

# **Today's Speakers**



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- Flat, transparent fees
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# Flagship Plan Document: Phia's Best Practices



- Delays In Plan Drafting Cause Many Plans To Administer Old Plans Or In Some Cases No Plan
- > To Combat This The Phia Group Has Developed Its Flagship Plan Document Template
- > A Condensed Version Of Its Industry Acclaimed, Fully Customizable Template
- ➤ The Phia Group Has Created A Nearly Complete Plan Document By Pre-Selecting What It Deems To Be The Best Provisions In Every Regard
- All That Remains Is To Fill In Biographical Information, Insert A Schedule Of Benefits, And Eligibility Criteria
- Contact Tim Callender at 781-535-5631 or tcallender@phiagroup.com









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#### **PGCReferral: January 2017's Most FAQ**

- What is the "Confined Persons" exclusion?
  - Why would a plan want a timeframe included in the exclusion?
- Will a plan's grandfathered status be impacted if a plan modifies prescription drug coverage to include a requirement to use generics when available and medically appropriate?
- 1095-C Form (Employer Mandate reporting): Is there any transition relief available? Are the affordability safe harbors still applicable?









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## **Overview**



- > Trump Transition Update
- Mind the Gap(s)!
  - > Plan Document vs. Employee Handbook
  - > Plan Document vs. Unwritten Rules
  - > Plan Document vs. Vendor Policies
  - > Plan Document vs. Stop-Loss Policy
  - > Plan Document vs. Laws & Regulations









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# **Trump Transition Update**





Tom Price sworn in as the 23rd Secretary of Health and Human Services

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## Repeal and Replace . . . and Repair?



- "Repair" is the New Buzz Word
  - > Recent leaks reveal Republicans are worried about a full repeal



- > Nonpartisan CBO estimates 20 million could lose coverage after full repeal
- > Recall that Democrats retain filibuster power for legislation, but not bills dealing with ACA tax credits and other federal spending
- > So ending the subsides will be easy, but ending the exchanges will not be
  - Therefore, some want to fix the individual market before repealing part of the law
  - Not enough young healthy people to offset costs for sicker, older people. The result is higher premiums fewer insurance options









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# Repeal and Replace . . . and Repair?

- Biggest Issues Facing the Congress
  - Future of Medicare & Medicaid
    - Capitation over fee for service.
    - Expansion rollback; Block grants
  - Pre-existing Conditions
    - Continuous coverage requirements
  - Taxes and Fees
    - Division between House and Senate
    - Cadillac Tax
    - Medical device tax
  - Transition and Timing
    - President Trump's timeline, "maybe it will take till sometime into next year..."
    - Will insurance still be required to cover certain services?





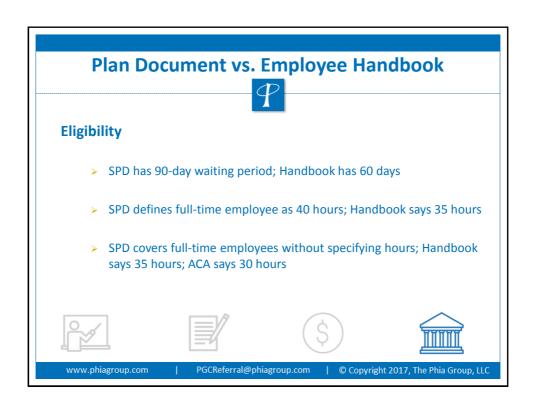




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# Plan Document vs. Employee Handbook Three major areas of concern: Eligibility Disability Leaves of Absence

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## Plan Document vs. Employee Handbook



#### **Disability**

- > SPD makes no reference to disability; Handbook promises coverage
- > SPD promises coverage for eight weeks of disability; Handbook promises ten weeks









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## Plan Document vs. Employee Handbook



#### **Leaves of Absence**

- > SPD does not provide for state-mandated leaves of absence, but Handbook does
  - > Example: Oregon's 36 weeks of FMLA/OFLA leave
  - > Example: Massachusetts' 12 weeks of paternity leave
- > Handbook allows any of various approved leaves of absence; SPD does not reference those









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## Plan Document vs. Unwritten Rules



- > Employer decides to approve a leave of absence without the leave being provided in the handbook
  - Fine legally, but SPD and stop-loss likely do not support it
- Member exhibits "unspecified drug-seeking behavior"; Employer gives list of three approved doctors and says the rest are not covered
  - Member visits "non-covered" doctor; plan denies claims









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## Plan Document vs. Vendor Policies



- Employer utilizes international medical tourism program; SPD excludes all non-emergent claims outside the US
- Employer utilizes Medicare reference-based pricing; SPD defines payable rate as "traditional" U&C (prevailing charge)
- > SPD references a dialysis carve-out but the PPO contract does not support it









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# **Plan Document vs. Stop-Loss Policy**



#### **ADA Leave**

- > SPD silent on the matter; defined eligibility based on active employment
- SPD excluded employees not at work for over one month
- > Employee was approved for over one month of leave but employer continued enrollment









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## **Plan Document vs. Stop-Loss Policy**



## PPO Discrepancies (or, the "Many Hat Problem")

- SPD caps claims at U&C (prevailing charge in the area)
- PPO requires payment at billed charge less a percentage
- PPO rate was higher than U&C rate
- Plan Administrator vs. Plan Sponsor vs. Employer









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## Plan Document vs. Stop-Loss Policy



#### State-based Leave Policies

- Same as before (e.g. Oregon) everything connects!
- Oregon permits up to 36 weeks of leave in certain situations
- The law permits leave for a sick child that requires *home care*
- > Employer granted sick child leave, but child was in ICU rather than at home
- Stop-loss caught the error and denied 12 weeks of coverage









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## **Plan Document vs. Laws & Regulations**



#### **Inconsistent Administration**

- ERISA requires that the Plan Administrator interpret the same language in the same way for similarly-situated members...
- Member's claim from skiing accident denied as hazardous
- CEO's son's very similar claims are *not* denied as hazardous
- Abuse of discretion / arbitrary decision









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## Plan Document vs. Laws & Regulations



#### **Domestic Violence / Health Condition**

- > Federal law requires that benefits cannot be denied if the exclusion would not be applicable but for domestic violence or a physical or mental health condition
- > A member overdoses on illegal narcotics and requires expensive treatment; SPD denies claims caused by the use of illegal drugs









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## State & Federal Law: Leaves of Absence



Employers must be aware that some laws require benefits while on certain types of leave.

- Temporary employees in MA are entitled to earned sick time
- Part-time temporary employees can be entitled to FMLA if they worked for 12 months and averaged 24 hours per week
- Temporary employees are entitled to ADA and USERRA leave









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