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Updates

CIGNA asks state high court to review reorganization ruling

HARRISBURG, Pa.—CIGNA Corp. has asked the Pennsylvania Supreme Court to overturn a lower court ruling that vacates the Pennsylvania insurance commissioner's 1996 approval of CIGNA's reorganization.

CIGNA reorganized its property/casualty business to wall off most of its liabilities into a separately capitalized runoff facility. Its ongoing business remains in its active operation.

The Pennsylvania Commonwealth Court last month ordered new hearings that resemble trial-like hearings so policyholders can obtain a

See **Updates** *on next page*

Tobacco fund idea raises many questions

By MARK A. HOFMANN

WASHINGTON—Any settlement reached between the tobacco industry and a group of state attorneys general seeking reimbursement for tobacco-related Medicaid costs faces numerous hurdles before it could come into being.

The difficulty of agreeing upon a settlement and then making it work became evident within hours of revelations that Philip Morris Cos. and RJR Nabisco Holding Corp. had begun meeting with representatives of the attorneys general. The idea of creating some sort of no-fault fund to compensate states and individuals for their illnesses while closing the door to future litigation has caused particular concern among plaintiffs' attorneys, consumer groups and some congressmen.

Some observers are also concerned that the $300 billion that tobacco companies are supposedly willing to provide over a quarter-century to compensate victims will fall far short of what is needed. Liggett Group Inc., the nation's smallest cigarette manufacturer, announced a settlement with attorneys general last month and agreed to pay a portion of pretax profits to a compensation fund. But because Liggett has not been profitable, the company is not expected to make any contributions (*BI*, March 31).

Both Philip Morris and RJR Nabisco referred all questions to an outside Washington public relations practitioner, who did not return calls.

The attorneys general "are united in pursuit of four overriding objectives," according to a statement released by Mississippi Attorney General Mike Moore last week. Mississippi is one of 22 states suing the tobacco industry. The four goals are to protect children by "stopping the marketing of tobacco to

See **Tobacco** *on page 50*

GRAPHIC BY TONY BUCCINI

Self-insurers score victory on tax issue

By MEG FLETCHER

ATLANTA—Some self-insuring employers are smiling, despite the tax payment deadline last week.

The Internal Revenue Service essentially "threw in the towel" when it voluntarily asked a federal appeals court to dismiss its appeal of a lower court's finding that Georgia's workers compensation guaranty fund is a tax-exempt, non-profit entity under the IRS code.

The outcome is expected to save millions of dollars for individual self-insurers in Georgia and perhaps elsewhere, attorneys say.

It also resolves a 5-year-old controversy for the Georgia Self-Insurers Guaranty Trust Fund and may help resolve the identical issue for guaranty funds elsewhere, according to Douglas F. Stevenson, a Chicago attorney who is executive director of the National Council of Self-Insurers.

The IRS asked to have the case dismissed "with prejudice," meaning the IRS cannot challenge it again in the northern district of Georgia, according to court records filed last month.

However, the IRS' use of that phrase "really has no independent significance" and cannot be considered indicative of the IRS' position on the tax liability of other funds, according to Curtis Pett, a U.S. Department of Justice attorney who represented the IRS in the case.

The National Council's Mr. Stevenson said the IRS' decision "doesn't necessarily bind other districts but is expected to be persuasive."

See **Georgia** *on page 47*

Government concerns halt Travelers' stock option plan

By JUDY GREENWALD

WASHINGTON—The Travelers Group's much-ballyhooed plan to set up an innovative stock option program linked to its 401(k) plan is on hold—at least temporarily—after second thoughts by the Internal Revenue Service.

The proposed program had received widespread attention from other employers, consultants said (*BI*, March 31).

But in an announcement released last week, the IRS, which had earlier issued a favorable private letter ruling, now says it is "re-examining the plan qualification and other tax issues" under the tax code raised by the proposed program.

An IRS spokesman had no additional comment.

In addition, the Department of Labor, which also had been expected to give its blessing, now says it will need much more time to evaluate the Travelers proposal. A department official noted there are strong feelings for and against the plan within the department.

A Travelers spokesman would say only the company is awaiting word from the IRS and Labor Department.

Benefit consultants, who say it is rare for the IRS to revoke an approval, speculate the agency has been surprised by the intense interest the program has generated and as a result only belatedly realized the negative impact its tax aspects could have on government revenues. They also speculate that the issue was mistakenly handled by low-level, technical employees instead of at the agency's policy-making level.

Some observers, though, are optimistic that at least some version of the program will survive.

"Given the publicity that has been surrounding the issue, it's hard for the IRS just to revoke it completely and not come up with something," said Dick Joss, resource actuary with Watson Wyatt Worldwide in Bethesda, Md.

It depends on the government's attitude, said Fred Rumack, director of

See **Travelers** *on page 47*

HMO quality incentive

Execs' bonuses tied to enrollee satisfaction

By JOANNE WOJCIK

SACRAMENTO, Calif.—In a first for the health care industry, PacifiCare of California is tying a share of its senior executives' compensation to an employer group's satisfaction.

In an agreement reached with the California Public Employees' Retirement System that also capped rate hikes for three consecutive years, 10% of the bonus paid to as many as eight of PacifiCare's top executives will be withheld unless at least 80% of CalPERS members enrolled in the plan say they are satisfied with the HMO and its contracting physicians.

The exact number of executives receiving the incentive has yet to be determined but will include PacifiCare President and Chief Executive Officer Jon Wampler, a spokeswoman for the Cypress, Calif.-based health maintenance organization said.

"This is long overdue for the health care industry," said Alan Johnson, managing director of executive pay consultant Johnson Associates Inc. of New York.

"Other industries have been doing this for years," he said. For example, "I have fast-food clients that use it," he said. "Their bonuses depend on whether customers like the burgers. Health care is just now catching up."

Linking pay to performance is a "fabulous idea," said Dr. David Friend, global director of health care consulting for Watson Wyatt Worldwide in Wellesley Hills, Mass. "In effect, you're creating a much more responsive system."

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NEWSPAPER

Updates

CIGNA seeks court relief

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clearer picture of the financial wherewithal of the runoff facility. A group of policyholders has objected to the limited notice CIGNA provided them and their inability to cross-examine CIGNA officials and witnesses or review financial data on the runoff facility during three public hearings on the transaction.

The Commonwealth Court also ordered Pennsylvania Insurance Commissioner Linda S. Kaiser to recuse herself from the case. It ruled she could not be considered impartial, as she already has issued a final order approving the transaction (*BI*, March 10).

CIGNA also has asked a federal court in Michigan to rule that the state's insurance commissioner cannot compel CIGNA to make a special deposit of about $100 million to cover the liabilities of Michigan policyholders that CIGNA unilaterally moved into the runoff facility.

Among other things, CIGNA charges that Michigan Insurance Commissioner D. Joseph Olson did not adequately notify CIGNA or hold proper hearings before he issued the special deposit demand last year.

Unocal to settle suit over leak

EL SEGUNDO, Calif.—Oil and gas company Unocal Corp. has tentatively agreed to pay $80 million to settle lawsuits by more than 6,000 area residents who say they were made ill by an odorless chemical compound that leaked from Unocal's Rodeo, Calif., refinery over a 16-day period in 1994.

"We do carry insurance. We plan to evaluate our policy to determine if coverage is available," said a spokesman for the El Segundo, Calif.- based company. The spokesman would not provide additional details.

The settlement still must receive court approval.

In 1995, Unocal agreed to pay $3 million in civil and criminal fines in connection with the leak at the plant, which Unocal no longer operates.

Bill stymies coverage denial

SACRAMENTO, Calif.—HMO medical directors who deny coverage of medical procedures would first have to examine the patients themselves under legislation approved by a California Assembly panel.

The bill by Assemblywoman Liz Figueroa received a boost when a former medical coverage reviewer for Louisville, Ky.- based Humana Inc. testified before the committee about her work denying patients doctor-recommended treatment to save the plan money.

Linda Peeno, who now is a medical ethicist at the University of Louisville, said she was frustrated by using "my medical expertise for the financial benefit of the company."

A.B. 794, which also would require HMOs to publicly disclose their criteria used for denial of treatment, was approved 12-0 by the Assembly Health Committee last week and now will go to the Assembly Insurance Committee.

The bill is the latest in a string of anti-managed care legislation the committee has approved. Other bills the panel approved would ensure that patients are seen in a timely manner, require health care providers respond within four minutes to patient phone calls and guarantee coverage for a second medical opinion if patients ask for one.

Court to consider dual actions

WASHINGTON—The Supreme Court will hear arguments during its next term over whether individuals fined by a federal agency can face criminal prosecution for the same acts.

At the heart of *Hudson vs. United States* is the question of whether the Constitution's prohibition of double jeopardy applies when one legal action is criminal and the other civil. While the double jeopardy clause definitely prohibits two criminal prosecutions for the same act, lower courts have split over whether it also bans dual criminal and civil actions for the same act.

While the case before the court involves an insolvent bank, the issue also has arisen in workplace safety trials, particularly when a state court attempts to bring criminal charges against an employer that already has been subject to civil fines by the Occupational Safety and Health Administration.

Briefly noted

The Labor Department's Pension and Welfare Benefits Administration proposed last week raising to $1,100 from $1,000 **the maximum daily penalty for violations** of the Employee Retirement Income Security Act. The proposed increase is permissible under a 1996 law that allows federal agencies to periodically raise penalties in line with cost- of-living increases. . . .Ohio Gov. George V. Voinovich is expected to sign a tough **workers compensation reform** bill that the Legislature approved last week. The bill, among other provisions, would adopt the American Medical Assn. impairment guides for some permanent injuries. . . .The insurance industry would be barred from contributing to **insurance commissioner campaigns** in California under legislation passed last week by the Senate Elections Committee. S.B. 1097 now goes to the Senate Appropriations Committee. California Insurance Commissioner Chuck Quackenbush, who has been widely criticized for accepting industry contributions, has not taken a position on the bill.

Errors & omissions

• Due to incorrect information supplied to *Business Insurance*, the Zurich Insurance Group entity helping to administer Alabama's assigned risk plan was misidentified in a brief in the March 31 issue. The insurer is ZC Insurance Co. of New York, a wholly owned subsidiary of Zurich Reinsurance Centre Inc., also of New York.

• The March 17 Directory of Risk Management Consultants omitted the Oakland, Calif., branch office location of Applied Risk Management.

Sedgwick, Willis silent about megamerger rumor

By EDWIN UNSWORTH

LONDON—Sedgwick Group P.L.C. and Willis Corroon Group P.L.C., the two biggest brokers yet to be asked to the megamerger dance that their peers are engaged in, have refused to comment on speculation that they are in merger discussions with each other.

In addition, Sedgwick has declined to comment on rumors that it also is the target of a due diligence review by potential suitor Aon Group Inc.

After analysts' comments that a union of Sedgwick and Willis is almost inevitable if they want to remain competitive in the post-consolidation brokerage environment, a British business newspaper reported last week that executive directors of the two brokers were involved in a merger discussion.

However, a Sedgwick spokeswoman in London last week would only say it was not the company's policy to comment on market rumors. Willis Corroon's press spokesman made a similar comment: "There is nothing we can say on that. It's just a press story."

Sedgwick and Willis Corroon are not only the two largest British brokers, but before the latest round of mergers and acquisitions were ranked third- and fifth-largest in the world, respectively based on gross revenues. If they

See **Sedgwick** *on page 51*

Product liability and tobacco?

Reform proponents seek to make clear distinction

By MARK A. HOFMANN

WASHINGTON—Where there's smoke, there's fire, and product liability reformers don't want to be burned by opponents' attempts to make smoking-related litigation an issue in the reform debate.

That was evident earlier this month as the House Judiciary Committee heard testimony on various aspects of product liability. There is no reform bill in the House, and the Senate reform bill—S. 5—is identical to the measure approved by both houses last year but vetoed by President Clinton. S. 5 is a "placeholder" bill possibly subject to major revision when senators begin marking it up. Mark-up could begin as early as next month.

The possible linkage of smoking litigation with whatever product liability bill ultimately emerges was evident in the testimony of Iowa Attorney General Thomas J. Miller before the Judiciary Committee. Mr. Miller is one of the more than 20 state attorneys general who have sued the tobacco industry to recover billions of state dollars spent to provide health care for people suffering from smoking-related illnesses.

Tobacco companies reportedly are in closed discussions to settle actions against them (see story,

See **Tort reform** *on page 47*

Employer hopes program will raise quality

Monthly health plan switches

By JOANNE WOJCIK

RANCHO CORDOVA, Calif.—One Northern California employer hopes that giving its employees the option of changing health plans as frequently as every month will encourage a higher level of competition and quality among its managed care plans.

However, some benefit observers think the arrangement will be an administrative nightmare and works against the objective consultants recommend of establishing long-term relationships with the plans.

In addition to boosting competition, Vision Service Plan launched the program Jan. 1 to make the elimination of its preferred provider/indemnity plan more palatable to its 1,200 headquarters employees, according to Walter Grubbs, vp-human resources of the vision benefits provider.

"At the time we decided to eliminate the PPO/indemnity plan, we still wanted to preserve flexibility and choice," he said. "So one of the ways we addressed that was by bringing in a point-of-service plan."

United HealthCare Corp. administers the POS plan, which replaced the PPO/indemnity plan Jan. 1.

But to encourage employees leaving the PPO/indemnity plan to join one of four health maintenance organizations it already offered instead of joining the POS plan, VSP launched the new program, called On-Demand Enroll

See **Monthly** *on page 51*

Symposium to address class actions

CHICAGO—The 12th Harold H. Hines Jr. Memorial Symposium will address "The Use and Abuse of Class-Action Lawsuits."

The symposium, sponsored by the Chicago and Northeastern Illinois Chapters of the Risk & Insurance Management Society Inc. and *Business Insurance*, will be held May 6 at The Union League Club of Chicago.

The speakers will be Brian O'Hara, president and chief executive officer of EXEL Ltd. in Bermuda; Lowell Sachnoff, a senior partner at Sachnoff & Weaver in Chicago; Donald Sullivan, vp-risk management of Baxter International Inc. in Chicago; and Arthur Susman, a partner at Susman, Buehler & Watkins in Chicago.

Steven Gilford, a partner with Mayer, Brown & Platt in Chicago, will present an overview of class actions.

Following will be introductory remarks by the panelists covering what risk managers need to know about class actions and how to deal with insurance companies.

Mr. Gilford and *Business Insurance* Publisher and Editorial Director Kathryn J. McIntyre will pose follow-up questions, and the audience will be invited to ask questions of the panel.

The class-action program begins promptly at 3:30 p.m.

For an invitation to the symposium, contact the Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520; fax: 312-427-8528. BI

Inside

• The idea that a product liability bill will protect tobacco is a smokescreen that the bill's opponents are putting up, this week's editorial says. **PAGE 8**

• The World Insurance Network will debut July 1 after a delay of a year. **PAGE 42**

• A survey shows employers are worried that workers are investing too much of their 401(k) assets in company stock. **PAGE 49**

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RIMS president focuses on quality

By MICHAEL BRADFORD

ATLANTA—The Risk & Insurance Management Society Inc.'s new president is using a word that members are going to be hearing a lot more often.

The word doesn't appear in the society's strategic plan. And it needs to be firmly planted in the RIMS lexicon, according to Stephen M. Wilder, who took the podium last week at RIMS' 35th annual conference and exhibition for his inaugural address as the group's 44th president.

Bringing "quality" to the risk management and insurance professions is the most serious initiative RIMS will undertake during his term, Mr. Wilder said.

"Our world is changing at light speed," he remarked, with the continuing consolidation of insurers and brokers presenting new challenges for risk managers and their business partners.

"Are they good for us as risk managers?" he asked of the consolidations. "Do fewer choices necessarily imply more efficiency at a higher level of quality? These are very serious questions that each of us must think about over the next 12 months and beyond."

Mr. Wilder vp-risk management at The Walt Disney Co. in Burbank, Calif., pointed out that, "In RIMS' current strategic plan, written in 1992, the word quality is never mentioned."

However, a recently formed task force will determine how the society's strategic plan should change as the society heads into the next millennium. "Quality needs to be incorporated into that plan at the highest level," he said.

Bringing quality to the profession will change the dismal perception that insurance customers have about the industry, Mr. Wilder said.

"The reason quality is being talked about today is because there is a huge gap between what the customer wants and what the industry delivers," he noted. "This year, each of us needs to take it upon ourselves personally to try and make a difference and close that gap. Working with our partners, we really can create an industry that everybody is proud of."

The drive to improve quality has led to the creation of a new award established in memory of Arthur F. Quern, chairman and chief executive officer of Aon Risk Services, who died in a plane crash last fall.

"He was a man who exemplified the type of pride I'm talking

See **Presidents** *on page 28*

PHOTOS: MICHAEL MARCOTTE

Attendees of the RIMS conference received information from sessions (above) and heard a farewell address from outgoing President Louis Drapeau (below).

Stephen Wilder (above) was inaugurated as the 44th president of RIMS during the conference in Atlanta.

Trip to integrated benefits may be shorter than dream

By MICHAEL BRADFORD

ATLANTA—In a fantasy world where risk managers imagine themselves, employee benefits and workers compensation have been integrated into "workers' benefits."

There is accessible and affordable care in this place, and claims management is a marvel of efficiency. Of course, there are cost savings, and hosts of happy employees churn out widgets with no complaint of how their concerns are handled.

Just a dream?

Not completely, said Andrea Trimble Hart, director-insurance and risk management at The Pillsbury Co. in Minneapolis. After reading from the Lewis Carroll poem "Jabberwocky," she told attendees at a session held during the annual conference of the Risk & Insurance Management Society Inc. last week in Atlanta that they may be able to put themselves in the fairy tale land of integrated benefits.

"Administering group health and workers comp programs and group disability separately can lead to information distortion, lack of coordination, inefficiency and opportunism," which doesn't make for a happy ending, she remarked.

Integrated benefit programs, like so-called 24-hour plans, generally combine benefit payment and claims handling of occupational and non-occupational injuries.

To take her audience to a mythical place, Ms. Hart suggested they first imagine their companies were going through the annual planning process. "And there are some significant cost increases. You learn that benefit costs are higher than last year and workers comp costs are up 25%. This is the scary part."

In that imaginary land, the risk manager would be able to easily identify the causes for rising costs.

"Some of these include absenteeism," Ms. Hart pointed out. "Five percent of your workforce is absent at any one time. . .litigation is higher than the norm and too many workers compensation cases are litigated. Several of the employees are getting workers comp and disability benefits."

All, of course, are real-world problems for many risk management and employee benefit departments.

The happy part of the story is that by developing a system that integrates management and administration of workers comp and employee benefits, employers could see changes they may have only dreamed of before.

"Your company when seen through the looking glass," Ms. Hart said, "might appear like this:

- There is a single phone number for your injured employees to call whether they got hurt at home or on the job or they aren't sure."

The 800 number also allows electronic transmission of claims reports. There is a single form for any type claim.

- Claims adjudication is per-

See **Integrate** *on next page*

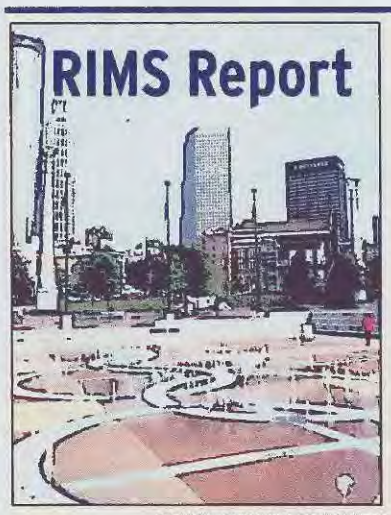

PHOTO: MICHAEL MARCOTTE

Highlights of the conference:

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Disease AIDS, other maladies pose challenges. . . . . page 35
Going global Uniform approach to safety important . . . page 38
Ergonomics Talk to workers to spot problems . . . . . page 40

Web to spread reach of benefits information

By ROBERT KAZEL

ATLANTA—There will be two revolutions in employee benefit information.

The first, which will take place via the benefit manager's desktop computer terminal, already is in the making.

The second, which may spread through U.S. living rooms like a smash TV show, could take several years to catch on.

So say two benefit experts from New York-based J&H Marsh & McLennan Inc., who spoke on the present and future impact of the World Wide Web on both benefits staffs and employees during a session at the Risk & Insurance Management Society Inc. conference in Atlanta last week.

The consultants and a client described how one midsized company is using Internet technology to access vast amounts of new information on employee benefits. They cautioned, however, that the Internet may not directly influence the average worker's knowledge of benefits for some time.

J&H, one of several firms developing extensive Web sites on benefits topics, brought online its first 100 companies in March, said Robert Petrie III, senior vp in New York.

Its online service, called Benefitsmart, is being used free by some longstanding clients, but others pay a yearly fee for it.

The service, and others like it, provide quick access to newsletters and benefits industry magazine stories, tax information and reference materials—a "virtual benefits assistant" that aims to provide guidance to understaffed benefits departments in many areas, according to Steven J. Schloss, a J&H Marsh & McLennan vp in Hartford, Conn.

The service is intended to provide structure to guide benefit managers to key industry information and away from extraneous data. For instance, Mr. Schloss said, simply searching blindly on the Internet for the topic "benefits" yields 957,166 occurrences.

A J&H Marsh & McLennan client said such products opened doors to new sources of information his department wouldn't have explored before.

"We were not really using the Internet," said Dennis McCarthy, benefits manager for Rogers, Conn.-based Rogers Corp., which makes specialty composite materials. "This intrigued us: fast, accessible, timely information that could be retrieved at my desk."

Benefit managers probably will find most useful these types of Internet documents, Mr. Schloss said:

- Executive summaries of significant journal and magazine articles. "Our thought was benefits people, when they go online, want to browse or graze," he said.
- Summary plan descriptions, organized by line of coverage. In time, Mr. Schloss said, all employers with Internet access should demand as a contractual provision that insurers agree to provide SPDs over the Internet.
- A unified source of information on multiple-location plan provisions. Instead of a stack of files from multiple branch locations, a single database accessible via the Internet can provide bene-

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Integrate

Continued from previous page

formed by the same person regardless of whether the injury is occupational or not," Ms. Hart noted. "There is an invisible transfer of denied workers comp claims to the health benefits payer for swift payment," she added, eliminating confusion for the employee who is less likely to seek an attorney because of a denied claim.

- Comparable reporting procedures for both workers comp and health insurance claims eases the administrative burden for employees and supervisors alike," Ms. Hart said. "A single case manager provides a consistent approach to case management and some would go as far as to call it care management, as all types of medical care are administered similarly."
- Physicians are able to apply sports medicine techniques to ensure the fastest recovery time. There is a reasonable use of specialists and physicians act as partners striving for wellness and the expedient return of employees to work, regardless of the source of injury.
- Bill review and utilization review are applied equally to all types of claims to spot overcharges and excessive treatment.
- A single database is in place to help spot "double-dipping" by employees who want to collect workers comp and disability payments.

"Quite a fairy tale, you might say," Ms. Hart told her audience, acknowledging that some might be thinking, "when pigs fly this will happen in my organization."

And in fact, she said, her own company does not integrate its workers comp and employee benefit programs.

Ms. Hart warned that while some companies may be able to implement some of the aspects of an integrated plan, others may find it is not for them.

"Not every corporation will benefit from integration. Some aspects of an integrated plan may suit your organizations, others may be impossible to implement. You should be interested in taking your organization to the best place it is capable of going," she said.

For example, light-duty programs might be difficult for some manufacturers, she said, depending on their production procedures or whether collective bargaining agreements with unions are in place regarding light-duty programs. "Larger employers generally can create light-duty jobs more easily than smaller employers," she said.

In addition, large employers have greater costs related to injuries and therefore have the potential to save more than smaller companies. Large self-insured employers generally can use some of the aspects of integrated benefit programs because they "have both the control and the flexibility to integrate the programs that best meet their needs," Ms. Hart said.

There are advantages for small employers that want to use techniques of integrated benefit programs, according to another panelist at the session.

"Dozens of our clients have had between six and 30 employees at a site," said Dr. Ford Brewer, medical director for Meridian Occupational Healthcare Associates Inc., a Nashville, Tenn.-based operator of worksite medical units.

'Not every corporation will benefit from integration. Some aspects may be impossible to implement,' says Andrea Trimble Hart.

Those clients have used different methods to take advantage of worksite medical services to treat occupational and non-occupational injuries, he explained.

Sharing the onsite medical service with other employers is one way small companies can realize savings, Dr. Brewer explained. "A lot of our sites are in New York, so you can have a significant advantage there." A stock exchange, for example, is a site where dozens of employers have workers in the same place who can access the medical unit.

Dr. Brewer pointed out how his company's services have helped employers realize significant savings.

A heavy manufacturer client with more than 5,000 employees used Meridian's disability management services to help bring down workers comp costs. Soon after the client began realizing annual savings of around $2 million from the program, it began to explore whether the same could be done for non-workers comp injuries.

After implementing the techniques to non-occupational injuries, savings on that side of the ledger eventually totaled $2.5 million per year.

Those who try to implement programs likely will run into some internal barriers, Pillsbury's Ms. Hart cautioned. "Beware, the Jabberwock takes on many guises."

A "false sense of security" can be an internal barrier, she said, "a we've-always-done-it-this-way mentality, or worse—insurance is a cost of doing business" as an excuse. "Plus, the distrust, fear, hostility, territoriality and history that may exist" between employee benefit departments and risk managers can impede implementation of programs, she noted.

Overcoming some of the barriers "might require a mighty sword," Ms. Hart advised. "But think about this: Make the issue an organizational challenge," pointing out that the entire company wins because of cost-savings and other benefits from an integrated program, she suggested.

"Begin resolving tension by developing knowledge and trust, which starts with communication. Bring groups together to identify commonalities, whether they be goals or problems. Identify that on which you can first agree then begin to attack the more contentious issues slowly to ensure that everyone continues to support your action steps," she advised.

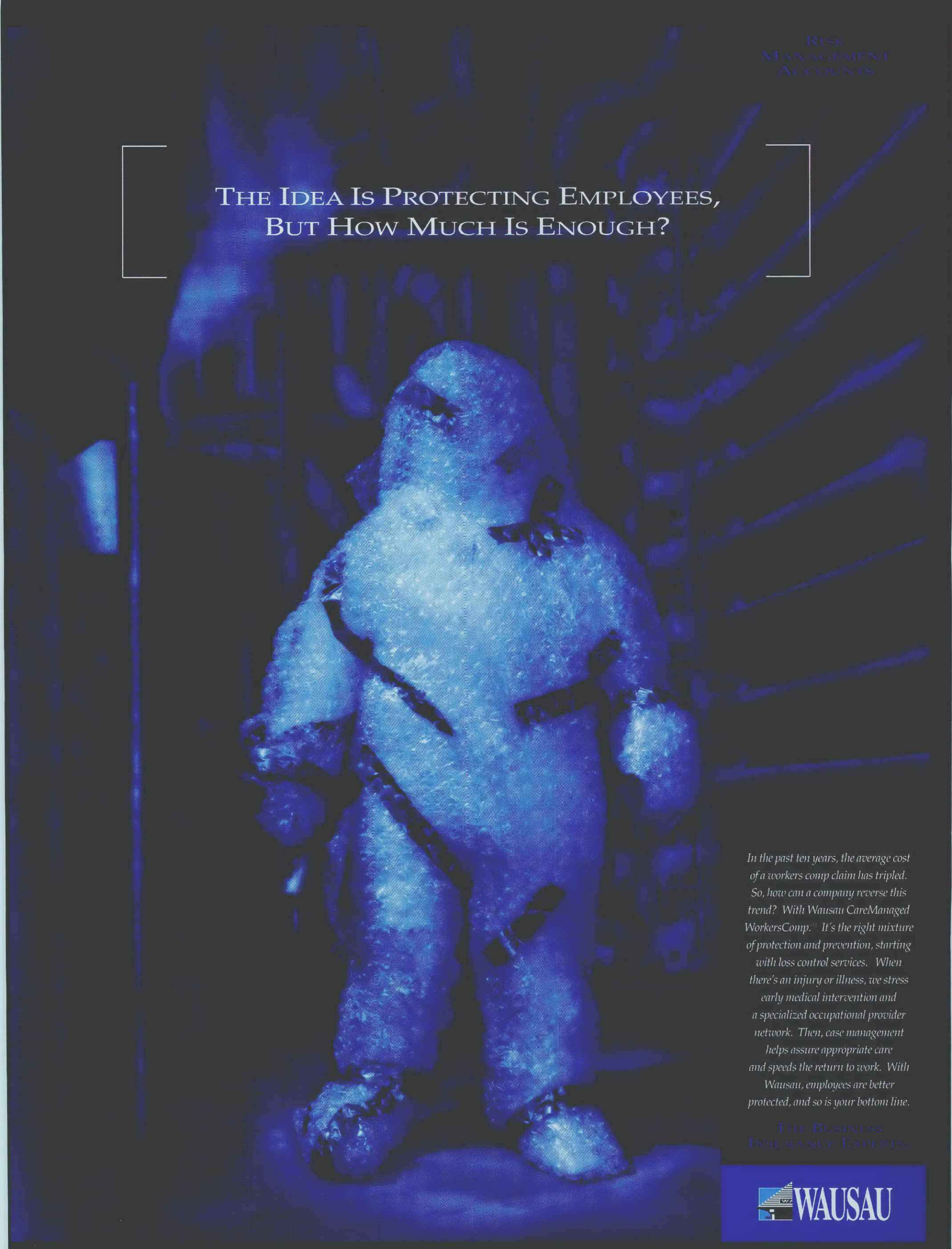
There also are legislative and regulatory barriers in the way of developing some types of integrated programs, Ms. Hart pointed out.

"There are 11 states with enabling legislation, mostly for what are known as 24-hour coverage products," she said. "In many states, regulations have not been established or rules on how to manage some of these programs. So in many places, a lack of regulations is still a barrier in bringing these programs together."

The session moderator was Millicent Workman, corporate risk manager at Mueller Industries Inc. in Nashville, Tenn. The program was coordinated by Catherine D. Bennett, account executive and consultant with Cost Control Concepts Inc. in Madison, Tenn. BI

RISK MANAGEMENT ACCOUNTS

THE IDEA IS PROTECTING EMPLOYEES, BUT HOW MUCH IS ENOUGH?



In the past ten years, the average cost of a workers comp claim has tripled. So, how can a company reverse this trend? With Wausau CareManaged WorkersComp.℠ It's the right mixture of protection and prevention, starting with loss control services. When there's an injury or illness, we stress early medical intervention and a specialized occupational provider network. Then, case management helps assure appropriate care and speeds the return to work. With Wausau, employees are better protected, and so is your bottom line.

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In Boston, modified work helps city, workers

Make sure to involve unions: Speaker

By MICHAEL PRINCE

ATLANTA—Modified work works.

Not only does it save money and reduce work days lost to injury, but employees feel appreciated, says Patricia Morey Walker, workers' compensation agent for the City of Boston.

Her conclusion is based on the city's modified work program she initiated in 1994. The workers compensation department is responsible for a self-insured, self-administered program covering 17,000 city employees.

Ms. Walker discussed Boston's modified work program and its success to risk managers at a session last week at the annual Risk & Insurance Managers Society Inc. conference.

A preferred provider arrangement is among changes that are helping improve Boston's program, too (see story, page 36).

When Ms. Walker took over the city's workers comp program, she received a telephone call from a manager asking what to do with an employee who had been on light duty for four years. That doesn't happen today, she said.

"But it certainly was not easy to get there," Ms. Walker said.

One obstacle to overcome was receiving the cooperation from the city workers' unions. "Don't forget to involve the unions," she repeated numerous times. "When we were involved with the unions early on we were very successful."

Two features of the program contribute to its success, Ms. Walker said. First, the program is not light duty, but modified work. The injured worker returns to his or her job modified to accommodate physical restrictions.

Also, involving the injured worker's supervisor in the process eases the transition back to work and reduces chances for confrontation.

"It's a total package of people that come together to make it successful," she said.

Claims Management
1997 RIMS Report

Perhaps the key to the city's program, however, is a meeting between the employee, the supervisor, a union official and a claims representative from her office. From this meeting emerges a form that spells out specifically what the employee can and cannot perform after returning to work. "It's something that protects both sides, employee and supervisor," if a conflict arises over what duties the returning employee can perform, she said.

Not only has the city benefited by reduced workers comp costs due to the program, but employees also benefit by getting back to work sooner, thus aiding the healing process.

"Employees want this," Ms. Walker said. "They really don't want to sit at home."

Ms. Walker said employees benefit both physically and psychologically. By getting back to work sooner through modifying their job, they will heal faster than sitting at home. Psychologically, people also benefit by getting back on the job in a productive role.

By staying away, she said, workers mentally magnify their injury so they begin to believe they cannot get back to doing their job.

"We see a lot of people get overwhelmed by psychological issues," she said.

The efforts have paid off. Since beginning the program more than three years ago, Boston's expenditures for workers comp claims have dropped 30%. Also, the number of employees out on workers comp disability has dropped 32%. And with city custodians, the first group of employees subject to the new modified work program, the number out on workers comp has been cut in half—an improvement she attributes solely to the modified work program.

John Walsh, a workers' compensation attorney for the City of Boston, said that every state's laws may not permit the type of modified work program Boston adopted. Some states, he said, might prohibit collective bargaining with unions to allow such a program. On the other hand, some states might require such a program to be collectively bargained, he added.

