

WITHIN YOUR GRASP THE PERFECT SELF FUNDED PLAN

FREE MARKET MEDICAL ASSOCIATION



**THE
PHIA
GROUP**

EMPOWERING PLANS

Presented By:

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CEO**

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MISSION

The Free Market Medical Association is dedicated to bringing together physicians, surgeons, providers, facilities, and support businesses; providing necessary resources to promote a successful industry; and defending the **practice of free market medicine without the intervention of government other third parties.**

2014 THEME

“Thinkers, Doers, and Users: Forecasts, ideas, and how to create a free market health care practice. How to practice free market medicine and how use free market care **to save money and get better results.**”

OVERVIEW

Cost is the Problem; Self-Funding is the Solution

Growth of Self-Funding

Benefits of Self-Funding

What Can You Do?

ASO v. TPA ... It's All About Risk & Control

The Risk Spectrum; Where Do You Fall?

PPOs & Networks – The Anti Free Market

The Free-Market Solution – Innovative Plan Design

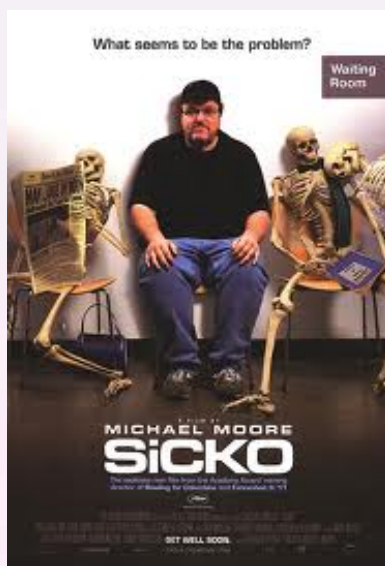
COST IS THE PROBLEM; SELF-FUNDING IS THE SOLUTION

Why Do Employers Finally Care About Costs?
&
Why are Medical Costs So Publicized Now?

COST IS THE PROBLEM; SELF-FUNDING IS THE SOLUTION

Affordable Care Act

Market Factors



VS.



GROWTH OF SELF-FUNDING

Self-Funding By The Numbers

- Proportion of workers in self-funded plans
 - 5000+ : 93% in 2012, up from 72 % in 2000
 - 1,000 to 4,999: 78% in 2012, up from 69% in 2000
 - 200 to 999: 52% in 2012, down slightly from 53% in 2000
 - 3 to 199: 15% in 2012, no change from 2000
 - **All employers: 60% in 2012, up from 49% in 2000**

GROWTH OF SELF-FUNDING

Percentage of Private-Sector Enrollees in Self-Insured Plans, by Firm Size, 1996–2011



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GROWTH OF SELF-FUNDING

Why the Surge?! – PPACA

- Market Factors
 - Increased Costs, Penalties, & Mandates
 - Will Exchanges Succeed or Fail? Employee Access to Care?
 - Wellness ROI - Healthy Staff = Productive Staff
 - Employers Seeking Alternatives
- Self-Funding Provides the Answer !!!
 - Adverse Selection?
 - NAIC White Paper

BENEFITS OF SELF-FUNDING

- Access to Data
- Control & Customization of Plan Design
- Greater flexibility in health benefits provided
- Unique Cost & Utilization Controls
- Lowers “premiums” in return for retention of risk of employee medical costs
- Lower administrative costs / Uniformity Due to ERISA
- Cash flow management

WHAT CAN YOU DO?

The Fiduciary Duty to Be Prudent with Plan Assets

ERISA's Fiduciary Duty of Prudence

- Exclusive purpose of providing benefits and **defraying reasonable expenses** in accordance with the documents and instruments governing the plan...
- **Unreasonable expenditures are prohibited...but** that's judged on a case-by-case basis and by a court. If there's no challenge to language, it has no real way of being deemed reasonable or unreasonable.
- The most common example of violating the "reasonable expenses of administering the plan" rule: Using Plan assets to defray *non-Plan* expenses.
- Paying claims based on a PPO contract where the Plan doesn't specify that
 - Done because PPO requires it.
- Not auditing or reducing charges based on U&C when the Plan requires it
 - Done because PPO prohibits it.

