



# SEASONS OF CHANGE: HOW TO SUCCESSFULLY IMPLEMENT EVOLVING HEALTHCARE TRENDS

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ave you ever wondered whether you paid more for your flight than the person next to you on the airplane? What about whether you could be doing more (or less) to save money and time? I'm confident we all frequently ponder what we can do differently to save.

Whether big or small savings, we're constantly looking for ways save money in all areas of our life. Dinner budgets, car insurance, clothes, general spending - you name it and surely, we have contemplated whether we can reduce that expense. But we also try to balance cost against convenience, expecting to save money and time. For example, we can click a couple of buttons on our phone and groceries appear at our doorstep two hours later, saving us both money and time.

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Can we say the same for our self-funded plan documents? Regulatory changes and medical technologies are continually advancing. Why aren't we applying these new technologies, endeavoring to save money and time, to our self-funded plans? It's probably because we don't know how to get started.

Hopefully this discussion will help provide a framework to allow employers and plans to implement new medical technologies and other time and cost savers! We will break down some steps to help simplify implementation of new regulations and technologies.

## STEP 1: ASK QUESTIONS!

When approached about a new idea ask this question - what problem are you trying to solve? Not only is it key to

understand what problem the new idea, new regulation, or new technology would be solving, but it is imperative to first determine whether it is a problem that needs to be solved!

When it comes to savings, time is money too. As a result, the first part of an analysis should be ensuring that the full scope of the problem requiring resolution is realized. What is 'costing' the most ... time, money, or both?

After understanding the extent of the problem, review whether the idea would mitigate or eliminate the problem. For example, assume Fictitious Company A has the proven and medically (and dentally) backed solution to effectively reduce the cost of elective cosmetic dental surgeries by 50% for a low monthly cost to the plan. An employer might think that would be fantastic, but after reviewing a copy of the plan document and summary plan description realized that elective cosmetic dental surgeries are excluded. In that example, even though real savings could exist, the solution does not solve a problem for the employer (i.e. with an exclusion the employer pays 0% for elective cosmetic dental surgeries).

Assume instead that the employer was hoping to remove the exclusion for elective cosmetic dental surgeries. Employer wants to offer this benefit to participants of the self-funded plan it sponsors but wants to control costs. The services offered by Fictitious Company A might be a perfect fit! Here, the idea solves a problem for the employer.

The next set of questions should aim to proactively troubleshoot barriers to implementation of the idea. How can hurdles be eliminated and what alternatives exist to address the concerns? Is there a way to take the hurdle and create an opportunity?

For example, many states are implementing paid family leave laws. For employers, the problem that needs to be solved here is investigating what must be done to comply, how must it be done, and how can it be financed. In addition to understanding what state regulations would apply, employers may wish to review their current plan materials. Does the employer currently have a policy in place that addresses the regulations? If not, can you make updates to existing benefits? Would this be a good opportunity to investigate whether establishing a self-funded benefit might solve the problem, while offering employer convenience and cost savings?

Assuming the answer is yes, the next step would be to investigate any impediments.

## STEP 2: INVESTIGATE IMPEDIMENTS

It's important to investigate impediments to an employer's or plan's ability to successfully implement a valuable idea. This requires understanding what agreements should be in place, certain legal hurdles that could prevent taking further steps, and whether the claims systems would need changes to address the new technology or solution.



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For example, assume a self-funded plan has many members seeking various chronic pain treatments. A progressive employer, looking to offer an alternative to high cost treatments, investigates medical cannabis. Coverage of this benefit would save the plan money. In this case, the employer is located in a state that has legalized medical cannabis. The employer decides to investigate modification of the plan design. Upon investigation, the employer uncovers that the addition of this benefit would be problematic. While legal at the state level, it is still considered a schedule I drug under federal law. As a result, it may not be prescribed for medical use (See Section II 'General Requirements' of the Practitioner's Manual from documentation issued by the United States Department of Justice, Drug Enforcement Agency, Office of Diversion Control for additional information). With

this discovery, the employer decides that while coverage may be beneficial, medical cannabis is not a prudent addition to the plan terms.

Alternatively, let's assume that instead of medical cannabis the benefit that the employer wanted to cover was Chronic Pain Treatment B, a brand-new cutting-edge medical technology. Upon investigation, the employer identifies that there are no legal hurdles; however, it determines that this new medical technology is considered investigational and experimental. Not only does the plan have a current exclusion for items considered investigational and experimental, but an applicable stop loss policy would not provide reimbursement for related claims.

