

JANUARY 13, 1986

business insurance

update

Property/casualty insurers will report profits for 1985

NEW YORK—The property/casualty insurance industry's net income in 1985 will be about \$1.7 billion, the Insurance Information Institute says. The III based its estimated figure on about \$1.9 billion in federal tax credits and \$5.3 billion in capital gains, and the industry's \$5.5 billion in operating losses.

The III released its estimate last week after consumer advocate Ralph
Continued on next page

Reporting weekly for corporate risk, employee benefit and financial executives/\$1.50 a copy; \$60 a year

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States scrap ISO's claims-made form

By ROBERT A. FINLAYSON

LOS ANGELES—The Insurance Services Office's claims-made commercial general liability policy will never be available nationwide unless ISO makes major changes in the form, state regulators say.

"While the states are not speaking with one voice, I think the message is loud and clear that, as written, the major insurance states are not going to permit the claims-made form to be implemented," said Wayne Jones, deputy director of the Ohio Insurance Department.

To date, 12 states have rejected ISO's revised claims-made CGL form, rendering it unavailable for use in those states. The form has been rejected in Alaska, Arizona, Illinois, Michigan, Minnesota, North Carolina, New Jersey, New York, Ohio, South Carolina, Virginia and Washington.

The form has been formally accepted for use in only eight states, while five states' laws permit it to be used unless the insurance department specifically rejects it. Other states have not yet acted on ISO's filing (see map).

ISO had hoped the new claims-made form, which would have revolutionized the way the most widely used liability contract is written, would be ready for use nationwide by Jan. 1. Insurers would have had the option of writing gen-

eral liability coverage on either a claims-made or occurrence form.

ISO has yet to decide what action it will take in light of states' rejection of the form, a spokesman said. But already one insurer—The St. Paul Cos. Inc.—is preparing to file its own claims-made form to answer regulators' complaints about the ISO form (see story, page 42).

ISO has already made several major changes in the claims-made form to answer complaints from regulators, brokers and buyers (BI, Oct. 14, 1985).

But now, regulators specifically want ISO to amend the form so that the aggregate policy limits are reinstated when policyholders buy the optional extended reporting period, or "tail," coverage. They also want insurers to provide loss information to claims-made policyholders.

In addition, regulators want to restrict use of the claims-made form to a limited number of classes of risks, like those with long-tail exposures, because they fear the average CGL policyholder—especially the small business owner—will not understand the complexities of claims-made coverage.

Regulators note that states now permit certain types of risks to be written on claims-made forms.

"Widespread application of claims-made coverage would result in confusion on the part of con-

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States taking a stand on claims-made

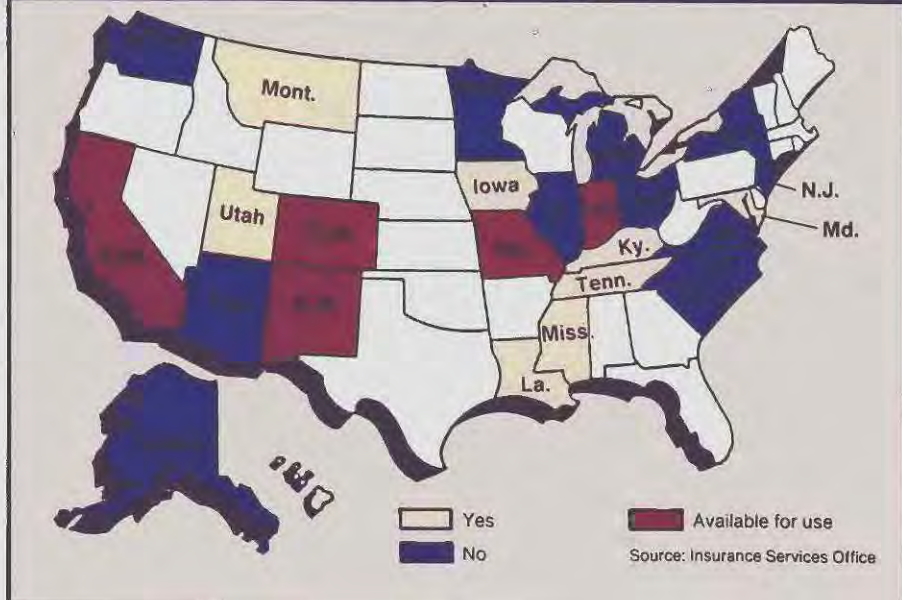


Chart: Amy Palmer

Work comp self-insurers must pay California fund

By STEVE TARAVELLA

SACRAMENTO, Calif.—Businesses that self-insure their workers compensation exposures in California must contribute to a statewide security fund by Wednesday or lose their right to self-insure.