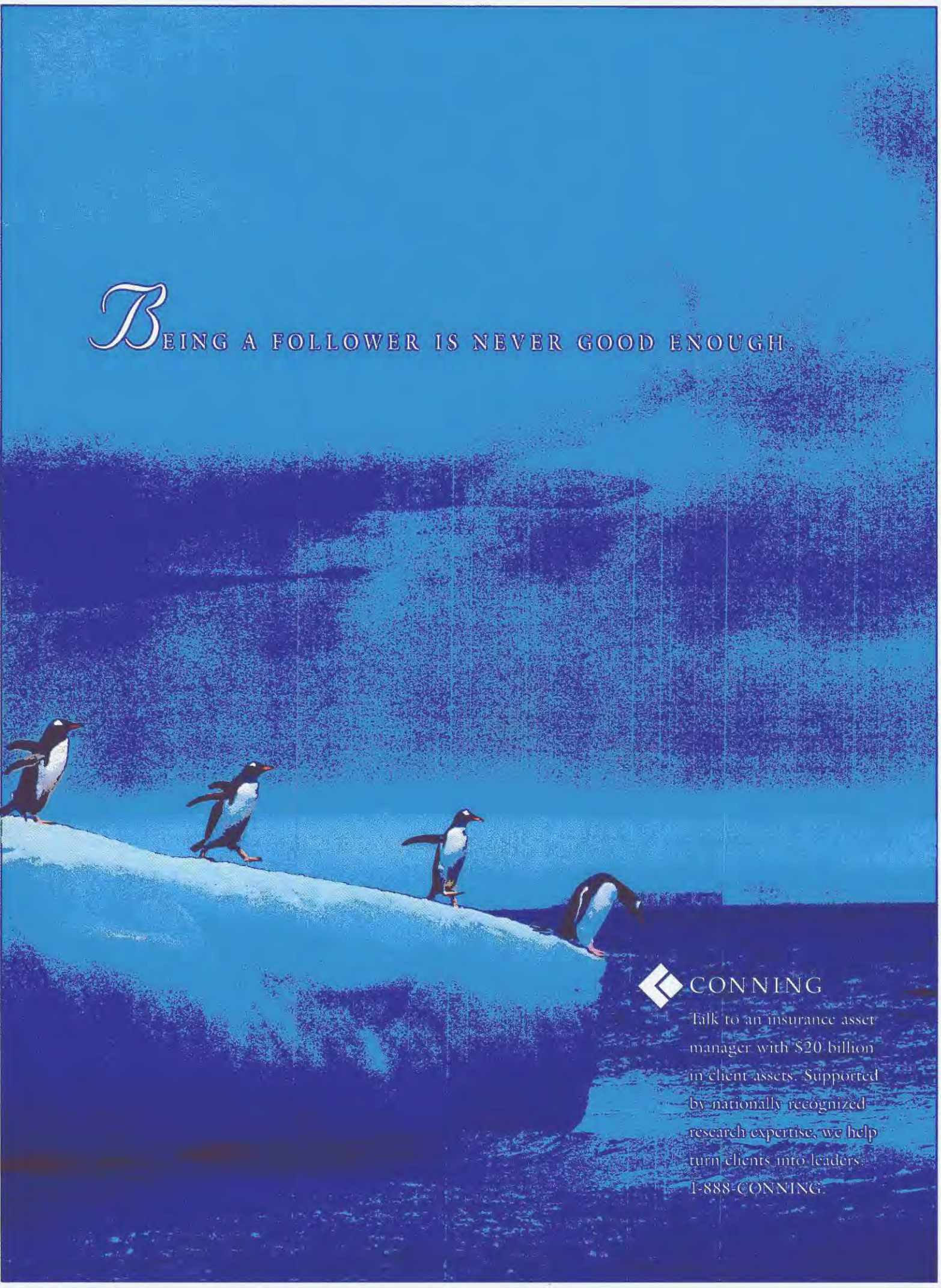
The program also helps the city in the courtroom. Because of the program, judges have looked toward the city more favorably during litigation with employees over their workers comp benefits, Mr. Walsh said.

Prior to the program, when litigation centered around the city taking an employee off workers comp, claiming the employee was capable of returning to work, the city could only offer a medical report saying the person was fit to work. But under the program, the employee no longer receiving comp benefits has been offered a job that is modified to accommodate any physical restrictions. If this job is rejected, "the onus is on the employee to convince the judge why that job is unsuitable or why they are still taking workers comp benefits rather than taking the job," he said.

"If employers can show the judge that they are working with the employee to bring that person back to work, they have more credibility with the judge than just taking a medical report saying the person can return to work," he said.

Ms. Walker was coordinator and moderator of the session.

Stephanie E. Hart, vocational consultant with Occupational Resource Network in Boston, who consults with Ms. Walker's department, also was a speaker. BI



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Opinions

Tobacco link a puff of hot air

ATTEMPTS TO LINK TOBACCO litigation with federal product liability reform legislation strike us as nothing more than a smokescreen put up by reform opponents.

A case in point was the appearance by Iowa Attorney General Thomas Miller before the House Judiciary Committee a few days ago.

Mr. Miller, who represents one of the states that currently is suing the tobacco industry for reimbursement of Medicaid costs stemming from tobacco-related illnesses, called for a specific carve-out for tobacco in any product liability legislation that might be considered so that suits against the industry could continue.

Ironically, product liability per se is not at the heart of the suits that the attorneys general are pursuing.

Instead, they focus on a variety of other issues, such as the allegation that tobacco manufacturers conspired to withhold information about the effects of nicotine and that they targeted advertising to children.

Nonetheless, after detailing his other problems with product liability reform, the Iowa attorney general testified that "this is not the time for Congress to come running to the rescue of the tobacco industry."

But we're hard-pressed to see how S. 5, the federal product liability reform bill introduced in the Senate earlier this session, can be seen as any rescue plan for the tobacco industry. S. 5, now called the Product Liability Reform Act of 1997, is identical to the measure passed by Congress last year but ultimately vetoed by President Clinton.

One major reason that the Product Liability Reform Act appears to have little, if any, bearing on the tobacco suits is that even if it were to be passed today, it would not be retroactive. Some of the suits were filed long before the current version of the bill was even drafted.

And contrary to Mr. Miller's assertion that tobacco somehow would be protected by the 15-year statute of repose contained in S. 5 for capital goods such as industrial machinery, tobacco would enjoy no such immunity. Tobacco is not a workplace good.

In fact, tobacco isn't mentioned anywhere in the bill, and that's all to the good. Calls for creating some sort of carve-out for tobacco—or any other unpopular substance or product—within a uniform product liability code is an invitation to chaos.

There could be one law for most products, a different set of laws for products exempted from the federal statute and inevitably some gray areas that could be endlessly litigated over as parties disagree which code applies.

That sort of confusion should be avoided at all costs. Lawmakers have to see through the smokescreen that ties tobacco and reform together and determine the fate of product liability reform upon its own merits.

We firmly believe that if they do so, a uniform federal product liability code will indeed become the law of the land.

Letters

Plan doesn't value long-term employees

To the editor: I read with interest the March 24 article "Engine Maker Switches Gears" regarding Cummins Engine's pension plan changes.

I couldn't help but wonder if the message Cummins is communicating to its employees is genuine or just a smokescreen.

Cummins wanted a pension plan that would better meet the needs of its employees, meaning a plan that would better meet employees' needs throughout their careers, and a plan that would be easier to understand.

Consequently, Cummins replaced its traditional final average pay defined benefit plan with a cash balance plan. The final average pay plan was skewed in favor of long-service employees and Cummins wanted to say to its employees that we value your service throughout your employment at the company.

Employees leaving after a few years of service receive significantly higher benefits under a cash balance plan than they would have in the final average pay plan. So far so good!

However, the article on Cummins later states that the new cash balance plan costs somewhat less than the previous plan.

Well, if the short-service employees are getting more under the new plan, the long-service employees must be getting less.

But not to worry—Cummins enriched its 401(k) plan so that its overall retirement benefit plan costs remained about the same.

But an enriched 401(k) plan also disproportionately favors young, short-service employees since the older, long-service employees have less time to earn meaningful benefits from their additional 401(k) contributions.

All this leads one to wonder if Cummins Engine's objective is to *reward* short-service employment or to *encourage* short-service employment. There's a big difference.

Michael Pikelny
Hartmarx Corp.
Benefits Consultant
Chicago

Letters to the editor

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Safety requires skillful management

Loss Control
1997 RIMS Report

By GAVIN SOUTER

ATLANTA—An effective safety management system should have the same characteristics as a stealth bomber: quiet, penetrating, highly effective and hardly noticeable, says a safety management specialist.

To reach that level of effectiveness, the system must pervade an organization, he said.

But while this may be the ideal, in reality many companies have almost non-existent safety management systems, said Larry L. Hansen, home office manager-safety management and organizational performance in Syracuse, N.Y., for Wausau Insurance Cos.

Too often, safety management programs and systems are ignored or inefficiently instituted and consequently have little impact on loss costs, Mr. Hansen said at a session at the Risk & Insurance Management Society Inc. conference in Atlanta last week.

The worst companies have what Mr. Hansen calls SWAMP approaches: Safety Without Any Management Process.

The result is high insurance costs, excessive losses, adversarial employee relations and litigation resulting from statutory ignorance, he said.

"At these companies, accidents are accepted as a cost of doing business," Mr. Hansen said.

The typical management style at these companies is autocratic, there is little planning, and communications with employees are curt and meant to cause fear, he said.

These companies tend to keep the same minimal safety management procedures unchanged until they suffer a significant financial crisis as a result of the poor safety management, Mr. Hansen said. Then they usually institute changes in the safety program that they hope will reduce costs, but those steps have little or no effect, he said.

The responsibility for safety management at these companies usually is allocated to one person or a department, Mr. Hansen said.

"The result is that safety is perceived as a cost," he said.

Often the company will introduce a communications program revolving around postings about correct practices, but the managers themselves pay scant attention to the postings, so employees become cynical, Mr. Hansen said.

Only when these types of companies have a radical organizational change in management personnel or philosophy is it possible to institute a successful safety management system, he said.

Then it is possible to take a new approach to safety management and change the culture of a company to instill an awareness of the financial and human costs of poor safety procedures, Mr. Hansen said.

In these changed organizations, safety is regarded as a measure of management effectiveness and accidents are not tolerated, he said.

One organization that made the change is NASTECH, a steering column manufacturer in Bennington, Vt. NASTECH is a joint venture between a Japanese manufacturer, NSK, and Torrington Industries, said Stephen C. Welford, human resources manager at Torrington.

In 1993, NASTECH faced severe problems due to its horrendous safety record, Mr. Welford said.

The financial problems were readily apparent: The loss cost per person per hour was $1.37, compared with 6 cents at other companies in the region, he said.

In addition to the poor safety record, employee attendance was poor; few in the area wanted to work for the company; and staff morale was poor, Mr. Welford said.

"So we had a major problem to deal with," he said.

To try to change that, Mr. Welford brought in outside safety management experts to analyze the facility. The experts' conclusion was that, as far as safety management was concerned, the facility had no accountability, no vision, no measures and no plan, he said.

So, NASTECH embarked on a plan to improve the safety record of the company through procedures that were largely evolutionary, Mr. Welford said.

"We looked at the who, what, where, when and how of addressing the safety problems," he said.

The ultimate goal of all of the changes was to instill safety management into the strategic planning of the company, Mr. Welford said.

To begin the process, the company analyzed the regulated and nonregulated policies and procedures implemented at the facility, he said.

Then it instituted training processes to help employees effectively comply with the best safety procedures, Mr. Welford said.

And to encourage employees to improve safety procedures, NASTECH greatly improved its lines of communication between managers, supervisors and workers on the factory floor, he said.

As part of the increased communications efforts, supervisors were briefed on workers comp costs and how many steering columns they needed to produce to pay for the premiums, Mr. Welford said.

"And we made sure that the supervisors connected with injured employees so they knew what was happening with the people, and the people knew that somebody cared about them," he said.

And to instill a commitment to improve safety management by the managers themselves, NASTECH made all of them sign a mission statement, gave them goals to meet in reducing workers comp losses and penalized the managers who did not meet the goals by reducing their annual pay increases, Mr. Welford said.

As a result of the changes so far, NASTECH has reduced its per-person-per-hour loss cost to 63 cents, and its workers comp premium has fallen by $760,000, he said.

Mt. View, a long-term care facility in Niagara, N.Y., also had to radically change its safety management system, said Wayne L. Salen, now director of risk management at The Park Associates Inc., a health care company in East Aurora, N.Y. He formerly was risk manager for Niagara County, which owns Mt. View.

When Mr. Salen took on the task of changing the safety management at the facility in 1991, he estimated the annual total cost of the losses, including replacement costs, was $1.1 million for a facility with 250 workers. And as the facility had an operating deficit of $1.2 million, it was clear that effective safety management could have a radical effect on the facility, he said.

"Management recognized the need to change," Mr. Salen said.

The keys to turning around the safety program and the facility were an admission of failure by the management, a commitment to work with the employees and effective communication to address the problem, he said.

The effective communication helped turn the anger of the employees into enlightenment, and costs were drastically reduced, he said.

In 1991, the workers comp claims alone were $770,000, and by 1996 they fell to $73,571, Mr. Salen said.

Mr. Hansen coordinated the session, and Mr. Salen moderated. BI

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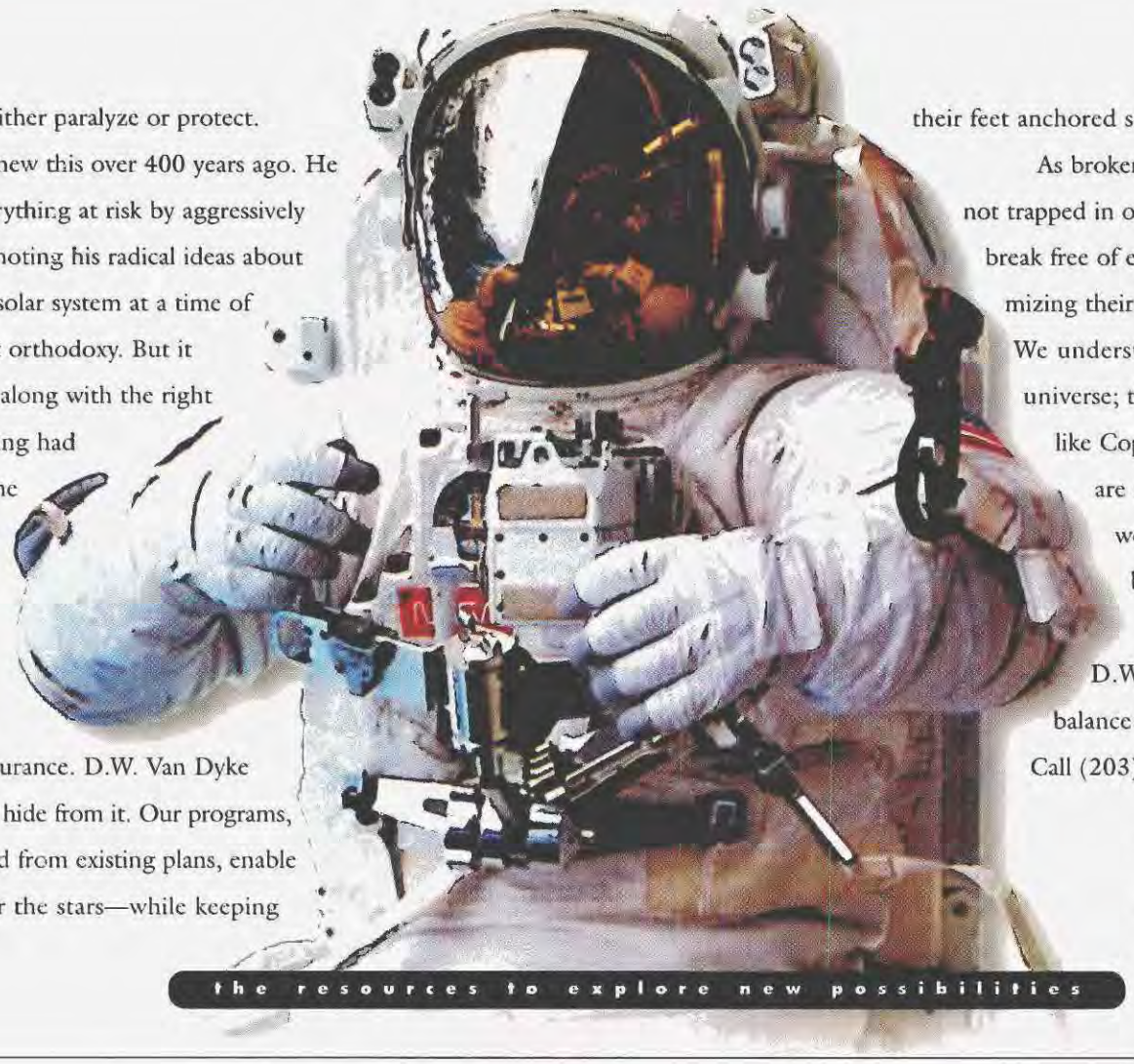

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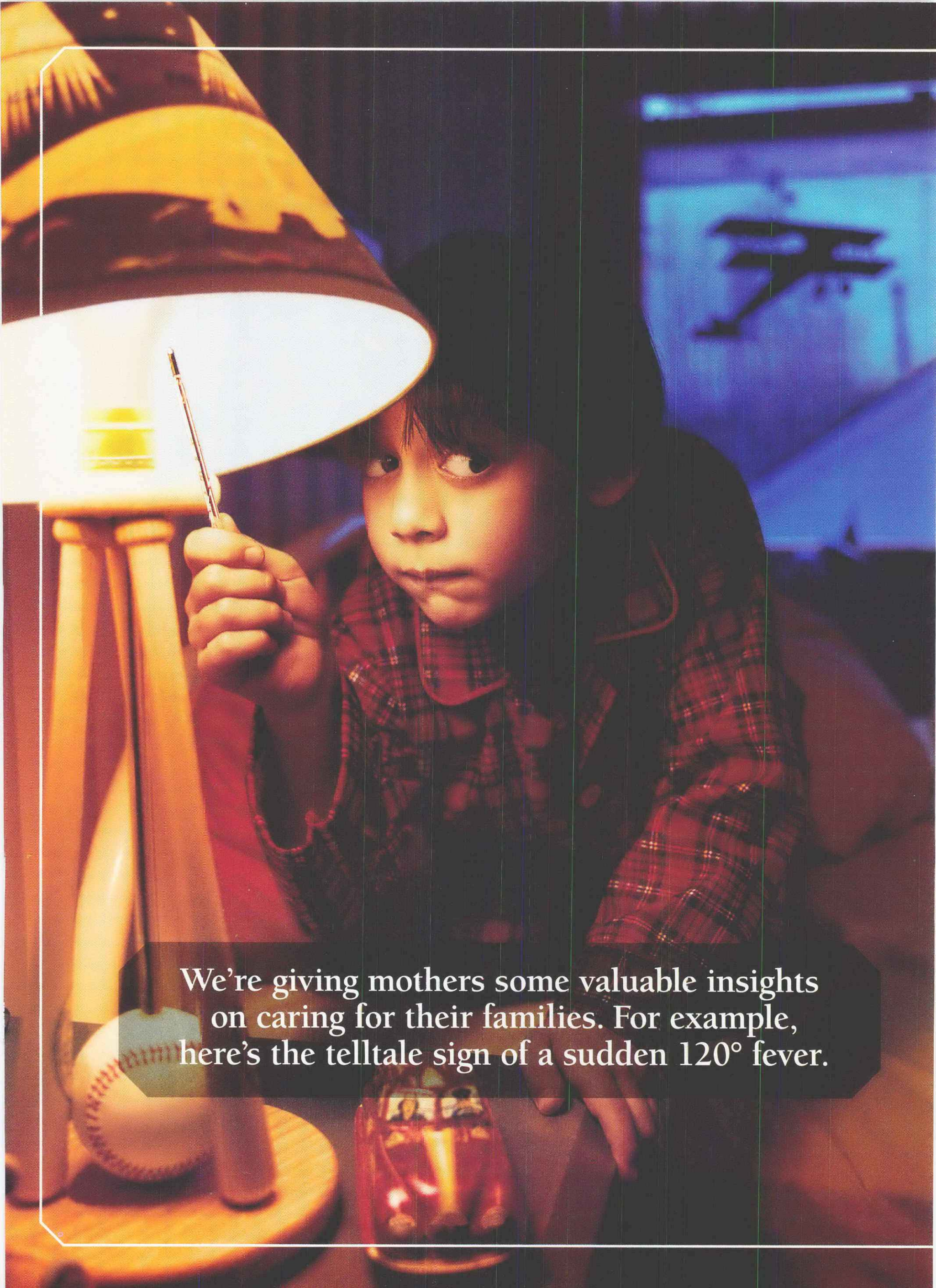
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Occupational injuries no longer local issue

Employers taking global approach to workers compensation costs

By SARAH GODDARD

ATLANTA—As more countries shift responsibility for compensating injured workers to employers, risk managers of multinational companies must take a global approach to managing the costs of occupational injuries, experts say.

"The traditional view is that (occupational injury) is a local issue to be handled by the local management," said Andrew Berry, a consultant with Tillinghast-Towers Perrin in Boston.

This view has been reinforced because several systems are used to compensate injured workers in different areas of the world, he noted. But, some countries that have paid injury claims from the social security system are shifting the cost of workplace injuries back to employers.

Last year, Argentina ushered in a U.S.-style workers compensation system, moving responsibility from the state to either the employer or individual (*BI*, June 10, 1996). Other countries in Australasia and Europe, for example, are making similar reforms.

This has resulted in occupational injuries taking up an increasingly large part of an organization's global operations, said Mr. Berry.

"To control costs, multinationals need to look at commonalities and differences around the world," he advised.

Mr. Berry spoke on global responses to occupational injury during a session at the Risk & Insurance Management Society Inc. conference last week.

Compensation for workplace injuries and long-term disabilities typically is paid under two systems: workers comp, a no-fault system that excludes court remedies; and employers liability, in which courts determine compensation—which can include non-economic awards.

"In actuality, there is not a clear distinction between the two systems" in most countries, said Mr. Berry. In fact, where elements of both the employers liability and workers comp systems are used, EL awards are influenced by workers comp payouts, he said.

To take a global approach to occupational injury liabilities, risk managers must first identify the costs. He said these costs generally fall into three categories:

- Direct costs, or those stemming from claims themselves.
- Indirect costs, such as disability pensions and loss of productivity.
- "Soft" costs, which may include low employee morale and may lead to lower productivity among uninjured workers.

The workers comp system is "considerably more efficient" than employers liability because it removes pain-and-suffering awards, reduces litigation costs, separates non-occupational from occupational injuries and makes more costs direct, Mr. Berry said. By showing the true costs of occupational injury, workers comp programs encourage employers to tackle those issues head-on.

Local regulations determine which system businesses may use, but cost/benefit analyses can help employers prioritize preventive measures, ranging from safety procedures to return-to-work policies, Mr. Berry said.

Hugh Roberts, international total cost of risk leader at J&H Marsh & McLennan Inc. in Philadelphia, also spoke during the session. He outlined how two U.S.-based multinational organizations had reduced costs through a global workers comp cost-containment plan.

Both organizations had a "high interest in employee welfare," explained Mr. Roberts, but also wanted to reduce the cost of injuries. Although operating in different businesses with different corporate cultures, the companies used similar techniques.

Each company's risk management team had strong support from senior management. This was a crucial factor, providing the necessary backing and motivation for regional operations to adopt the measures, Mr. Roberts said.

Also fundamental to success in both programs was teamwork across different areas within the organizations as well as across country borders.

While partnership with brokers and insurers is crucial, local staff must be included, he said.

Teaming with local brokers and insurers helped the home-office risk managers understand local customs and practices, including resistance to change, Mr. Roberts said.

Information-gathering and developing standard indicators of performance allowed the risk management teams to identify their priorities. These were then translated into standards applied worldwide, enabling local staff to act on recommendations for change.

Mr. Berry recommended that organizations wishing to implement a global occupational injury program look closely at how they measure performance.

Lost-time accidents and the length of time an employee is away from work allow for international comparisons, though Mr. Berry warned that it is crucial to ensure the measurement standards are the same.

In certain countries, a lost-time claim can be filed only after three days, while in others it may be just one day. Therefore, he said, multinational employers must adopt their own reporting requirements worldwide to ensure the resulting statistics can be compared on a uniform basis.

"Adoption of improved prevention and rehabilitation strategies will help multinationals introduce uniformity into their cost management programs and reduce the costs of occupational injuries on a global basis," said Mr. Berry.

Timothy Carter, manager of property insurance and accounting at The Boeing Co. in Seattle, moderated the session. BI

International

1997 RIMS Report

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Selling comp cost control internally

Effective marketing requires tailoring message to audience

By DAVE LENCKUS

ATLANTA—Risk managers are spending so much time developing programs to solve their workers compensation cost problems that many never get to the last step of selling their programs within the company, a workers comp consultant says.

When risk managers reach that step, they will have to tailor their message to the different audiences within their organization, all of which want to know what they have to gain by buying into the program, the consultant advised.

"I have quickly learned that risk managers are marketing managers, particularly in terms of workers compensation, where there's so many misunderstandings and misconceptions not only among employees but also among managers," said Catherine D. Bennett, a consultant with Cost Control Concepts Inc. of Madison, Tenn.

"The more effectively we communicate, the more cost-effective our programs will be," she said during a session at the Risk & Insurance Management Society Inc.'s conference last week.

"One of the first lessons I learned is that you can't carry the same message to the entire organization," she said.

That is because each audience within the organization has its own misconceptions about workers comp, she said.

For example, senior management often mistakenly chalks up workplace accidents to an insignificant cost of doing business. They also often want to include workers comp loss control programs in across-the-board cost-cutting efforts, she said.

The risk manager's job is showing senior management its judgment error in language it understands and cares about—by equating the cost to revenue or production costs.

Take, for example, a company that operates with a 2% profit margin. The risk manager should point out that the company has to generate $50,000 in additional revenue to recover the profit it loses by incurring a $1,000 workers comp claim, she said.

The risk manager, though, also should humanize the system by showing senior management how an effective program improves employees' quality of life, she said.

And, risk managers should not be shy about detailing past successes in trying to sell senior management on new programs, she said.

Selling senior management on a new program does not guarantee the program's effectiveness unless management understands and accepts its role and responsibility, she noted. That is up to the risk manager to define.

"If people routinely are not attending safety meetings or turning in injury reports, chances are they are not being held accountable. So, you need that kind of support," Ms. Bennett said.

Risk managers can make their pitch to senior management in various ways, including face-to-face presentations or through written summaries. Regardless of how a risk manager presents a program, a surgical strike with convincing information is important, she advised. "Get in, get out and say what you have to say."

Supervisors require a different level of detail before they will buy into a program. Their most common misconceptions are that they have to meet production quotas at all costs, that all workers comp claims are false, and that the more workers know about workers comp, the more they will abuse it.

In addition, many supervisors think that with the availability of workers comp insurance, safety programs are the first logical cut in trimming operating budgets.

As it is with senior management, workers comp is a cost issue with supervisors—but on a different level, Ms. Bennett said.

"Show them the (cost) difference between claims reported in 21 days versus 21 hours," she recommended. Referring to transitional or light-duty return-to-work programs, which many supervisors fight because the injured worker is not coming back at 100% capacity, she said: "Show them the difference between someone who returns to work four hours a day for six weeks versus someone who's off for two months."

Risk managers should demonstrate to them how runaway costs eat into their profit-sharing and bonuses and, at the plant, how those costs delay or prevent new equipment purchases and new hires.

"They probably understand hidden costs as well as anyone in the organization, because they are the ones dealing with them," Ms. Bennett said.

The key messages to supervisors once risk managers have their attention are:

- Keep safe workplaces.
- Report injuries immediately.
- Make reporting injuries easy for workers.
- Know the company's preferred provider arrangements.
- Welcome back injured employees.
- Confront employees with substance abuse problems.
- Hire quality employees by, among other things, checking into their criminal backgrounds.

In educating workers, risk managers should remember they are battling conflicting messages from workers' "family, friends, attorneys and chiropractors."

Workers are confused about how the workers comp system works, she said, citing a survey that showed only 60% of employees knew that their employers are responsible for paying to treat their workplace injuries.

"They need to understand what's going to happen, especially if they have a family to support and rent to pay," Ms. Bennett said.

Billie Fae Fuschi, workers compensation assistant director for Methodist Health Systems Inc. of Memphis, Tenn., also spoke during the session.

Michael J. Jan, director of risk management for Flagstar Inc. of Spartanburg, S.C., moderated the session.

Ms. Bennett coordinated the session. BI

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Written policies reduce risk in firing workers comp abusers

By ROBERTO CENICEROS

ATLANTA—Employers can and do terminate problem workers compensation claimants, but doing so requires precautions to prevent litigation losses.

Those same precautions can help employers from running afoul of the Family Medical Leave Act and the Americans with Disabilities Act, according to three speakers on a panel at the Risk & Insurance Management Society Inc. last week.

The best policy is to take care of good employees, the panelists agreed. But employers do need to rid their payrolls of workers who chronically abuse the system, yet continue to unfairly take advantage of benefits such as vacation pay and pension credits.

Risk managers need to consult their local laws because each state has its own peculiarities and some prohibit termination while an employee is on workers comp. In addition, most states clearly prohibit an employer from firing an employee just because he or she files a claim.

However, there are some just and legal reasons for firing the abusive claimant, the panelists said.

In all cases, creating a written policy on terminating employees for absenteeism, is one of the best safeguards for employers, they said.

Such a policy can also help employers document that they have met a Family Medical Leave Act requirement that employees receive notification of company guidelines on missed days and specifically when a company starts counting those days.

Still, a limited number of companies have such policies. The three panelists learned more about that when they informally surveyed many risk managers each of them knows personally. Such a survey is not scientific, but it does shed light on the practices at companies in a wide range of industries, said James C. McNamara, cost containment manager/corporate risk manager for Aramark Corp. in Philadelphia.

Virtually all of the companies with 200 to 1,000 employees surveyed by the panelists do not have a leave of absence policy addressing the termination of abusive workers comp claimants, said Mr. McNamara, who moderated the session.

In comparison, about 50% of companies with more than 5,000 employees do have such a policy and those that have a policy believe it helps them avoid lawsuits, he added. Additionally, about 80% of those larger employers do terminate employees who have a current work comp claim pending in certain problem situations.

The three safest reasons for an employer to fire problem claimants are for performance issues, exceeding the limit of allowable absent days, or exceeding a leave of absence policy time-off limit, said Sandra Jenson, special projects manager for Near North Insurance Brokerage Inc. in Chicago.

Therefore, a written policy needs to state exactly what action, such as termination, a company will take after the employee misses a certain number of days. The employers polled by the speakers found their policies to be most successful if they set the amount of allowable time away from work between 90 days and 24 months.

"What we found is some of the risk managers we talked to that had 12 month and 24 month policies found there seemed to be a miraculous recovery after they would notify people right before that 12 or 24 month period expired," Ms. Jenson said.

An employer's policy needs to allow enough time away from work so that good employees with real problems have time to heal and they are not pressured to return to work before they are honestly ready.

To do that an employer creating a policy should weigh the severity of claims they typically generate. An employer with a consistent amount of high severity claims will likely not want to set the number of allowable missed days at 90, Ms. Jenson explained.

Also, employers creating a new policy need to include a grace period for workers who are already exceeding or nearing the limit so they don't rush to an attorney.

Likewise, a policy should call for giving absent employees two weeks to 30 days notice before they are terminated so workers don't find out through other channels, such as learning that their insurance is no longer valid when they go to visit a doctor.

The policy should exclude missed time for jury duty, military duty and any other state-required time off. It must also be carried out in a non-discriminatory manner.

One of the most important steps an employer can take to prevent conflicts between such a policy toward workers comp claimants and the Americans with Disabilities Act, which requires reasonable accommodation for workers with disabilities, is to create a formal "intake" procedure for employees returning to work after a work comp injury, said Frances J. Skinner-Lewis, an attorney for the firm of Johnson & Bell in Chicago.

The procedure should require an analysis to determine whether or not the employer is dealing with someone who really meets the disability requirements of the ADA. Employers should not automatically honor their request for ADA status, she said.

The paper file from such an analysis provides the employer with defense documentation should that be necessary. It also serves another purpose.

Too often employers mistakenly assume the returning employee is disabled, without verifying it with ADA guidelines, Ms. Skinner-Lewis said. As a result, employers actually legitimize the alleged disability and then they are bound to provide the employee with ADA entitlements, she said.

The session was coordinated by Elizabeth Simer, vp of national accounts for Near North National Group in Chicago. BI

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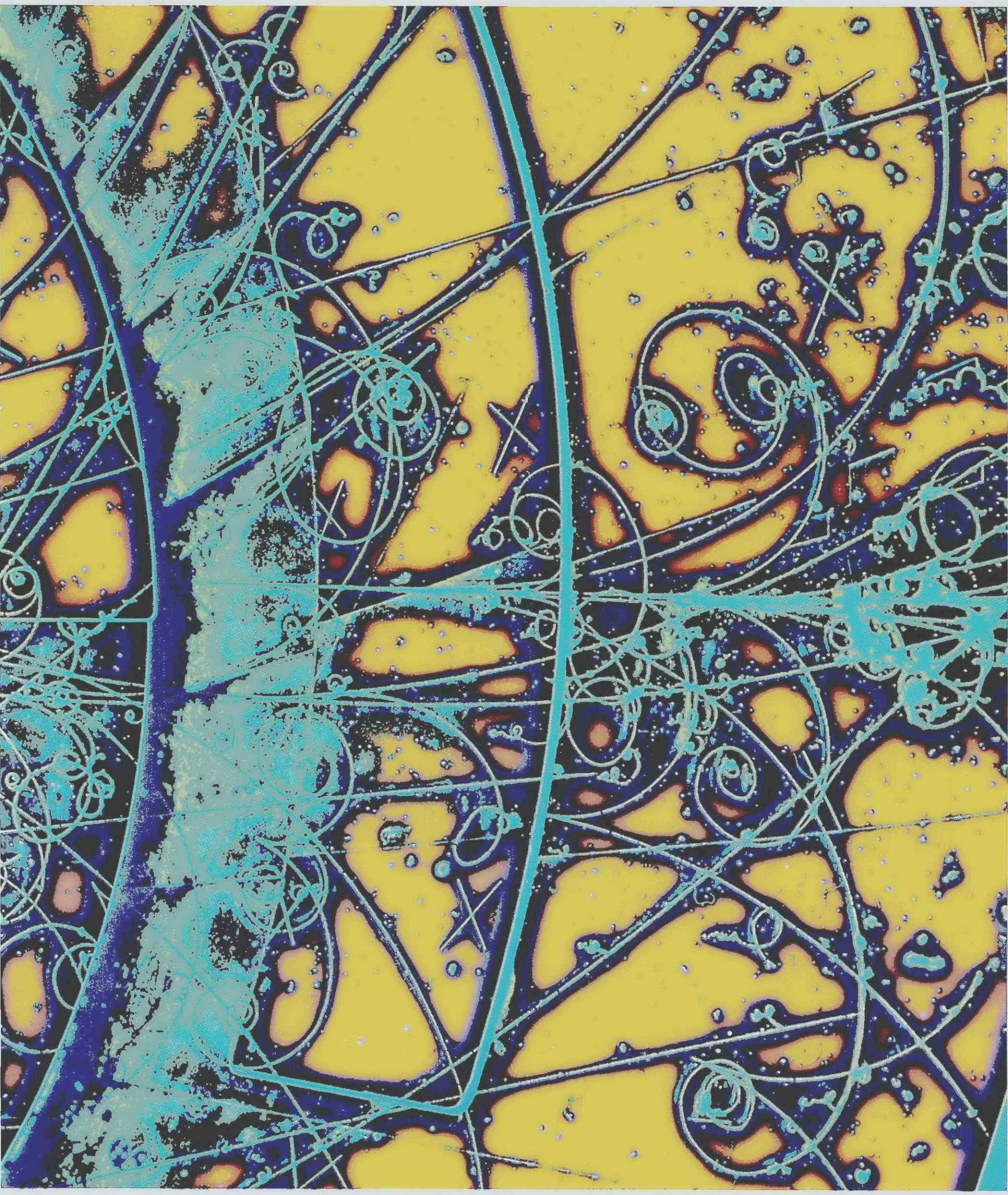

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Online benefit offerings advance

By SALLY ROBERTS

ATLANTA—What a difference a year can make.