WHAT CAN YOU DO?

ASO VS. TPA – IT'S ALL ABOUT RISK & CONTROL

The Players

- **“Self-funding” with a TPA – “A la Carte” Pricing**
 - Third Party Administrators (“TPAs”)
 - Maximum Claim Risk & Control
 - Cost Containment Opportunities
 - More “Gaps”
- **Self-funding with the “BUCAs”**
 - Administrative Services Only (“ASO”)
 - Premium Risk, But NO CONTROL – Claims, Plan Design, Cost
 - No Gaps

WHAT CAN YOU DO?

ASO VS. TPA – IT'S ALL ABOUT RISK & CONTROL

The Risk Spectrum; Where Do You Fall?



Savings: You Only Get Out What YOU Put In

PPOS & NETWORKS – THE ANTI FREE MARKET

PPOs & Networks – In Theory

- Provider Gets Steerage & Assignment of Benefits
- Plan Gets Discounts

PPOs & Networks – The Harsh Reality

- No Exclusivity = No Steerage
- No Steerage = No Competition = No Incentives
- “Good” Discounts Off of “Charge Amounts” – WHAT!!!!!!
- What Does it All Cost Anyway?
- Aiding & Abetting Fraud?

PPOS & NETWORKS – THE ANTI FREE MARKET

Case Studies

No Audit Provisions

“In no event shall Client audit or reduce Contract Provider billed charges based on usual and customary, "excessive markup", or other similar bill reduction methodology ("U&C Reductions"). Client acknowledges that a Contract Provider may refuse to honor the Contract Rate if Client reimburses the Contract Provider based on a U&C Reduction.” [(FH)]

What Does It All Mean?

Explicitly prohibits reducing claims based on U&C and “excessive markup” – tells the Plan that whatever its providers charge is fine even if it’s unreasonable.

PPOS & NETWORKS – THE ANTI FREE MARKET

Case Studies

No Audit Provisions

“Payer shall not retrospectively review preauthorized services. “[(AK)]

What Does It All Mean?

Stark contrast to something that every Plan and TPA should specify – *that pre-certification is not a guarantee of benefits.*

Requires the payer to concede that pre-certification IS a guarantee of benefits, because the payer is not permitted to retrospectively review anything that has been pre-certified.

PPOS & NETWORKS – THE ANTI FREE MARKET

Case Studies

“I’ll Take That Assignment of Benefits, Thanks!”

“The Participating Plan agrees to remit payments directly to the Participating Provider without the necessity of the Participating Provider obtaining a signature from the Covered Individual for the assignment of benefits” [SL]

What Does It All Mean?

Provision purports to disallow revocation or refusal of Assignment of Benefits. Oppressive provision which is a network attempt to force an assignment even where one is not provided.

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

OUT OF NETWORK PROGRAM – SOUNDS NICE, BUT IS IT?

Pros

- All Providers are fair game
- No Access fees
- No Network Contracts
- Plan Control of Costs

Cons

- Stop Loss Issues
- Adverse Effect on Goodwill
- “Noise”
- Provider Black Balling
- Balance Billing !!!

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Everything in Between

Network

Security

Medical Tourism
Carve-Outs
RX Audits
Direct Provider Agreements
Employee "Skin in the Game"
Auditing
Quality of Care
Physician Only Networks
Narrow Networks

No Network/
Reference
Based Pricing

Risk & Cost
Containment

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Controlling the Hidden Costs of Drugs Through Your Plan Design

- The Prescription Drug Problem
- Financial Impact on Employers
- Employer Goals in Managing Specialty Pharmacy
- Rights You Have (Or Need to Have) In Your PBM Agreement
- Plan Strategies & Design
- Cost-Containment Methods

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Controlling the Hidden Costs of Drugs Through Your Plan Design