And, employers that stopped self-insuring their workers comp exposures in California during the past three years must also pay into the fund, even if they are now buying commercial coverage or are no longer in business.

All self-insured employers except public entities are being assessed 1.5% of what they paid in work comp benefits in 1984 on injuries reported in the same year by the California Self-Insurers Security Fund. The assessments range from 42 cents to \$95,000 per company; the median assessment is about \$6,000.

The self-insurance security fund was established in July 1984 to pay claims to injured workers if the assets of a bankrupt self-insurer are insufficient to make payments (BI, June 25, 1984).

The assessment, which was imposed Dec. 15, is expected to generate about \$2 million, which is expected to be enough to satisfy claims against bankrupt self-insurers throughout this year.

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Insurer charges A&A, others took excessive commissions

By DOUGLAS McLEOD

NEW YORK—An insurance unit of Greyhound Corp. is charging in a lawsuit that Alexander & Alexander Services Inc. and several others conspired to defraud it of millions of dollars on two large liability insurance and reinsurance programs.

Pine Top Insurance Co. Ltd., a London-based Greyhound subsidiary, charges in the suit that A&A, its London subsidiary Alexander Howden Holdings Ltd., several Howden-related companies and others devised a complex scheme to strip excessive commissions from amusement park and association product liability business placed with Pine Top.

The suit, filed last month in U.S. District Court for the Southern District of New York, seeks \$21 million in actual damages.

Pine Top alleges that the defendants controlled the underwriting of some of the business on the primary level by placing it with U.S.-based Howden underwriting subsidiaries.

Howden then placed reinsurance of the business with Pine Top through a subbroker, London-based Charman Mauduit (Insurance Brokers) Ltd., in which Howden had an undisclosed interest, the complaint charges.

The defendants stripped additional commissions, the complaint alleges, through their control of the bro-

kering and underwriting of Pine Top's own retrocessions to Beacon Insurance Co. and Ajax Insurance Co. Both of those reinsurance companies have since been declared insolvent by insurance regulators.

Pine Top charges, for example, that Colin Bird—former managing director of Howden's North American operations and the only individual defendant—had an undisclosed interest in B.F.G. Toomey Associates (Underwriting Agency) Ltd., a London-based representative for Beacon.

Mr. Bird himself also had binding authority for Beacon, the complaint notes.

(The connections among Mr. Bird, B.F.G. Toomey and Beacon are detailed in a rehabilitation plan for Beacon recently filed by the North Carolina Insurance Department. The department argues in the plan that Mr. Bird acted in bad faith in his dealings with Beacon and that, as Beacon's rehabilitator, the North Carolina insurance commissioner may either deny coverage on business bound by Mr. Bird and Toomey or to seek reimbursement on claims from Howden.)

In all, commissions taken by the defendants on the carnival and association program business typically amounted to more than 35% of gross premiums, and in some cases hit 47.5%, according to Pine Top's complaint.

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'It is most unfortunate that Pine Top has chosen this inflammatory route to respond to A&A's claims,' says A&A's Mr. Bogardus.

Brokers' 1986 budgets call for continued profit improvement
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update

Industry reports 1985 profits

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Nader and J. Robert Hunter, president of the National Insurance Consumer Organization in Alexandria, Va., denounced as "fraudulent" the III's reporting of \$5.5 billion in operating losses for 1985 (BI, Jan. 6).

NICO said the operating loss figure was misleading because it didn't include \$6.5 billion in capital gains—including \$1.2 billion in unrealized capital gains—and the \$1.9 billion in tax credits and improperly expensed \$2.1 billion in dividends paid to policyholders. NICO has estimated the industry's net income for 1985 at \$5 billion.