At last year's Risk & Insurance Management Society Inc. conference in Toronto, only a handful of exhibitors introduced risk and benefit managers to new online employee benefit and workers compensation offerings.

And those offerings were limited to exhibitors' individual World Wide Web home pages, not actual Internet-based applications.

While many of the exhibitors marketing to benefit managers at this year's RIMS conference in Atlanta have built or are building World Wide Web sites for marketing purposes, several vendors have gone a step further and are offering new online applications for their clients.

Among the companies demonstrating new online wares for benefit managers was AIG Healthcare Management Services Inc.

In conjunction with OCI, a Cheyenne, Wyo.-based health care information technology company, AIG HMS unveiled its new integrated disability management system for clients using Internet technology.

The OPTIS System is designed to provide risk and benefit managers "a sense for the costs and risks in their employee population," said Michael A. Turner, vp-business development for OCI in Woodstock, Ill.

The system enables benefit managers to build a custom integrated data base by which they can obtain instant access to employee medical and disability information across all benefit programs, including group health, workers compensation and long and short-term disability.

With access to all the information, benefit managers then can analyze and generate reports online.

Benefit managers can access the system, for example, and evaluate the distribution of health benefit costs by employee populations. The system further allows benefit managers to evaluate characteristics and demographics of certain populations, which in turn provides them useful trend data.

"We have as an industry managed claims and medical payments to death," Mr. Turner said. "We have squeezed all we're going to squeeze out of managed care and case management."

Those are really medical-oriented approaches to saving group health care costs, he said. "We believe you need to take a person-centered approach and focus on the employee, not the benefit plan."

And the "sexy" thing about this, is benefit managers can do this analysis via the Internet, Mr. Turner said. The Internet "is a great way to distribute information, and we can do it securely," he said. "It sure beats sending over reams of paper."

The OPTIS system includes such firewalls as individual passwords and encryption to guard against information getting into the wrong hands.

PHOTO: MICHAEL MARCOTTE

AIG Healthcare Management Services unveiled its OPTIS system during the RIMS conference last week.

AIG HMS began marketing its integrated information system in January.

"We've had a lot of interest here at the convention," added Beverly Cottle, director of marketing for AIG HMS in Atlanta.

Another exhibitor hoping to gain benefit managers attention for its new online product is Boston-based Mosby Consumer Health.

The health care systems company is seeking employers and health care providers that would be interested in participating as beta testing sites for its new Mosby's Health Odyssey Online system.

The new Internet-based system consists of a vast content library that houses raw electronic health and medical information and a variety of Web-based applications, explained Dale Ann Matthews, director of sales and electronic licensing for Mosby Consumer Health in Salt Lake City.

The online system is targeting benefit managers, managed care companies, insurers and other health care providers that need to distribute health care information to employees, patients or members, for example, Ms. Matthews said.

The open architecture of Mosby's system allows benefit managers, for example, to draw from the database and create custom-designed applications, such as corporate health newsletters.

"We have over 5,000 pages of medical information for consumers," she said.

The content currently consists of Mosby's consumer medical encyclopedia, its guide to self-care and its health and wellness articles.

One of the applications on Mosby's system is health risk appraisals and personalized lifestyle recommendations. Employees, for example, can complete a multiple-choice form about their lifestyle and immediately receive an on-screen appraisal of his or her health. Eventually, the system will allow employees to receive periodic lifestyle recommendations.

Employees have the choice to have their information kept confidential or have it sent to their employer, which provides benefit managers with useful trend data.

Downers Grove, Ill.-based HealthCare Compare Corp. was also demonstrating a new online application.

The managed care company is marketing a new directory of providers via the Internet for benefit managers needing quick and easy access to a list of providers or hospitals in HealthCare Compare's nationwide network.

The Internet-based service does not contain any downloading features, said Tim Mooney, assistant vp-national accounts. Its intent is to reduce time and effort as well as to go a step further in obtaining a paperless environment, he said. BI

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SOLID ANSWERS FOR A CHANGING WORLD®

Getting to the root of work safety problems

By ROBERT KAZEL

ATLANTA—When it comes to work-related illness and injuries, the operative rule is that everything that happens will happen again.

That is the moral of a long story learned by Earl Williams, safety and loss control officer of a hospital in Illinois and a speaker at the Risk & Insurance Management Society Inc. conference last week.

Mr. Williams, who works at OSF-Saint Francis Medical Center in Peoria, a 750-bed acute care hospital, has drawn attention for his outspoken opinion that hospitals and employers in general need to drastically step up their attention to risks to employee safety and become more sophisticated in the way they investigate the source of workers' illnesses and injuries.

The biggest problem facing companies with employees who are missing work is that root causes of the problems are left unidentified, leading to what Mr. Williams called "yo-yo medicine": The worker lapses in and out of work, over and over, with the employer oblivious or apathetic.

To understand Mr. Williams' proposed solution, he first sketched how one industry, the hospital field, has to a great extent ignored employee safety until very recently.

"Years ago, safety was not very much thought of at all or mentioned, except perhaps by maintenance staff," he said. Even when so-called safety engineers or security personnel later became responsible for aspects of employee safety and health, they rarely had much time to devote to it.

"The problem with all the hospital systems was really no one was directly responsible for safety," he said. "We all do safety, but there is a very driving need for someone who specializes in safety."

Even today, many hospitals have only a one- or two-person safety office or none at all, relying instead on a safety committee consisting of workers donating their time, he said.

"As you move about health care, you find more and more that safety is an added-on task or duty to someone that's already wearing 25 hats," he said. "You see more and more people picking up the duties of safety or the title of safety."

If hospitals devote time to risk management, it is mainly in the area of malpractice and not accident or illness prevention, Mr. Williams said. When fee-for-service indemnity coverage was the prevailing form of health insurance, doctors too often treated ailing or injured employees repeatedly for the same problem.

"Even today, in an enlightened field, many hospitals do not have a driving need for safety," he said.

A better approach, he said, would be akin to dispatching a private eye to get to the bottom of employees' complaints, without acting like the company is being investigated.

"Let's say the worker has some sort of respiratory difficulty," he said. "The worker is then referred to the doctor, the doctor looks at him and says, 'I can fix this, no problem.' The doctor gives him some sort of treatment and he's returned. Where does he go to work? Do you think he goes to a different company? They go back to the same company, the same place where he got sick the first time."

Loss Control
1997 RIMS Report

In this scenario, the doctor who examines a hurt or sick worker could request a specially designated "health care safety professional," who could be an outside consultant or a representative from an insurance company, to investigate the cause of the problem. The consultant would visit the specific worksite of the employee to see what could be causing problems and, if necessary, go to the worker's home to scout for clues.

"This is very patient-focused," he said. "Right now, if something similar happened, they'd call in an industrial hygiene firm or industrial engineers and they'd look at the whole work site or the whole plant. But this safety investigator would only look at the specific work site itself."

An example, Mr. Williams said, is an employee who does furniture stripping at home without good ventilation and has breathing difficulties. The cause probably would never be discovered in a typical workers compensation examination, he said.

The worker and employer would have to sign a release to authorize the investigation, he said. The results would become part of the medical records, which could be used for workers comp or group medical purposes depending on the origin of the problem.

"The doctor then has the license to go to the patient and say: 'We know what's making you ill. You're stripping furniture in your basement at night. You've got some options here. One, you can quit. We're not telling you to do that. You can change the way you're doing it—increase ventilation in your basement, wear a respirator. If you choose to do nothing, your health care costs are going to double. So instead of paying $150 for your health care, you're going to pay $300. Because we know you're going to be sicker more repetitively than anyone else.'"

Such a process would cut both workers comp and insurance costs and raise productivity, he said.

Several questions remain unanswered about Mr. Williams' approach, and he raised many of them himself. For instance, who will pay for the new expense of an independent investigation of the claim? Employers should not be expected to foot this bill, he said, and he would like to see the cost added to the medical bill received by the patient if he is responsible. But Mr. Williams admitted he is far from certain how such a charge could be incorporated into statements from private insurers.

Also, it is not clear what the qualifications of the special investigators should be. They should be well-versed in managed care, and any qualifications should be uniform throughout programs, Mr. Williams said.

There is also the question of what to do about employees who refuse to sign the release form and halt any investigation in its tracks, though he said such cases will likely become rarer as workers become more interested in wellness and improving their own health in a preventive way.

Despite the uncertainties, such investigations are a good solution to the safety problem facing many smaller companies that have no safety staff and little incentive to make preventive changes in the working environment unless prodded by agencies such as the Environmental Protection Agency, he said.

Norm Parsley, risk manager of the Peoria, Ill., Park District, moderated the session. BI

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Employers' simple steps are key to reducing comp costs, study says

By RODD ZOLKOS

ATLANTA—A new survey of workers injured on the job affirms prevailing notions that employers with return-to-work programs and that maintain contact with employees after they're hurt have the best chance of holding down workers compensation costs.

The good news for employers is that they hold the answers to many of the factors that drive up workers comp costs, according to Maddy Bowling, a senior vp and general manager of managed care based in Itasca, Ill., for Intracorp.

"The key is in the employer's hands," said Ms. Bowling, whose company recently surveyed 500 injured workers on their experiences with their employers while they were out of work.

Linda Cartwright, manager of occupational health services for Fleming Cos. Inc., an Oklahoma City-based grocery wholesaler and retailer, noted supervisors or co-workers frequently do not contact injured workers, leading to feelings of isolation and the increased likelihood that injured workers will contact lawyers and that the employer's workers comp claims will rise.

Ms. Cartwright was moderator and a speaker on a panel discussing the Injured Worker Experience at the annual conference of the Risk & Insurance Management Society Inc. last week in Atlanta.

The good news for employers is that they hold the answers to many of the factors that drive up workers comp costs, says Intracorp's Maddy Bowling.

Her observations were borne out by the findings of the survey conducted for Philadelphia-based Intracorp by the Gallup Organization. Ms. Bowling, another panelist, discussed the survey. The recent survey gave the company an opportunity to compare current trends with those revealed in a similar study conducted in 1994.

The 500 injured workers in the current study were drawn from a group of 10 states selected to reflect a mix of workers comp climates. The group in this year's survey averaged 7.3 years with their current employers.

Of those surveyed, 69% reported their injuries caused them to miss time from work, and 20% said they had contacted a lawyer.

"The top injuries were backs, broken bones, cuts and carpal tunnel," Ms. Bowling said. "The top illnesses were stress and allergies."

Ms. Bowling noted that the time lost due to illnesses among those surveyed was longer than that of workers out because of injuries. "That's definitely an area that needs our attention," she said.

Asked about their top concerns after their injuries, 37% of those participating in the Intracorp survey were most concerned about medical issues, 24% about financial matters and 21% about missing work.

"What's interesting about that is those three things are (employers') top concerns also," Ms. Bowling said.

The survey also showed the injured workers were more satisfied with their medical care than with the way their employers treated them. Of those surveyed, 71% indicated they were satisfied with the care they received, 77% were satisfied with the doctors they saw, and 58% were satisfied with the way their employers dealt with them after their injuries.

Despite their satisfaction with their medical care, the numbers still reveal cause for concern with the quality of occupational health care injured workers are receiving, Ms. Bowling said, noting those numbers are lower than the 90% of the group that indicated satisfaction with the group health plan their employers offered.

Satisfaction with employers was even lower for workers off the job due to illness rather than injury, falling to 48% for that group. That's a reflection of the importance of trust in the employer/employee relationship, Ms. Bowling said. One in five of the workers surveyed said the employer did not believe them about their injury or illness.

"It appears employers have to see it to believe it," she said. But, "opportunity is knocking," because the way they treat injured workers is something that employers can do something about, Ms. Bowling said.

"Contact with the employee post-injury was highly correlated to satisfaction with the employer," Ms. Bowling said. "Many employers are forgetting the human angle to workers comp cases."

She noted that communication with employees about workers comp before they're ever injured is critical and that employees who understand the system and are confident they will be treated fairly by their employers return to work more quickly and are less likely to contact attorneys, a move that inevitably drives up comp costs.

This year's survey showed significant progress in employers' implementation of workers comp cost control efforts, with 41% of the injured workers surveyed reporting their employers had return-to-work plans in place, compared with 33% in the 1994 study. Fifty-two percent reported their companies engaged in injury prevention and training, compared with 43% in the earlier survey.

Despite that progress, however, "there's still opportunity," Ms. Bowling said. "We need to create effective return-to-work programs where we don't have them, and where we do have them, we need to communicate them," she said.

And 17% of those surveyed said their medical providers were unable to answer questions on how their injury or illness might affect their ability to return to work. "Injured workers want to go to physicians who understand their specific occupational injury and the implications for their return to work," Ms. Bowling said.

Overall, employers need to treat injured workers like customers, Ms. Bowling said. "There's no more important stakeholder in the process," she said, adding that no one has more control over the injury's ultimate costs to the employer than the injured worker.

Employers have "opportunities" to communicate with employees about workers comp and provide supervisors better workers comp information, Ms. Bowling said.

"Supervisors are your front line of communication with your employees," she said.

Ms. Cartwright noted that much of her company's effort to fine-tune its manner of dealing with injured workers has focused on supervisor training, in addition to communication with workers through such methods as payroll stuffers, worksite posters, physician panel postings, point-of-injury information and a video shown to new hires.

Employers also need to "reach out and extend good will to injured workers," emphasize prompt treatment, channel injured workers to knowledgeable health care providers and monitor injured workers' satisfaction with their treatment, Ms. Bowling said.

Betty Nelson, manager of public relations for Intracorp, coordinated the session.

Workers Compensation 1997 RIMS Report

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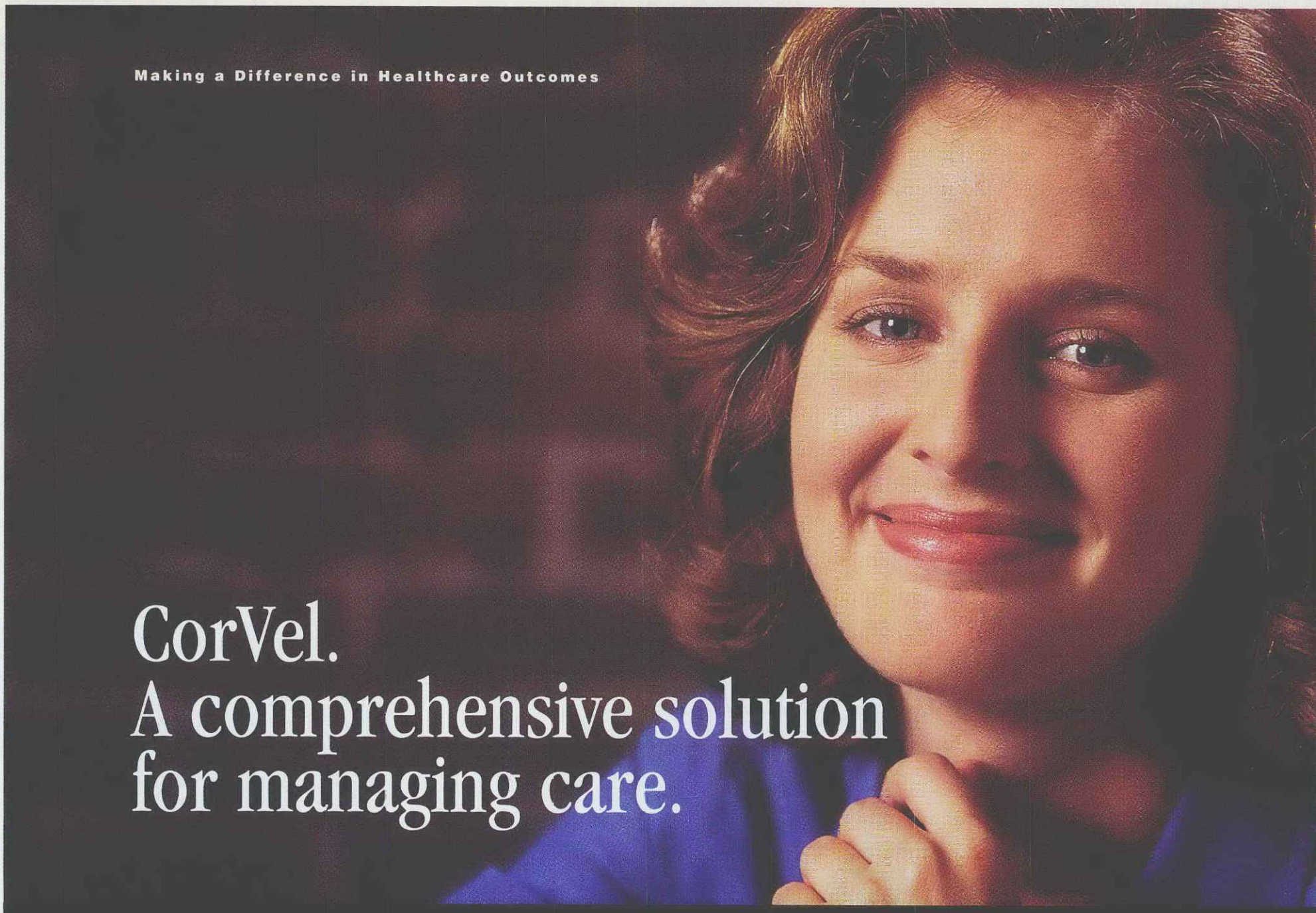

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Many routes to cost-cutting success

Not all tactics will work for everyone

By DAVE LENCKUS

ATLANTA—Employers with workers compensation costs that are too high might find their cost drivers range from guaranteed-cost insurance programs to poor intracompany reporting practices, according to a panel of risk managers.

Several other measures also helped the panelists reduce workers comp costs for their employers, including implementing claims-reporting processes that alert risk management of an injury within 24 hours and ensuring that claims adjusters—including those on an insurer's payroll—are not swamped by so many claims that they cannot handle any of them effectively.

The panelists at a session during the Risk & Insurance Management Society Inc. conference said their successes and failures could not be used as blueprints in every situation. However, their workers comp cost-saving statistics suggested that their plans are worth reviewing.

For example, Texas Instruments Inc. of Dallas cut its workers comp costs to less than $5 million last year from $20 million in 1991 and has saved more than $60 million cumulative during that period, said Lillie H. Haynes, workers compensation manager.

Workers comp costs for the fully self-insured Dallas Public Schools declined to about $6.5 million last year from about $7.5 million in 1992. But projected losses for 1997 again top $7 million because of the failure of a light-duty return-to-work program, said Cheryl Johnson, director of risk management.

All of the panelists did their loss analysis homework to make sure their new measures were supported by a strong foundation.

Texas Instruments designed its own loss analysis and reporting system, which for the first time gave managers an idea how much money lost time due to worker injuries was costing them. "They were willing to spend money now because they realized it can make a difference," Ms. Haynes said.

Ms. Johnson said she uses the reporting capabilities on her Anistics risk management information system, which she plans to update soon, as a tool to show how school district managers could be doing a better job to reduce workers comp costs.

"I'm trying to embarrass them to death" by showing them how much worse they are doing over the past year compared with their colleagues, she said.

Sometimes, though, risk managers may not have to look beyond their own offices for the reason why managers are not motivated to keep workers comp costs low.

For example, at Texas Instruments, a guaranteed-cost insurance program during the early 1990s "desensitized managers from working on good claims management and return-to-work programs," Ms. Haynes noted. As a result, "TI's losses spiraled out of control."

To begin combating that problem, Ms. Haynes in 1991 switched the company's coverage to a retrospectively rated program with a CNA Insurance Cos. unit.

The panelists also emphasized the importance of facilitating injury reports.

Ms. Johnson of the Dallas Public Schools requires managers to file injury reports no later than 24 hours after the incident occurs. That procedure goes a long way toward weeding out bogus claims, she noted.

EDS Corp. began controlling workers comp claims more quickly after the company installed a toll-free telephone line for managers to use to report injuries, noted panelist April Cox, manager-workers compensation, for the Plano, Texas-based information technology company. The phone line reporting system replaced the more time-consuming and laborious written reports.

Texas Instruments utilizes its on-site health centers to speed the claims-reporting process.

A manager is required to escort an injured worker to the center. This not only shows concern for the employee, but it also tends to prompt the worker to be completely truthful about how the accident occurred, Ms. Haynes said.

The nurse at the center, who is tied into Texas Instrument's risk management information system, then completes a formatted injury report. When it is completed, the form automatically prints on Ms. Haynes' printer, and Ms. Haynes reviews it before the adjuster sees it. "So, when the report goes to the adjuster, it is complete in every way," she said.

Keeping an eye on adjusters is another key to keeping workers comp costs low, said the panelists, all of whom use outside adjusters.

EDS uses claims adjusters who are on its insurer's payroll but are assigned to Ms. Cox's staff to adjust claims.

Ms. Johnson of the Dallas Public Schools uses a third-party administrator, because the school system's workers comp risk is fully self-insured. Ms. Johnson listed several reasons that she prefers not to hire in-house adjusters:

- She could not afford to hire a qualified claims administrator as part of her staff.
- She can specify to the TPA that the claims administrators it assigns to her must meet several criteria.
- She can direct her TPA to remove an adjuster from her account immediately.

One way of minimizing the chances of being assigned an incompetent adjuster is requiring that all adjusters meet certain professional requirements, including that they have a college degree, Ms. Haynes said.

The panelists also emphasized the importance of ensuring that claims adjusters are not overburdened.

Ms. Johnson and Ms. Cox suggested limiting adjusters' caseload to between 125 and 175 cases at a time.

But, Ms. Haynes insisted that her insurer limit the caseloads of the five adjusters assigned to her staff to between 50 and 60 cases.

In addition, the panelists strongly encouraged auditing adjusters' work regularly. Ms. Haynes hires an outside consultant to perform semiannual audits of between 30 and 50 cases for each adjuster.

Ken McNeill, corporate risk analyst of property loss control for Texas Instruments, moderated and coordinated the session. BI

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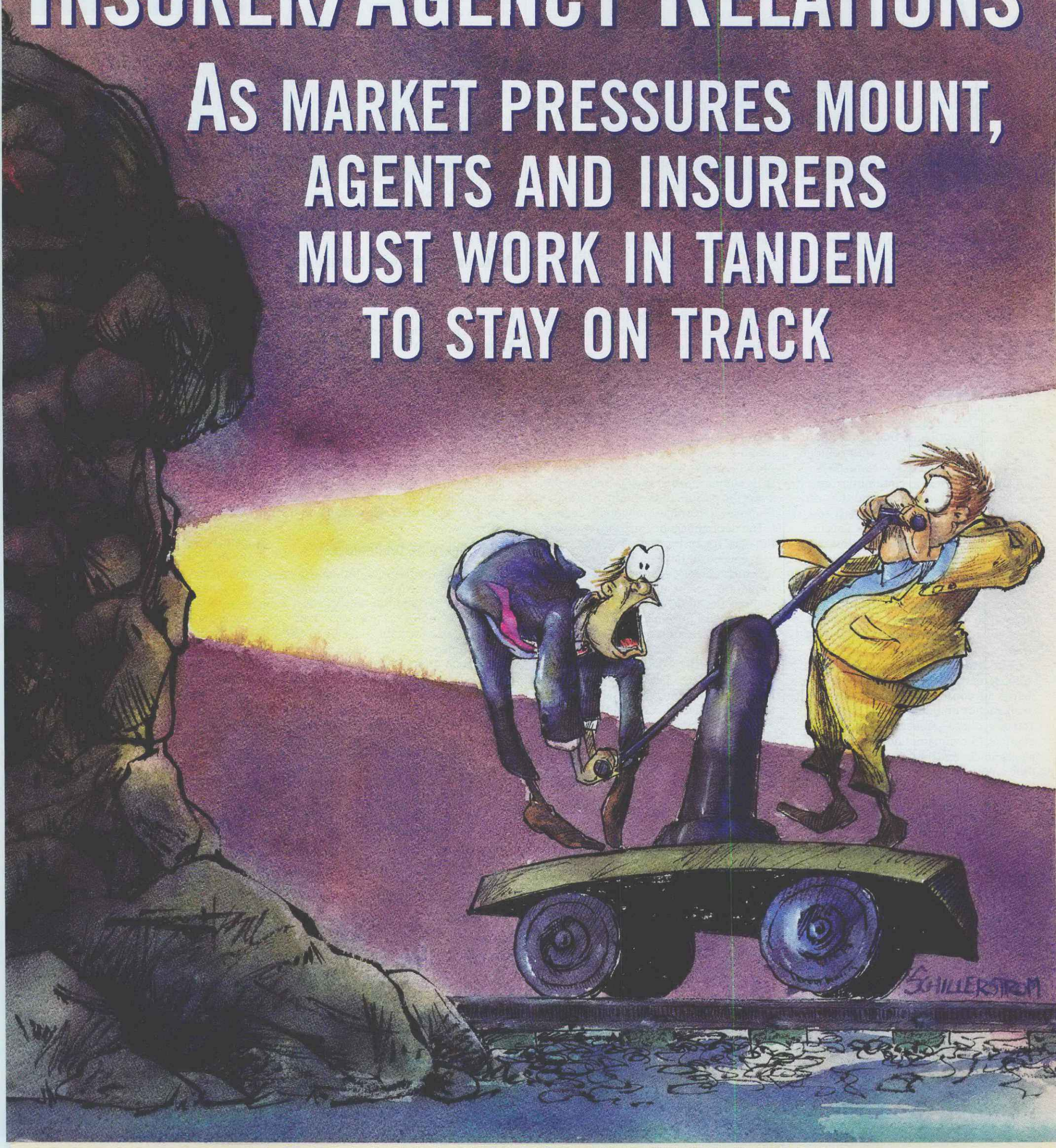


Insurer Topics

CIGNA sees benefits in P/C broker relations

By REGIS COCCIA

Brokers long have played an important role in distributing property/casualty insurance, and now a major insurer is hoping to use brokers' existing relationships with midsize companies to sell pension products as well.

Philadelphia-based CIGNA Corp., one of the nation's largest commercial insurers, is turning to brokers to market its defined benefit pension services.

It's a partnership that benefits both the insurer and the broker, said Mark Lynch, senior vp and consulting actuary in Hartford, Conn., at the insurer's CIGNA Retirement & Investment Services division.

"Brokers would be able to deliver more value and cement relations with their customer," he said. In addition, "brokers can increase the amount of pension business they do through their pension consulting practice."

As the soft property/casualty market continues, brokers and insurers are looking for additional sources of revenue, he noted.

So far, several brokers have expressed an interest in CIGNA's program, and one already is seeing its business grow as a result.

"It's going to be a major source of revenues for us," said Ken Spencer, chairman of the consulting division of Meeker Sharkey Financial Group Inc. in Cranford, N.J. "We're looking for 15% growth a year" in all areas, including pensions.

Meeker Sharkey derives about 25% of its income from benefit business, which includes retirement consulting, Mr. Spencer said. The broker had 1996 gross revenues of about $23 million.

In the two years since Meeker Sharkey formed an alliance with CIGNA, the broker has attracted clients with a total of more than $27 million in defined benefit pension plan assets, he said.

CIGNA "invested a lot of time and resources" in finding new defined benefit clients, Mr. Lynch said. "We determined that we have good products and services but not access to contacts. We thought it was a natural" to seek brokers' help.

He said the insurer is looking to form a partnership with at least one broker in every metropolitan area of the country and will pay brokers a commission for "networking and opening up doors" that lead to sales.

The market segment CIGNA is targeting is midsize companies with pension plan assets of $5 million to $50 million, or about 250 to 5,000 employees, Mr. Lynch said.

"Property/casualty brokerage firms have relationships with and have the ability to influence" these kinds of middle-market companies, he said.

CIGNA not only can manage those pension funds, but it also can counsel employees and provide actuarial consulting, said Mr. Lynch. "We pay about 265,000 retirees every month, so that's something we've figured out how to do."

That capacity and experience was one of the reasons Meeker Sharkey decided to work with CIGNA on pension benefits, Mr. Spencer said.

Most regional brokerage firms lack the resources and can't afford to invest in the technology needed to administer pension programs, he pointed out. For example, Meeker Sharkey has actuaries on staff, but it doesn't have the personnel or computer systems to administer large plans. As a result, CIGNA's services were very attractive.

"This was a great deal for us," Mr. Spencer said. CIGNA's pension services provide Meeker Sharkey access to the insurer's considerable resources, he added.

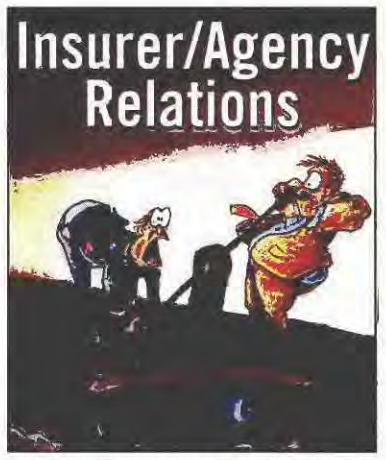
In addition, the program is helping the broker's benefit division keep pace with its property/casualty side. "We're trying to mirror the property/casualty operation," he said.

Because many of Meeker Sharkey's property/casualty clients have more than 200 employees, a size of employer that commonly offers defined benefit pension plans, it made sense for the broker to go after that business as well, he explained.

So far, the response from clients has been positive.

"Human resource people are very, very happy" with CIGNA's defined benefit program, Mr. Spencer noted.

Said Mr. Lynch: "We have a lot of flexibility. Our primary focus is to gain access to new business situations. And customers like the idea of going to one place" for property/casualty and pension products.



"We tell customers, 'You're getting an organization that knows you and the resources of a huge organization that can provide the technology' " to support their needs. BI

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Unique product, expertise are specialty keys

Exec reveals tips for prospering in niche markets

By JUDY GREENWALD

The keys to becoming a successful specialty insurer include differentiating one's product, finding an unfulfilled market and developing expertise in that area, an insurance executive says.

Walter A. Rhulen, chairman and president of Frontier Insurance Group, discussed how the Rock Hill, N.Y.-based company developed its role as a specialty insurer during the national insurance symposium leadership conference sponsored last month by San Francisco-based Russell Miller Inc.

Today, Frontier offers 132 separate programs. Its origins as an insurer began as an insurance agency.

Mr. Rhulen said he had been "born on the other side of the tracks" as the son of an insurance agent who had successfully developed liability and property programs for resort hotels, the major business in the small resort town of Monticello, N.Y., where he grew up.

When Mr. Rhulen joined the Rhulen Agency in 1954, he decided to look for another specialty in which to grow the business and settled on summer camps. The agency later expanded into animal mortality coverage for pet owners as well.

One of the keys to developing as a successful specialist, said Mr. Rhulen, is to differentiate one's product. For instance, an insurer can charge more than average but offer more services, such as loss control and risk management.

It also is important to find an unfulfilled market, she said, and to have expertise in that market. For instance, the Rhulen Agency published a bulletin four times a year called "Camp Tips" that offered advice on topics ranging from ridding camps of vermin to screening job applicants for potential sex offenses.

By the time the agency was sold in 1989, the program had expanded from an original group of 12 camps to more than 4,000 nationwide that generated more than $60 million in premiums, Mr. Rhulen said.

Gaining association endorsements was another key strategy. For instance, in its animal mortality business, Rhulen gained the endorsement of associations such as the American Painted Horse Assn., while its camp business had the American Camping Assn.'s endorsement.

Another key element in the company's success has been its ability to expand into areas "similar or related" to the original concept.

For instance, when specialty camps became popular, Rhulen began to offer programs for gymnastics camps, which led to clubs for gymnastics and other Olympic sports. Karate programs led to tai chi, music, arts and coverages for event venues, said Mr. Rhulen. "You wind up dramatically expanding the scope of your specialty," he said.

A company also can "be successful in a line if you're nimble," said Mr. Rhulen. When the aerobics craze hit in the early 1980s, the agency was quick to offer programs for aerobic dance studios, which had good loss experience.

He noted also that in the process of doing business in the animal husbandry line, the company began offering related lines as well, including: liability for thoroughbred owners; fire loss coverage for horses at every track in the country; accidental death and dismemberment coverage for harness drivers; and coverages for whales at the San Diego Zoo; and "lions and tigers and bears, and even exotic birds."

But, the company did stumble when it decided to get into the pet insurance business, he said. It got involved in this line based on its experienced claims staff, which was used to dealing with veterinarians; a comparable program's success in England; and a population of 48 million dogs and 39 million cats, with the participation of only 0.1% needed to make the program profitable.

"Unfortunately, we were wrong on all counts," said Mr. Rhulen. It turned out that the policy involved a different kind of claimant from what the company was used to and veterinarians who were difficult to deal with. And the fact that this line was successful in the past "does not mean anything about your future business."

After three years, the program had just 1,000 policies with a 130% loss ratio and a 300% combined ratio. "It was quite a lesson," he said.

Among the criteria the insurer uses today to select programs are relatively little competition and a sufficient number of potential policyholders, said Mr. Rhulen. He added that the insurer has an open door and welcomes proposals.

Insurers that are trapped by volume requirements and an inflexible distribution system see becoming niche players as a solution to their growth problems, he said. Unfortunately, however, many unprofitable programs are now available because the insurers are not well organized.

The smaller, experienced niche player has an advantage, said Mr. Rhulen. Apart from American International Group Inc., which has a niche-oriented culture to start with, he said he does not believe major insurers will make a successful transition to becoming niche players. BI

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Court upholds agency suit over non-compete provision

By MARK A. HOFMANN

Is a non-compete provision in an agreement between an insurance agency and the former exclusive underwriter of one of that agency's largest programs legally enforceable?

The answer, at least in Pennsylvania and for the time being, is yes.

