

2020 Forecast

Storm Clouds, Clear Skies and the Issues That Will Dominate Next Year



Overview

- **Political Update**
- **Insi(ia)ghts from SIIA**
- **New Drugs ... Addicted to High Prices**
- **HHS Enforcement ... Clipping Coupons**
- **Get Out of Here! Paid Leave in 2020**
- **Clean-Up Aisle 2020 ... Get the MOPPS**
- **Moratoriums are a HIT (Health Insurance Tax)**
- **Best of the Rest**
- **Stop (Loss) ... In the Name of Love**



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Today's Speakers



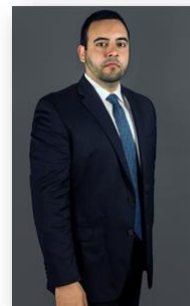
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What Motivates Us?

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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<https://secure.ggiv.com/event/directcare/>

RIP Medical Debt (a national 501[c][3] nonprofit organization) uses donations to purchase bundled medical debt portfolios. It targets debt incurred by people facing financial hardship and then forgives it. On average, \$1 is leveraged to abolish \$100 in medical debt. **Donations totaling \$90,000 will abolish all medical debt for people facing financial hardship in Massachusetts.** Please join us in the fight to abolish \$9 MILLION of medical debt for those in need!

Please visit www.ripmedicaldebt.org for more information and to donate today!



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PATIENT DEFENDER

Patient Defender: The Ultimate Weapon in the Fight Against Balance Billing

- A PEPM Fee Places an Attorney on Retainer
- Patient & Plan Consent Ensures No Conflict of Interest
- Attorneys Represent the Patient Including Handling of Appeals
- All Litigation & Negotiation Strategies Considered
- The Phia Group Continues to Protect the Plan
- Patient Defense Can Be Added to Any Type of Plan



Please contact Tim Callender at tcallender@phiagroup.com or 781-535-5631 if you are interested in learning more.



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PACE[®] CERTIFICATION

The PACE[®] Certification program will educate you using 3 distinct chapters of information:

Chapter One

Explore the ins and outs of self-funding while learning about its risks and rewards. This chapter will transform any individual into a self-funding pro.

Chapter Two

Take a deeper dive into the laws that apply to self-funded plans. We cover it all, from federal preemption to adverse benefit determinations and appeals.

Chapter Three

Explain what PACE is, what PACE does, and how it's obtained, implemented, and utilized.



UPDATE! 75% of PACE Certified TPAs are reporting the tools provided have already increased their PACE plan-adoption rate, resulting in increased revenue for the TPA, and more employers being protected.

Please contact Michael Vaz at mvaz@phiagroup.com or 781-884-4971 if you are interested in learning more.



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Special Shout-Out to Bill Miller

of
Drexi
 Making Wellness Affordable

Bill is from Arizona and loves music!

"I love music. I play the piano, guitar and sing. I have had the lead in three musicals. Which of course, is why I was singing the National Anthem, and continued on at the SIIA conference when the music cut out."

Thanks for listening!



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 THE PHIA GROUP
 EMPOWERING PLANS

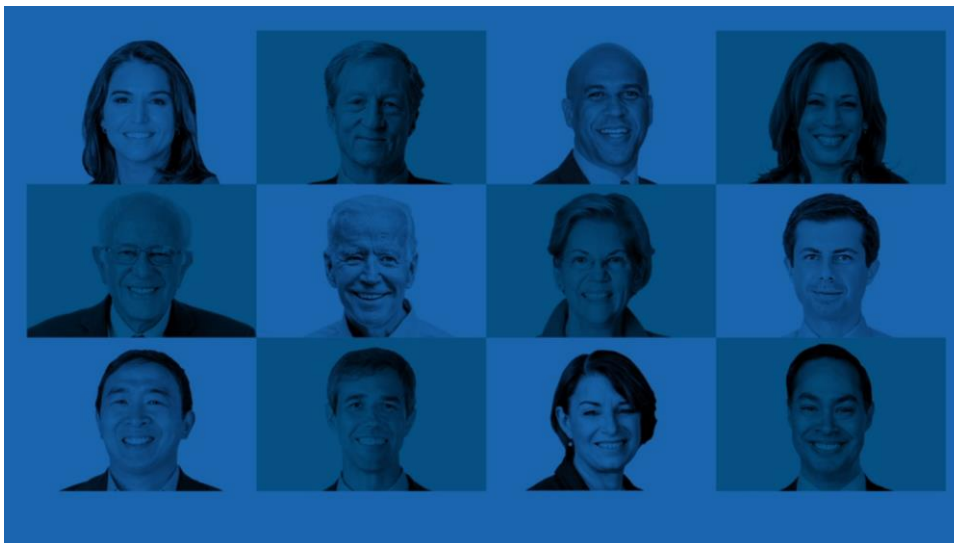
2020 Ushers In the 20th Year of The Phia Group's Existence