Sean Mooney, senior vp with the III in New York, defended the use of operating figures. "An operating figure is meant to show what is happening in the normal course of a business," he said. "To look at just aftertax earnings is misleading because it includes numbers that don't relate to the basic business of insurance."

Mr. Mooney said the Nader-Hunter news conference prompted the III's release of its earnings estimate. Normally a net earnings figure, based on A.M. Best Co. data, isn't released until March.

MIC reinsureds to join talks

NEW YORK—Reinsurance policyholders of Mission Insurance Co., Mission Insurance Group's underwriting unit that has been declared insolvent by the California Insurance Department, will join negotiations to bail out MIC, which has been declared insolvent by California insurance regulators (BI, Nov. 11, 1985).

The MIC reinsurance policyholders are expected to meet here Wednesday with California regulators and representatives of MIG and American Financial Corp., MIG's chief shareholder.

A bailout plan for MIC hinges on the support of these reinsurance policyholders (BI, Dec. 2, 1985). Regulators and MIG representatives have been negotiating in Los Angeles over the past month.

To assist them in negotiations, a group of the policyholders has retained the New York law firm LeBoeuf, Lamb, Leiby & MacRae and auditor Peat Marwick & Mitchell Co., says Norris W. Clark of the California department.

The department expects a definitive agreement on the bailout plan in about 10 days, says Joseph A. Morton of the department.

Also, four MIG debtholders sued last week in U.S. Bankruptcy Court in Los Angeles to place MIG into Chapter 11 bankruptcy.

AIG unit considers excess pool

NEW YORK—American International Group is attempting to form a Barbados-based pool that would provide members with \$25 million to \$50 million of liability insurance limits excess of \$25 million, according to Joseph E. Smetana, president of AIG Risk Management Inc. of New York, a unit of AIG.

Mr. Smetana said AIG, which has made private offerings of pool stock to "major corporations" recently, is "looking for a capital threshold of \$100 million" to establish the pool.

"We should know within the next 30 days whether we'll get enough capital for a go or no-go," he said late last week. However, he added, the responses from companies have been positive.

OSHA to increase spot checks

WASHINGTON—The Occupational Safety and Health Administration will conduct more spot checks of companies that are now generally exempt from safety inspections because they are in industries with above-average safety records.

Patrick Tyson, OSHA's acting chief, said the checks were being made to encourage all employers to promote employee safety.

OSHA expects to conduct about 700 spot checks in industries with above-average safety records. OSHA noted, though, it still will concentrate inspections on industries with the highest accident rates.

Monsanto can recoup trial costs

CHARLESTON, W. Va.—Monsanto Co. can recover approximately \$305,000 in court costs from six former Monsanto employees who unsuccessfully sued the company for chemical contamination, a U.S. District Court judge in Charleston ruled.

Judge John T. Copenhaver Jr. ruled Dec. 30 that Monsanto was entitled to the reimbursement. Monsanto sought \$516,000.

The court costs were incurred in the 10-month trial that ended April 30, 1985, when a jury found Monsanto not liable for injuries to seven employees arising out of their exposure to dioxin.

Although the jury found that the dioxin had caused employee illness, it also found that Monsanto was not guilty of "willful, wanton and reckless misconduct," which employees must show to recover damages outside the state workers compensation act.

The jury did find that one worker could recover \$200,000 for injuries suffered from his exposure to para-amino-biphenol or PAB.

An attorney for the employees said he would appeal.

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New capital won't add much to industry capacity: Analysts

By JUDY GREENWALD

NEW YORK—Analysts say that \$385 million in new capital recently raised by property/casualty insurers will not have a major effect on capacity, even though many of the insurers will use the funds to write more business.

The most recent round of capital infusions "is very tiny" considering the degree to which the industry is undercapitalized, says Gloria Vogel, vp with Legg Mason Wood Walker in New York.

"It's a drop in the bucket," adds Myron M. Picoult, senior vp and senior insurance analyst with Oppenheimer & Co. in New York.