The non-compete clause is at the heart of *Volunteer Firemen's Services Inc. et al. vs. CIGNA Property & Casualty Insurance Co. et al.* A state district court judge in York, Pa., ruled in favor of VFIS' parent, York-based Arthur J. Glatfelter Agency Inc., last year, but it did not end there.

CIGNA appealed to state superior court in Harrisburg, which heard arguments earlier this year. No decision has been rendered.

CIGNA declined to comment on the case, citing its policy against discussing ongoing litigation.

While CIGNA was dealing with Glatfelter, creating a response to the agency's request for proposal for a company to front an alternative risk transfer vehicle, "they were exploring their possible entry into this market in direct competition with us, and I believe the opinion reflects that," said Ray Fidler, Glatfelter's vp and general counsel.

"I think it's rare that an agent would have the bargaining power and the business wherewithal to obtain the kind of promises CIGNA made in the contract, whether it's promising not to compete or acknowledging a wide range of materials to be trade secrets of the agent," he said.

"It upholds the traditional agency/company law that validates the American agency system, that ownership of the program and the expiration vests with the agent as opposed to the company," he added.

As outlined by District Court Judge John T. Miller of York, Pa., in his original decision in favor of Glatfelter, the agency issued the first of the insurance products designed for emergency service organizations in 1969. In 1972, Volunteer Firemen's Insurance Services Inc. and CIGNA began a relationship when Insurance Co. of North America, which later merged with Connecticut General Insurance Co. to create CIGNA, became the exclusive underwriter for the program. The relationship between VFIS and CIGNA ended May 31, 1996.

During the relationship, "CIGNA had access to confidential information and information that was not easily attainable in publicly available material," Judge Miller wrote in his decision.

According to the court, CIGNA received at least $94 million in premium from the emergency services business in each year between 1991 and 1995, with a high of $101 million in both 1992 and 1993. VFIS received commissions of between $32 million and $38 million during each year of the five-year period.

In 1990, the two parties began negotiating a new contract, a process that ultimately would take four years. VFIS' initial draft called for a non-compete provision. In 1993, CIGNA responded with a five-year agreement that did not contain a non-compete provision. VFIS said the draft was not acceptable because of the length of the contract and the absence of the non-compete provision, court papers show. VFIS countered with a draft that called for a three-year contract with a non-compete provision, but CIGNA rejected that.

Finally, in mid-1994, the parties agreed to a contract and addenda, retroactive to Jan. 1, 1993. Judge Miller cited two sections of the document as having a bearing on the case.

One spelled out a confidentiality agreement. After detailing what would be covered by the confidentiality provision, the section read: "We agree to safeguard and maintain in confidence such information and will make such confidential information known only to those affiliates, employees or representatives whose business purposes necessitates their access to such information. We will not during the term of this agreement or any time thereafter disclose to others confidential information obtained from you, except to the extent required by law or by order of a court of competent jurisdiction."

The judge also cited the non-compete provision as bearing upon the case.

That provision read, in part: "Acknowledging the longstanding relationship between you and us, we together agree as follows. For a period of three years

See **Dispute** *on page 26H*

Consumer study available

WASHINGTON—A report from the National Assn. of Professional Insurance Agents discusses how companies and agencies can benefit from the opportunities posed by demographic changes in U.S. society.

"Doing Business with the New Insurance Consumer" provides an extensive report on all the seminars, speeches and presentations that were part of the PIA's 1996 Company Conference in Dearborn, Mich.

A panel of industry representatives looked at how companies and agencies can reach out to women and minorities as consumers and potential industry professionals, the Washington-based PIA said.

The report, which was financed in part by the Multicultural Business Group at the St. Paul Fire & Marine Insurance Cos., is free to PIA members and $25 for non-members. Call Lenora Cox at 703-836-9340 to request an order form. Order forms also may be obtained by calling PIA's fax-on-demand service at 703-518-1390 and asking for document #1184.

An executive summary, which is included in the print report, may be found on the World Wide Web at http://www.pianet.com. BI

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—1997—

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February 17 ..... February 5
Distribution at Bermuda Insurance Symposium

March 24 ..... March 12
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July 14 ..... July 2
Distribution at International Insurance Society

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October 6 ..... September 24
Distribution at Federation of European Risk Management Associations

November 3 ..... October 22
Distribution at Association of Risk & Insurance Managers of Australasia

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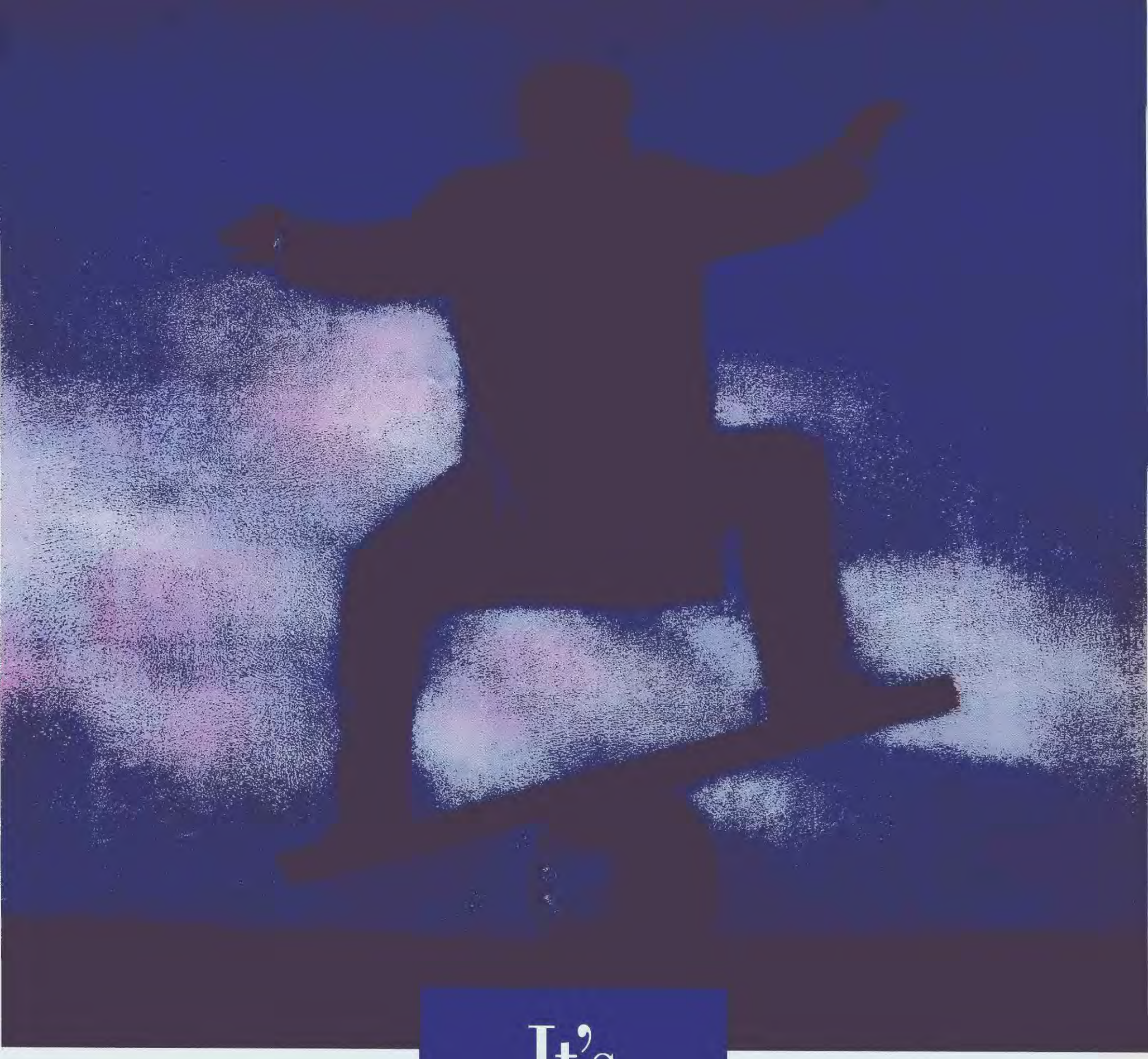

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Dispute

Continued from page 26F

following any termination of this addendum, except termination for those grounds set forth" in three other sections of the agreement that Judge Miller deemed "inapplicable to this case."

The provision further held that CIGNA "will not directly or indirectly solicit, sell or issue a voluntary property/casualty policy to any volunteer fire business, except for volunteer fire business which is part of a municipal account."

"This agreement applies to those states and territories in which volunteer fire business is conducted at the time of termination. . . .As used in this paragraph, 'solicit' means the actual or attempted solicitation, sale, placement or procurement of insurance for, or on behalf of, any volunteer fire business," the provision stated.

Shortly before the agreement was signed, VFIS began strategic planning for an alternative risk structure without telling CIGNA, Judge Miller wrote.

One of the reasons for VFIS' move was concern over CIGNA's rating from Oldwick, N.J.-based rating agency A.M. Best Co. So Glatfelter formed a Bermuda-based captive reinsurance company in 1993 called GIG Reinsurance Co. Ltd. and retained Tillinghast-Towers Perrin as a consultant "to formulate a research proposal to investigate potential fronting companies suitable for VFIS' future strategic plans."

Judge Miller noted that CIGNA's financial strength rating from A.M. Best was downgraded to B++ on Dec. 21, 1994, and that VFIS' addendum "provided that VFIS would terminate for cause the addendum, with written notice within 60 days after a 'downgrade in A.M. Best rating below A-.' "

The judge also noted that VFIS informed CIGNA of its concerns and "expressed willingness to work with CIGNA in its attempts to restore its prior Best rating. However, concerns remained because of municipal customers which require ratings of A for coverage."

VFIS sent out requests for proposal to potential fronting candidates for its new structure. The RFPs contained confidentiality agreements. CIGNA was not informed of the process until Best restored the insurer's A- rating in February 1995. CIGNA received an RFP shortly thereafter, but American Re-Insurance Co. ultimately was chosen for the arrangement.

The relationships between the two parties had many of the attributes of a joint venture, wrote Judge John T. Miller.

CIGNA began exploring entering the emergency services market itself. A few weeks after VFIS informed CIGNA that it was ending the relationship, CIGNA told VFIS of its decision to enter the market. VFIS filed suit to block the insurer from doing so.

CIGNA countered that the non-compete agreement was voided because VFIS had misled the insurer by concealing its plans to possibly replace CIGNA as the underwriter for the book of business, court papers say. Enforcing the non-compete agreement also would amount to an illegal restraint of trade and reduce competition, CIGNA argued.

Judge Miller rejected the arguments.

Noting that the concept of non-compete covenants has been "disfavored" by Pennsylvania courts, Judge Miller explained why he ruled this particular covenant to be valid. The relationships between the two parties had many of the attributes of a joint venture, he wrote.

In addition, the arrangement was not governed by any preemption of federal antitrust laws by the McCarran-Ferguson Act. That said, the non-compete provision did not violate federal antitrust laws, Judge Miller wrote. There was no way that VFIS, which controlled between 30% and 40% of an increasingly competitive market, could engage in monopolistic practices, the judge wrote.

The arrangement did not violate state laws against restraint of trade. And the fact that VFIS intended to replace CIGNA as underwriter did not constitute fraudulent behavior, Judge Miller wrote.

"We conclude the analysis by reference to the agreement of VFIS addendum thereto were carefully negotiated contracts between two sophisticated business organizations," the judge wrote. "The covenant against competition was ancillary to the main purpose of the agreement, i.e. to protect VFIS after the termination of the agreement and VFIS addendum by giving VFIS time to develop a new business structure without fear of being overwhelmed by the very size and scope of an insurance underwriter such as CIGNA armed with confidential and proprietary information derived from its long relationship with VFIS."

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Volunteer Firemen's Insurance Services Inc. et al. vs. CIGNA Property & Casualty Insurance Co. et al., Court of Common Pleas of York County, Pa.; No. 96-SU-01294-07, Aug. 26, 1996.

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1 ❑ 150 or less 2 ❑ 151 - 499 3 ❑ 500 - 999 4 ❑ 1,000 - 4,999 5 ❑ 5,000 or more 6 ❑ Unknown

3. My title is best defined as:
A ❑ Administrative Mgt B ❑ Financial Mgt C ❑ Risk Mgt D ❑ Benefits Mgt E ❑ Loss Prevention Mgt F ❑ Other_____

4. My purchasing involvement for the requested products is to:
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Three is a magic number for reinsurance success

Reinsurers must follow three cardinal rules in today's operating environment, says the president of the nation's largest reinsurer.

The first is "Do your best to underwrite to an underwriting profit each and every year," said Tom N. Kellogg, president and chief operating officer of General Reinsurance Corp.

The second is to maintain adequate loss reserves, and the third is to know your accumulated property exposures and limit them to an acceptable level, said Mr. Kellogg.

Mr. Kellogg spoke at a session during the national insurance symposium leadership conference sponsored in March by San Francisco-based Russell Miller Inc.

Discussing reinsurers' the operating environment, Mr. Kellogg noted the property/casualty industry's premium-to-surplus ratio has declined from 2.5-to-1 in 1979 to 1.9-to-1 in 1986 to a "pitiful' one-to-one ratio today. The "seeds" of this situation were planted several years ago, by a tort system that was out of control; the Superfund law and its reserve requirements; the alternative markets; and accumulated property exposures.

Mr. Kellogg noted also that the industry's return on equity is a "pitiful, inadequate" 8%.

The pressures that have been placed on reinsurance buyers have been "extremely intense" and have caused them to take a short-term view of their situations rather than to focus on their long-term profitability and growth, said Mr. Kellogg.

At the same time, there has been strong merger and acquisition activity, which generally is not good for reinsurers' premium growth, although there can be exceptions, said Mr. Kellogg.

Mr. Kellogg noted that during 1993-1995, there was a solid demand for reinsurance. But that situation now has changed as a result of increased retention levels, the re-emergence of Lloyd's and the capacity in Bermuda. As a result, reinsurers posted $18.95 billion in net premiums written in 1996, up 4.5% from the year before. That premium growth rate was slightly less than that of the property/casualty industry.

To be successful and grow in this environment, "underwriting expertise must be a recognized core competency," Mr. Kellogg said.

In addition, size and track record will remain very important, including the ability to provide security, long-term relationships and one-stop shopping. The reinsurer must also be willing to bring more than capacity to the table, said Mr. Kellogg. His expertise will be needed to help the insurer's top- and bottom-line growth and to strengthen the balance sheet. Also necessary, he said, is the ability to develop new reinsurance products.

—By Judy Greenwald

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Continued from page 3

about," Mr. Wilder said. "His vision, his professionalism, his determination and his ethics were ideals to which each of us should aspire."

The award will go to a risk management or insurance professional who "demonstrates the same attributes of quality that Art did," he said. RIMS committees will determine criteria for the award, which will be presented at next year's conference in San Diego.

Apart from promoting quality, RIMS has other initiatives on its agenda for the next 12 months.

The society plans to continue to develop its ability to influence legislators on issues that are important to risk managers.

"Over the next year we plan to use our regional conferences as venues to increase legislative and regulatory contacts," Mr. Wilder said.

In his state of the society address at the conference, outgoing President Louis J. Drapeau said RIMS still hopes to influence tort reform at the federal level.

"For those of you fervently hoping that RIMS would lead the way to major tort reform on the federal legislative level, that has not happened—yet," he said.

"Perhaps the truest test of our resolve in this arena will be our stick-to-itiveness. We have made great strides in Washington. We are called on frequently for information and testimony," Mr. Drapeau said.

Another issue on the agenda may bring changes in the makeup of RIMS' membership, Mr. Wilder said.

"Over the next 12 months we plan to re-evaluate whether the corporate entity is the appropriate member category for RIMS, or whether individuals ought to be allowed to join our society," Mr. Wilder said.

And RIMS continues to develop the Fellow in Risk Management program that would establish an advanced designation beyond the Associate in Risk Management.

Karen Fleming, manager of risk management at Bell Atlantic Corp. in Arlington, Va., and chair of RIMS' Advanced Designation Task Force, said during a separate presentation at the annual meeting that response to a membership survey last year prompted the society to make creating that designation a top priority (see related story).

On the technology front, Mr. Wilder said RIMS will continue to advance technologically, building on Mr. Drapeau's work in that area over the past year.

"With an average of 25,000 hits per month to our home page, our base is pretty strong," Mr. Wilder pointed out. "Technology will be the backbone—both to our industry and to our society—going into the next millennium."

Mr. Drapeau said that there were successes on the technology front during the past year. Membership in RIMSNET, the society's Internet service, increased by around 30%.

Mr. Drapeau mentioned a new feature at this year's conference was an electronic service at the society's booth that let attendees locate exhibitors by name or product.

A technology task force headed by Scott Lange, risk manager at Redmond, Wash.-based Microsoft Corp., is being set up to determine what strategic role technology should play at the society in years to come.

In a few years, technology will have advanced so that the way "each of us conducts business will be vastly different," Mr. Wilder added. "RIMS needs to drive these changes."

The annual meeting also featured a $64,000 donation to the Spencer Educational Foundation. The money was raised at a private fund-raiser held at Disneyland earlier this year.

'Technology will be the backbone—both to our industry and to our society—going into the next millennium,' says outgoing RIMS President Louis J. Drapeau.

PHOTO: MICHAEL MARCOTTE

In a changing of the guard, Louis J. Drapeau, left, leaves the RIMS presidency in the hands of Stephen Wilder.

Mr. Drapeau introduced the Executive Council, which included three new members, at the annual meeting.

Ms. Fleming of Bell Atlantic was elected vp health and safety; David L. Mair, risk manager of the U.S. Olympic Committee in Colorado Springs, Colo., was elected vp-industry liaison and treasurer; and Diane F. Wolfson, director of risk and insurance at Domtar Inc. in Montreal, was elected vp-membership and chapter services and secretary.

Re-elected to the council were: Georges Balcer, director of risk management at Bowater Inc. in Greenville, S.C., who is vp-government affairs; David R. Haight, director, risk management at CF Industries Inc. in Long Grove, Ill., now serves as vp-environmental; Susan R. Meltzer, assistant vp, insurance and risk management at Sun Life Assurance Co. of Canada in Toronto, who now is vp-international and research; John R. Rath, director, risk management and insurance for Milwaukee County in Milwaukee, Wis., takes over as vp-education; and Richard Sadler, risk manager-worldwide sales and support at Microsoft Corp. in Redmond, Wash., takes over as vp-conference. BI

Members endorse program

Risk & Insurance Management Society Inc. members strongly support the development of the Fellow in Risk Management Program.

Response to a survey conducted last year prompted RIMS to continue development of the designation and two other programs, according to Karen Fleming, manager of risk management at Bell Atlantic Corp. in Arlington, Va., and chair of RIMS' Advanced Designation Task Force.

To gauge demand for the academic programs, RIMS sent out 8,000 questionnaires and received 1,600 responses. The respondents also indicated interest in development of a distance-learning master of business administration program and an executive management program.

"So, based on this, in December the task force submitted a proposal to the Executive Council proposing the creation of all three programs," Ms. Fleming said, with the "Fellow in Risk Management Program as our top priority."

"What really makes the Fellow in Risk Management program unique is the design of its curriculum. We envision that it will be developed by academics, but with input by risk managers, that it will be risk management-specific and that it will be application-based," she said.

She pointed out that RIMS' focus on education includes consideration of the development of a "separate educational entity." This entity will be monitored by RIMS, controlled by a board of directors made up of industry representatives and include an advisory committee that receives assistance from risk managers, Ms. Fleming said.

Darby receives Goodell Award

RIMS presents a host of honors at annual membership meeting

By MICHAEL BRADFORD

ATLANTA—Marc Darby, director of risk management and insurance at Bombardier Inc. in Montreal, is this year's recipient of the Risk & Insurance Management Society Inc.'s prestigious Dorothy & Harry Goodell Award.

Mr. Darby accepted the award, RIMS' highest honor, at the society's annual membership meeting that kicked off the weeklong conference last Monday. The award was established in 1978 by former RIMS president Harry Goodell and recognizes outstanding achievements in advancing the goals of risk management and RIMS.

"This has to be the greatest day of my professional career," Mr. Darby said in accepting the award from outgoing RIMS President Louis J. Drapeau. Recipients of the Goodell Award aren't told of the honor until it is announced at the annual meeting.

Mr. Darby was recognized for 30 years of contributions to RIMS and the risk management profession, which included serving on the society's Executive Council and holding the office of president of the organization in 1983. He chaired the 1996 Canadian Risk Management Conference in Montreal.

In 1990, Mr. Darby received Canadian RIMS' highest honor, the Donald M. Stuart Award. Mr. Darby also was a member of the 1992 *Business Insurance* Risk Management Honor Roll.

Several other awards were presented at the breakfast meeting.

PHOTOS: MICHAEL MARCOTTE

Marc Darby, director of risk management and insurance at Bombardier Inc., above, receives RIMS' top honor, the Goodell Award, from RIMS President Louis J. Drapeau. The society also honored member chapters and individuals for their achievements.

The Edith F. Lichota Award went to Dana A. Kerr, risk manager at Micron Technology Inc. in Boise, Idaho, and to Marc A. Savasta, an undergraduate at Temple University.

The RIMS research award was created in 1984 and recognizes research that has practical application to risk management. It was renamed in 1995 to honor the late Ms. Lichota, a leader and pioneer of the risk management profession who was vp-administration of Banks Insurance Co. Ltd. and an independent consultant at the time of her death in 1994. Ms. Lichota also held positions on RIMS' Executive Council and committees.

Mr. Kerr received the award in the risk management practitioner category for a paper titled Product Performance Anxiety: Liability Claims by Unsatisfied Customers.

Mr. Savasta was the winner in the student category for his paper on domestic partner benefits.

This year's Cristy Award was given to Susan Jeffrey Collins, risk manager at ANECO Inc. in Clearwater, Fla.

The award is named after Jim Cristy and is presented to the person with the highest cumulative average in the three exams required to earn the Associate in Risk Management designation.

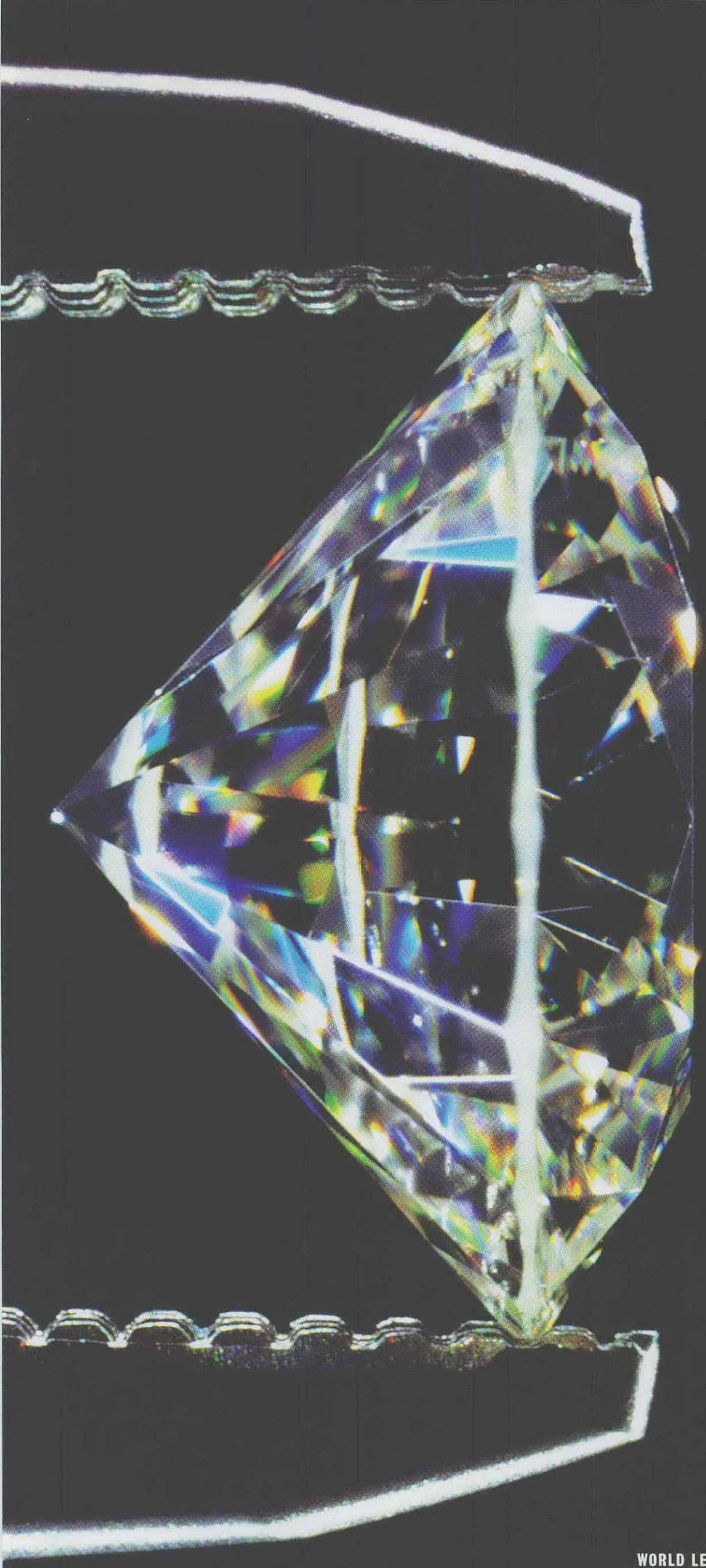
The Richard W. Bland Memorial Award was presented to Roger L. Andrews, general counsel and director of risk management for the E.D. Bullard Co. in Cynthiana, Ky. The award recognizes outstanding efforts in the areas of legislation or regulation by a deputy member of RIMS.

Willis Corroon Corp. received the Executive Director's Award to Industry, which recognizes industry organizations that have helped RIMS with long-term commitments and participation in society programs and activities.

Among chapters with more than 60 members, the Houston Chapter captured the top spot in four of five categories of the society's Chapter Recognition Program. Houston pocketed awards for outstanding chapter programming, advancing the risk management profession, outstanding member services and overall chapter excellence.

The Dallas-Fort Worth Chapter was best among chapters with over 60 members in the outstanding membership development category.

The other winners in different size categories were Mississippi and Santa Clara Valley in outstanding chapter programming; Inland Empire and Upstate New York in advancing the risk management profession; Smoky Mountain and San Diego in outstanding member services; Greater Quad Cities and San Diego in outstanding membership development; and Mississippi and San Diego in overall chapter excellence. BI



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Risk management skills useful in curbing workplace violence

By MICHAEL BRADFORD

ATLANTA—Risk managers can play a key part in stopping workplace violence and should be included in any corporate strategy to head off those incidents, a security expert says.

In our company, the risk manager is very involved in helping prevent workplace violence, said Thomas J. Lekan, senior vp and director of corporate security at KeyCorp Management Co., a Cleveland-based bank holding company. "He talks to us about what we should be looking at, what kinds of coverage, is this a risk we should assume and why should we assume it?"

Speaking as a panelist at a session during the Risk & Insurance Management Society Inc. conference in Atlanta, Mr. Lekan pointed out that risk managers should work closely with security, human resources and other departments to help stem violence in the workplace.

"I think human resources people bring just what their name says—the human part of it," said Mr. Lekan. "They kind of control people like us in security and say, 'Hey, you're going too far with this, and we need to think about the people,' " when putting in security controls.

Legal personnel have to be on the team as well, Mr. Lekan stressed. While protecting workers is the top priority, the company needs to be aware of what kinds of litigation could result if someone is injured or killed in a violent act at work.

KeyCorp also has a medical director who can be an asset in preventing workplace violence, Mr. Lekan said. That person can be a help in situations where "we've got a guy on the second shift across the street who talks about receiving signals from Mars every night and we're kind of worried about him."

'What ifs' are good tests to use in the interview process, says Thomas J. Lekan. Candidates should be asked, for example, 'What would you do if one of your subordinates told you to go to hell?'

The medical director can provide input on how to deal with such behavior, "and they do help," Mr. Lekan added.

The team needs a "senior management sponsor," he said, who can in some situations make the difference in whether an incident occurs or is prevented. That person can provide quick approval to use the corporate plane, for example, if members of the security team have to travel to a distant location where trouble is brewing.

Preventing workplace violence begins with the hiring process, according to Mr. Lekan. It also helps to know the background of employees being fired to understand whether other stresses in their lives could help trigger violence, he said.

Another panelist agreed that the hiring process is a loss prevention tool that can be used to prevent violence.

The hiring process is "where that first step starts in preventing workplace violence," said S. Patrick King, branch manager with American Protective Services Inc., a contract security services provider in Jacksonville, Fla. "If there are truly those types of personalities that make it through the workaday world by being the bully, the intimidator, then don't let them in your business if you can find out about them and get them out as quickly as you can once you learn who they are."

Hiring techniques must be thorough to the point of grueling, according to Mr. Lekan.

Guards who work for his company must successfully complete an eight-hour psychological test that will reveal whether the applicant could competently handle a firearm if faced with a situation that required use of a weapon.

If the test reveals that the person can "maybe" perform well in such a situation, the candidate is not hired, Mr. Lekan noted.

He said prospective workers in highly technical positions must be carefully screened because people in those fields have shown tendencies toward violence when they lose their jobs. "I don't know if it's a result of the job" or other factors, but those employees are "very susceptible to this violence," he said.

When hiring for those positions or others that show a history of workplace violence, some unconventional interview techniques could be used, Mr. Lekan suggested.

"What would be wrong with adding to the hiring process meeting that person at a restaurant, meeting that person at home to find out what they're really like?" he asked.

"I personally think we should get into a person's home. When you see their family and their family's reaction to that person, you can tell a lot about them."

"What ifs" are good tests to use in the interview process, he said. Candidates should be asked, for example, "What would you do if one of your subordinates told you to go to hell? What would you do if one of your subordinates embarrassed you in front of other people?"

Responses often are candid and surprising, he said.

Managers at Mr. Lekan's company are trained to look for signs of potential trouble among workers being terminated. If management knows a worker being let go has domestic or financial problems or has indicated an inability to control anger, security is notified.

"I need to know that so I can do the proper countermeasures" Mr. Lekan said. "I'm going to go and do records checks. We're allowed to do that, to look into employees' records," which could reveal clues to how a person might react to being terminated.

Such measures might seem radical, almost "Big Brother" in nature, according to Mr. King. But when a company has a violent episode, "all of a sudden those kinds of actions aren't so radical anymore."

That doesn't mean employers have to resort to underhanded tactics to keep the workplace safe from violence, he stressed. They should make sure any steps used to prevent violence are "legally, morally, ethically correct," Mr. King said. "Don't ever cross the line."

John B. Hughes, director of risk management at Alex Lee Inc. in Hickory, N.C., moderated and coordinated the session. BI

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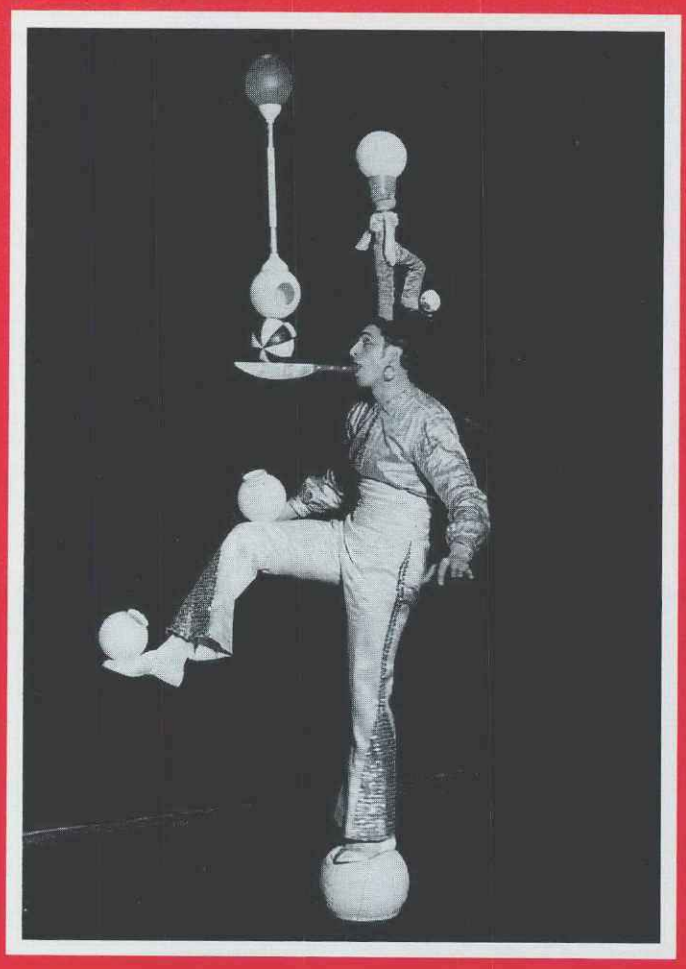

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Managed care raising liability risk for employers

By RODD ZOLKOS

ATLANTA—Few risk managers seem aware of growing liability exposures they face in connection with their managed care programs, but that situation will change over the next few years.

The session on managed care liability issues facing employers at last week's Risk & Insurance Management Society Inc. conference was sparsely attended. But federal court rulings eroding the protections from claims stemming from benefit plans that employers have enjoyed under the Employee Retirement Income Security Act of 1974, and litigation that's sure to follow, is bound to increase attendance on discussions of the topic at future meetings, the speakers suggested.

"We've been able as employers to perhaps stand back and say we don't have responsibility for the providers we engage," said Richard S. Betterley, president of Sterling, Mass.-based Betterley Risk Consultants Inc. and the session's coordinator. "All of a sudden we have a new exposure and we probably should risk manage that."

"This is a subject that probably needs a little more attention than it's getting," allowed Mark N. Altieri, corporate risk manager for the Providence Journal Co. in Providence, R.I., the session's moderator. "Because whenever the Supreme Court sets a precedent it usually means there's a lot more stuff coming down the pike, especially in the benefits area."

Another panelist, Alden J. Bianchi, a partner with the Mirick, O'Connell, DeMallie & Lougee law firm in Worcester, Mass., outlined the history of ERISA and the federal court rulings that have interpreted it.

Those rulings first established that provisions pre-empting state and local laws related to benefit plans protected employers from state common law claims stemming from their managed care plans. More recently, however, some federal court rulings have held that no such protection exists for certain claims.

The sense of security employers have taken in the ERISA pre-emption is a false one, Mr. Bianchi suggested, as that extension of the pre-emption provision clearly was never the intent of Congress, which in passing ERISA intended to protect plan participants and beneficiaries.