Now, assume the same facts as above, except the medical technology in this instance is not considered investigational or experimental. The employer would seek to determine whether any executed agreements would impact implementation. Would a new agreement need to be executed, would that agreement conflict with any existing agreements (i.e. stop loss policy, network agreement, PBM agreement, etc.)? Assuming no conflicts, the employer could implement the new solution or technology.



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### STEP 3: IMPLEMENTATION

A solution free of impediments has been identified to solve a problem. Does implementation of the solution require a plan update? If so, does the solution create a new benefit or reduce a current benefit? Will the solution be implemented mid-year via an amendment or at plan renewal? Will other documents need to be updated as well, like the Summary of Benefits and Coverage (SBC)? Are there concerns about the Affordable Care Act (ACA) or the Employee Retirement Income Security Act (ERISA) timelines or rules?

For example, assume an employer wants to implement New Benefit C. This new (FDA-approved) technology will save patients and the plan both time and money. The new technology, however, is so new that claims systems have not been updated to accommodate this type of service. New Benefit C is offered in collaboration with a common medical treatment, but it is unclear how coding for New Benefit C would be handled. In this example, the administrator would need to be aware of how this would be identified to ensure correct processing. Simple adoption (or modification or removal) of plan language may not be enough; a review of how (or whether) a claim may be processed is also necessary.

Instead, assume an employer wants to offer more expansive leave of absence provisions for its employees. The employer modifies the employee handbook and has a staff meeting to address the new provisions. The employer, however, fails to address this policy change in the relevant plan materials, or with the stop loss carrier. As a result, implementation of the benefit may inadvertently create a coverage gap

among stop loss coverage, the plan document, and the employee handbook. When implementing a new benefit, it is imperative to analyze the impact on other entities.

### STEP 4: ENGAGEMENT

Engagement is going to help make the idea or solution successful. At this point, a problem was identified, a solution was envisioned, and implementation was completed. How can the employer or plan ensure the idea or solution is being utilized, since utilization is the key to success (i.e. savings)?

For example, assume an employer opted to add a new plan option to the current plan design at renewal. This new plan option includes direct primary care but will require participants to affirmatively elect that option. This plan option should not only be enticing for participants, but it has the opportunity to save the plan money. Since the employer's participants are unaware of direct primary care the employer elects to hold an educational meeting. This session educates participants about direct primary care and what new and exciting benefits are available under this new plan option.

In addition to educational meetings to inform participants of new benefits, employers can encourage engagement by financially incentivizing programs. For example, employers can reduce copays to encourage utilization of the new idea or solution.

Employers can also seek ways to encourage engagement outside of the plan design. For example, why not incentivize employees to ask questions about health benefit options available to them? An employer could create a program offering a reward if an employee voluntarily opted to chat with human resources about a planned treatment.

A combination of education, incentives (or penalties), and employee rewards can help employers ensure engagement in programs that are designed to protect participants and save the plan money.

Don't let new advances pass by! Keep the plan in check and on trend with the latest and greatest healthcare innovations without sacrificing compliance. Follow this simple framework to ensure new ideas are successfully implemented so the plan, employer and members stay happy - and realize savings! ■

Jennifer M. McCormick joined The Phia Group, LLC as corporate counsel in 2008. As the Senior Vice President of Phia Group Consulting, Attorney McCormick concentrates on a variety of healthcare and regulatory issues facing employee benefit plans and their administrators. As Senior Vice President of Phia Group Consulting she focuses on health benefit plan regulatory compliance services, including but not limited to self funded health plan consulting, health plan exclusions, health plan limitations, health plan revisions, defining key items such as usual and customary fees, and the entire health plan summary plan description and summary of benefits and coverage. She is a constant contributor to The Phia Group's webinars and other educational media.

Attorney McCormick earned her J.D. from the Syracuse University College of Law, with certificates in Estate Planning and Family Law, and her B.A. in both Psychology and Criminal Justice from Indiana University, graduating with distinction as a National Dean's List Scholar. While attending Syracuse, Attorney McCormick served as an Intercollegiate Director of the Moot Court Honor Society and as a Student Attorney in the Low Income Taxpayer Clinic where she counseled clients on state and federal tax matters and the US Tax Court appeals process.

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