Stay Tuned for a Year of News and Events Celebrating 20 Years of Empowering Plans!



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Political Update



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Political Update - Healthcare in the Democratic Debates

- **In General**
 - Healthcare has consistently dominated the debates
 - It exposes a fundamental divide in the Democratic Party (progressives v. moderates)
- **Battle Lines Drawn over Medicare for All**
 - Moderates favor choice (“Medicare for All Who Want It”): Progressives believe that isn’t enough
 - Medicare for All is politically risky because of its price tag (\$34 trillion over 10 years) and its call for abolishing all private insurance (over 4 years)
 - Senator Elizabeth Warren (D-MA) doesn’t have a plan for that . . . yet
 - Dodging taxes, focusing on costs
- **What Wasn’t Addressed? Why?**
 - Surprise billing legislative proposals
 - Drug pricing
 - Cancelling medical debt
 - Erosion of the ACA



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Political Update - Impeachment Inquiry Complicates Healthcare Agenda

- **Impeachment May Get in the Way of Progress**
 - Real action requires a unified bipartisan front against industry opposition
 - White House has threatened a “freeze” on legislative process
 - The House & Senate are preoccupied with impending impeachment
- **Speaker Pelosi’s Prescription Drug Bill Is Shaky At Best**
 - Bill was unveiled on 9/16, it now heads to House Energy & Commerce Committee
 - House Republicans are against the bill, but it includes President Trump’s international price index and allows Medicare to negotiate drug prices
 - CBO estimates bill would save Medicare \$345 billion over 10 years
 - Trump noted it was “great to see” her bill
- **What the Index Could Mean for Self-Funding**
 - A benchmark for pricing based on Medicare
 - This could be a game-changer



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Political Update - The Courts in the Spotlight

- **Federal Judge in Texas Vacates Major Part of ACA’s Section 1557**
 - *Franciscan Alliance v. Azar*
 - Set aside rules that explicitly prohibited discrimination based on gender identity and termination of pregnancy; ruling they violated RFRA and the APA
 - Ruling follows a preliminary injunction issued in December 2016
 - Insurer could rely on this ruling to roll back nondiscrimination protections or deny coverage or care
 - Appeal to the 5th Circuit Court of Appeals is expected
 - A SCOTUS case, expected to come down in summer 2020, could inform this case
- **5th Circuit’s Decision on Obamacare Expected This Month**
 - If ACA is struck down, feds will seek a stay of enforcement
 - This would effectively keep the ACA in place and ensure continuity of health insurance coverage until replacement legislation can be passed
 - Trump administration is also expected to delay a potential Supreme Court hearing on the case until after the 2020 election



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Insights from SIIA

- **Suspending the “Tough” Decisions**
 - The Presidential Race
 - Positioning of Members of Congress in Tough Districts
- **End of Year Tax Extender Bill**
- **Issues for 2020 – Surprise Billing, Drug Pricing, Etc.**
 - Done Before the Spring, when Congress will Most Likely Legislatively Shut Down???
- **Traction**
 - Agency Rulemaking & Court Decisions
 - ACA
 - Healthcare Costs & Transparency
 - Billing & Drug Pricing



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New Drugs ... Addicted to High Prices

- **New Drugs / Outrageous Pricing**
 - Pharmaceutical Drug Management MSP Reporting under SUPPORT
 - High-Cost Rx Exclusions
 - Specialty Drugs/Rx
 - Gene therapy drug → Zolgensma (\$2.125m per patient)
 - The most expensive drug ever approved by the FDA
 - Cancer drug → Zaltrap (\$132k/year)
 - Hepatitis C drug → Sovaldi (\$1k per pill: \$4 per pill [generic] in India)



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HHS Enforcement ... Clipping Coupons