"The courts are beginning to drive a wedge into ERISA by saying that common law actions or actions on medical malpractice should be allowed under ERISA," he said.

The potential exposures employers could face in connection with their managed care plans include marketing liability based on claims like "We have the best doctors" made in the advertising and marketing materials used by the providers the employers engage.

"To the extent that a person relies on that representation and marketing material to choose an HMO as opposed to another HMO. . .is there liability there? There certainly is," Mr. Bianchi said.

Gatekeeper liability resulting from directing employees to physicians who commit malpractice is another potential exposure employers face from managed care. Another area of concern is cost containment liability, an exposure employers could face if, for example, it's shown that a physician's actions are driven by a financial incentive not to perform a certain procedure and the failure to perform that procedure harms the patient, he said.

A further possible exposure stems from last year's U.S. Supreme Court ruling in the case of *Varity Corp. vs. Charles Howe et al.*, which could open the door to employees suing employers on the basis of breach of fiduciary duty in connection with the denial of benefit claims (*BI*, March 25), Mr. Bianchi said.

In examining the way employers deal with their managed care plans, the attorney said he sees some recurring problems.

For one, he said, "Employers are notoriously bad at complying with the ERISA written plan requirements." And many employers are falling short in the area of filing annual plan reports, particularly with regard to cafeteria benefit plans.

He suggested employers should adopt and review plan documents, then make sure their summary plan descriptions conform with those plan documents. They also need to designate plan spokespeople and adopt, review and revise claims procedures, Mr. Bianchi said.

"Take your claims procedure very seriously," he said. "They are probably one of your better defenses against liability."

He also suggested employers might want to outsource claims processing. That distance can be significant if claim denials add to the company's exposures, Mr. Bianchi said.

Employers also should discuss the issue with their insurance advisers, he said. "These are risks that can be managed."

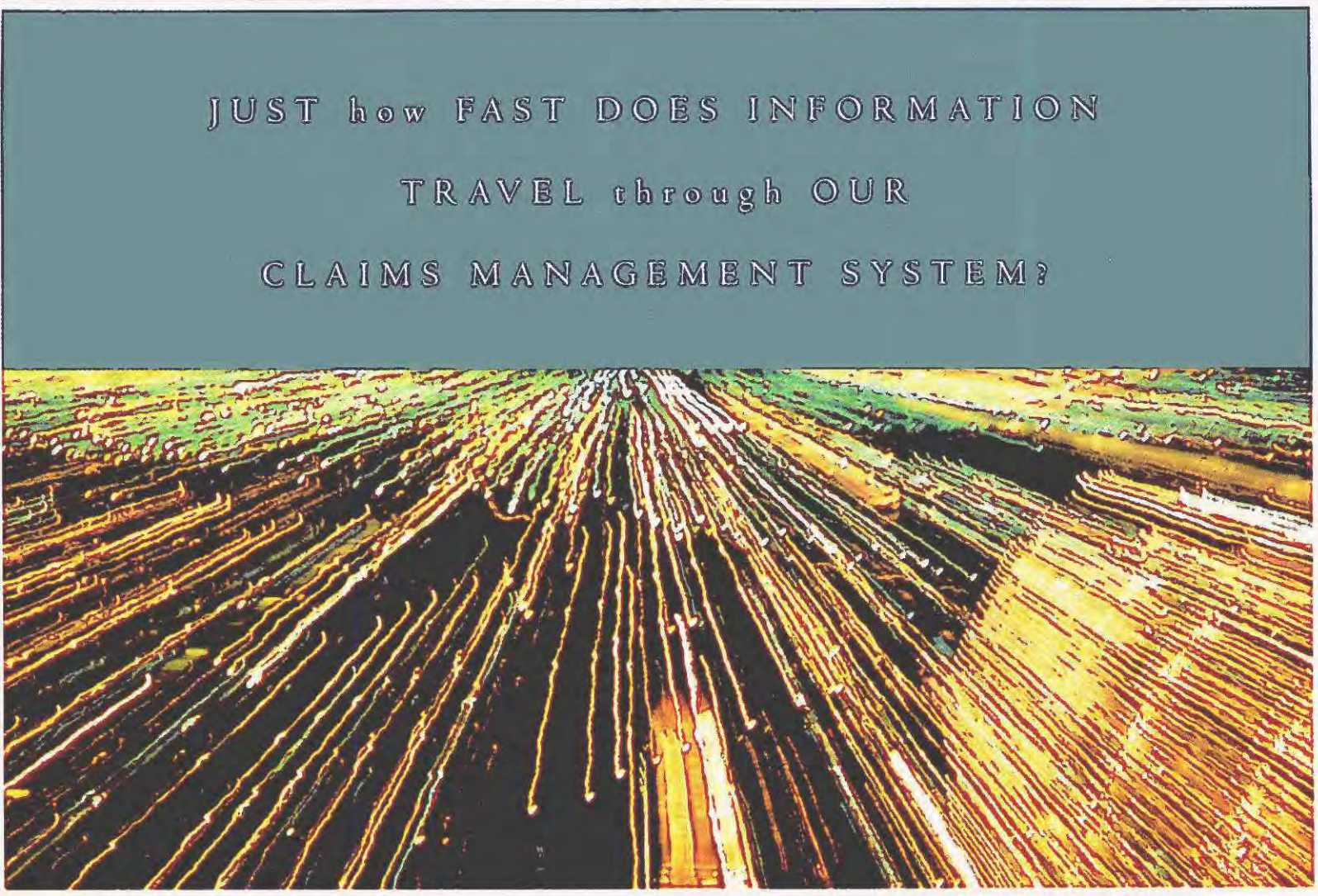
But Mr. Betterley suggested the exposures can't be entirely eliminated, and employers need to look for ways to transfer risks they can't avoid.

"I'm convinced that this is an exposure that we probably can't manage our way out of," he said. "We can do a lot to control it, but we probably can't make this exposure go away."

But existing comprehensive general liability policies probably wouldn't cover such claims, he said. CGL policies cover occurrences, and E&O allegations aren't considered occurrences under a CGL basic form policy. And CGL policies and fiduciary liability employee benefit endorsements cover errors in administration, but exclude claims of liability for bodily injury.

There are a handful of insurers now offering specialized policies that address "personal injury as a result of an alleged act, error or omission in the performance of professional services rendered or that should have been rendered as a purchaser of health care services," Mr. Betterley said. Mr. Betterley said he has seen the claims-made coverage offering limits of $15 million per claim and aggregate, with a minimum premium of $3,500 for $1 million in coverage.

Still, very few risk managers are purchasing the coverage, he said. And few brokers seem to be aware of the exposure, which he conceded was remote for now, but based on recent court activity, may well change. BI



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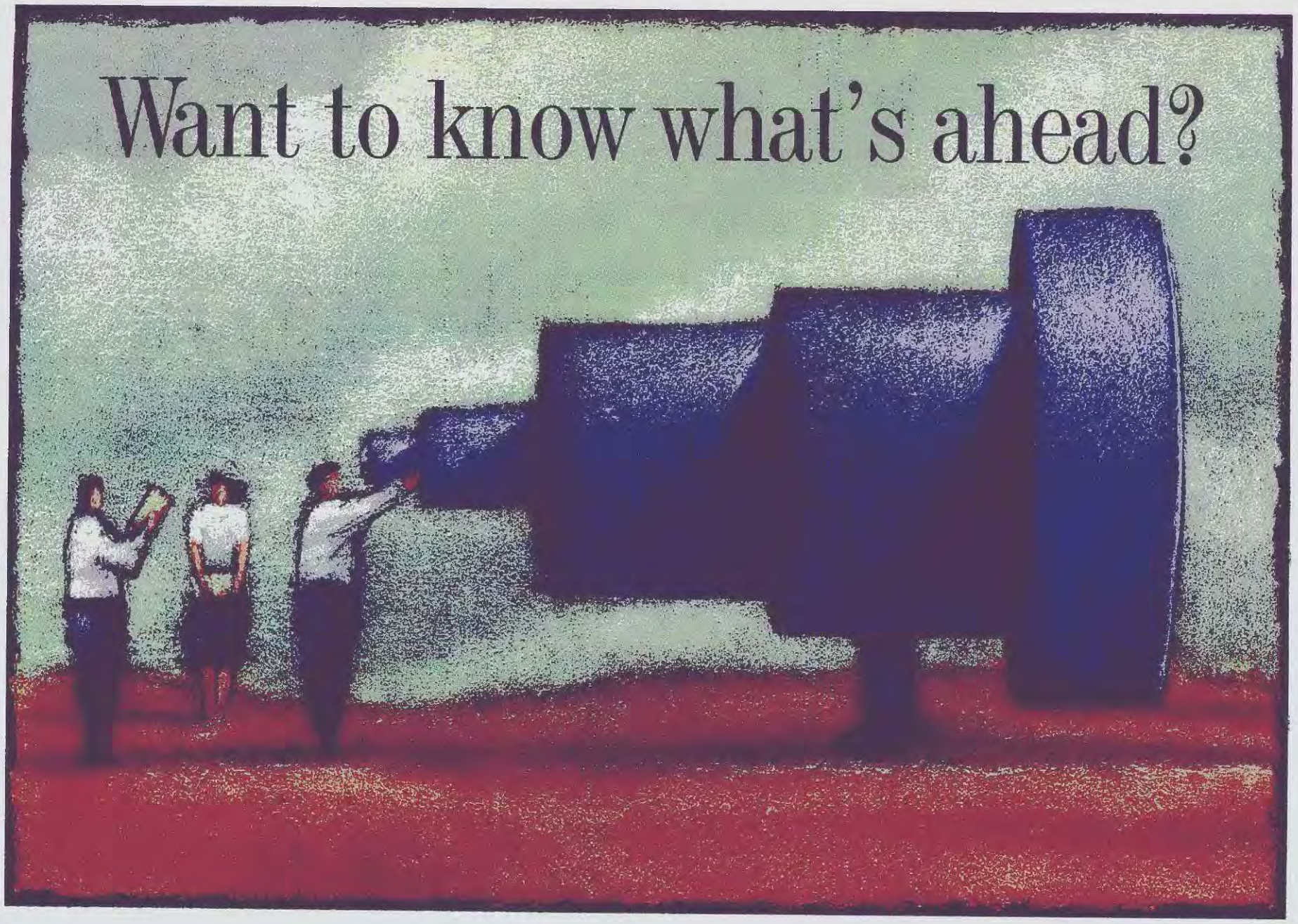

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Boston reports success in taming its comp costs

By ROBERTO CENICEROS

ATLANTA—Boston recently became one of the first cities to create its own preferred provider arrangement for workers compensation injuries, adding to a list of changes that are turning around a runaway system.

During 1996, the city cut its workers comp costs by $1.7 million from the previous year with several system changes made even before the implementation of the new network. The amount of cost reduction easily surpassed the expectations of Patricia A. Morey Walker, Boston's workers compensation agent. A year ago, she told an audience at the annual Risk & Insurance Management Society Inc. Conference in Toronto that she expected to trim $1 million in workers comp costs during 1996.

Back then, she described a workers comp system that was in shambles. Even simple oversight was absent and claims regularly disappeared into a black hole, she said. Former city workers continued receiving payments years after they were no longer entitled (*BI*, April 29, 1996).

She told of having to gain union cooperation to implement a modified-work program, early intervention system and case management.

At last week's RIMS conference in Atlanta, Ms. Morey Walker was able to report positive results. She moderated a session detailing Boston's success.

Boston's workers comp costs exceeded $7 million in 1996, compared with $11 million in 1992, she said. The city now has 200 of its more than 15,000 employees away from work because of injuries, compared with 500 in 1992.

Still, the city continues to make improvements and changes. The Workers' Compensation Services department replaced a telephonic case management system with one-on-one personal contact for serious injuries.

"It's much more aggressive, said Loredana Devardo, the department's utilization review nurse. "Our employees respond more to the face-to-face contact."

Case managers visit employees at their homes, and by seeing their surroundings the case managers can

make additional recommendations for speedy recovery, Ms. Devardo said. The case managers only make such visits with the approval of employees, Ms. Morey Walker added.

In January, the department launched the new provider network, which works in conjunction with city's modified return-to-work program because the contracted medical providers understand the city's requirements.

Before implementation of the network, employees saw doctors who were not providing adequate treatment yet were charging high rates for their services. Injured employees also sometimes had to wait for days before a doctor was available to see them.

The Boston network consists of five separate provider organizations. They are three major hospitals and two rehabilitation facilities. They are all in Boston because of the employer's regulation that employees live within the city they serve.

While Ms. Morey Walker was working to create the program, many vendors tried to sell her their prepackaged medical networks, she said. But she wasn't satisfied with any of them because they all included far too many medical providers within their approved networks. "I didn't understand how they were going to control medical costs when the provider list was just so, so large," she said. "So I asked people I know, 'Can I start my own?' and that's what we did."

"Also, a lot of networks in existence had great lists of internists, orthopedists and all kinds of specialists, but one of the things they seemed to lack was occupational specialists," said Ms. Devardo. "Work-related injuries are a specialty. We believe that, so we wanted a program that gave our employees access to occupational specialists."

The contracted medical facilities are not providing their services to Boston on a capitated basis. However, the city's contract does come with requirements they must meet. For example, even though some of the facilities typically charge patients for parking, those fees are waived for city employees seeking treatment for work-related injuries, Ms. Devardo said.

Doctors also must give definitive medical recommendations. Just to say someone must recuperate away from work is not enough, Ms. Morey Walker said. They must specify the amount of time required before the injured employee can return to work.

The providers also must offer 24-hour service for employees who work odd shifts. And they must provide care within 24 hours and visit city sites to see the type of work employees perform.

Creating the network required the approval of the state's Division of Industrial Accidents. It also required, where possible, coordinating the city's and providers' billing systems.

Ms. Morey Walker predicts that in 1997, the city will cut workers comp costs by $250,000. BI

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Question vendors to avert lawsuits over benefit plans

By MICHAEL PRINCE

Don't be embarrassed to ask questions of people who service your benefit plans, an attorney says.

Asking questions and getting answers you understand will reduce the risk of being sued if you are a trustee of a benefit plan who hires outside vendors for help with the plan administration, such as a vendor to provide investment advice.

"They work for you," says David Levin, managing partner for the Washington law firm of Reish & Luftman. "The only foolish question is the one that is not asked."

Mr. Levin discussed exposures arising from the management of plans governed by the Employee Retirement Income Security Act of 1974 during a session last week at the annual Risk & Insurance Management Society Inc. conference in Atlanta.

"What do you call a trustee who never asks questions?" he asked. "A defendant in a lawsuit."

In addition to asking questions, plan sponsors need to maintain written records and insist on written agreements with service providers, Mr. Levin recommended.

Another item that should be put in writing is a plan's investment guidelines, he said.

Few suits involve the intentional breach of investment guidelines, Mr. Levin said. Most suits are about imprudent investments, those that simply went bad. But, a company can minimize even those few suits by maintaining written guidelines on how the plan's assets are to be invested and following those guidelines, he said.

"As long as you are procedurally prudent, you are not a guarantor," he said.

Besides establishing the law that governs pension and welfare plans, ERISA pre-empts all state laws that relate to plans. "This federal statute cleared the way," Mr. Levin said. "If the federal statute says what to do, you don't pay attention to what the state law says."

Both the language of ERISA and U.S. Supreme Court opinions have interpreted the meaning of state law broadly to include practically all state laws and regulations. Some exceptions to ERISA pre-emption written into the law are state banking, insurance and criminal laws.

"Congress wanted a nation of uniform law," so that plan administrators could implement nationwide plans without having to alter them to conform with each state's laws, he explained.

But the longstanding view of ERISA pre-emption may be changing.

Mr. Levin said that a recent Supreme Court opinion contained a concurring opinion by Justices Antonin Scalia and Ruth Bader Ginsburg saying that the definition of "related" to a benefit plan should be re-examined. Previous opinions interpreted "related" broadly, eliminating numerous state law claims only slightly related to benefit plans.

"So, if you're a plaintiff's lawyer and last year you brought an ERISA lawsuit and you brought a bunch of claims that were pre-empted, now you might prick up your ears because of the opinion," he said.

But its effect, if any, on pre-emption won't be known for a few years, he added.

Mr. Levin also described what he calls the "ERISA gap." Because of ERISA's pre-emption provision, nearly all claims in a lawsuit based on state common law are dismissed, leaving only a case under ERISA. Mr. Levin said the plaintiff often is then left without any remedy because ERISA only will award successful plaintiffs their

lost benefits. At these times, he said, plaintiffs frequently argue that the judge should allow the suit to proceed or the plaintiff could not receive compensation for their injury.

This generally fails, he said. "This is called the ERISA gap," he said. "The claim falls through the cracks. There is no remedy."

Suits asserting there is a federal common law persist and sometimes get serious consideration by courts because "the only ones who know less about ERISA than lawyers who bring ERISA suits are judges," he said.

Another common type of ERISA suit occurs when an employee is told pension benefits are higher than stated in the summary plan description. When plan participants don't receive these higher benefits, they sue for them, even though ERISA states the benefits are determined by the plan language and not the oral statement. "These claims do not fly," he said.

But when the question concerns welfare benefits, such as group health care plans, such suits can succeed. To prevent this the benefits much be clearly communicated. "Make sure what you write about welfare benefits is in plain English," he said.

Prompted by a question from an attendee, Mr. Levin also supplied advice on dealing with a tricky situation. Sometimes a health insurance company refuses to allow a company's benefit department to alter the benefit plan descriptions it provides because they contain the approved language. But the approved language might not be as clear or non-technical as the benefit manager want.

To resolve this problem, Mr. Levin recommends that two versions be sent to plan participants. One being the official plan from the insurance company, and another containing language the benefit manager wants that makes it clear to the average plan participant.

"Plain English goes a long way," he said. "What's in the plan should be able to be understood by common, everyday humans."

The session's moderator was Bob Bridges, director of risk management for Randstad Staffing Services in Atlanta.

Despite difficulty, benefits unification coming

Integration of workers comp, disability helps Ameritech

By ROBERT KAZEL

ATLANTA—In the next few years, diligent employers will be able to reshape their benefits programs so that workers compensation, disability insurance and even group health share a united, streamlined administration and avoid redundancy and unneeded cost.

This is not to say it will be easy.

That is the word from the chief medical officer of a large Midwest corporation, an insurance executive and the chief of a national claims outsourcing operation, all of whom spoke last week at the annual Risk & Insurance Management Society Inc. conference.

But besides the myriad technical problems associated with uniting workers comp and long-term disability, and the mostly uncharted potholes that would interfere with further integrating these two programs with group medical administration, the workshop speakers told a crowd of about 50 that unification of the programs is an inevitable trend.

Right now, the evidence is coming in the form of early success stories, spreading gradually through the benefits industry as companies achieve goals by integrating programs step by step.

One such example is Chicago-based Ameritech Corp., the Midwest's Baby Bell and employer of 66,000 workers. The telecommunications giant in 1994 brought together its long-term and short-term disability and workers comp processes and administrative systems and began a slow and deliberate trek toward integrating the three, said Dr. Robert N. Anfield, manager of occupational medicine.

In practical terms, that means those Ameritech employees filing workers comp or disability claims now are funneled through a common triage process and are evaluated by a nurse who acts as case manager.

By eliminating duplication of claims through such coordination, Ameritech estimates that its disability insurance costs have decreased 10% since 1993. Also, its workers comp claims plummeted 28% in the first year after integration and have maintained an annual decrease of 17% thereafter, he said. All in all, the changes have saved Ameritech about 1% of its total payroll, he said.

To handle its integration, Ameritech hired Chicago-based Sedgwick Claims Management Services Inc. as its claims administrator. David A. North, president of Sedgwick Claims Management and a speaker at the session, said companies such as Ameritech that coordinate disability and workers comp programs are becoming more common. Either to save on costs, or to improve customer satisfaction or simply to maintain a state-of-the-art benefits program, employers are tending to place occupational and non-occupational disability cases in the hands of a single case manager, he said.

"In the Ameritech mode, that case manager is the adjuster," said Mr. North. "The clinician that handles that case is trained in both disability and workers compensation. . .that's a critical component of the model. They are one and the same—a fully integrated position."

The missing link, he said, is adding major medical coverage into the equation so that no artificial separation divides illnesses or sicknesses merely because they are job-related or not.

But bridging the gap between group health plan administration and disability and workers comp insurance has inherent difficulties because the players in each arena are looking at the game with different goals, said Ruth E. Estrich, assistant vp for Liberty Mutual Group in Boston.

Essentially, a managed workers comp or disability program has as its aim the return of the employee to the work site, she said. Although managed health care programs also share this objective, they tend to assign great weight to cost savings, as evidenced by clear measures such as the number of inpatient or acute care days needed. Thus utilization review features figure prominently in the actions of such plans.

These protective features of managed care might run afoul of strategies typically used by case managers of workers comp or disability claimants to get the employee back to work fast by giving all medical treatment necessary for a resolution, even if it means hospitalization or a more costly procedure at which the employee's health maintenance organization would have balked, Ms. Estrich said.

Uniting the two cultures of managed comp and managed group health care will require alerting benefits professionals to the economic benefit to doing so, she said. It would also help to have the same insurer or administrator selected for group medical and group disability. This, she pointed out, might well not be possible.

"This is very difficult to effect, because of multiple medical options, as well as the very distinct core competencies that have developed over time by the different carrier types," she said.

It would be just as effective to insist that two separate insurers or administrators maintain close communication and cooperation with each other, with rewards for teamwork, Ms. Estrich said.

Any successful attempt to meld benefits programs on an administrative level needs the backing of top leaders in the company, said Dr. Anfield. "Executive support is critical," he said. "If the CEO and senior managers are not willing to support noise in the system for leading their staffs to a different paradigm, there is no reason to go down the path."

The "noise" is the necessary consequence of transforming a system that has been unchanged for decades, and some workers will be suspicious. But "after a period of unrest," Dr. Anfield said, an employer can expect its employees to still recognize that they are receiving valuable, though reconfigured, benefits.

The presenters outlined several ways that employers can get integrated programs off on solid footing:

- Initiate an aggressive loss prevention program for managed care and managed comp.
- Strive to strike a sensible balance between contracting with capitated physicians, who may seek to limit care to raise profits, and those who accept fee-for-service patients, when medical care provided may be limitless and expensive.
- Build an excellent disease management program and a nurse case management system that uses telephone hot lines or on-site home visits to consult with patients.
- Work to find ways to get pharmacy discounts for workers comp cases, although this may be challenging because of the absence of a group medical insurer in the discounting process.

Additionally, Dr. Anfield stressed the importance of stating up front with outsourcing contractors what is expected of them and codifying it in writing. A sample contract should be submitted to the companies that submit a proposal, showing exactly what kinds of outsourcing are needed.

"It behooves you to provide language that precisely describes the services," he said.

Also, continually being prepared to default to the second-choice outsourcing contractor is prudent in case the present relationship sours, he said.

Performance measures to consider are customer service levels, average response time, lost telephone calls, length of calls, and accuracy, he said.

A remaining problem for companies wishing to take the futuristic step of integrating managed medical care with workers comp and disability is, the panel said, the state of managed health plans today. It could be difficult for employers to find networks of doctors with both a general medical orientation and occupational medicine needed for workers comp cases, the panelists said.

"There is probably no good managed care national network solution out there that can address both," said Ms. Estrich. "I think it's a matter of evolution, and it will take time."

Ms. Estrich was the session coordinator and Dr. Anfield was the moderator. BI

Employee Benefits 1997 RIMS Report

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One world, one plan for work safety

Despite local variances, risk managers should take global approach, experts say

International

1997 RIMS Report

By SARAH GODDARD

ATLANTA—Increasing globalization in manufacturing and the emergence of a global economy are forcing risk managers to take a worldwide approach to managing workplace health and safety programs.

That approach is recommended, even though local regulatory requirements vary around the world.

Those were the messages delivered by health and safety experts during a session at the Risk & Insurance Management Society Inc.'s annual conference last week.

Incentives exist to entice risk managers to take different approaches to workplace safety in different countries, said Zack Mansdorf, managing director of Liberty International Risk Services, a Boston-based unit of Liberty Mutual Group.

For example, he said, in a number of countries, workplace-related injuries will be treated by a broad state medical care system rather than under an accident compensation program. As a result, it may be difficult to demonstrate the cost-effectiveness of implementing a U.S.-type safety program.

But, using that as an excuse to not set up such a program is a "simplistic argument," said Mr. Mansdorf. "I see the more sophisticated argument as that there are issues of workers' training, loss of productivity" and other costs that weigh in favor of setting up these programs even when they aren't required, he said.

In some regions of the world, regulations may be implied rather than embodied in legislation and may be different for various types of organizations, warned Mike Williams, corporate environmental health and safety manager at Apple Computers Inc. in Cupertino, Calif.

For a global program of any sort to work, the first priority is to have a plan, advised Mr. Mansdorf, who is also president of the American Industrial Hygiene Assn.

Organizations with decentralized management or a high level of outsourcing may find getting their overseas operations to buy into the idea of a centrally managed global program a particular problem, he said. "You have to have a solid level of authority which will allow you to go into these other countries and suggest to them that they must meet some corporate standard," he said.

This point was reinforced by the experience of Mr. Williams. More than half of Apple's manufacturing processes are outsourced to operations in a number of countries around the world, and often Apple engineers will be working at suppliers' sites, where business practices—as well as local safety requirements—can vary widely, he said. To bypass this problem, the computer company specifies the materials, processes and equipment used by its suppliers, and trains its engineers in the use of safety equipment and how to avoid obvious hazards. But it also works with its suppliers to raise their workplace safety standards, not least because any failing can reflect badly on Apple.

"You must look closely at the vendors," said Mr. Williams. "Their business practices may not be acceptable."

The next step in putting together the global program is to ensure there are fully trained and capable employees on site. "You need to have local talent," said Mr. Mansdorf. This can be a dilemma in countries where the local culture means that people just cannot see the need for such programs.

The final foundation block for the global program is to establish a measurement system, which will enable performance data to be compared right across the global operations.

Best practices can be defined either by benchmarking against other organizations or using an organization's own expertise.

"What you should do is take the best of the best," suggested Mr. Mansdorf. For example, Swedish standards for electromagnetic fields are recognized as the best in the world—a multinational can follow those standards for EMF exposures and use other guidelines for chemical exposures.

Productivity, quality and cost all fall into the best practices basket. "My experience with companies with benchmarking is they've found that even though there were no regulatory requirements or even needs, even in areas where labor was extremely cheap, they found by putting in a more efficient process, and also improving safety, that it was financially rewarding for them," said Mr. Mansdorf.

Internationally recognized quality management standards—ISO 9000 and expanded standards, ISO 14000, which were published last fall (*BI*, Nov. 11, 1996)—do not include provisions governing health and safety programs, but that's no reason for an organization not to extend them to cover those areas said Mr. Mansdorf. European companies in particular are increasingly using ISO 9000 standards on a voluntary basis. "Most are finding the additional costs very minimal and are finding performance improvements," he added.

Apple's Mr. Williams predicted that more organizations will adopt these ISO standards, which include continuous improvement provisions, as their clients increasingly demand them from their suppliers. "The best business case is when customers start to require it," he said.

It is difficult, though, to quantify the cost savings of implementing such a system, he acknowledged.

"I suggest you align your objectives in the risk management arena with the business objectives of the ISO 9000 and 14000 systems," Mr. Mansdorf said.

Michael Noble, director of consulting services at Liberty International Risk Services in Boston, moderated the session. BI

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RIMS exhibitors promote healthy integrated savings

By MICHAEL PRINCE

ATLANTA—The health care and workers compensation exhibitors at the Risk & Insurance Management Society Inc. conference tried to use money to attract people rather than trinkets.

No, they didn't give away money. Rather they promoted services designed to save money and new products that integrate workers comp programs and disability insurance.

Kemper National Insurance Cos. used the RIMS conference to introduce HealthyReturn, its new approach for workers comp and non-occupational disability, which already has been introduced to Kemper's workers comp clients.

Kemper's large booth near the center of the exhibit floor featured television screens and Kemper employees sporting lapel pins saying "HealthyReturn."

Elizabeth Lindner, executive vp for the company at its Long Grove, Ill., office, said Kemper hopes the product will provide leadership in the industry and act as a standard other insurers will adopt.

"The market needs a boost, and the industry of including workers comp with managed care is focused on the managed and not on the care," she said.

The HealthyReturn approach is to get employees with work-related injuries back to health and back to work sooner. This not only will reduce medical costs, she said, but result in a healthier and happier employee who once again can contribute.

"It's a return to health as much as a return to work," Ms. Lindner said.

A key to the approach is case managers that help the injured employee get medical care with a credentialed doctor in the appropriate specialty, Ms. Lindner said. "They're the employee's advocates."

She describes the approach as the next step in the evolution of managing workers comp. "It saves the same money as managed care, but it also treats the employee as having great value. It gets them more access to care and helps get them back to work."

HealthyReturn also can be used to merge workers comp and non-occupational disability, and about a dozen Kemper clients have adopted this program.

Ms. Lindner said the results speak for themselves. She said the program has resulted in an average of 40% fewer lost-time days, and at least a 10% reduction in workers comp indemnity. It also results in reduced workers comp litigation because the employees "don't need to go to a lawyer to get attention."

"It's a win as far as employees being valued, and it's a win for management cutting costs," Ms. Lindner said.

ManagedComp of Waltham, Mass., also showcased a new product. The managed care company is showing off its POPs concept, having just successfully completed a pilot program, said Dr. Jennifer Christian, chief medical officer.

POPs stands for Primary Occupational Physician. These physicians are hired and trained by ManagedComp to provide medical services for workers comp claims for one employer at one site.

In 1996, the company conducted a pilot project in Massachusetts, and now the company is rolling out the program throughout the Northeast and in a limited fashion in Florida, Georgia and Texas.

The POP not only treats the employee but works with the employer to erase any obstacles blocking the employee's return to work. "The goal is to get their life back to normal," Dr. Christian said. "This usually means back to work."

The POPs receive report cards from ManagedComp that grade them not just on saving money but also on the quality of the care. The physicians are graded on five factors: medical costs; disability days for their patients; satisfaction of the patient, employer and case manager; quality of the care; and complaints of reinjury.

By introducing both costs and quality measures, the physicians' incentives are aligned with those of both the employees and employer, Dr. Christian said.

"Our philosophy is to manage care, not manage costs," she said.

There has been much discussion at recent conferences of 24-hour insurance products that combine management of both workers comp and non-work-related injuries.

One such program being showcased at this year's conference is Liberty Mutual's, which integrates both workers compensation claims management with disability management.

One claims person handles both types of claims, eliminating the need for an employee to determine if it's a workers comp claim or disability.

One place to call also allows for earlier medical intervention, "so you can get the medical attention a lot quicker," said Gerard Paolino, vp and manager of benefit sales at the company's Boston office. Early intervention, he added, is the best way to reduce medical costs.

For the employer, the advantage is a combined claims report that allows better tracking of disability costs, Mr. Paolino said.

Also, because one case manager handles both the workers comp and non-occupational claims, an employee can report a claim without fear it will be rejected because it was sent to the wrong department.

"You take care of the employee and sort out all the other stuff internally," he said.

Mr. Paolino said that Liberty Mutual has completed two pilot programs with large employers, which will remain in the program, and the insurer hopes to add six to eight companies to the program this year.

Liberty Mutual also showcased its RISKTRAC Links computer system. The online system allows benefit and risk managers access to Liberty Mutual's database to analyze and prepare reports for their workers comp and disability coverages.

Another new product showcased at RIMS was the Managed Network from TMCA of Malvern, Pa. The managed network is a PPO with additional medical care management designed to reduce costs greater than possible under a discount PPO or HMO for workers comp.

"We're integrating the management of the network into the net work itself," said Peter Nesbitt, president of TMCA.

"It will provide for superior service but with a much lower cost as compared to typical case management or managed care services."

TMCA establishes a network of physicians who follow the treatment protocols established by TMCA. "It's a network of physicians that agree to perform as disability managers, and we provide the tools," Mr. Nesbitt said.

In addition, the managed network also will conduct medical bill review, medical bill repricing and utilization management.

TMCA also unveiled its toll-free reporting system, called Trucall. This permits companies to call TMCA to report their claims, work-related injuries, illness and disability claims. TMCA then stores and distributes the information to the appropriate people.

"We provide a single input and then distribute that information throughout the organization," Mr. Nesbitt said.

Disease management was the focus at Interim Services of Fort Lauderdale, Fla., and its InterPath program.

InterPath is designed to work with managed care companies to treat patients in their homes to reduce the demand for medical services. Presently, the program focuses on treating patients with asthma, diabetes and heart disease, said Celine McGill, southeast regional sales manager from Atlanta.

The heart of the program is patient education so they can treat themselves at home and prevent further recurrences of their diseases that would land them in the hospital.

Two exhibitors featured computer software as a means of reducing workers comp costs.

Care Systems Corp. of Dallas demonstrated its CARE system software that manages workers comp claims. The software allows a case adjuster and a nurse manager to examine a file on a computer simultaneously. The software contains classifications for injuries that dictates the treatment to provide the employee.

Compreview of Newport Beach, Calif., uses its software, CRLink, that links all components of a workers comp managed care program. CRLink acts to eliminate the friction costs in a diverse program.

"As long as these entities remain separate functions, you lose processing efficiencies and outcome results," said Deborah Johnson, director of marketing. "You miss savings."

Another exhibitor eschewed software in favor of using physicians for conducting claims review. Industrial Health Inc. of Ramsey N.J., promoted its CompCure program, which employs physicians to manage a client company's return-to-work program.

Using physicians sets CompCure apart, said Stephen Frey, director of risk management relations, and provides a number of advantages.

Chief among them is the relationship that can be built between peers, the treating physician and the CompCure managing physician. This is the best way, according to Mr. Frey, to maximize savings from managed care of workers comp and gets employees back to work faster after receiving optimal medical care. "The goal is getting injured employees back to full job or a modified position as quick as medically feasible," he said BI

PHOTOS: MICHAEL MARCOTTE

Health care and workers compensation exhibitors brought more than trinkets to the 35th annual Risk & Insurance Management Society Inc. conference. Among the companies exhibiting in Atlanta were: Kemper National Insurance Cos., above; Arkwright Mutual Insurance Co., left; and CNA Insurance Cos., below.

A sand sculpture adorns Liberty Mutual Insurance Cos.' booth, above left, while exhibit hall visitors had the opportunity to sample CRLink workers comp managed care software at the Compreview booth, above.

