



## The Phia Group's Adam Russo Fires at WSJ Article '*When Insurance Fails...*'

MyHealthGuide Source: [Adam V. Russo](#), CEO, The Phia Group, 2/6/2012, [www.PhiaGroup.com](http://www.PhiaGroup.com)

To the Editors of Wall Street Journal:

On January 7, 2012, **Leslie Scism** wrote an article for the Wall-Street Journal, titled "[When Insurance Fails: Cheaper Policies Bought in the Workplace Can Have Drawbacks](#)." As an attorney as well as a regular reader of the Wall-Street Journal, I was shocked to see such misinformation. At the outset, the author mentions premium increases health insurance has been imposing upon us. These premium increases apply solely to what is called "fully funded insurance policies;" whereby an insured pays premiums to an insurance carrier, and the carrier bears the risk of loss.

The author quickly shifts her focus from increasing premiums to judicial deference shown to employer sponsored health plans.

Self-funded benefit plans are not the same as fully funded insurance policies. As such, rising premiums (an issue involving fully funded insurance), and deference shown to self-funded benefit plans are two separate matters. Ms. Scism apparently hopes to advance her agenda (the demise of employment based self-funded benefit plans) by associating them with the rising cost of insurance. There is no relationship between the two, but a less informed reader wouldn't know that; they rely upon your periodical to be so advised.

Ms. Scism implies that employers administer health plans without oversight; that a judge can only overrule a decision if the plan acts in an arbitrary manner. The blanket statement that all employer sponsored health plans enjoy judicial deference is patently false. This is a misstatement of law, and it should never have been printed by the Wall-Street Journal. The main source of information relied upon by the author was **Mark DeBofsky**, a plaintiffs' lawyer and professor at John Marshall Law School in Chicago. Attorney DeBofsky and Ms Scism suggest that the law, which limits damages against employers to only the denied claims, "gives insurers an incentive to deny more claims."

As an employer who sponsors a self-funded plan for my employees, I am offended by this statement. Instead of relying on one attorney's opinion, let's instead refer to the United States

Departments of Labor (DOL) and Health and Human Services (HHS). Section 1254 of the *Patient Protection and Affordable Care Act* (PPACA) required the HHS and the DOL to provide a report comparing fully-insured and self-insured plan arrangements.

- The studies found *no differences in plan generosity or claim denial rates between self-insured plans* (that are shown judicial deference) and fully-insured plans (that do not enjoy judicial deference).
- In fact, both the HHS and DOL stated that *financial incentives to deny claims may actually be smaller for self-funded plans* (despite enjoying judicial deference), since they (employers) are more willing to invest in medical spending due to their financial stake in the well-being of their employees.

Indeed, Attorney DeBofsky and Ms Scism fail to consider why an employer establishes a health plan. These plans allow employers to recruit and retain employees. Furthermore, a healthy workforce results in increased production. As a result, profits increase when employees are healthy. If my benefit plan denied claims in the fashion described by Attorney DeBofsky and Ms Scism, my employees would take more sick-days or quit, and productivity (as well as profits) would suffer.

In her attempt to portray employer based benefit plans as villains, Ms. Scism cites the case of **Celina Whinery's** claim against Cigna. You might recall that Ms. Scism opens her article by commenting on the rising cost of providing healthcare. Yet, in the same article, she would have our health plans pay claims arising from participants' illegal activities. That would not help reduce the cost of coverage. Many plans exclude coverage for incidents that occur due to the patient's intoxication or commission of an illegal act.

Finally, the overarching theme of this article is that individuals would be better off with their own private insurance, rather than rely upon an employee benefit plan. This message is irresponsible and may even be hazardous. Most employers provide subsidies that greatly reduce the cost of health coverage, secure network discounts, and spread risk over a large pool of lives. Perhaps Ms. Scism feels I should drop the subsidized health benefits my employees enjoy along with the great wellness packages we provide -- oh by the way, our self funded plan hasn't had premium increases in two years!