- **2020 NBPP Final Rule Application**

- Effective Date: Plan years on or after January 1, 2020
- Summary: Permits plans to exclude the value of drug manufacturers' coupons from the annual limitation on cost sharing when a medically appropriate generic equivalent is available.
- Limitation: Limited to situations when a medically appropriate generic equivalent is available
- Plan Language & HDHPs



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HHS Enforcement ... Clipping Coupons

- **Department (HHS/DOL/Treasury) Action**

- Non-Enforcement: Until 2021 the Departments will not initiate enforcement action if a plan excludes the value of drug assistance from the annual limitation on cost sharing, including in circumstances in which there is no medically appropriate generic available.
- Caution: Be cognizant that this does not conflict with the existing Q&A for HDHP.

- **Private Action**

- Non-enforcement action is specific to the Departments; private employees can still potentially bring complaints.



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Get Out of Here! Paid Leave in 2020

- **Legislation/Implementation of Mandatory Paid Leave in 2020**

- Washington to Begin in 2020



- Congressional Measures Reintroduced in Congress:
 - The Working Parent Flexibility Act
 - The New Parents Act
 - Child Rearing and Development Leave Empowerment
 - Family and Medical Insurance Leave Act



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Clean-Up Aisle 2020 ... Get the MOPPS

- **The CY20 Medicare Outpatient Prospective Payment System (MOPPS)**

- Transparency in Negotiated Pricing Proposal is 30 Days Into the 60 Day Notice and Comment Period
- Due Date for Comments was September 27, 2019



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Stop (Loss) ... In the Name of Love

- **Case Study: Stop-Loss Interpretation of Plan Provisions**



- Background
 - Dispute over eligibility status of Plan Participant
 - Carrier denied claims, stating Plan Participant should not have qualified for coverage pursuant to Plan terms
 - Plan administrator strongly disagreed
- The Plan Language
 - *...provided you submit proof of the child's incapacity no later than January 31st **each year** and as otherwise required by the Trustees and further provided that the child's handicap must have started before he or she reached age 26 and while the child was a covered Dependent under the Plan*
- The Stop-Loss Policy
 - The Plan requires the Plan Administrator to submit proof **each year**. Since the Plan Administrator failed to submit proof after the first year, eligibility criteria was not met



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- **Experimental & Investigative**

- Concerns include off-label drug use and data sources
 - Language example → *"[T]he chosen method of care cannot be lawfully marketed without the approval of the U.S. Food and Drug Administration for the particular condition and approval for marketing for the particular condition has not been given at the time such care is provided."*

- **Occupational Injuries**

- SPDs and stop-loss policies treat these in many different ways.
 - All occupational injuries
 - All injuries for which WC coverage is available
 - Injuries for which the participant is WC-eligible
 - Injuries for which WC has actually paid benefits



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- **Usual & Customary**

- Just about every SPD references this, and many stop-loss policies do as well
- Different definitions, different interpretations, and different data sources can be problematic for the Plan
- Taking into account Medicare pricing/protocols can be a major problem
- The ideal for the Plan is that the stop-loss policy not even mention U&C and instead defer to the Plan's definition and the Plan Administrator's determinations



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- **Medically Necessary**

- SPDs and Policies Can Differ
 - Ex. What about frequency of treatment?
- Plan Ideal: The Policy Does Not Mention This, Instead Deferring To the SPD (*But Watch Out For Interpretation*)

- **Proof of Loss**

- Stop-loss Policies Sometimes Have Unique Proof of Loss Provisions
- Most are Fairly Standard, but Their Time Requirements Vary
- Some are Specific Regarding What Information is Needed to Complete an Adequate Proof of Loss ... Others, eh... Not so Much!



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Stop (Loss) ... In the Name of Love

• Residence & Medical Tourism

- Some Stop-loss Policies Exclude Coverage for Individuals Who:
 - Reside Outside the United States;
 - Are Injured Outside the United States; and/or,
 - Seek Treatment Outside the United States

- Despite the fact that medical tourism is rising in popularity, including international medical tourism
 - This can be a deterrent to some plans – especially larger ones – that are hoping to broaden the cost-containment for services that are usually very expensive
 - The concern is likely due to the less known charges, risks, etc.
 - Plan needs to negotiate, and do a cost-benefit-analysis
 - Vendor involved? Warranty?



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