Disease risks not limited to health care providers

Employee Benefits
1997 RIMS Report

By SARAH GODDARD

ATLANTA—Managing the risks of AIDS and tuberculosis is important for all employers, not just those in health care, and educating workers is essential.

Acquired immune deficiency syndrome is the leading cause of death for all Americans 25 to 44, and this age group makes up half of the U.S. workforce.

That stark fact was delivered by a group of health care experts speaking at the Risk & Insurance Management Society Inc. annual conference last week.

"The disease in the workplace is real and has an impact on all businesses," said Eileen Oswald, senior vp at Near North Insurance Brokerage Inc. in Chicago.

Glenn Klinksiek, director of risk management at the University of Chicago, graphically illustrated the risks of HIV exposure in the workplace.

An HIV-infected patient at a Chicago hospital "went over the edge" and injected a nurse with a syringe of his blood. Not only did this create the issue of tracking the nurse for signs of disease—fortunately she consistently tested negative for HIV—but there also was extensive media coverage and a need to deal with the reaction of the nurse's co-workers.

Although this example is set in a hospital, HIV/AIDS exposure is a problem for all areas of business.

Angie Hammock, director of the Centers for Disease Control and Prevention in Atlanta, a government organization involved in data collection and AIDS awareness programs, said a recent national health poll showed that one in seven people in the workforce reported they knew little or nothing about AIDS, while one in 14 knew a co-worker with AIDS, and one in 33 reported a medium to high chance of having the virus—dramatically higher than the current estimates that one in 250 Americans are infected.

Employers have certain responsibilities under OSHA standards implemented in 1992, Ms. Oswald said. These require employers to protect the workforce anywhere an employee could be "reasonably anticipated" to come into contact with blood or body fluids, and requires employers to take certain steps.

In practice, employers should treat all blood and body fluid spills as if they were infected, said Ms. Oswald, taking measures such as providing gloves, masks and mouthpieces for resuscitation attempts in first aid boxes.

The infected employee, though, has certain rights under the Americans with Disabilities Act, such as reasonable accommodation, which employers should think about in advance. Advanced planning should include consideration of the employee's capabilities and the risk to others in the workplace.

More effective, though, is disease prevention and education. The CDC is actively working with businesses to provide education to employees on the risks of the disease in the workplace.

Five years ago, the CDC worked with businesses and labor organizations to design an awareness program specifically for the workplace. In 1995, it undertook a national benchmark study in the United States to find out how successful the program was proving. Although employers, particularly the larger ones, were doing a good job providing group health insurance and having a policy addressing AIDS and HIV issues, they fell down when it came to providing worksite education for their employees.

Just 6% of worksites with fewer than 50 employees and 32% of sites with more than 750 employees offered information—and only 4% of the largest sites offered worksite education for families.

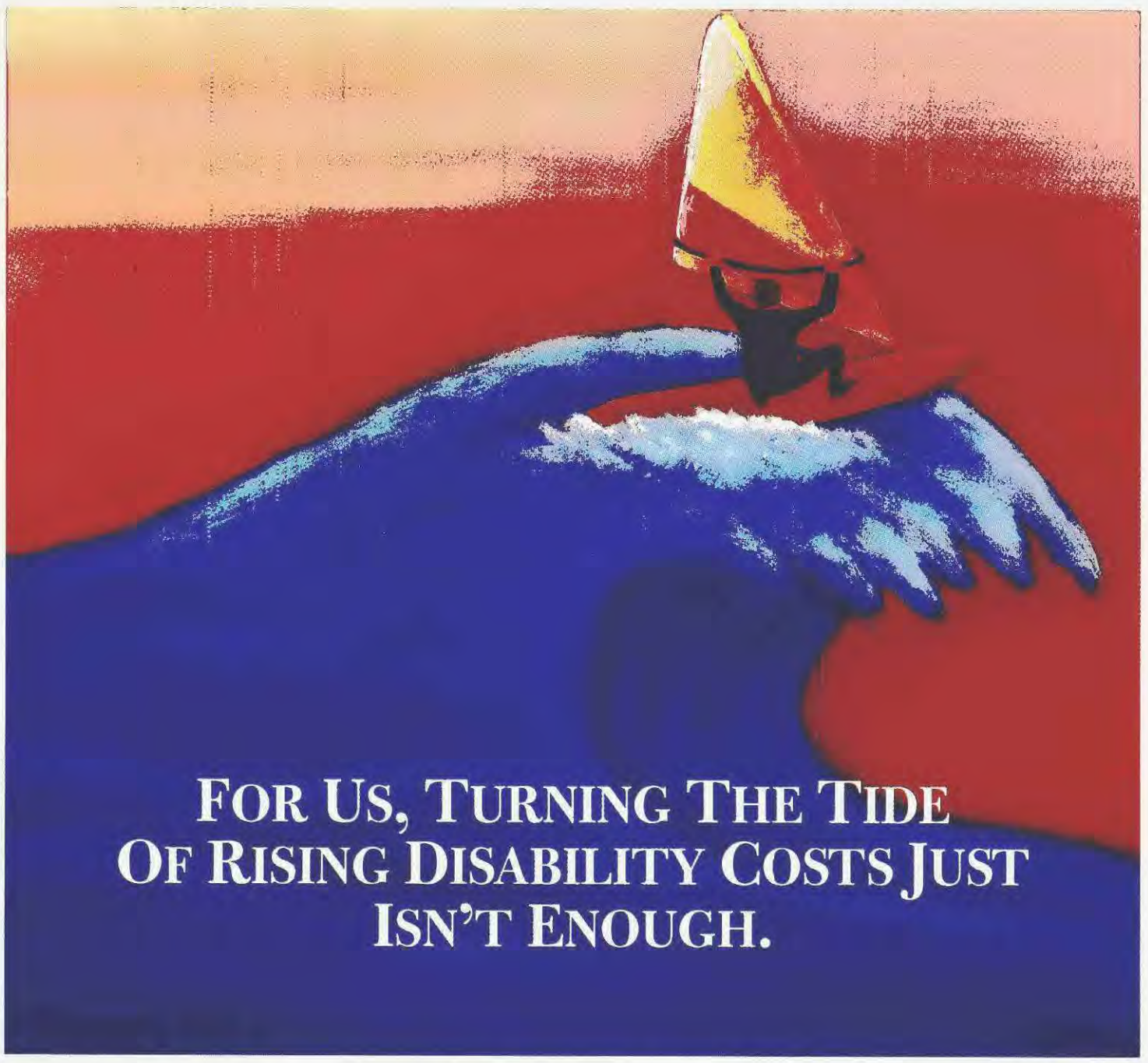
"According to national studies, people are very clear about how HIV is transmitted, but not about how it is not transmitted," said Ms. Hammock.

Employee and family education are two components of an effective workplace HIV/AIDS program. The CDC model includes three other prongs:

- A written policy complying with all local, state and federal laws.
- Training about the policy.
- Community service.

As part of its efforts to get business more involved with AIDS issues, the CDC will hold its first national AIDS in the workplace conference in Washington in September, when it also will present awards to businesses that have excelled in the AIDS awareness and education arena. And it is in the process of launching model programs with three major entertainment companies, Fox, Sony Corp. and Warner Bros. Inc.

The session was moderated by Mr. Klinksiek and coordinated by Elizabeth Simer, vp at Near North Insurance Brokerage Inc. in Chicago. BI



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INTERNATIONAL

Global Briefs

London-based **Sedgwick Group P.L.C. and Nikols S.r.l. Insurance Brokers**, Italy's largest insurance broker, plan to merge their operations in Italy and in several countries in southern Europe and Latin America. The joint venture company, which will be involved in risk services, insurance and reinsurance brokering and employee benefit consulting, will be chaired by Letizia Moratti, chairman of Nikols. . . .London-based broker **Steel Burrill Jones Group P.L.C.** has recruited a team of nine international brokers from recently merged Jardine Lloyd Thompson. The team is led by David King, who will become managing director of a new SBJ special risks division. SBJ Chairman Jim Clark said he expects to announce further appointments as brokers change jobs as a result of recent broker mergers. . . .**SCOR Reassurance**, part of the SCOR Group of France, has sold its 7.98% stake in Coflexip Stena Offshore in order to focus on core reinsurance business. The shares were placed with French and international investors, and resulted in an aftertax capital gain to SCOR of 165 million francs ($28.2 million). . . .Lloyd's of London this month unveiled **Electronic Placing System Support**, or EPS-S, a more simplified electronic trading system than its original EPS. One claimed advantage is that it requires less initial data input from brokers. The brokers involved will be targeting specific types of business for initial use over the coming months, though Lloyd's says it does not expect that large volumes of risks will be placed this way until users become familiar with the system. . . .Switzerland's **Winterthur Group** has appointed Thomas Wellauer to take over as CEO upon the retirement of Peter Spalti at the end of 1997. Mr. Wellauer currently works in Zurich as a director of the Swiss financial services unit of consultants McKinsey & Co.

Risk undermanaged Down Under

By KATE TILLEY

BRISBANE, Australia—Risk management is a technique "still relatively sparingly used and understood" in Australia, says John Boyd, principal corruption prevention officer with the Queensland Criminal Justice Commission, a government-established, independent unit that investigates white-collar crime.

Brian Crews, national president of the Assn. of Risk & Insurance Managers of Australasia, agreed that Australian company directors' knowledge of risk management is inadequate.

Both spoke at a Queensland ARIMA Chapter one-day conference in Brisbane last month. Other speakers also agreed that a major challenge for risk managers is to convince their boards of the importance of and need for risk management.

Mr. Boyd said three groups of people at board level threaten risk managers' attempts to encourage greater awareness of risk management:

• "Corporate dinosaurs. . .directors whose tails are being eaten but the message hasn't yet reached their brains," display a "comfortable ignorance or a faith that nothing will go amiss."

• "Dangerous enthusiasts" have a high commitment but low understanding. While they are committed to corporate governance, they do not see how risk management can be applied to ensure corporate governance principles are followed.

• Those with high understanding but low commitment "could be larger than most people think," Mr. Boyd noted. They are skeptical and unenthused about "genuinely applying risk management to corporate governance."

The third group is likely to be those whose annual reports "include a convincingly written corporate governance section," yet follow it up with "little meaningful action or implementation."

Mr. Crews warned that if directors sign off on company annual reports indicating that they have risk management procedures in place when they do not, they are breaching the Australian Stock Exchange's guidelines for public companies and possibly the federal Corporations Law, which says directors must act honestly and do everything that's in the best interests of the company.

Directors at an organization that fails to implement a risk management program are failing to fulfill their legal responsibilities to manage the company's affairs in the best interests of the company, warned Mr. Crews.

"Managing a company effectively and exercising skill and due diligence in doing so, involve all the principles of risk management—identification, analysis, evaluation, treatment and monitoring of risk," he said.

Mr. Boyd said there must be incentives that encourage companies to be more risk-aware. In recent years, corporations have found it is profitable to be seen as "green and environmentally committed," as investors do not want to be involved with companies that may later face large cleanup liabilities and would rather invest in companies committed to addressing environmental risks.

"If similar profitability could be associated with companies genuinely striving for excellence in corporate governance, it would be another boost for applying risk management to corporate governance," he said.

Mr. Crews noted that a 1996 survey, conducted by the Sydney-based Australian Institute of Company Directors and accounting firm KPMG, showed 60% of companies do not have formal risk management policies (*BI*, Aug. 26, 1996).

Since July 1, 1996, the Australian Stock Exchange has required public companies to include a statement on corporate governance in annual reports.

Companies must provide a statement of the main corporate governance practices in place. In particular, they must include "the governing body's approach to identifying areas of significant business risk, and to putting arrangements in place to manage them." According to the speakers, that means not just buying insurance but making a commitment to risk management.

The ASX also seeks the entity's policy on establishing and maintain-

See **ARIMA** *on page 43*

Reinsurers to continue on M&A trail, turn to niche markets, execs predict

By EDWIN UNSWORTH

DUBLIN, Ireland—Despite the massive consolidation in the U.S. and global reinsurance markets of the past decade, there is still room for further acquisitions, according to reinsurer executives who spoke at a seminar last month.

However, these acquisitions will probably be driven more by investment bankers than for strategic reasons, they said.

Kaj Ahlmann, chairman and chief executive officer of Overland Park, Kan.-based Employers Reinsurance Corp., said shareholders demanding continued earnings growth is one of the factors that will be behind the continued drive for consolidation.

"Future acquisitions are likely to be limited to consolidating acquisitions between broker (market) reinsurers and major players acquiring specialized expertise," he said in an address to the biennial conference of the London Insurance & Reinsurance Market Assn.

Since 1989, the number of U.S. reinsurers has shrunk to 54 from 125, while the global market share of the top 10 reinsurers has grown to 45% in 1996 from 25% in 1984, Mr. Ahlmann said.

He added that winning reinsurers will be those that focus on designing special solutions for a wider array of client needs; that provide capital and administration to targeted distributors; use distribution channels better to sell more products; and continue expansion into servicing and administration.

Anders Hogstrom, managing director of Skandia International Insurance Corp., maintained that despite consolidation among the major players, there is still a role for the small- to medium-sized reinsurer.

"We believe that we have a great deal to offer ceding companies and brokers. As a strong multispecialty company, we can be an alternative to the composite giants. . . .We can be closer to the customer, and therefore make better underwriting decisions and be more efficient," Mr. Hogstrom said.

A representative of another of the smaller companies, Graham Dimmock, executive vp of Bermuda-based Partner Re Ltd., said he sees the future in companies that place an emphasis on new technology rather than new products.

The winners in the next millennium will be companies with sophisticated risk modeling capabilities, "companies that know at any point of the cycle how aggressively they can position themselves in terms of price and cover, and what input their reinsurance decisions will have on their share-

See **Acquisition** *on next page*

Lloyd's plans to increase requirements for names

By EDWIN UNSWORTH

LONDON—In what it says is an effort to boost security for policyholders, Lloyd's of London plans to increase the minimum capital requirements of its individual investors.

Proposals last week would require names to increase their minimum total means—the personal wealth which they must show in order to join Lloyd's—in two increments, so that by 1999 their minimum capital requirement matches the 50% required of corporate investors.

Andrew Duguid, director of strategic planning at Lloyd's, said that the proposals are the result of a survey of brokers and a review into how security offered to policyholders could be improved.

These led to the conclusion that "the more money that's up front in the system, the better it is as far as the policyholder is concerned," Mr. Duguid said.

He acknowledged that any increase in the amount of capital names must put up to support their underwriting will be seen by some as an attempt by Lloyd's to drive names out of the market in favor of corporate providers.

Already since corporate capital was admitted in 1994 its share of underwriting capacity has increased to 44% from 15%, and earlier this month Michael Wade, the chief executive of one corporate capital vehicle, CLM Insurance Fund Ltd., called for an end to the system of investment by names.

However, Mr. Duguid emphasized that the measures are not intended for this purpose, but are designed solely to increase Lloyd's security. He also said that the financial effect on names should not be "in any sense dramatic," though they might cause some to reduce their underwriting capacity.

But Robert Miller, representing the Assn. of Lloyd's Members, attacked the proposals as "totally unacceptable," saying they would be strongly opposed by the ALM. He said the changes do not take account of names' ability to pay and would be likely to squeeze out smaller names.

Lloyd's expects the measures to be in place in time to take effect in 1998.

Under the proposals, Lloyd's

See **Lloyd's** *on page 45*

Names awaiting decision on suit

LONDON—A group of individual investors in Lloyd's of London expects to hear this month if it can sue Lloyd's for fraud.

The decision is being sought by 350 Lloyd's names, who claim they were enticed to invest in the 1980s in syndicates Lloyd's knew were in line for major underwriting losses. The action is a response to Lloyd's own legal efforts begun last year to secure a London High Court judgment against names who have not participated in its 1996 settlement offer but who still are refusing to pay their share of past underwriting losses.

The names, backed by the United Names Organization, have sought a ruling from the judge that they have a right to bring a case against Lloyd's for alleged fraud. They claim that Lloyd's knew when names were recruited onto syndicates in the early 1980s that massive losses, mainly from U.S. asbestos and pollution claims, were in the pipeline.

If the names are successful in winning the right to take Lloyd's to court, another 1,500 non-paying names could join the action.

Lloyd's has maintained in a submission to the court that even if it were guilty of fraud, the names are not entitled to rescind their contracts with Lloyd's and that under the terms of these contracts they must "pay now, sue later."

David Harris, UNO co-chairman, said the names expect the judge to decide by the end of April whether there are grounds for a fraud trial. He said that it would then take about 12 to 18 months for the case to get to court.

He said he believed it would be "against all natural justice" for the judge to accept any of Lloyd's arguments for not allowing a fraud trial.

—By Edwin Unsworth

Acquisition

Continued from previous page

holders' return," he said.

Mr. Dimmock also said that it is not just the very major players that are influencing trends in global markets. "With one possible exception, the price competition during the first-quarter renewal negotiations did not come heavily from the 'Big Four.' Prices were led down by Lloyd's syndicates and a few London companies offering only small shares relative to the lines offered by international markets."

Meanwhile, Michael Wade, chief executive of Lloyd's corporate capital vehicle CLM Insurance Fund Ltd., told the seminar attendees that the only way for Lloyd's to meet the competitive challenge is to scrap its system of allowing individual investors and to turn syndicates into corporate structures.

Lloyd's current system, whereby each syndicate is formed and then reconstituted for the next year after agreeing on its reinsurance to close, is too complicated, too restricting and too expensive, said Mr. Wade. Lloyd's should continue the shift toward corporate capital—which in 1994 provided 15% of Lloyd's capacity and in 1997 is providing 44% of capital.

The most fundamental change needed is to replace syndicates with companies that bring together the managing agency and the capital provider. Not only would this eliminate an outdated structure, but it also would provide an opportunity to shed huge amounts of regulation as the market becomes more conventional in its makeup, Mr. Wade said. BI

LIRMA examines derivative use

Association studying products for non-catastrophe risks

By EDWIN UNSWORTH

DUBLIN, Ireland—The London International Insurance & Reinsurance Market Assn. expects to report later this year on ways its members can use financial derivatives to hedge risks, according to LIRMA Chief Executive Marie-Louise Rossi.

Speaking earlier this month right before the opening of LIRMA's biannual seminar—the first outside Great Britain—Ms. Rossi said the association has been studying the use of derivatives in insurance for about two years and expects to announce its findings in the next few months.

She said commissioned consultants are "pursuing a different line of inquiry from anything which exists at the moment." The association is looking at ways to use derivatives in sectors of insurance other than the catastrophe risks, such as earthquakes or severe weather, to which they presently apply.

A LIRMA member said it would be in areas where premiums are volatile.

Robert Miller, an independent consultant involved in the work being done for LIRMA on derivatives, said in a separate seminar address that the products being researched can be useful in addressing the underwriting cycle.

Although the Chicago Board of Trade offers insurance futures contracts, they are U.S.-oriented and are modeled after conventional insurance policies, Mr. Miller said.

Such products will remain limited to U.S. exposures until other loss indices can be developed, which likely will take a considerable length of time, he added.

The work being done for LIRMA, which wants a mechanism for dealing in derivatives but has not decided how it might be done, is intended for the London insurance market and its customers, to offset the fluctuations of the insurance cycle.

It will complement activity in the catastrophe risk area, providing a means of mitigating some of the volatility in mainstream pricing, Mr. Miller said.

Meanwhile, LIRMA is exploring closer cooperation with the Institute of London Underwriters, which represents marine insurance companies in the London market.

The fact that LIRMA held its biennial seminar in Dublin is also a milestone in the association's attempts to portray itself as an international insurance organization.

LIRMA's previous 12 seminars have all been in Great Britain. About 150 delegates attended the seminar.

Ms. Rossi said LIRMA hoped the Dublin venue "emphasizes that we are an international organization." LIRMA has members in about 40 countries, including QBE Insurance & Reinsurance (Europe) Ltd., which is the first full-fledged member from the Republic of Ireland. BI

WIN launch set for this summer

DUBLIN, Ireland—After a year's delay, the broker-owned World Insurance Network will debut July 1.

However, Tony Briggs, WIN's European sales director, acknowledged it will take time for participants to join the electronic network and create a significant amount of business-to-business contact. Mr. Briggs spoke earlier this month at a London International Insurance & Reinsurance Market Assn. seminar in Dublin.

Before the recent mergers among major brokers, WIN was owned equally by Alexander & Alexander Services Inc., Aon Corp., Johnson & Higgins, Marsh & McLennan Cos. Inc., Sedgwick Group P.L.C. and Willis Corroon Group P.L.C.

The system is in a testing phase involving the broker-owners and a number of insurers, including CIGNA Corp., Commercial Union Assurance Co. P.L.C., Assicurazioni Generali S.p.A., Gerling Group and Royal & Sun Alliance Group P.L.C. This phase is due to conclude in mid-May, Mr. Briggs said.

WIN's first users will work through a desktop interface known as WINconnect. It will enable users, mainly brokers and underwriters, to send documents, including graphics, spreadsheets and text.

Mr. Briggs also disclosed the first details of user costs. The fee to join WIN will be based on company size but will be half of a company's annual subscription charge.

The maximum annual subscription will be $150,000 for a company with annual premiums exceeding $1.5 billion, plus monthly management fees.

Monthly management fees will be about $3,000 to $5,000. Users also will bear some one-time connection and hardware costs, typically around $8,000. Charges for network usage will be announced closer to WIN's July 1 start-up date.

—By Edwin Unsworth

Lloyd's, London market not the same

LIRMA exec urges companies to set themselves apart

DUBLIN, Ireland—Insurers and reinsurers in the London company market must work together to present an image to the world that distinguishes them from Lloyd's of London, the head of the companies' trade association said.

Philip Marcell, chairman of the London Insurance & Reinsurance Market Assn., said during LIRMA's biennial seminar earlier this month in Dublin that "The company market must project a powerful brand image so that the London market is not inextricably linked to Lloyd's."

London market companies frequently have taken a back seat to Lloyd's in global recognition, but for some time they have been concerned that massive financial losses at Lloyd's and bitter but mostly ended litigation by Lloyd's names have tainted the entire London insurance and reinsurance community.

One way LIRMA is trying to strengthen the position of the company market is through closer cooperation with the Institute of London Underwriters, a similar association that represents marine insurers, Mr. Marcell said.

The two organizations are surveying their members, which together represent about 150 companies, on areas where they could cooperate more closely, he said.

LIRMA's Trade Association Synergies Committee is examining the issue and is due to report in midsummer, Mr. Marcell added.

—By Edwin Unsworth

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Investigation into Dai Ichi Kyoto gets British government support

LONDON—Britain's Serious Fraud Office is to join the international investigation into the alleged insurance fraud perpetrated by Dai Ichi Kyoto Reinsurance Co. S.A., which collapsed at the end of 1995 owing millions of dollars to U.S. and U.K. insurers and brokers.

A spokesman for the Serious Fraud Office confirmed that the SFO has become involved at the request of Belgian police, who are already working with the U.S. Federal Bureau of Investigation.

Brussels-based Dai Ichi Kyoto and its reinsurance units Kobe Reinsurance Co. S.A. and North American Fidelity & Guarantee collected premiums during the first half of the 1990s, but allegedly their operations were merely a cover for fraud. The companies had claimed to be strongly backed by numerous Japanese pension funds and a U.S. bank, but subsequent investigations have shown that the former did not exist and the latter was secretly owned by Dai Ichi.

The Serious Fraud Office has become involved at the request of Belgian police, says an SFO spokesman.

In addition to attempting to track down the millions of pounds which disappeared from Dai Ichi bank accounts in London, the SFO is likely to become involved in the search for Irishman Steven Baker, who posed as the group's European liaison officer and is believed to be behind the charade.

The spokesman would say nothing more about the terms of the investigation.

Commenting on the fact that the SFO's involvement comes a year after the Belgian authorities first requested its help, he said the SFO received authorization only last month to become involved in the investigation.

—By Edwin Unsworth

Don't buy D&O cover on price alone, despite soft market, lawyer warns

By KATE TILLEY

BRISBANE, Australia—Litigation against company directors is increasing, but at the same time, the market for directors and officers liability coverage is soft, says an insurer attorney.

And while that means insurers are offering coverages with broader terms, he warned risk managers to ensure they have "the right cover." Some coverages allow policyholders to choose their own lawyers; others do not. He said some include an insured vs. insured exclusion, and others do not. Such an exclusion means the policy will not cover an action in which one insured director of a company takes action against another insured director in the company.

Speaking at a session on D&O insurance and its relationship to corporate governance last month at the Queensland ARIMA Chapter one-day conference in Brisbane, Simon Alroe, senior associate with Brisbane law firm Minter Ellison, warned against relying on a D&O policy for full protection.

"A directors and officers policy is only one weapon in the risk management armory; you also need things like supplementary legal cover," he said.

Mr. Alroe said even though "there's a lot of people in the market selling D&O," policyholders do not always "get a good deal."

Although shareholder claims against corporations still are rare in Australia, liquidators' claims against directors of a company in liquidation are increasing, and court decisions have shown that liquidators can buy coverage to take action against directors.

In separate Federal Court decisions last year, judges ruled that liquidators could enter into a debt-retrieval agreement with insurers through which the insurer would cover the liquidator's costs to take action against former directors. The insurer would get its costs covered, plus a percentage of the amount recovered.

In the second case, the court endorsed an arrangement where a bank provided funds and an insurer indemnified the bank against losses. Both the bank and the insurer were reimbursed from funds recovered.

Mr. Alroe warned risk managers to check D&O policies carefully. He questioned whether, if a liquidator is taking action on behalf of a company, an insured vs. insured exclusion would operate.

Speaking at a separate seminar, organized by the Queensland chapter of the Australian Insurance Law Assn., Andre Louw, general manager-professional risks in the Sydney office of broker Alexander & Alexander Pty. Ltd., agreed Australia's competitive, soft market for D&O and other professional indemnity lines means too many risk managers are making decisions on price alone.

Mr. Louw told seminar atttendees that the Australian D&O market has seen many new insurer entrants because of an appearance of a low claims rate and a trend among larger policyholders to prefer to place all liability lines with the same insurer or panel of insurers.

Professional indemnity and D&O insurers are engaged in "a classical market share battle," he noted. "Costs have gone down and terms are more favorable," but despite that, too many risk managers still are making price-based decisions.

Mr. Louw said insurers are now offering guaranteed continuity of coverage as a way to retain market share.

He predicted the development of comprehensive, all-inclusive professional liability policies to prevent potential gaps between D&O and other professional indemnity risks.

Already, many D&O wordings expand beyond what a D&O policy is traditionally expected to cover, he noted. Many have extensions of coverage for the corporate entities, even subsidiary polices for entities, and extensions for defense costs as standard clauses.

Mr. Louw said predetermined allocations of coverage are a concept "in its infancy here." Insurers will agree to deem a predetermined percentage of a claim against a company and a director as being covered by D&O.

Mr. Louw said mixed claims are "a nightmare for lawyers, brokers and insurers and courts don't make it any easier." A predetermined allocation of coverage "means companies are being covered for commercial trading liability under D&O. D&O was always meant only to respond to claims against directors, not the company," he noted. BI

ARIMA

Continued from page 41

ing appropriate ethical standards.

Mr. Crews said companies that have faced the courts over corporate governance issues, for example actions by the Australian Competition & Consumer Commission for breaches of the Trade Practices Act, have seen far wider ramifications of those breaches than just large fines and damage to their reputations.

"Share values, almost invariably, drop as the board loses focus on the company's goals while it fends off the litigation," he said, referring to Trade Practices Act litigation.

Mike Oswald, managing director, Brisbane-based Context Risk Management Pty. Ltd., a risk management consultant, told delegates that risk managers must show directors that risk management outcomes can be aligned to corporate bottom-line objectives.

"Board members are overworked; how do you get risk management objectives in front of them? Voluminous reports will get buried; the secret is to provide information that reflects the board's outcomes," he said.

Defining risk in terms of cash flow means the board has a greater understanding of a risk's implications. "Risk management's not about risk, it's about management," he said.

Risk managers must assess risks against resources and "mitigate risks when your resources are inadequate to handle them," Mr. Oswald said.

He said an organization's risk context, that is, its appetite for risk, needs to be clearly communicated before the identification, analysis, assessment and treatment steps of the risk management process can be effective. BI

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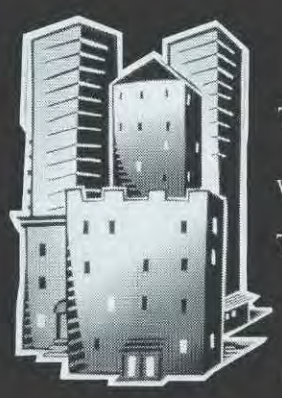

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Financial risks becoming a global concern

By MARIA KIELMAS

The global marketplace has created a whole new set of financial risks for corporations, ranging from greater competition in emerging economies, where the rules of investment and taxation remain fluid and uncertain, to problems companies face in dealing with the media in the wake of a major accident.

Such risks cannot always be identified in advance, observed Philippe Carle, co-president of Paris-based broker CECAR. The costs become known only after the loss. "We are dealing with events that are not quantifiable and therefore not insurable," Mr. Carle said, speaking late last month at a conference in Paris, organized by SCOR Reassurance.

"The more global a basis there is for business the more we seek security," said Florence Aelion, risk manager at Lyons-based state-owned car maker Renault.

One hazard of globalization is that lack of knowledge of local conditions and indigenous companies has created large losses for some corporations investing in emerging economies. For example, many joint ventures of French companies in Asia "have resulted in only the Asian partner making a profit," Mr. Carle said.

Decisions to invest were usually made before conducting a risk assessment of the venture in question. To avoid this, companies must be active in acquiring information, Mr. Carle said.

Corporations investing overseas can also face financial exposures due to the politics of their own governments. "When France resumed nuclear tests in the Pacific, there was a call to boycott French products by many people and governments. Even large stores in Paris were subjected to bomb attacks," Mr. Carle noted.

And, it's not only in emerging countries that companies must be wary.

Financial losses that arise from a major disaster, such as fire, can snowball into even larger losses, perhaps bankrupting the company, even though it may hold business interruption insurance, according to Klaus Bocklaff, department director at Wiesbaden, Germany-based R&V Allgemeine Versicherung A.G. Reconstructing a company's damaged buildings can often take longer than the usual 12-month period provided in many business interruption insurance policies.

If toxic substances are involved, site cleanup and toxic substance disposal cause additional delays. Such matters also can cause severe public relations problems for the company if it is publicly perceived as a polluter.

"If the public turns against the company, then the government tends to do likewise," Mr. Bocklaff said.

In Germany, awareness of security and safety in corporations is limited mostly to the larger players, Mr. Bocklaff said.

"The concept of risk management has been misinterpreted for some time in Germany. Smaller companies believe that risk management is just insurance and loss prevention. Only a few small companies think that risk management should be part of the company's management," he observed.

Meanwhile, risk managers in larger multinational corporations are asking their insurers to be more flexible and are calling for longer-term, multiline, multirisk policies.

"They want more stability in terms of risk financing," noted Rick Hudson, deputy managing director of Global Risks at London-based Royal & Sun Alliance.

But the real problem is cost. "Insurers have not been good at explaining costs to clients," Mr. Hudson added. While clients have sought stability in insurance costs and policies for the past three to five years, insurers still are reluctant or even unable to provide catastrophe coverage in areas such as earthquake-prone California or Japan.

"Size is important for an insurer but large insurers are not necessarily global," noted Jacques Blondeau, chairman and chief executive officer of SCOR S.A. Mr. Blondeau was referring to large U.S. and Japanese insurers that generally concentrate on their domestic markets and lack the international expertise to provide truly global services for multinational clients. BI

Denmark rail project demonstrates need for risk management

By MARIA KIELMAS

PARIS—Problems that have befallen the building of a road and rail link in Denmark highlight the need for a risk management unit in large construction projects, its insurance manager said.

During the project, contractors were allowed to manage themselves, resulting in the loss of two excavation machines, a nine-month delay and insured losses of 320 million Danish kroner ($48.5 million), said Peter Topsoe-Jensen, insurance manager of the state-financed Storebaelt project. He spoke late last month at a conference in Paris, organized by SCOR Reassurance.

A Lloyd's of London engineer who saw risk reports estimating possible delays and cost overruns recommended creating a risk management unit for the project. But the technical manager on the project rejected that idea, said Mr. Topsoe-Jensen said. Project management came from the Danish government and civil service.

The project, a tunnel and bridge link of a total of 10 miles across the Store Baelt strait, between the Danish islands of Fyn and Sjaeland, went ahead in 1988 after the Danish government agreed to fund the project for 12 billion kroner ($1.82 million). But the amount was intentionally underestimated in order to get government funding, according to Mr. Topsoe-Jensen.

By 1997, the project had cost 25 billion kroner ($3.79 billion) for construction and 18 billion kroner ($2.73 billion) for financing and interest, for a total cost of 43 billion kroner ($6.52 billion).

A wrap-up policy with a 5 billion kroner ($758 million) limit was purchased for the project, along with professional liability coverage with limits of 1 billion kroner ($151.6 million). A total of 425 million kroner ($64.4 million) in premiums was paid for the coverage for the project, which has generated 320 million kroner in claims.

The first train is scheduled to run through the link this month. The government will eventually recoup its costs through toll charges on vehicles using the link. The payback period originally was calculated to be 12 to 13 years with tolls equal to those on the existing ferry between the islands. However, the government bowed to public demand and lowered the toll so that it would be cheaper to use the new link rather than the ferry. As a result, the payback period for the project has been lengthened to 35 years.

When asked by a delegate why the project's managers did not buy advanced loss of revenues insurance, Mr. Topsoe-Jensen replied, "Because management told us not to buy it." He summed up the Storebaelt venture with a touch of sarcasm, it was "double the costs, double the time, we are very proud of our project."

Most claims were below 5 million kroner, but there were two major losses.

In one case, two tunnel excavation machines were lost after flooding in the tunnel. The loss caused a nine-month delay to construction and cost 74 million kroner ($11.2 million) from the contractors all risks coverage. That loss might have been avoided if the project's contractor had not removed some special flood sensors from the excavating machines, Mr. Topsoe-Jensen said.

The project serves as a lesson in oversight for other government projects, says Peter Topsoe-Jensen.

The contractor thought the machines' Scottish supplier had fitted them with too many such sensors, which were signaling and causing frequent delays, and so removed most of them.

As a result, the machines were unable to detect the onset of a flood. "Could this have been avoided?" asked Mr. Topsoe-Jensen. "Yes, if the contractors had taken some notice of the supplier's instruction manual."

A further nine-month delay was caused by a tunnel fire in November 1994, costing 230 million kroner ($34.9 million). About 100 feet of concrete lining was burnt through, and the tunnel diameter had to be reduced by about 18 inches.