"These guys have got a ways to go," Mr. Picoult says. "Some of them are beginning to realize they've got to ante up on the reserves. I think the market is going to remain tight for a while."

"In certain areas of insurance, where insurers have severe problems with the risk itself, it's hard to see where it would have an effect," says Sean Mooney, senior vp and economist at the Insurance Information Institute, though he says the new capital will increase overall capacity.

An example of an area in which no new capacity would be created is pollution liability, where insurers cannot adequately spread the risk, no matter how much

capital they write against, Mr. Mooney said.

The insurers that have benefited from recent infusions include:

- American International Group Inc., which raised net proceeds of \$147.8 million in an exchangeable money market cumulative preferred stock issue (BI, Jan. 6).

- Aetna Life & Casualty Co., which raised \$75 million through a preferred stock offering.

- Skandia America Reinsurance Corp. in New York, which received a \$50 million capital infusion from its parent company, Skandia International Insurance Corp. of Stockholm. The new funds boost Skandia America's policyholder surplus to more than \$100 million.

- Financial Guaranty Insurance Co. in New York, which received a \$38 million capital infusion from its parent company's owners, increasing its policyholder surplus to about \$207 million.

- Evanston Insurance Co., based in Evanston, Ill., which received a \$22.5 million capital infusion from its parent company, Evanston Services, raising its surplus to about \$70 million.

- Philadelphia Reinsurance Corp., which received a \$15 million infusion from its parent company, the Nederlandse Reassurantie Groep in Amsterdam, bringing

Continued on page 43

CIGNA buys Acmat shares to settle suit

By STEPHEN TARNOFF

EAST HARTFORD, Conn.—CIGNA Corp. is buying a portion of one of the nation's largest asbestos removal contractors to settle a lawsuit filed by the company after CIGNA refused to insure it last year.

A CIGNA Corp. affiliate is buying 50,000 shares of common stock from Acmat Corp. for approximately \$1 million, giving CIGNA a 3.8% ownership in Acmat.

In addition, "consulting and contracting services are continuing between the companies," according to a statement released by Henry W. Nozko Sr., Acmat president and chairman.

CIGNA canceled Acmat's package insurance program last year, citing a more restrictive underwriting policy. Acmat later sued CIGNA and three subsidiaries for unspecified compensatory and punitive damages and attorneys' fees claiming the lack of insurance had damaged its business (BI, March 25, 1985; June 3, 1985).

Spokesmen for Acmat and CIGNA declined last week to elaborate.

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Kerr-McGee says claims won't exceed retentions

By MICHAEL BRADFORD

GORE, Okla.—Kerr-McGee Corp. believes workers compensation and any liability claims that might arise from the leak of a toxic chemical at its Sequoyah Fuels Corp. plant here will fall within its self-insured retentions.

"Our initial evaluation is that claims will not be material from an accounting standpoint," says Larry V. Poulson, director of risk management and claims for Kerr-McGee.

The Jan. 4 leak of uranium hexafluoride at the Gore plant resulted in one worker's death and caused several Sequoyah employees and about 100 area residents to seek treatment at a local hospital. The leaking gas spread for several miles in the surrounding community.

A spokeswoman at Sequoyah Memorial Hospital said the patients were treated for symptoms that included respiratory problems and irritation to skin and eyes.

The accident occurred at the uranium processing plant when a cylinder containing the chemical ruptured. Workers had overfilled the 14-ton container and were heating it to release some of the gas.

Mr. Poulson said he expects some legal action to result from the accident, but he added the company believes there is very little "element of damages" that would allow residents to file liability claims.

"Other than from the workers compensation standpoint, we don't believe anyone can prove damages," Mr. Poulson said. He said that because all those treated at the hospital have been released, no one expects long-term health problems to result from the gas leak.

"There is no long-term disability. That's why we estimate (claims activity) to be so low," he said.

Oklahoma City-based Kerr-McGee is self-insured for the first \$1 million of workers compensation losses, according to a spokeswoman for the Oklahoma Workers Compensation Court. And, the company has \$2 million in excess workers comp insurance above its SIR bro-

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Tax-free status of 3 benefits expire

By JERRY GEISEL

WASHINGTON—Employer-provided tuition reimbursement, group legal and van pooling benefits now are taxable, but it isn't clear if companies should begin withholding taxes for employees who participate in these plans.

