentives, and payment 100% benefit levels
 - Exception: ACA-required preventive services
- What do we need to know about dependent exclusions?
 - Like all plan provisions, must be administered uniformly
 - Can be contingent upon availability of other employer-sponsored insurance



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Big Pharma Executives Testify Before Congress



Top executives from seven major pharmaceutical companies testify before the Senate Finance Committee on a Senate committee on February 26, 2019.



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Key Takeaways from the Senate Hearing

- Drug Mfrs. Support the Administration's Proposed Rebate Reform Rule
- PBMs Remain at the Center of the Drug Pricing Discussion
- Americans Pay A Disproportionate Share of R&D Costs
- Value-Based Arrangements Could Play A Larger Role in Solving the Problem
- Congress and Drug Mfrs. Agree the Current System Is Unsustainable



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Regulatory Updates & Crackdowns

- **FDA Commissioner Scott Gottlieb Unexpectedly Resigns**
 - Why this is a loss for cost containment advocates
 - Oversaw record generic-drug approvals
 - Reduced barriers to entry for generics
 - Cracked down on e-cigarettes
- **FDA Issues Warning to Major Broker Regarding Drug Imports**
 - First action taken by FDA against major Canadian broker
 - Dispute is over whether acting as a broker, rather than as an online pharmacy, violates the law regarding “unapproved, misbranded” drugs
 - Several cities/local gov’ts say they will continue to use Canadian broker
 - Takeaway → FDA’s policy of non-enforcement appears to have changed
- **22 States, Medical Orgs. Sue Trump Administration Over Title X Changes**
 - Abortion “Gag Rule”
 - On the heels of an injunction regarding contraceptive rules
 - Unless blocked, rule takes effect in May



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Landmark Mental Health Ruling Against UnitedHealthcare

- **The Background**
 - UBH is nation’s largest mental health insurance company
 - Two class-action suits brought under ERISA
 - UBH members, including children, denied by fully-insured and self-funded plans for treatment from 2011-2017
 - Focused on UBH’s coverage of behavioral and substance abuse disorders
- **The Ruling**
 - Judge → UBH breached its fiduciary duty under ERISA by adopting unreasonable interpretation of Plan rules
 - Acute vs. chronic conditions
- **What It Means for Our Industry**
 - The decision, if upheld on appeal, could have wide ramifications of what insurers must cover in the fast-growing behavioral healthcare sector



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Amazon's Joint Healthcare Organization Launches

HAVEN

VISION CAREERS CONTACT

IT'S TIME FOR BETTER.



- **“Haven”**
 - Name for the Amazon, Berkshire Hathaway, and JPMorgan startup
 - Haven is “interested in working with clinicians and insurance companies to improve the overall health care system.”
- **Their Goal**
 - Focus will be on better primary care access, simpler insurance benefits, and more affordable prescription drugs for their employees
 - Tasked with improving healthcare for the three companies’ 1.2 million EEs & family members in the U.S., but will also share its findings with outsiders.



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Why Should We Care About Transparency?

Transparency furthers the primary goals of self-funding:

Providing robust benefits while containing costs

The systemic lack of transparency in so many facets of our industry is staggering – yet it is accepted as the norm.

Let's change that.



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Health Plan Pricing Transparency

Watch out for the “black box” approach to pricing

- Providers not being able to understand the pricing is one of the biggest triggers of pushback
- RBP seeks to avoid this approach and promote transparency in pricing...
 - ...and if the pricing is unreliable, it defeats the purpose
- Strong plan language is crucial no matter what
- The Plan Administrator should always have discretion, but there still must be a baseline of rules



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Health Plan Pricing Transparency

Watch out for the “black box” approach to pricing

- Vendors guilty of this too!
- Ask questions of those repricing claims for you
 - The plan *chooses* to utilize the vendor’s pricing – but who is really making the decision of how much to pay?
- Example: New York AG Andrew Cuomo’s pursuit of Ingenix
 - Pricing methodologies were confidential and proprietary
 - ...so providers are paid those rates but never told *why*



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Brand-name Drugs & OOP

- Proposed rule for 2020: Non-generic drugs and drug manufacturer coupons could be excluded from the OOP limit in some cases
- OOP could have costs excepted if:
 - Member elects a non-generic drug when a medically appropriate generic is available, or
 - Member uses a drug manufacturer coupon for specific non-generic drugs that have an appropriate generic equivalent
- HHS: proposed rule is “designed to encourage enrollees’ use of lower-cost drugs”
- Health plans will need to make this abundantly clear in the SPD!