After the fire, the government halted all access to the tunnel. This in turn stopped insurers from inspecting the fire and determining its causes, as well as creating much tension between the project managers and insurers. The cause was determined to have been a leak of oil from a hydraulic pipe. "Who is checking the contractor if there is only a few more meters of work left?" asked Mr. Topsoe-Jensen. "The contractor is checking the contractor."

The project serves as a lesson in oversight for other government projects, he said. As a state-funded project, where the state also is the employer, its management came from government and civil service, rather than from engineering companies. The CEO was a permanent secretary at the ministry of the environment. "If you think I am being skeptical about the management," noted Mr. Topsoe-Jensen, "I am."

Other decisions were made to save money that in the long run will cost more. For instance, the tunnel linings were not waterproofed, as this was deemed too expensive, and as a result, water is seeping through regularly. Finnish oil rig construction companies complained that the height of the bridges was too low for their rigs to pass easily en route from Baltic Sea to the North Sea.

Mr. Topsoe-Jensen said the Finns claimed that they would incur additional costs in making their rigs of more flexible height. As a result, Storebaelt paid the Finns 90 million kroner ($13.6 million) in compensation.

The lessons learned are that such a project must have a risk management unit, that it is a mistake for the employer to leave all of the decisions to the contractor, that it was a mistake to employ loss adjusters without a written contract thus making it impossible to fire them, Mr. Topsoe-Jensen said.

The tunnel was designed for a lifetime of 100 years, but modifications during the project have meant repairs will be needed in the tunnel every 30 years. Mr. Topsoe-Jensen said Storebaelt could go bankrupt but likely would be bailed out by Danish taxpayers.

Lloyd's

Continued from page 41

would introduce a "minimum capital requirement" made up of a "funds at Lloyd's" requirement and an "other personal wealth" requirement. The goal is by the year 1999 to raise name's minimum capital requirement to 50%, the same percentage required of corporate members.

Whereas now names must hold funds at Lloyd's equal to about 25% to 30% of the total business they back, Lloyd's plans to raise this to 32.5% in 1998 and to 37.5% in 1999. The remainder will come from the other personal wealth requirement, which would be 7.5% in 1998 and 12.5% in 1999.

Also, names' minimum total means will be raised from its current level of £250,000 ($428,125) to £300,000 ($513,750) next year and £350,000 ($599,375) in 1999.

Lloyd's is currently negotiating with the U.K. Inland Revenue to ascertain whether the New Special Reserve Fund, into which names deposit some of their profits free of tax as reserves against possible losses, can be applied toward an individual's capital requirement. The fund is currently worth more than £60 million ($102.8 million).

Other proposals include:

- Mandatory actuarial assessment for solvency purposes of the adequacy of reserves of all syndicates from year-end 1997. This is required already in the United States.
- Introduction of central monitoring of reinsurers and reinsurance and consistent accounting treatment to highlight potential reinsurance bad-debt problems. Lloyd's would also provide guidance on selecting reinsurers, though Mr. Duguid said this was unlikely to result in a list of "approved" reinsurers.
- Greater focus at syndicate level on disaster modeling.
- Introduction of codes for reserving to be developed with input from those acting in the Lloyd's market. BI

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INTERNATIONAL

Deductible dispute resolved for policyholder

SYDNEY, Australia—An appeals court has ruled in favor of Australia's wealthiest man, polo-playing media magnate Kerry Packer, in a dispute with eight insurers over coverage for the theft of gold worth more than $5.8 million Australian ($4.4 million).

Three judges from the New South Wales Court of Appeal overturned a Supreme Court of New South Wales decision in favor of the insurers by Judge Russell Bainton last year.

Mr. Packer is chairman of Sydney-based Consolidated Press Holdings Pty. Ltd., which owns a network of publishing and television companies in Australia and Asia and holds assets in plastics, cotton and mining.

Last spring, Mr. Packer's office was broken into, and gold bullion was stolen from his private safe. The gold was covered under the company's global property policy with per occurrence limits of $5 million Australian ($3.9 million) for bullion. The deductible was $1 million Australian ($773,000), some of which had been exhausted by other claims (*BI*, April 1, 1996).

The insurers, led by Royal Insurance (Global) Pty. Ltd., part of Sydney-based Sun Alliance & Royal Insurance Australia Holdings Pty. Ltd., paid $4.02 million Australian ($3.1 million). Mr. Packer's company, CPH, sued for an additional $742,049 Australian ($573,000), which Mr. Packer claimed he was entitled to because the policy was worded in such a way that the deductible should have been subtracted from the value of the gold, not the actual sum insured.

In handing down the ruling for the appellate court earlier this year, Judge Cole wrote that the policy showed that the claim "is not the maximum amount which the insurer is obliged to pay under the policy, but the true value of the loss suffered."

Judge Cole said the policyholder was correct that the deductible should be subtracted from the value of the gold and then the monetary cap should be applied.

Judge Cole made no order as to the sum to be paid to Mr. Packer but told the parties to come to an agreement. Rick Constable, Royal Global claims manager, said the parties were "currently discussing settlement" and would not comment further.

Judge Bainton criticized the policy wording in his initial judgment, and Judge Cole agreed that many of the clauses were unclear.

Judge Cole said the word "claims" was used in paragraphs where the word "losses" should have been used for the policy wording to "make commercial sense."

Royal Global confirmed it did not seek to appeal the ruling.

—*By Kate Tilley*

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NOTICE

NOTICE

The Kansas State Employees Health Care Commission will issue Request for Proposal(s) (RFP) on April 17, 1997 for the dental and prescription drug components of its health plan as well as an ancillary vision program. Responses may be for insured, self-funded or capitated arrangements.

Currently, 36,914 active employees and 9,445 retirees participate in the health plan. Prescription drug coverage is administered by Diversified Pharmaceutical Services for all health plan participants. Dental coverage is provided by Delta Dental Plan of Kansas.

If interested in receiving a copy of the RFP, please contact:

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Travelers

Continued from page 1

taxes and legal services at Buck Consultants Inc. in New York. If it decides to do so, "it can kill it," he said.

On the other hand, if "people take great pains to make it clear why it should be workable, they may agree to do it with some modification," said Mr. Rumack.

"If it does survive, I think it'll probably be a joint effort by the IRS and DOL to sort of sculpt out certain requirements to protect both the employee as well as the Treasury," said Joel Rich, senior vp at The Segal Co. in New York.

Under the proposed program, Travelers would contribute stock options to its 401(k) plan for all eligible participants. As proposed, Travelers would contribute stock options equal to 10% of an employee's compensation, up to $40,000 of compensation. The options would give employees the right to buy Travelers common stock at the closing price on the day before the option is granted.

Travelers would be able to obtain an immediate tax deduction for the fair market value of the options.

Employees would not be taxed when they received the options or when they exercised the options and received the shares. Even if employees sold the shares and the proceeds stayed in their 401(k) plan accounts, they would not incur any tax liability.

Observers believe one major sticking point for the IRS here could be employers' ability to obtain an immediate tax deduction for the fair market value of the options, even if the stock options are never actually exercised. This also would not take into account what the options ultimately become worth, say observers, who note there are limits as to how much employers can contribute on behalf of employees.

The IRS' reconsideration of Travelers' program has left many in the benefits arena miffed and frustrated.

The more usual approach would be to wait until the option is exercised to determine its tax consequences, said Russell Hall, a principal at Towers Perrin in Valhalla, N.Y. If the IRS is having second thoughts about this aspect of the program, "I don't think there is any way they could rehabilitate this."

This issue could be a "deal killer," agreed John Keegan, senior research attorney with Aon Consulting in Newburyport, Mass.

Another possible problem the IRS could have is that the program would only allow employees to exercise options at the rate of 20% a year.

Consultants say this is comparable to the no-longer-allowed "rolling class year vesting" under which employees only gradually become vested in funds contributed by employers. Under the current standard, employees who put in the appropriate service period immediately become fully vested.

This is a technical issue, though, that could probably be resolved, say consultants.

"That can be tweaked and massaged," said Mr. Keegan.

Meanwhile, the IRS' reconsideration has left many in the benefits arena miffed and frustrated. Many consulting firms put considerable effort into studying the program, said Watson Wyatt's Mr. Joss. "Hopefully in the future they would get it right the first time, whatever right is," he said.

There are precedents, though, for the IRS dramatically reversing itself on employee benefit rulings. In 1985, for example, it gave its blessing to an arrangement that would have allowed employers to transfer assets—tax-free— from overfunded defined benefit plans to defined contribution plans, such as 401(k) plans, without terminating the defined benefit plans. The transferred assets would have been used to match employee contributions to the 401(k) plan.

But the IRS, in the wake of widespread publicity about its earlier approval of the arrangement—contained in a general information letter to Buck Consultants—revoked its position on asset transfers just weeks later. BI

Tort reform

Continued from page 2

page 1). And Liggett Group Inc. already has settled with 22 state attorneys general.

He said any product liability bill should not:

- Define its coverage over a product liability action based on a theory of recovery that would preclude states from seeking Medicaid reimbursement, according to his testimony.
- Place stringent limits on the time during which a lawsuit could be brought against a manufacturer, he said. Such limits would "unfairly restrict consumers injured by tobacco products," according to Mr. Miller. Tobacco should be "specifically included in any exception" to any statute of repose contained in any product liability reform bill, he said.
- Cap punitive damages.
- Fix a problem that does not need to be fixed, he said, noting that tort law traditionally has been a state rather than federal responsibility.

Ironically enough, Mr. Miller came under the most fire from a congressman who opposed last year's product liability reform bill, Rep. Howard Coble, R-N.C., who represents a congressional district in which the tobacco industry plays a major industrial role.

Rep. Coble, who said he had opposed previous product liability reform bills because he believes anything that involves insurance should be a state matter, said he sees "an evidence of hypocrisy and greed" in the state attorneys general's suits because states have "warmly embraced" tax receipts raised by the sale of tobacco but now wish to recover even more.

Attempts to link tobacco and product liability reform are nothing less than "McCarthyism," said Larry Fineran, assistant vp and director with the National Assn. of Manufacturers in Washington.

"Tobacco is not affected by the legislation. Certainly the attorneys general's suits are not affected by the legislation," said Mr. Fineran, who pointed out that the state attorneys general's suits are not based on product liability law.

Opponents of the reform are trying to link the people who favor the legislation with tobacco, which is "the reddest of red herrings," he said.

"The bill does not cover the attorneys general's suits. The effective date is the time it becomes law," said Victor E. Schwartz, general counsel for the Arlington, Va.-based Product Liability Coordinating Committee.

"It is an emotional issue, and when you have an emotional issue, facts do not often govern," he said.

Attempts to link tobacco and product liability reform are nothing less than 'McCarthyism,' says NAM's Larry Fineran.

"I would hope that the very, very dedicated anti-tobacco people would stick to issues that are relevant to them, and this is not," said Mr. Schwartz.

"There is no connection. It's an effort by the other side to take an emotional issue and try and derail this bill despite the fact that the two have absolutely nothing to do with each other. The reality is that the state attorney general cases are not product liability cases," said Jim Anderson, vp-government relations for the National Assn. of Wholesaler-Distributors in Washington.

He added: "We oppose carving anything out. We don't want to create a multitude of product liability laws."

"Product liability reform as well as any exemptions should be decided on their own merits. The uncertainty of the present tort system is a drag on our economy and should be corrected. Measured, balanced reform is in everyone's interest. The 105th Congress should move quickly to accomplish such reform," said David Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington.

"I'm concerned about any product exemption because I think that feeds what I think is Sen. Ernest Hollings' best argument against the bill, which is that it will create confusion," said Mr. Schwartz, referring to the Democratic lawmaker from South Carolina.

"It's of concern of anyone who deals in the issue. I don't think it helps the matter at all," said Melissa Shelk, assistant vp of the American Insurance Assn. in Washington.

It "gives opponents another hook and makes people who are normally anti-tobacco take a second look," she said.

Opponents of last year's legislation, though, agreed that a tobacco-product liability reform link is potent political medicine for their position even though any bill that might pass Congress would have no impact on the state tobacco suits.

"We haven't seen definitive legislative language. The other problem is anything that it does effect will be suits that have not yet been filed. Whatever the attorneys general are negotiating right now would not be subject to any bill that they passed," said Rich Vuernick, legislative director of Citizen Action in Washington.

But politically, "as long as tobacco is out there and looked at as a product that would fall under the scope of this bill, the bill could be seen as a tobacco industry relief act" and make it that much harder to pass, he said.

"It does change the dynamics of the lobbying," said Mr. Vuernick.

"There's been a lot of strong feeling against the tobacco industry. I don't think anyone terribly wants to be seen as being loyal to them," agreed Joanne Doroshow, a staff attorney with consumer advocacy group Public Citizen. She noted that last year anti-smoking activists opposed the congressionally approved bill because of its limits on punitive damages in product liability cases.

"They felt very strongly, as do we, that the punitive damages area might cause more difficulty" in people seeking damages for tobacco-related maladies. Any limit on punitive damages "would clearly have an effect on consumers being able to hold these tobacco companies liable," Ms. Doroshow said. BI

Georgia

Continued from page 1

As a result, the outcome buoys the refund hopes of similar guaranty funds in several other states, many of which lost earlier challenges to their non-profit status.

A total of 29 states have guaranty funds for individual self-insurers, which are designed to assess financially healthy companies to help pay the workers compensation liabilities of any bankrupt self-insurer, said Mr. Stevenson, an attorney with Stevenson, Rusin & Friedman Ltd. in Chicago.

Last year, Kentucky became the most recent state to approve establishing guaranty funds. Its law calls for establishing three separate self-insurance funds for individual companies, coal operators and groups, respectively, Mr. Stevenson said.

The National Council has recommended since 1987 that states adopt such guaranty funds for individual self-insurers, though it saw no need to prefund them, he added. However, some states require prefunding.

Generally, all monies most state guaranty funds obtain are at risk of taxation, says NCSI's George Wood.

The existence of such funds generally makes state regulators' more comfortable with allowing large companies to self-insure their workers comp liabilities because the funds help ensure that injured workers' claims will be paid even if companies go bankrupt.

The tax liability issue is particularly important in "five 'M' states"—Maine, Minnesota, Missouri, Mississippi and Montana—where the respective guaranty funds previously lost efforts to have the IRS accept them as non-profits under the tax code, said George Wood, executive secretary of both the Montana guaranty fund and the state's self-insurers association. He is also chairman of the National Council of Self-Insurers Guaranty Fund Committee. The federal tax liability of those funds varies, depending on the amount of money accumulated in the funds. For example, Montana's tax bill was about $200 because it had assessed self-insuring employers only for administrative expenses, Mr. Wood said. However, another fund faced a $450,000 federal tax liability, he said.

"Self-insurers have always taken the position that their guaranty funds should enjoy the same exemption from tax that the insurance company guaranty funds do," Mr. Wood said.

Employers prefer that the millions of dollars at stake go to injured workers whose employers have become bankrupt, rather than to pay federal taxes, he said.

But, "the IRS has taken the position that the guaranty fund is of benefit to self-insuring companies," Mr. Wood said.

However, "I don't know how having to pay the workers compensation claims of a bankrupt employer is of any benefit to another self-insuring employer," Mr. Wood said.

The issue of the tax deductibility of individual self-insurers' guaranty funds has been a murky one for several years, especially because the IRS authorities have adopted differing positions.

For example, local or regional IRS offices approved the tax-deductible, non-profit status of similar guaranty funds in California and Florida, self-insurer sources say. However, the national IRS office apparently was responsible for the opposite decision in some other states, including Georgia.

"In Illinois, where the (guaranty trust) funds are held by the state treasury, the IRS has not attempted to tax them," Mr. Stevenson added.

Generally, all monies that most state guaranty funds obtain are at risk of taxation, including assessments for administrative costs and claims payments as well as the investment income the fund earns, Mr. Wood said.

However, most guaranty funds have been filing under protest or paying federal tax only on earned interest income, Mr. Stevenson added.

In Georgia's case, the issue was whether the trust fund was exempt as a "business league" within the definition under Section 501(c)(6) under the IRS tax code.

The Georgia guaranty fund is currently assessing employers to reach a $10 million limit authorized by the state Legislature, said guaranty fund litigation attorney Sonya Ragland in the Atlanta office of Womble Carlyle Sandridge & Rice P.L.L.C. The Legislature had previously approved a $3 million limit, she said.

"The need to get a tax-exempt status was viewed, going forward, as a multimillion-dollar problem," she said.

A few years ago, the guaranty fund filed for 501(c)(6) status, but the IRS denied the request. The fund then paid slightly more than $2,000 in federal taxes but filed for a tax refund in the U.S. District Court for the Northern District of Georgia, which the court approved in September 1996.

The IRS appealed that decision to the 11th U.S. Circuit Court of Appeals. However, it voluntarily asked to dismiss the case "with prejudice" in an order filed last month.

"Setting a precedent for other states is great," said Ellen Brunner, director of risk services for Holiday Inn Worldwide in Atlanta. The self-insurer participates in the Georgia guaranty fund.

The outcome "will be beneficial to all employers in that we don't have to bear the cost that the fund would have borne had it been found to be a taxable entity," she said.

"Perhaps this long and unnecessary IRS burden is over for our guaranty funds," Mr. Stevenson wrote in a recent NCSI newsletter.

An IRS spokeswoman declined to comment on the case or answer other tax-related questions.

Former Ohio Blues plan faces eager competition

By RAQUEL SANTIAGO
Crain News Service

CLEVELAND—As the old cross and shield were dismantled from its home base in Cleveland and rivals nipped at its heels, Medical Mutual of Ohio moved swiftly last week to minimize any potential disruption of service to its customers.

Management for the former Blue Cross & Blue Shield of Ohio knows it must act fast to allay customer concerns about continuity of service, because its competitors are eager to steal away business and to beat it out for new business.

Medical Mutual "is being given the benefit of the doubt among existing customers, but new clients have been shying away from the former Blue Cross because of the uncertainties," said Len Gray, managing director for the Cleveland office of benefits consultant William M. Mercer Inc.

Medical Mutual's rivals have been emboldened by months of turmoil surrounding the former Blue Cross plan after its unsuccessful attempt to be acquired by Columbia/HCA Healthcare Corp. In the course of that ill-fated effort, the national Blue Cross association revoked the company's right to use the shield and cross trademarks.

When it was part of the Blue Cross system, the company could tout the convenience of a national insurance network that assured customers their medical coverage would be recognized and accepted nearly anywhere they traveled. Now it's trying to patch together its own network by creating alliances with other insurers.

For example, Medical Mutual last week sent letters to all BC/BS plans nationwide to assess their willingness to continue serving Medical Mutual enrollees outside Ohio, said Kent W. Clapp, president, chief operating officer and chairman of Medical Mutual.

Likewise, the company is negotiating with two preferred provider organizations that contract with physicians and hospitals nationwide. If agreements are struck with Affordable Health Insurance of Chicago and MultiPlan of New York, the PPOs would act as subcontractors who would serve Medical Mutual customers in other states, Mr. Clapp said.

Mr. Clapp said one Blues plan already has responded favorably to Medical Mutual's solicitation for assistance, but he declined to identify the insurer.

Iris Shaffer, a spokeswoman for the national Blues Cross & Blue Shield Assn. in Chicago, said arrangements developed between Medical Mutual and other Blues plans would not be in violation of the association's policies. However, Ms. Shaffer said such a piecemeal approach is "time-consuming, expensive and doesn't necessarily provide the same network management."

Medical Mutual's competitors are counting on as much.

Anthem Blue Cross & Blue Shield, which is now the only Blue Cross plan authorized to do business in Ohio, is about to roll out a "fairly substantial" advertising campaign to tout its new status, according to an Anthem spokesman. Linda Somers, Anthem's executive director in Northeast Ohio, said the company also is discussing ways it can beef up its presence in the market.

Likewise, Prudential Health Plan is expanding its provider network sooner than it anticipated to present an alternative to consumers, said Greg Donnelly, the plan's director of sales. In Northeast Ohio, Prudential by July 1 will add 400 primary care doctors, 1,000 specialists and 10 hospitals to its network, Mr. Donnelly said.

While Medical Mutual retains Northeast Ohio's largest panel of health care providers and boasts the largest number of enrollees in the market, its ability to counter the offensives about to be waged by competitors may be limited.

Medical Mutual plans to spend no more than $2 million to $3 million in advertising in 1997, a sharp contrast with the $10 million the company estimates it spent in 1996. The anemic 1997 advertising budget includes $500,000 for a newspaper, radio and television campaign to promote the new brand and its 12-point star logo, Mr. Clapp said.

Limiting the advertising budget while changing the brand name and logo is perilous, said Deepak Sirdeshmukh, assistant professor of marketing at the Weatherhead School of Management at Case Western Reserve University.

"Medical Mutual means nothing to people," Mr. Sirdeshmukh said. By changing the name, he said, the company is "losing a lot of equity immediately." "They'll be hard-pressed to attract new customers," he said.

Medical Mutual spokesman Dave Buckel put the situation in perspective.

"In the overall scheme of things, we need to restore the company as quickly as possible," Mr. Buckel said. "That dictates economy." BI

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PBGC terminating pension plan

WASHINGTON—The Pension Benefit Guaranty Corp. is terminating and taking over an underfunded pension plan that had been sponsored by Memorex-Telex Corp., a one-time computer services company, whose operations have been sold to various companies as part of a bankruptcy liquidation.

The Memorex plan was significantly underfunded, with liabilities of $82.4 million and assets of $55.9 million. The plan had about 4,000 participants, whose basic, vested benefits now will be provided by the PBGC.

Plan participants have not accrued benefits since Oct. 31, 1994, when Memorex froze the plan as part of an earlier bankruptcy filing. Memorex ceased operations March 31.

In another recent move, the PBGC said it will require Likes Brothers Steamship Co.'s pension plan to remain active after the company is reorganized. The steamship company planned to ask the U.S. Bankruptcy Court in Tampa, Fla., to terminate the plan. The plan has $38.4 million in assets and $45.6 million in liabilities.

Under the agreement, 75% of the stock of the new company, now named Blue Water, will be owned by a major creditor and 25% will be owned by the PBGC. Also, $100,000 will be contributed to the pension plan to settle the PBGC's objections and claims.

—Jerry Geisel and Crain News Service

Employers worry some 401(k) participants invest too much in company stock: Survey

By DEBORAH SHALOWITZ COWANS

Although employers generally are not doing anything to discourage employees from investing their 401(k) contributions in company stock, many are concerned about the issue, according to a new survey.

More than two-thirds of employers with 401(k) plans surveyed by Darien, Conn.-based Rogers, Casey & Associates Inc., expressed some concern over the percentage of employee assets invested in company stock.

The survey, which covers the 1996 plan year, includes responses from 515 companies with a 401(k) plan, representing 2.7 million participants and more than $330 billion in assets.

"Although there appears to be no concerted effort to reduce the overall exposure to company stock in 401(k) plans, plan sponsors have expressed a sensitivity to the risk inherent in such a non-diversified investment option," said Robin S. Pellish, managing director and senior consultant at Rogers Casey, an investment consulting firm.

Some 13% of the respondents said they are either "very" or "extremely" concerned about the issue; another 22% classified themselves as "concerned," while 34% said they are "somewhat concerned" about the issue.

On average, employees allocate 10% of assets to company stock. Plan sponsors said they are very concerned when employees allocate more than 30% of assets to company stock.

Plan sponsors are addressing this issue by educating employees about the importance of diversification, noted Adele Heller, a Rogers Casey director and coauthor of the survey.

Although "there's a general concern" among plan sponsors about how much of their 401(k) assets employees invest in company stock, the most important issue is whether employees understand investment objectives and diversification, commented Stacy Schaus, a consultant at Hewitt Associates L.L.C. in Lincolnshire, Ill.

About 60% of plan sponsors reported participation rates greater than 80% in 1996, while 33% of plan sponsors reported participation rates greater than 90%.

The survey also found that over the past year, plan sponsors have become more optimistic about whether employees will have accumulated enough funds for their retirement. One-third of the respondents said they believe more than half of participants will have enough resources for retirement, up from 27% that felt that way in 1995.

The most common reason cited by respondents about why employees may not have enough funds for retirement is that employees begin saving too late in their careers.

Respondents also blamed personal indebtedness, inappropriate allocation of funds and insufficient education as primary reasons for employees' not having enough retirement assets.

On another issue, plan sponsors reported an increase last year in 401(k) plan participation rates. Some 60% of plan sponsors reported participation rates greater than 80%; in 1995, 55% of plan sponsors reported participation rates greater than 80%. And one-third of respondents reported participation rates greater than 90% in 1996, up from 26% of respondents the previous year.

The survey also found that:

- The number of investment options offered in 401(k) plans continues to grow.

Some 61% of plan sponsors offered seven or more investment options last year, up from 42% in 1995 and 33% the previous year. The average number of investment options offered last year was 7.9.

- Six percent of plan sponsors are considering automatically enrolling employees in their 401(k) plans unless they specifically say they do not want to participate.
- More than 90% of the plans surveyed offered some form of company match. More than 75% of the plans offered a cash match, and 15% offered a match of company stock.
- Only 10% of plan sponsors rated their communications program as "excellent," while 49% said their communications program was "good." One-third of respondents rated their communications program as "adequate," while 7% said it was "poor."

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Copies of the survey, "1996 Defined Contribution Survey," are available free to companies, public entities and other organizations that are or may be plan sponsors. There is a $500 charge for the survey for consulting firms or research organizations. The survey may be obtained from Karen Dehmel, marketing manager, Rogers, Casey & Associates Inc., 1 Parklands Drive, Darien, Conn. 06820-1460; 203-656-5947; fax: 203-656-2233.

Datebook

APRIL

APRIL 28-29. Strategies to Profit from Specialty Niche Insurance Programs in Property & Casualty Insurance seminar in Los Angeles, sponsored by International Quality & Productivity Center, Insurance Advisory Council, and Insurance and Reinsurance Trends; $895. IQPC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

APRIL 28-29. Financial Analysis: Property/Casualty Insurance in Chicago, sponsored by Fells Road Group Inc./Michael Conn Associates Inc., $1,050. Fells Road Group Inc./Michael Conn Associates Inc., 271 Route 46 West, Suite D-207, Fairfield, N.J. 07004; 201-227-5955.

APRIL 28-29. Tobacco Litigation 1997: Going Beyond the Pleadings conference in New Orleans, La., sponsored by Andrews Publications; $800. Dave Cassada, Andrews Continuing Education Institute, 175 Strafford Ave., Bldg. 4, Suite 140, Wayne, Pa. 19087; 800-345-1101.

APRIL 29. Assn. of Professional Insurance Women Inc.'s Luncheon in Chicago, sponsored by APIW; $30 for members, $35 for non-members. Karen Tucker, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5319.

APRIL 29. An Introduction to Daily Valuation and Recordkeeping seminar in Natick, Mass., sponsored by Corbel; $295. **Also May 1** in New York. Client Service Center, Corbel, P.O. Box 47720, Jacksonville, Fla. 32247; 800-326-7235, ext. 1139.

APRIL 29. The CGL Policy: Important Changes workshop in Princeton, N.J., sponsored by the CPCU Society; $125 for members, $135 for non-members. The CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa.; 610-251-CPCU.

APRIL 29. Insurance Insolvency Breakfast Seminar in London, sponsored by Clifford Chance; no charge. Pam Marsh, Clifford Chance, 200 Aldersgate St., London, EC1A 4JJ, United Kingdom; 44-171-600-1000.

APRIL 30. Spring Symposium of the Illinois Assn. of HMOs: Managing the Health of Managed Care in Rosemont, Ill., sponsored by IAHMO; $200 for members, $285 for non-members. IAHMO, 500 N. Dearborn, Suite 1128, Chicago, Ill. 60610; 312-321-0341.

APRIL 30-MAY 1. Administering an Employer's Workers' Compensation Program seminar in Dearborn, Mich., sponsored by Michigan State University; $695. Human Resources Education and Training Center, Michigan State University, 422 S. Kedzie Hall, East Lansing, Mich. 48824-1023; 517-355-9591.

APRIL 30-MAY 1. Flexible Benefits Course in Brookfield, Wis., sponsored by International Foundation of Employee Benefit Plans; $550 for members, $650 for non-members. IFEBS, 18700 W. Bluemond Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

MAY

MAY 1. TXANS' Annual Nonsubscriber and Workers' Compensation Alternatives Conference and Exhibition seminar in Austin, Texas, sponsored by The Texans Assn. of Responsible Nonsubscribers (TXANS); $225 for members, $255 for non-members. TXANS, 206 West 13th, Austin, Texas 78701; 512-477-7357.

MAY 1-2. Pricing and Rate Making in Plain English seminar in Boston, sponsored by Dorman Consulting Associates; $895. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

MAY 1-3. The Third Annual Public/Private Behavioral Healthcare Summit in Washington, sponsored by CentraLink; $995. CentraLink-P, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028-7927; 415-851-8411.

MAY 3-6. The 21st Annual Educational Conference & Membership Meeting of the Aviation Insurance Assn. in Tampa, Fla., sponsored by AIA; $350 for members, $575 for non-members. John P. Donica, AIA, P.O. Box 2966, Redmond, Wash. 98073; 800-354-7918.

MAY 4-6. 29th Annual Midwest Claim Conference in Arlington Heights, Ill., sponsored by the Chicago Claim Assn.; $205. David Loveless, Midwest Claim Conference, P.O. Box 401, McFarland, Wis. 53558-0401; 630-859-1100, ext. 5625.

MAY 4-7. The Financial Inforum conference in Jacksonville, Fla., sponsored by LOMA; $795 for members, $1,590 for non-members. Angie Norman, LOMA, 2300 Windy Ridge Pkwy., Suite 600, Atlanta, Ga. 30339-8443; 770-984-6438.

MAY 5-7. PCS Catastrophe Conference in San Antonio, sponsored by Property Claims Services; $345 for members, $445 for non-members. PCS, 85 John St., New York, N.Y., 10038; 908-388-5700.

MAY 5-7. Product Management Skills and Techniques seminar in Boston, sponsored by Dorman Consulting Associates; $995. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

MAY 5-9. Fundamentals of Employee Benefits Management course in Brookfield, Wis. sponsored by The International Foundation of Employee Benefit Plans; $1,375 for members, $1,625 for nonmembers. **Also July 14-18, August 18-22** and **September 22-26.** Registrations Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

MAY 6. Harold H. Hines Jr. Memorial Symposium: The Use and Abuse of Class Action Lawsuits in Chicago, sponsored by the Chicago and Northeast Illinois Chapters of the Risk & Insurance Management Society Inc., Insurance School of Chicago and *Business Insurance*; no charge for invited guests. Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520.

MAY 7, 14. What Agents and Brokers Need to Know About Insurance Agency Operations—How is Your Market Conduct? seminar in Chicago, sponsored by the Insurance School of Chicago; $275. ISC, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520.

MAY 8. D&O, Fiduciary Liability, and Employment Practices Liability: Coverage Aspects and Marketing Strategy workshop in Uniondale, N.Y., sponsored by The CPCU Society; $85 for members, $95 for non-members. CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

MAY 8-9. Employers' Managed Health Care Assn.'s 16th National Conference in Washington, sponsored by MHCA; $450 for members, $550 for non-members. Sheila Reilly, Employers' Managed Health Care Assn., 1401 Eye Street N.W., Suite 900, Washington, D.C. 20005; 202-218-4121.

MAY 8-9. Drug and Medical Device Litigation Seminar in Chicago, sponsored by Defense Research Institute Inc.; $545 for members, $595 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

MAY 12. Fundamentals of Illinois Environmental Law Compliance Course in Chicago, sponsored by Government Institutes; $399. GI, Suite 200, 4 Research Place, Rockville, Md. 20850; 301-921-2345.

MAY 12. Mergers & Acquisitions: A Risk Management Approach to Identifying and Treating the Loss Exposures workshop in Overland Park, Kan., sponsored by The CPCU Society; $85 for members, $95 for non-members. CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

MAY 12-14. Financial Analysis: Life/Health Insurance seminar in Philadelphia, sponsored by Fells Road Group Inc./Michael Conn Associates Inc.; $1,250. **Also Sept. 10-12,** and **Oct. 15-17.** Fells Road Group Inc./Michael Conn Associates Inc., 271 Route 46 West, Suite D-207, Fairfield, N.J. 07004; 201-227-5955.

MAY 15. Southern Employee Benefits Conference Spring Fly-In in Atlanta, sponsored by Southern Employee Benefits Conference; $175 for members, $300 for non-members. Southern Employee Benefits Conference, P.O. Drawer 47309, Atlanta, Ga. 30362; 770-458-6233.

MAY 15. Society of Insurance Financial Management quarterly meeting and luncheon in New York, sponsored by SIFM; $50 for members, $90 for non-members; Kelly A. McCabe, Executive Risk Inc., 82 Hopmeadow St., P.O. Box 2002, Simsbury, Conn. 06070-7683; 518-851-9780.

MAY 15-16. 7th Annual Institute: Contemporary Reinsurance and Excess Insurance Issues in New York, sponsored by Glasser LegalWorks; $895. **Also June 5-6** in Chicago. Glasser LegalWorks, 150 Clove Road, Little Falls, N.J. 07424; 800-308-1700.

MAY 15-16. Life, Health and Disability/ERISA Litigation seminar in Chicago, sponsored by Defense Research Institute Inc.; $500 for members, $550 for nonmembers. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

MAY 19-20. Insurance Law: What Every Lawyer and Businessperson Needs to Know seminar in New York, sponsored by the Practising Law Institute; $795. Michelle Schwartz, PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

MAY 19-21. Utilizing and Operating Group Owned and Rent-A-Captives to Cover Workers' Compensation, Employee Benefits, Property & Casualty, Professional, Product and General Liabilities conference in Bermuda, sponsored by International Business Communications; $1,495. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

MAY 28. Catastrophes and Insurance workshop in Deerfield Beach, Fla., sponsored by The CPCU Society; $85 for members, $95 for non-members. CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

JUNE

JUNE 3. Reviewing Boiler and Machinery Coverages workshop in Dallas, sponsored by The CPCU Society; $75 for members, $85 for non-members. CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

JUNE 5-6. Financial Analysis: Property/Casualty Insurance in Philadelphia, sponsored by Fells Road Group Inc./Michael Conn Associates Inc.; $1,050. **Also Sept. 25-26** and **Oct. 30-31.** Fells Road Group Inc./Michael Conn Associates Inc., 271 Route 46 West, Suite D-207, Fairfield, N.J. 07004; 201-227-5955.