Sections of the Internal Revenue Code that allow employers to provide these three benefits tax-free to employees expired on Dec. 31.

To the surprise of many observers, Congress last month failed to give final approval to several proposals that would have temporarily extended the tax-favored status of these benefits for three to six months while legislators decided on their long-term future.

Benefit experts are not sure whether Congress will approve temporary or permanent extensions when legislators return to Washington later this month. And, this uncertainty creates what may be a no-win situation for employers offering these benefits.

If companies don't withhold taxes for employees receiving the benefits, then these workers—and there are at least 5 million of them—will have to pay additional taxes at the end of the year.

"This can lead to situations where employees become irate when they find out they owe additional taxes, but haven't saved any money to pay for those taxes," said James Klein, a principal with Towers, Perrin, Forster

& Crosby in New York.

On the other hand, if Congress retroactively extends the tax-favored status of these benefits, employers that withheld taxes will be subsequently forced to adjust their payroll systems to reduce the amount of withholding so too much tax is not withheld.

Unfortunately, the Internal Revenue Service isn't providing any clear-cut guidance on the issue.

For now, the IRS only will say through a spokesman that unless Congress passes a retroactive extension, "we would expect (these programs) to be taxable benefits."

Tuition reimbursement, also known as educational

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errors & omissions

Due to a production error, Herbert V. Kaighan, a principal in the Los Angeles office of William M. Mercer-Meindinger Inc., was incorrectly identified as Jerome Karter in a picture appearing with Mr. Karter's International Issues column in the Jan. 6 Perspective section of Business Insurance. Mr. Karter is vp and manager of the New York International Department of Johnson & Higgins.

Workers compensation

Focus is shifting to return-to-work programs

By CAROL CAIN

Vocational rehabilitation is the rising star in workers compensation programs.

Insurers and employers, in their never-ending battle with rising workers compensation costs, are concentrating less on disability benefits and intensifying their focus on vocational rehabilitation efforts.

But, while vocational rehabilitation is growing in importance, it is often misunderstood.

And, the high cost of vocational rehabilitation leads many to question if the effort is worth the price.

Nonetheless, proponents say that proper integration of vocational rehabilitation with other aspects of the workers compensation system and creating incentives for injured workers and their employers to commit to vocational rehabilitation programs can make the effort productive and cost-effective.

To many, the term "rehab" brings thoughts of hospitals, wheelchairs and occupational therapists. But these services are generally part of an injured worker's medical or physical rehabilitation and historically have been automatic benefits in workers compensation cases.

Vocational rehabilitation is the step—or steps—needed to get an injured worker back to a job after the worker has reached maximum medical recovery.

These steps may include a counselor or claims manager working directly with an injured worker and his or her employer to find light duty work for a temporary period or it may mean retraining the injured worker. As a result, vocational rehabilitation is often labeled an employment service.

A more academic definition of vocational rehabilitation captures the broad thrust. Vocational rehabilitation is "the restoration of an occupationally injured or diseased employee to his optimum physical, mental, vocational and economic usefulness," according to the 1984 Overview of Vocational Rehabilitation in Workers' Compensation, a report compiled by the Rehabilitation Committee of the International Assn. of Industrial Accident Boards & Commissions.

Noted workers compensation legal scholar Arthur Larson has referred to vocational rehabilitation as "the task of restoring the man himself to the maximum usefulness that he can attain under

his physical impairment."

Only a few state laws, however, define vocational rehabilitation. Nevada's is one, where vocational rehabilitation is defined as "assisting in the return of an injured worker to gainful employment, at a justifiable cost, within a reasonable time after he is injured or contracts an occupational disease."

A big issue emerging nationwide is what is a justifiable cost of vocational rehabilitation.

Supporters of vocational rehabilitation contend that putting injured workers back to work ultimately will save workers compensation benefit costs beyond the cost of the vocational rehabilitation.