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Health Plan Pricing Transparency

29 CFR §2560.503-1: Transparency in EOBs

- “Every employee benefit plan shall establish and maintain reasonable procedures governing the filing of benefit claims, **notification of benefit determinations**, and appeal of adverse benefit determinations”
- (g)(1) requires an EOB to state:
 - (i) The **specific reason** or reasons for the adverse determination;
 - (ii) Reference to the **specific plan provisions** on which the determination is based;
 - (iii) A **description of any additional material or information necessary** for the claimant to perfect the claim and an **explanation of why such material or information is necessary**;
 - (iv) A **description of the plan's review procedures and the time limits** applicable to such procedures, including a statement of the **claimant's right to bring a civil action** under section 502(a) of the Act following an adverse benefit determination on review....



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Health Plan Pricing Transparency

Notify _____ of how the plan prices claims:

- **Stop-loss**
 - ...only if you *want* reimbursement
- **Providers**
 - ...only if you *want* to minimize appeals
- **Members**
 - ...only if you *want* to fulfill your fiduciary duties



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Provider Billing Transparency

- Rare, but it's out there!
- Surgery Center of Oklahoma (for example)
- Direct Primary Care
- Perhaps not always the absolute lowest rate – but many find value in knowing beforehand
- Domestic and international medical tourism & drug sourcing



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Provider Billing Transparency

Irony: Transparency can be a double-edged sword

- Member perception: higher billing = higher quality
- Providers can use transparent pricing to artificially inflate their quality perception
- TPAs, brokers, stop-loss carriers, and health plans aren't fooled – but they're not the ones choosing which providers are utilized
 - This is where incentives become important!



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New CMS Chargemaster Transparency Rule

- New (1/1/19) CMS rule requires hospitals to publicly post charges online in a machine-readable format on an annual basis
- FAQs offer some great clarification:
 - “Machine-readable” means XML, CSV, etc. – some sort of parsable or spreadsheet format
 - Applicable to all hospitals. No exemptions!
 - Hospitals given minimum standards, but encouraged to post more data if they want



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New CMS Chargemaster Transparency Rule

“The policies in the IPPS/LTCH PPS final rule further advance the agency’s priority of creating a **patient-centered healthcare system** by achieving greater **price transparency**, interoperability, and significant burden reduction so that hospitals can operate with better flexibility and **patients have what they need to be active healthcare consumers.**”

“CMS encourages hospitals to undertake efforts to engage in consumer friendly communication of their charges to **help patients understand what their potential financial liability might be** for services they obtain at the hospital, and to enable patients to compare charges for similar services across hospitals.”

(...but is this really about the cost to the *patient*?)



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PPO Transparency

- Does your PPO hide provider discounts from you?
- Is the contract so proprietary that you can't even show it to your broker for fear of violating it?
- Upside-down DRGs (and how stop-loss will treat them)
- Do you have a right to audit your claims?
- Is there a separate, secretive provider agreement?
(Probably the best example of a lack of transparency)



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Stop-loss Policy Transparency

- Audit rights: will the carrier start from scratch?
- How is U&C defined?
 - Does the carrier use Medicare rates? Is that written?
 - Especially important for plans utilizing RBP!
 - 150% of Medicare may be within the carrier's (or its auditor's) definition of U&C – but what happens if the plan needs to negotiate a settlement?
- Watch out for mysterious claims submission processes (unobtainable information becomes necessary)
- Rebates – are they plan “refunds,” even when the plan doesn't get to keep them?



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Your Transparency To-Dos

- Make sure your Plan Document language is clear!
 - No **“black box”** pricing
 - No **vague** definitions of U&C
- Put transparent pricing to good use by:
 - **Incentivizing** employees to visit lower-cost hospitals
 - **Incentivizing** employees to use generic drugs
 - Demanding **chargemaster** disclosure
- **Read** your contracts with:
 - Stop-loss
 - PPOs
 - Providers
 - Vendors



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Thank You

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