JUNE 9. Excel Basic for Risk Management workshop in Atlanta, sponsored by Shelter Island Risk Services; $395. **Also June 11** in Chicago, **June 12** in New York, **Sept. 22** in Roswell, Ga. and **Dec. 4** in New York. Shelter Island Risk Services, P.O. Box 568, 14 Tarkette Road, Shelter Island, N.Y. 11964; 800-749-1535.

JUNE 9-10. Changing Market Condition and Emerging Exposures in Professional Liability conference in New York, sponsored by American Conference Institute; $1,299. AMI, 175 Fifth Ave., Suite 2182, New York, N.Y 10010; 416-926-8200.

JUNE 10. Excel Advanced for Risk Management workshop in Atlanta, sponsored by Shelter Island Risk Services; $445. **Also June 13** in New York, **Dec. 3** in Chicago and **Dec. 5** in New York. Shelter Island Risk Services, P.O. Box 568, 14 Tarkette Road, Shelter Island, N.Y. 11964; 800-749-1535.

JUNE 12-13. Risk Management and Risk Financing in Europe conference in Cologne, Germany, sponsored by Risk & Insurance Research Group Ltd., 1,750 DM. Risk & Insurance Research Group Ltd., 44 Maiden Lane, Covent Garden, London WC2E 7LJ; 44-0171-836-0614.

JUNE 12-13. Professional Liability Seminar in Boston, sponsored by Defense Research Institute Inc.; $525 for members, $575 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

CalPERS

Continued from page 1

Jim Foreman, a principal at Towers Perrin who manages the benefit consultant's West Coast health and welfare practice, agreed.

"It make sense to tie some of the consumer equation into the pay packages," he said, especially with all of the criticism that has been leveled against entrepreneurial HMO executives in recent years.

"I hope there's truly something at risk and it's not just a bunch of fluff," he said.

The incentive pay program is part of a three-year contract to improve satisfaction, quality and efficiency in health care service provided to 105,000 CalPERS members enrolled in PacifiCare's HMO in California.

Under the contract, PacifiCare also will receive a 2.5% rate increase for the calendar year beginning Jan. 1, 1998. Rates for 1999 and the year 2000 will be based on increases in the medical care component of the Consumer Price Index.

The 1998 rate hike is the first that CalPERS has granted to PacifiCare since 1993.

"This new agreement will be a significant step toward building a stronger partnership with CalPERS and PacifiCare," Mr. Wampler said in a press release announcing the contract last week.

"We greatly appreciate the opportunity to form this innovative arrangement with CalPERS and hope to develop similar contracts with employer groups serviced by PacifiCare of California," he added.

'It makes sense to tie some of the consumer equation into the pay packages,' especially with all the criticism leveled at entrepreneurial HMO executives, says Jim Foreman.

PacifiCare also agreed to increase collection of patient data from all physician groups to help monitor the health status of CalPERS members.

CalPERS has made national headlines by using a managed competition-like strategy to reverse the rise in health care costs that previously had been soaring at double-digit rates.

But while CalPERS offered similar three-year agreements to all of its 11 HMOs, PacifiCare was the only HMO that agreed to such an arrangement.

Instead, CalPERS' 10 other HMOs will receive one-year rate hikes averaging 2.7%, still far below industry predictions of an up to 10% increase in nationwide health care premiums next year.

The CalPERS rate increase also trails the 2.9% increase in the medical cost component of the CPI.

The new rates take effect Jan. 1, 1998, for CalPERS health plan members, 76% of whom are enrolled in HMOs.

While most health care experts applauded PacifiCare's innovative move to accept CalPERS' terms, some expressed reservations.

For example, Suzanne Mercure, manager of health care plans at Edison International in Rosemead, Calif., said, "We would rather see more incentives to increase the amount of money spent on health care delivery rather than on executive compensation."

"It duplicates incentives that are already there" in the marketplace, said Doug Sherlock, senior health care analyst at Sherlock Co. in Gwynedd, Pa.

For example, Humana Inc. Chairman David Jones didn't get a bonus because the managed care company didn't meet enrollment goals, he said.

And at CIGNA HealthCare of California, "a significant portion" of management employees incentive compensation already is tied to the portion of National Committee for Quality Assurance accreditation that deals with employer group satisfaction, according to Leslie A. Margolin, president of CIGNA HealthCare in Glendale, Calif.

Still, PacifiCare's agreement to put a specific portion of executive compensation at risk is unprecedented in the health care industry, Mr. Sherlock acknowledged.

A few industry observers expressed concerns that such an incentive program could lead to preferential treatment for CalPERs members.

"From a public policy perspective, I would be more comfortable if it were not just CalPERS but all enrollees that were polled" about member satisfaction, said Charles King, an associate with benefit consulting firm William M. Mercer Inc. in San Francisco.

He also said that incentives can have unintended consequences, pointing to Sears, Roebuck & Co.'s auto centers as an example. The retailer was sued for establishing an incentive pay program that prompted its auto center managers to sell car owners more services than they needed.

But Mr. King said a similar situation is unlikely to happen at PacifiCare because the executives whose pay is at risk are far removed from the actual delivery of care. BI

Tobacco

Continued from page 1

kids and reducing youth access to tobacco"; provide full public disclosure of the health impact of tobacco; "to protect consumers by reforming the business practices of tobacco companies"; and to provide relief to states and individuals for tobacco-related health costs.

"Be assured that any 'definitive' reports about an agreement are nothing more than speculation," the statement said.

The first of the four points is the most important and has to be dealt with before any of the other points can be addressed, said Trey Bobinger, Mississippi's assistant attorney general.

"Our primary concern is the public health piece, notably the protection of children from tobacco," Mr. Bobinger said.

"That issue must first be satisfactorily resolved before we can really get into the specifics of money, immunity and other related issues," he said.

A spokesman for Florida Attorney General Robert A. Butterworth said: "Our attorney general and other AGs have met with tobacco industry representatives over the past few weeks. At this point nothing has been resolved. Here in Florida, our focus is still on getting ready for trial, which is scheduled to begin Aug. 4."

The state of Florida is suing tobacco companies on its own in state court to recover Medicaid costs, the spokesman said.

Talk of absolving the tobacco companies from future liability in return for contributing to a compensation fund drew swift and unfavorable reaction from some quarters of Capitol Hill. A group of Democratic senators, led by Frank Lautenberg of New Jersey, sent a letter to the president, calling for "very stringent conditions" to be imposed in any settlement. These included paying "just and fair compensation" to those suffering from tobacco-related ailments and to extend the federal Food and Drug Administration's regulatory power to tobacco.

"We urge you to maintain a healthy skepticism about any proposed settlement and to adhere to a clear set of requirements before the administration assents to any such agreement. To waive claims of future liability against this industry is a very serious undertaking," wrote the senators.

The co-chairmen of the bipartisan Congressional Task Force on Tobacco and Health, Reps. James Hansen, R-Utah, and Martin Meehan, D-Mass., also wrote to President Clinton. They said that "we strongly oppose the granting of any blanket liability protection for the tobacco industry."

But observers agree that talk of a settlement is premature.

Plaintiffs attorney Stanley M. Chesley said it is incorrect to characterize the current goings-on as a proposal. The parties are in ongoing negotiations and have not agreed on a single proposal, said Mr. Chesley, a partner with Waite, Schneider, Bayless & Chesley in Cincinnati. Mr. Chesley has been involved in numerous high-profile mass-tort cases and is involved in the current negotiations among the tobacco companies, the attorneys general and representatives for the public.

A smokers' fund could be tapped 'for every lung condition that exists, unless there were tight compensability requirements,' says attorney Robin Obetz.

There are two key issues, Mr. Chesley said. The first is children smoking. "We want to make sure that that's totally abandoned." He emphasized that this is the major concern the tobacco opponents want addressed. The second issue is money. He wouldn't comment on just how much is at stake.

One difference between these negotiations and other mass-tort settlements is "a question of magnitude," because this could involve 41 million smokers. Another difference is that this is a legislative approach, he said.

"Other than that, it's similar" to other mass torts, Mr. Chesley said.

This strategy is better than previous mass-tort approaches because "if we do it legislatively, we would hope there would be a much shorter period of time" before victims get compensated, he said.

Asked how these negotiations will affect other tobacco lawsuits, Mr. Chesley said, "That's what we're working through."

Norwood Wilner, a partner with Spohrer, Wilner, Maxwell, Maciejewski & Stanford, a plaintiffs firm in Jacksonville, Fla., agrees there is no specific proposal. In fact, he thinks it is all a publicity stunt by the tobacco companies to shore up lagging stock values before their annual meetings.

The tobacco industry wants news of a potential settlement to raise its stock value, said Mr. Wilner, who won a case against Brown & Williamson in August 1996 and who represents a plaintiff suing RJR in Jacksonville.

The timing of this publicity is "just too coincidental," referring to RJR's annual meeting being held last week. "The industry uses the press to fool with its stock value," he said.

"Everyone's got their own negotiations" rather than a single encompassing negotiation, he said. "It's a bunch of people saying a bunch of things, and they're not even in the same room," he said.

Also, these negotiations are "not a new thing," he said. Mr. Wilner said it has been going on about a year and a half.

Mr. Wilner said the negotiations would not impact other tobacco litigation "at all unless Congress passes some law that restricts citizens' access to the courts.

"No one can negotiate the rights of a party to sue except that party, unless there's an act of Congress."

However, individual state legislatures voted to establish their respective workers comp systems beginning in 1911, and those laws were subsequently upheld by the U.S. Supreme Court. The employer-funded workers compensation system is designed to be a no-fault administrative system that gives workers prompt, limited treatment and pay in return for shielding employers from unlimited and unpredictable damages awards.

Mr. Wilner added that he thinks "it is possible for the industry to settle its claims; it's the morally correct thing to do."

The industry needs a mechanism to set settlement amounts and how they would vary, he said. In any case, he stressed that he is not easing up in his efforts to bring lawsuits against tobacco companies on behalf of clients.

Professor Paul Rothstein, a constitutional law expert at the Georgetown University Law Center in Washington, points out that "there is some precedent" for creating a compensation pool for those harmed by tobacco.

The workers compensation system, Mr. Rothstein said, is the precedent for "providing a substitute compensation system for people that would be simple for them to use, would have fewer things to prove and cover more people."

Other examples, he said, are the federal vaccine fund that compensates people injured after receiving certain mandatory vaccines and certain states' victim injury compensation plans.

But the federal "black lung" program, which was designed to deal with pneumoconiosis, "has certainly not been a model program," said Robin R. Obetz, an attorney with Vorys, Sater, Seymour & Pease in Columbus, Ohio, who represents employers.

The Supreme Court's decision in an unrelated case could have an impact on whether the compensation fund idea goes anywhere, said a California legal scholar.

"If the Supreme Court decides the *Amchem* case in favor of the settlement, this whole thing becomes much more feasible," according to Associate Professor Katherine C. Sheehan at the Southwestern University School of Law in Los Angeles.

In *Amchem Products Inc. et al. vs. George Windsor et al.*, the Supreme Court has been asked to review an appeals court ruling overturning a settlement of asbestos class-action claims (*BI*, March 31; Feb. 24). The high court will address the legality of binding future claimants to a global settlement.

Even though Ms. Sheehan personally does not expect the high court to support the Amchem settlement, she still thinks a tobacco settlement has "got a shot" at becoming reality.

Many people are hostile to the tort system, and if the tobacco companies present the proposal as an industry-funded way to streamline the compensation system, Congress could pass it, she said.

"I'm skeptical at best" about any proposed smokers' fund, Mr. Obetz said. "No-fault systems have tremendous transaction costs," pointed out Mr. Obetz.

He predicted that a smokers fund could be tapped for "every lung condition that exists unless there were tight compensability requirements."

"What about the situation of a claimant who has an occupational lung disease and is a smoker?" he asked.

Mr. Obetz said that the concept needs to be thought through by a lot of potentially interested parties, including employers, insurers, attorneys and medical experts.

"We will be very concerned about the spread of the workers compensation approach to other diseases," Mr. Obetz said.

"We support the notion that employers' concerns ought to be considered," said Ruth Brannon, a director of the Washington Business Group on Health. "We plan to investigate what employers will get out of this."

However, the WBGH is concerned about the unintended consequences of any federal legislation.

"Smoking is generally not considered a workplace injury, because it is difficult to prove causation," she added.

The question of how much money the pool would require to meet claimants' needs also concerns observers.

"In theory, it's possible to structure a compensation system that would be fair to injured individuals but outside the litigation system. However, the $300 billion mentioned in news reports seems very much inadequate to cover the damage that the tobacco industry has caused and continues to cause," said Allison Zieve, an attorney with the Public Citizen Litigation Group in Washington.

"The numbers that are being floated don't seem to be high enough," said Ms. Sheehan. After the $300 billion figure was announced, the tobacco companies' stock prices went up, she noted.

"If they say $300 billion now, how much will it be in the future?" asked Mr. Obetz.

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Meg Fletcher and Deborah Shalowitz Cowans contributed to this report.

Sedgwick

Continued from page 2

were to merge, their combined gross revenues would be about $2.7 billion, putting them in third place globally behind J&H Marsh & McLennan Inc. and Aon Group Inc.

Even before the latest round of broker mergers, Sedgwick Chairman Sax Riley had maintained that there would be some consolidation among the six biggest insurance brokers and that Sedgwick would be open to a merger with the right partner.

Willis Corroon, however, has maintained that it wants to remain independent, though when asked about possible mergers, Chief Executive Max Taylor recently said, "We never rule anything in or out."

Julianne Jessup, stock analyst in London for UBS Ltd., said that a deal between Sedgwick and Willis Corroon "looks ever more likely." She said that the recent mergers by M&M and Aon with other brokers "will put further pressure on both Sedgwick and Willis to re-evaluate their respective strategies."

Tony Silverman of NatWest Securities in London also has said that "Sedgwick and Willis in the long term will have to talk to each other."

Recently, Chicago-based fund manager David Herro disclosed that his Oakmark International fund had acquired a 3.1% stake in Sedgwick.

The fact that he had taken his shareholding to just above the 3% level, at which shareholders must disclose their interests under British securities laws, prompted speculation by stock analysts that Mr. Herro would use his position to encourage other shareholders in Sedgwick and Willis Corroon to force a merger.

Meanwhile, another rumor floating around the markets last week was that Aon had posted an $800 million bond to perform due diligence on Sedgwick in consideration of a possible merger.

A spokesman for Aon in London declined to comment on the speculation. BI

Monthly

Continued from page 2

ment.

While so far only four employees have taken advantage of the opportunity to change plans on a monthly basis, Mr. Grubbs believes the freedom the new program allows is responsible for VSP's HMO enrollment to grow to 90% now from 75% at year-end 1996.

VSP offers four HMOs: Kaiser Permanente, United Healthcare Corp., Health Net, the HMO subsidiary of Foundation Health Systems Inc., and PacifiCare Health Systems.

Consultants at Buck Consultants Inc., which helped VSP develop the program, believe it will provide a powerful incentive for health plans to keep members satisfied.

"Giving employees increased control over their health plans will help transform managed care into more of a free and open market," said Steve Ferruggia, national director of health and welfare services in Buck's New York office. Mr. Ferruggia developed On-Demand Enrollment.

"We believe this will also create more competitive opportunities for high-quality, forward-thinking health plans," he said.

However, some health care experts view the program as little more than a sales ploy.

"It sounds like just another gimmick to get people into managed care," said Jim Hall, president and chief executive officer of HCM Benefits Inc. in Torrance, Calif., a group benefits broker.

"This sounds like an awful bait-and-switch come-on," said Dr. David Friend, global director of health care consulting for Watson Wyatt Worldwide in Wellesley Hills, Mass.

"It defeats the whole purpose of having a supplier relationship," he said. "It would be like Ford changing engine suppliers every day. It just isn't going to work."

"How are they going to administer this? And what about adverse selection," he queried.

Both of these issues were considered in the development of On-Demand Enrollment, according to Mark Agnew and Bob Burnett, two principals in Buck's San Francisco office.

All four of the HMOs have similar benefit levels, and copayments are all $5 per office visit, so "people do not select between benefits, they select between health plans," explained Mr. Agnew.

And to protect the POS plan from adverse selection, employees can only enroll in that plan on either Jan. 1 or July 1, according to Mr. Burnett.

The POS is the only different plan with in-network copayments of $10 and out-of-network coinsurance at 70% above a $300 deductible.

In addition, initially only two of the four HMOs have agreed to accept enrollments on a monthly basis: PacifiCare and United Healthcare.

Kaiser Permanente is allowing biennial elections while Health Net, which has about 200 members, is sticking with annual open enrollment for now.

Eventually VSP plans to offer monthly enrollment for all of the HMOs and perhaps even the POS plan.

The Buck consultants think this is possible because the HMOs involved also offer Medicare Risk HMOs, which already have monthly open enrollment.

But some benefit managers think monthly elections would be an administrative disaster for employers.

"That's like doing an open enrollment every month," observed Charmaine Smith, human resources manager at Laguna Hills, Calif.-based Del Taco Inc. "It would be my worst nightmare."

VSP's Mr. Grubbs said he believes, however, that his human resources department will save time and manpower by not having to do a single big open enrollment at year end for all employees at once.

Ms. Smith also questioned the administrative task of keeping track of employee contributions with the potential for switching enrollment with greater frequency.

For VSP, that's not a problem since the company picks up 100% of its employees' health care premiums.

But such a scenario has already been considered, according to Buck's consultants.

The program would be more complicated for employers that require employee contributions because of Section 125 rules that make pretax elections irrevocable during the calendar year, except when family status changes or certain other changes, said Mr. Agnew.

In such cases, contributions that exceed a certain minimum benefit level would simply be made on an aftertax basis, he suggested.

One feature of On-Demand Enrollment that will make administration easier is online enrollment using Internet technology, he said.

Some consultants admired aspects of the program.

"It's an indication of the state of the evolution of the health care market and the technology making this possible," said Charles King, an associate in William M. Mercer Inc.'s San Francisco office.

"This does support the concept of true competition," observed Mike Sass, a principal in A. Foster Higgins & Co. Inc.'s New York office.

But Mr. Sass predicted that few people will change their minds that frequently.

"Look at daily recordkeeping in 401(k) plans as a comparison: fewer than 10% change their elections that often," Mr. Sass said. BI

BI Insurance Index

Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of April 18

Call spread	Price bid/ask
Eastern September 1997	
40/60	3.2/3.8
60/80	2.7/3.6
80/100	—/2.5
National Annual 1997	
80/100	4/6
120/140	—/4.5
June Midwestern 1997	
10/20	1/1.6
California Annual 1997	
40/60	1.2/2.3
80/100	—/2
Western Annual 1997	
40/60	1.5/3.1
80/100	—/2

Total volume: 10 Total open interest: 11,697

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

April 18 Companies	Price pence	P/E	Div. pence	Yield %	52 week high—low
Comml Union	649	11.8	30.3	5.7	759—550
Genl Accident	802	7.5	34.3	5.4	876—614
Gdn Royal Exch	276	5.5	10.0	4.6	30⁻—222
Independent	713	8.8	13.3	2.4	713—373
Royal & Sun	441	12.8	19.0	5.4	515—349
Brokers					
Bradstock	76	12.4	5.7	9.4	81—54
CE Heath	100	12.2	4.5	5.6	115—74
JIB Group	156	11.4	9.8	6.4	161—101
Lmbrt Fenchurch	110	12.8	8.4	9.5	150—101
Lloyd Thmpson	187	NA	10.0	6.7	206—167
Nelson Hurst	132	12.0	8.6	8.2	206—121
Sedgwick Grp	126	11.2	8.0	6.2	152—115
Steel Brl Jones	27	9.4	1.5	6.9	48—22
Willis Corroon	147	13.1	6.6	5.3	169—117

Source: Nordby International Inc.

BI Industry Stock Report APRIL 14, 1997, THROUGH APRIL 18, 1997

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
Acordia Inc.	NYS	31.75	0.00	9.48	33.75	27.25	16
E.W. Blanch Holdings Inc.	NYS	23.00	-1.08	14.29	23.50	17.75	35
Gallagher Arthur J. & Co.	NYS	32.00	-0.78	3.23	36.00	29.13	196
Hilb, Rogal & Hamilton	NYS	13.75	-0.90	3.77	14.00	11.38	46
Kaye Group Inc.	NDQ	4.75	0.00	-9.52	7.25	4.38	8
Marsh & McLennan	NYS	116.00	0.22	11.54	129.63	88.00	1095
Poe & Brown	NDQ	27.00	4.35	1.89	27.50	22.75	133
BROKERS	AVERAGE		0.26	4.95			
INSURERS/REINSURERS							
ACE Ltd.	NYS	60.50	1.47	0.62	66.38	40.50	423
Acceptance Insurance Cos.	NYS	18.50	0.68	-6.33	23.13	15.00	61
AEGON N.V.	NYS	70.75	7.81	11.86	73.63	42.25	162
Aetna Life & Casualty	NYS	86.00	2.69	7.50	93.38	55.38	2991
AFLAC Inc.	NYS	40.13	0.31	-6.14	44.00	28.25	764
Allied Group Inc.	NYS	35.63	2.15	9.20	38.63	22.38	49
Allmerica Prop. & Casualty	NYS	31.38	0.40	3.29	32.25	25.00	631
Allstate Corp.	NYS	63.50	4.96	9.72	68.25	37.38	3379
AMBAC Indemnity Corp.	NYS	63.00	-2.70	-5.08	74.00	47.00	375
American Bankers Ins.	NDQ	53.38	3.39	4.40	59.50	32.50	231
American Financial Group	NYS	34.75	-0.36	-7.95	38.88	28.50	89
American General	NYS	39.38	5.70	-3.67	44.63	33.00	2809
American Heritage Life Ins.	NYS	25.25	4.12	-3.81	27.75	19.00	59
American Indemnity/Fin'l	NDQ	12.88	-1.90	25.61	14.00	9.50	3
American International	NYS	119.00	4.39	9.93	129.63	88.13	4572
Aon Corp.	NYS	64.00	4.92	3.02	67.25	47.50	1014
Argonaut Group	NDQ	28.00	0.00	-8.94	34.25	27.25	26
AVEMCO Corp.	NYS	23.13	0.54	48.00	27.38	11.75	46
Baldwin & Lyons Inc.	NDQ	17.38	0.00	-5.44	20.75	14.50	2
Berkley W.R. Corp.	NDQ	49.38	3.67	-2.71	55.00	40.25	902
Berkshire Hathaway Inc.	NYS	37900.00	2.99	11.14	37900.00	30000.00	1
Capital RE Corporation	NYS	39.63	0.32	-15.01	48.00	32.50	126
CapMac Holdings Ltd.	NYS	22.75	-4.21	-31.32	36.88	22.50	732
Capsure Holdings Corp.	NYS	11.75	0.00	2.17	18.88	8.00	86
Chartwell Re	NYS	25.50	0.00	-4.67	28.50	19.88	16
Chubb Corp.	NYS	53.38	0.47	-0.70	62.75	40.88	2256
CIGNA Corp.	NYS	143.75	-0.26	5.22	161.63	102.50	928
CNA Financial Corp.	NYS	101.63	-1.33	-5.02	114.75	95.75	86
EMC Insurance Group Inc.	NDQ	12.00	-1.03	0.00	14.50	10.13	49
Enhance Financial Services	NYS	38.13	-0.97	4.45	39.50	26.13	150
Everest Reinsurance	NYS	28.38	5.58	-1.30	32.75	21.38	1188
Executive Risk Inc.	NYS	44.00	0.57	18.92	49.00	29.25	94
EXEL Ltd.	NYS	41.50	-1.19	9.57	45.13	31.75	230
Fremont General Corp.	NYS	28.25	2.73	-8.87	32.63	21.50	430
Frontier Insurance Group	NYS	53.88	10.80	40.85	53.88	30.13	613
Gainsco Inc.	NYS	8.88	-1.39	-7.79	11.75	8.75	131
GCR Holding Ltd.	NDQ	22.88	0.00	2.81	27.25	21.50	306
General RE Corp.	NYS	161.75	3.85	2.54	177.75	138.75	989
Gryphon Holdings	NDQ	14.25	0.00	0.88	19.25	12.00	21
Guaranty National Corp.	NYS	18.13	-4.61	8.21	19.00	13.50	24
Harleysville Group	NDQ	33.00	-2.22	8.20	34.00	24.50	105
Hartford Steam Boiler	NYS	46.50	3.91	0.27	49.13	42.75	210
HCC Insurance Holdings	NYS	23.88	0.00	-0.52	32.75	19.13	320
IPC Holdings Ltd.	NDQ	23.00	1.10	2.79	26.38	19.00	355
ITT Hartford Group	NYS	70.38	0.54	4.26	81.00	45.50	1465
LaSalle Re Ltd.	NDQ	28.50	1.33	-2.56	29.50	19.75	130
Lincoln National	NYS	52.50	5.00	0.00	61.63	40.75	948
MAIC Holdings Inc.	NYS	34.00	0.00	0.37	36.00	26.25	30
Markel Corp.	NDQ	105.50	-2.76	17.22	113.50	79.00	27
MBIA Insurance Group	NYS	93.38	-2.73	-7.78	104.63	70.13	719
Meadowbrook Insur. Group	NYS	24.00	3.23	14.29	34.13	15.25	26
Mid Ocean Ltd.	NYS	45.50	0.55	-13.33	55.38	35.50	179
MMI Cos. Inc.	NYS	21.75	-6.95	-32.56	33.38	21.75	362
Mutual Risk Mgmt. Ltd.	NYS	34.88	4.10	-5.74	40.00	26.88	652
NAC Re Corp.	NYS	38.25	5.15	12.92	40.63	28.50	336
Navigators Group	NDQ	18.00	2.86	-1.37	20.25	15.75	73
Nobel Insurance Ltd.	NDQ	12.25	0.00	-2.49	14.00	10.88	7
NYMagic Inc.	NYS	18.38	-2.65	2.08	21.13	17.00	42
Ohio Casualty Corp.	NDQ	39.25	1.29	10.56	42.63	30.00	102
Old Republic Int'l	NYS	26.75	3.38	0.00	27.75	20.13	487
Orion Capital Corp.	NYS	63.38	2.01	3.68	67.75	42.63	55
Partner Re Ltd.	NYS	33.25	-2.21	-2.21	36.50	25.63	434
Penn-America Group Inc.	NDQ	13.00	7.22	20.93	14.50	8.63	10
Philadelphia Cons. Holding	NDQ	29.50	5.36	26.88	30.25	16.75	27
PXRE Corp.	NYS	25.50	0.00	3.03	27.00	22.25	88
Reliance Group Holdings	NYS	11.38	12.35	24.66	12.25	6.50	1178
Reliastar Financial Corp.	NYS	60.00	2.56	3.90	65.38	40.00	352
RenaissanceRe Holdings Ltd.	NYS	35.63	2.52	7.95	41.25	26.75	29
Risk Capital Holdings	NDQ	17.25	1.85	-10.97	20.75	15.88	11
RLI Corp.	NYS	33.13	0.00	-0.75	36.63	22.38	24
St. Paul Companies	NYS	66.00	0.38	12.58	72.63	50.13	1176
SAFECO Corp.	NDQ	39.00	0.65	-1.1⁻	44.00	30.88	1860
Selbels Bruce Group	NDQ	6.13	0.00	-25.76	12.50	5.88	34
Selective Ins. Group	NDQ	41.75	1.21	9.87	43.50	31.00	19
Sphere Drake Holdings	NYS	9.13	0.00	2.82	11.75	8.13	28
TIG Holdings	NYS	31.38	1.21	-7.38	38.00	27.00	794
Titan Holdings, Inc.	NYS	18.38	4.26	11.36	18.38	13.38	63
Tokio Marine & Fire	NDQ	49.00	4.81	5.09	69.00	42.00	72
Torchmark Corp.	NYS	54.38	2.35	7.67	61.88	40.25	662
Transatlantic Holdings	NYS	81.88	1.87	1.7⁻	88.25	62.38	52
Travelers Aetna Property	NYS	33.13	3.11	-6.36	39.63	23.13	570
Travelers Corp.	NYS	50.00	7.82	10.⁻9	58.38	28.38	8769
Trenwick Group Inc.	NDQ	32.63	2.49	5.81	36.25	30.75	20
Unico American Corp.	NDQ	10.00	0.00	-8.05	11.00	6.63	24
Unionamerica Holdings	NYS	17.00	0.74	-4.23	20.75	14.75	19
United Fire & Casualty	NDQ	36.25	3.57	2.84	40.00	29.25	36
Unitrin	NDQ	49.75	0.63	-10.76	56.38	44.25	258
UNUM Corp.	NYS	70.88	3.85	-1.9⁻	79.63	55.50	1232
US Facilities Corp.	NYS	19.63	0.64	0.00	20.50	14.88	17
USF&G Corp.	NYS	19.63	-0.63	-5.99	23.13	15.00	1694
USLIFE Corp.	NYS	46.50	3.62	39.65	48.63	26.88	690
Vesta Insurance Co.	NYS	35.88	1.77	14.34	41.50	24.50	247
Washington National	NYS	28.00	1.36	1.82	30.75	25.13	213
Zenith National Ins.	NYS	25.50	-3.32	-6.85	28.88	24.13	77
Zurich Reinsurance Centr.	NYS	38.38	0.00	22.60	38.88	28.38	94
INSURERS/REINSURERS	AVERAGE		1.52	2.69			
HEALTH MAINTENANCE ORGANIZATIONS							
Healthsource Inc.	NYS	21.13	1.81	60.55	38.25	9.75	1113
Humana Inc.	NYS	20.13	-3.01	5.62	25.38	15.00	2256
Oxford Health Plans	NDQ	60.25	-0.21	2.88	67.13	27.69	7243
Pacificare Health Sys.	NDQ	77.00	1.65	-5.23	86.25	59.63	435
Safeguard Health Enter.	NDQ	9.88	-2.47	-43.57	22.50	9.63	55
Sierra Health Services	NYS	25.13	1.01	2.03	35.88	22.38	354
United Healthcare Corp.	NYS	47.13	-6.68	4.72	62.13	30.00	6623
Wellpoint Health Networks	NYS	40.50	7.28	17.82	45.88	23.38	1813
HMOs	AVERAGE		-0.08	5.69			
ALL COMPANIES	AVERAGE		0.57	4.44			

Top advancing issues: Reliance Group Holdings, Frontier Insurance Group, Travelers Corp. Leading decliners: MMI Cos. Inc., United Healthcare Corp., Guaranty National Corp. Most active issue: Travelers Corp. The BI Index rose 0.5%; the Dow Jones 30 Industrials decreased 4.9%; the S&P 500 increased 3.9% and the NYSE Composite increased 3.4%. Average P/E: Brokers, 16.7; insurers/reinsurers, 17.6; HMOs, 27.9.

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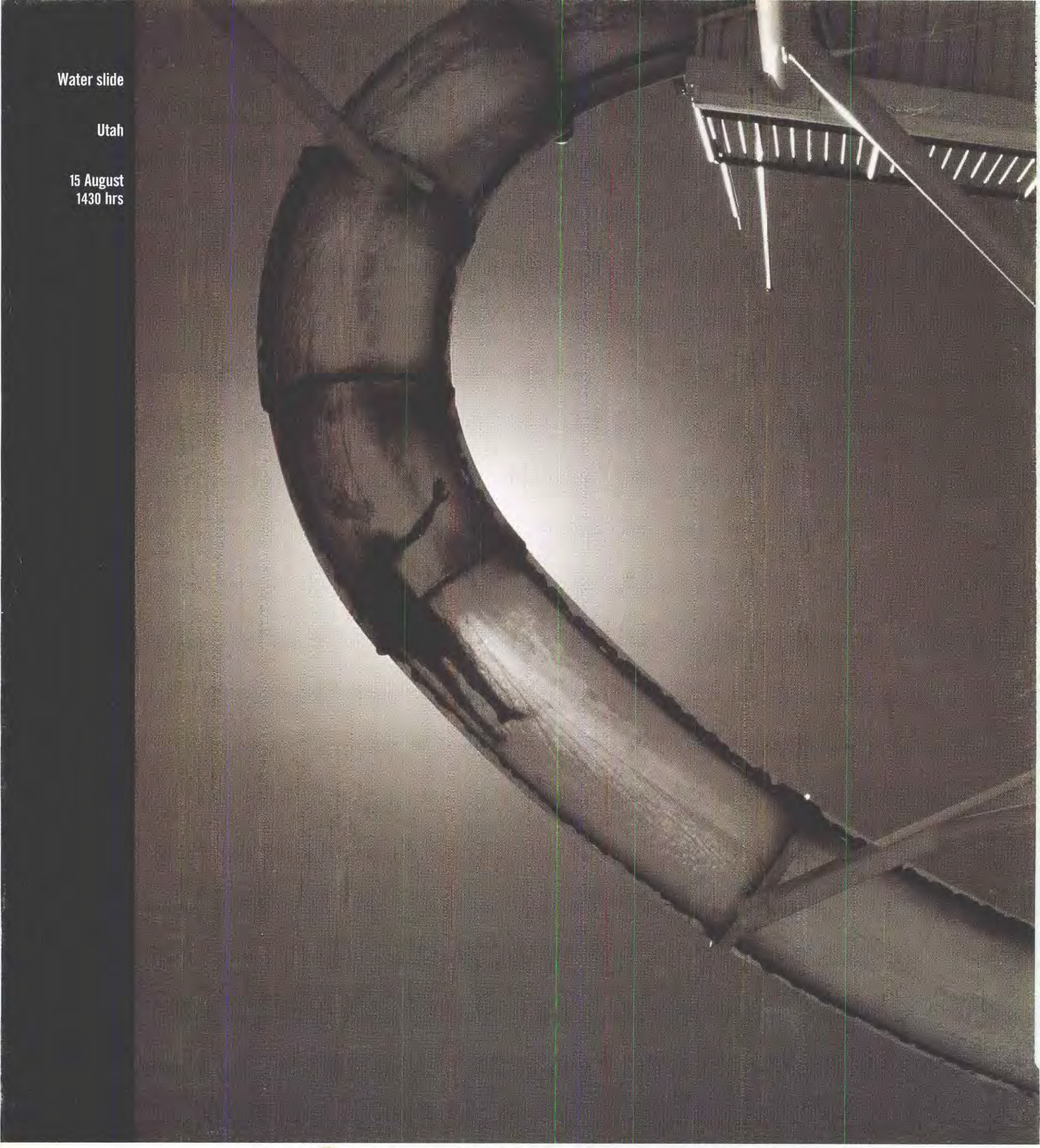

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