But, there is little evidence to show that vocational rehabilitation efforts save employers money.

"Clearly, in most cases, the effort is not cost-effective," admits

John L. Lewis, a Coconut Grove, Fla.-based workers compensation expert who advises many states on their workers compensation reform measures.

One of the few studies of the cost of vocational rehabilitation, conducted by the California Workers Compensation Institute found that the average cost of vocational rehabilitation increased nearly four times faster than total workers compensation incurred losses over the last eight years (see story, page 14).

Other vocational rehabilitation cost-effectiveness studies, however, are now under way, including a two-year study by the Rehabilitation Committee of the International Assn. of Industrial Accident Boards &

Commissions (see story, page 18).

But, while the cost effectiveness of vocational rehabilitation is in doubt, no one will quarrel publicly with the basic concept of vocational rehabilitation: getting an injured worker back to the job.

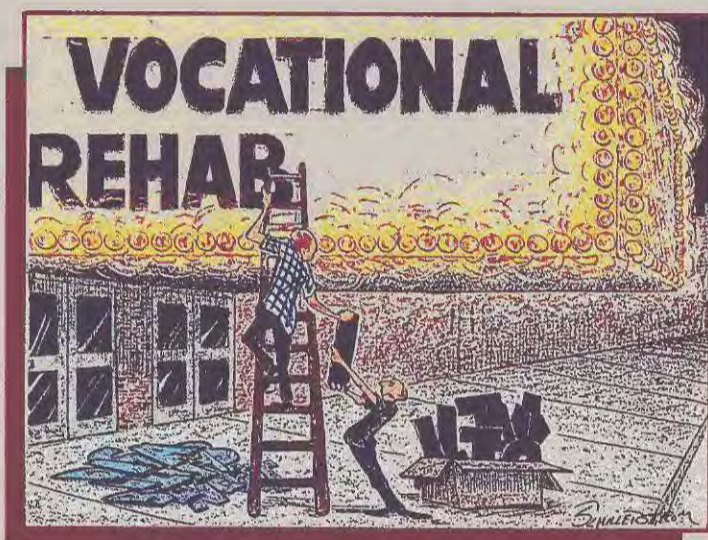
"It sounds just awful to say vocational rehabilitation is not necessarily a good thing," observes Eric Oxfield, manager of health care and employee benefits for the U.S. Chamber of Commerce in Washington.

"It's hard to downgrade or criticize efforts to return people to work," agrees Mr. Lewis.

In addition, there are reasons beyond economic concerns to support vocational rehabilitation programs.

"The payoff may not be to employers and their insurers, but to

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Experts endorse holistic plans

The key to returning an injured worker to his or her job quickly is to offer a vocational rehabilitation plan as soon as possible after an injury, experts say. They add that the plan should be designed with the needs and abilities of the injured worker in mind—a holistic approach. See story, page 17.

'Keep in touch,' employers told

Vocational rehabilitation programs should be a major concern to employers, but for many it is not, rehabilitation professionals say. Employers also should keep in contact with injured workers during rehabilitation to ensure that rehabilitation costs are controlled, the professionals say. See story, page 19.

States may alter rehab statutes

Several states are examining modifications to the vocational rehabilitation requirements in their workers compensation statutes to improve services to injured workers and reduce costs. Several other states amended the rehabilitation provisions of their laws last year. See story, page 20.

Employers will pay more in 1986

By MEG FLETCHER

Employers will pay more for workers compensation insurance this year because insurers are raising rates 10% to 15% and using premium-cutting devices less.

Employers can expect manual rates to increase an average of about 10% to 15% in 1986, according to *Business Insurance* interviews with leading workers compensation insurers and industry sources.

However, rate increases will vary widely from an estimated zero in New Jersey to 8% in some Northeastern states and about 12% nationwide, predicts one insurer.

And, employers can expect insurers to whittle down the amount of premium reductions afforded by such devices as dividend plans, rate deviations and schedule credits.

Insurers also will demand bigger deposit premiums and withdraw from writing paid-loss retrospectively rated programs while promoting incurred-loss retro programs.

Furthermore, insurers will be more choosy about which employers they insure.

