

# THE FUNDAMENTALS OF SELF-FUNDED HEALTH PLANS



Self-funding is one of the most effective ways employers can control the rising costs of health care coverage. When using a self-funded health plan, employers assume the liability associated with health care costs in exchange for many significant financial benefits and more control of the health plan's design. The League's Health Benefits Trust and our partner MedCost Benefit Services offer the following insider's perspective of a self-funded health plan to help you understand self-funding as a concept and how it differs from fully insured health plans.

## Understand the Key Components of a Self-Funded Health Plan

The federal **Employee Retirement Income Security Act (ERISA)** law sets standards of conduct for those who manage an employee benefit plan and its assets (called fiduciaries). ERISA offers self-funded plans the advantage of not being controlled by state insurance regulations.

A health plan must have at least one **fiduciary** (a person or entity) named in the plan document as having control over the plan's operation. Fiduciaries have important responsibilities and are subject to the standards of conduct because they act on behalf of the plan's participants. The U.S. Department of Labor's summary of fiduciary responsibilities can be found at [www.dol.gov/ebsa/publications/ghpfiduciaryresponsibilities.html](http://www.dol.gov/ebsa/publications/ghpfiduciaryresponsibilities.html). These responsibilities include:

- Acting solely in the interest of plan participants.
- Carrying out fiduciary duties prudently.
- Following the plan document (unless inconsistent with ERISA).
- Holding plan assets in trust.
- Paying only reasonable plan expenses.

A **third-party administrator** is retained to act as a partner in the creation and administration of the health plan. The Health Benefits Trust and MedCost Benefit Services have developed a self-funding administration plan for local government entities. Together, we're here to act as a partner in the creation and administration of a self-funded health plan. We offer expert knowledge of best practices in self-funding to ensure that you establish proper fiduciary controls and set up your plan documents and processes to comply with all applicable laws and regulations governing employer benefit programs.

## Purchase Only Quality Stop-Loss Coverage

Stop-loss coverage should not be viewed as a commodity where price is the only variable. It has many nuances with significant variation between the contracts offered by different stop-loss carriers. This can have a dramatic effect on how or even whether a claim is covered under stop-loss. Without a clear understanding of contract terms, an employer could face unexpected exclusions or claim denials. The ideal policy will have limited exclusions or better yet, mirror the health plan's summary plan description (SPD). If a carrier is offering premium rates below other markets, there is a reason.

### **A self-funded health plan's worst-case scenario:**

An employer places their stop-loss coverage with a carrier that offers premium rates well below other markets and experiences a claim denial for a \$700,000 heart transplant due to an "experimental" treatment exclusion. Under the medical plan, the procedure was not defined as an experimental treatment. However, because the stop-loss carrier included a definition of experimental treatment within the policy that differed from the medical plan, stop-loss coverage for the claim is denied.



## Do Your Disclosure Due Diligence

Disclosure is a common process in the stop-loss marketplace whereby a carrier requires completion of a disclosure form identifying all known and emerging claims. Claimants not properly disclosed may result in unexpected claim liability in the form of claim reductions or denials. Required information typically includes diagnosis (including all individuals who may not have large claims today, but have a “trigger” diagnosis), current/planned treatment patterns, prognosis, and a signature of an officer of the company.

## Formalize the Plan Document and Summary Plan Description

The League’s Health Benefits Trust and MedCost Benefit Services will draft a plan document and SPD for review. These documents are required by ERISA and clearly describe the benefits offered to employees and their dependents. The employer (plan sponsor) should review the document carefully to verify that it accurately reflects the intentions of the plan.

## Know Your Role in Health Information Privacy

Self-funded plans are subject to regulations under the Health Insurance Portability and Accountability Act (HIPAA). It is important that an employer that sponsors a self-funded health plan have procedures in place to protect the private health information (PHI) of the plan’s participants. The first step is to appoint a HIPAA privacy officer, the individual who will enforce HIPAA policies. The employer’s benefits advisor (broker) or the League’s Health Benefits Trust can usually assist with setting up and implementing these policies.

## Establish a Trust for Group Health Plan Assets

Why establish a separate formal trust for group health plan assets? If the money is not in a separate trust, it is at risk. Even with the best intentions of the employer and TPA, if it is held in an employer’s general assets or even designated checking account (or in claims-paying accounts of the TPA), the money could be spent, allocated, or frozen in a lawsuit. These things happen with surprising frequency, resulting in a breach of fiduciary duty that could mean jail time. A significant amount of the health plan’s money is now composed of withholdings from employees’ paychecks and COBRA and dependent contributions, so some or all of it is not the employer’s or TPA’s money to hold. The Department of Labor would view it as if you took money out of the employee’s wallet and put it into yours for “safekeeping,” and they would likely prosecute that as a criminal (jailable) offense.

## Establish Reserve Funds

As an overall sound business practice, a reserve should be established and maintained to accommodate monthly claims fluctuations, cover “incurred but not reported” (IBNR) claims, and prepare for potential liability from new federal legislation (e.g. COBRA, Medicare, veterans’ benefits, HIPAA, Mental Health Parity Act, ACA, etc.). The premium equivalent rates included in the MedCost Benefit Services proposal are intended to represent your plan’s funding levels (fixed cost + expected claims + estimated needed reserve), and may also serve as the basis of your COBRA rates.

By working with the League’s Health Benefits Trust and our partner MedCost Benefit Services, you can enjoy a greater level of flexibility and control while receiving expert guidance in designing and administering your health plan. For more information, contact Julie Hall, the Health Benefits Trust’s Director of Health Programs, at 919-715-9782.