- U.S. spends ~ \$300 billion in avoidable costs due to medication and adherence-related problems*
- > 20% of employers' total health care budget spent on pharmacy benefits**
- 20% - 40% of drug spending is on specialty drugs***

* *Avoidable Costs in U.S. Healthcare: The \$200 Billion Opportunity from Using Medicines More Responsibly*, IMS Institute for Healthcare Informatics, June 2013

** *Managing the Rising Costs of Specialty Pharmacy*, Midwest Business Group on Health, January 29, 2014

*** *Coulter, Steven L., Impact of Rising Prescription Drug Costs*, BlueCross BlueShield of Tennessee Health Institute

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Right You Have (Or Need to Have) Under Your PBM Agreement

Audit Rights – Your review program needs to examine:

- Duplicate claims/overbilling/fraud
- Participant cost-sharing
- Eligibility
- Cost of ingredients
- Statutory and regulatory compliance
- Discounts and rebates
- Fees
- Erroneous National Drug Codes (NDCs)
- Medicare Part D subsidies

Right to re-negotiate

- Re-examine administration fees and price guarantees
- Review specialty drug prices
- Compare against fees and prices of competitors – use as leverage

Termination rights

- Allows plan sponsor to terminate “with or without cause, on [90 days’ notice]”

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Incentivizing Employee “Skin in the Game”

Cash rewards for fraud & cash back for cheaper options

The Phia Group’s Claims Audit Review Program

- “The Claim Audit Review Program is **designed to reward Employees for identifying and recovering erroneous charges** on bills for medical services and supplies furnished to Participants.”
- “**When a Participant independently identifies eligible overpayments** for services, supplies and treatments not rendered or received the Participant **will be awarded 20% of the recovered amount** up to a \$10,000 maximum on claims the Participant reports to Massachusetts Benefit Administrators LLC dba Blue Benefit Administrators of Massachusetts that are successfully recovered by the Plan. “

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Incentivizing Employee “Skin in the Game”

Case Study

- While on vacation, Phia Group Employee sought treatment at an Out of Network Emergency Room
- Employee was admitted for Observation
- Identified charges for 2 day stay but was admitted for less than a day because was admitted after midnight and discharged the same day
- Plan savings - \$10K
- Employee received \$2k !!!

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

But Remember – A Plan Is Only As Good As It's Language !!!

“In certain instances, Out of Network providers may agree prior to providing medical services to charge certain pre-determined amounts for services and supplies. If ... Plan Administrator deems to [pre-determined amount] be equal to or less than the Plan's maximum payable amount, ... **utilization of said provider's services will not result in a Deductible or Co-payment for the Covered Services received at said provider's facilities.**”

“... the **Plan Administrator**, in its sole and complete discretion, **may approve a reimbursement for reasonable travel and/or accommodation costs ...**”

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

See It In Action!

Plan Document Design Case Study – The Dialysis Carve-out

- Plan Analysis
 - Network Contract Contradiction Analysis
 - Plan Design Including a Dialysis Carve-out
 - Plan Savings
- **\$55,000 – PER MONTH / PER CASE!!!!**

Keep In Mind

- Poorly Planned Carve-outs Fail
- The Result – Payment by Benefit Plan **IN FULL, PLUS DAMAGES**
- Comprehensive Intervention by Competent Experts is a **MUST!!!**

THE FREE-MARKET SOLUTION INNOVATIVE PLAN DESIGN

Definitions

- Clean claims
- Covered expense / service
- E&I – Discretionary Authority
- Incurred
- Legally Separated
- Leave of Absence
- Maximum allowable amount
- Preventive care
- U&C vs. Reasonableness

Exclusions

- Alcohol (What is an illegal use of alcohol?)
- Unreasonable
- Excess
- Experimental/investigational services
- Hazardous pursuit, hobby or activity (Geographic influence)
- Never Events (Not suggested)
- Occupational v. Worker's Compensation

THANK YOU!!!!

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