The reason for higher prices and new underwriting restrictions: Insurers say they are losing money on workers compensation insurance.

Overall, workers compensation insurers suffered an underwriting loss of \$4 billion in 1985 on a total premium of \$20 billion, a 120% combined loss and expense ratio, said Robert L. Hilton, senior vp of the National Council on Compensation Insurance, a ratemaking and statistical organization.

The results are "better than the previous year, but still horrible," he added. Compared with 1984, 1985 losses were \$400 million less, premiums were \$3 billion higher and the combined ratio is improved by 5.9%.

Investment income earned in 1985 on all outstanding workers compensation reserves is estimated at \$3 billion to \$3.2 billion, creating a net loss for work comp insurers of \$800 million to \$1 billion.

Inadequate rates, rising frequency of injuries and higher medical costs combined to create the underwriting loss, insurers say. And, lower interest rates mean less investment income in 1986 to offset underwriting losses.

"As an industry as a whole, we were not getting

enough for workers compensation," said Donna Symonds, Aetna's Life & Casualty Co.'s director of product development for workers compensation.

"Workers compensation will require a significant increase in rates to get us back to profitability," said Robert J. Vairo, chairman and CEO of C&F Underwriters Group, a Crum & Forster Corp. affiliate.

Crum & Forster had a workers compensation combined ratio after dividends of 134.7% for the first nine months of the year.

It was the sixth-largest workers compensation insurer in 1984, according to A.M. Best Co., with \$651 million in direct written premiums.

Rates will go up faster and higher in competitive rating states where insurers competed fiercely on price in recent years.

In states where rates are more controlled by regulators, called administered pricing, the rate increases will be lower because the regulators curb the extremes of market swings.

Regulators also are under "tremendous political pressure to keep rate increases down," noted Steven D.

Continued on next page

Discount plans may alter work comp premiums

A workers compensation premium is based on manual rates filed in each state by insurers for different employer classifications.

However, employers paying at least 85% to 90% of all written work comp premiums qualify for one or more of these discount plans:

- Experience rating is applied to all but very small individual businesses. The manual rate is altered based on loss experience, relative to similar policyholders engaged in similar enterprises. There is a greater penalty for frequency of losses than there is for severity. Experience rating is statistically based, and can increase or decrease the rate charged.

- Deviations from a manual rate are across-the-board reductions permitted in some states. Deviations allow an insurer to reduce all manual premiums by a fixed percentage as filed with the state insurance department. Deviations now range from about 5% to 15%.

- Schedule rating, available in some states,

permits insurers to adjust premiums based on the underwriter's appraisal of the employer's safety force and its management. When schedule rating is used with experience rating, it should recognize conditions not reflected in the available experience.

- The premium discount plan, which discounts premium by size, also can be applied.

- Retrospective rating bases the employer's premium upon the size of the premium and the actual loss experience for the policy period. (Since retrospective rating includes premium discounts, a separate premium discount is not also applied.)

The employer pays a deposit premium, based on a retrospective rating formula, when the policy begins. The premium is adjusted after the policy period when the experience is known, subject to minimums and maximums.

There are incurred-loss retro plans, and paid-loss retro plans. Under the conventional

incurred-loss retro plan, the policyholder pays an advance premium based on the estimated standard premium. The premium is later adjusted based on actual loss experience.

Under a paid-loss retro plan, the policyholder pays a reduced premium in advance with the balance paid either by a letter of credit, surety bond, promissory note secured by a letter of credit or surety bond or another type of financial security. The amount paid at inception includes the non-loss portion of the standard premium plus a loss fund deposit. The policyholder is required to replenish the loss fund as it is depleted by claim payments.

- Dividend plans return premium to the policyholder at policy expiration, but cannot be guaranteed at policy inception. Flat or level dividends are based on an insurer's overall experience. Loss-sensitive or sliding scale dividends, based more on the policyholder's loss experience, are growing in popularity.

Comp market

Continued from previous page
Millikan, associate vp and director of workers compensation for the Alliance of American Insurers.

As a result, how much rates increase in each state will depend not only on insurers' loss experience in each state, but also on securing the approval of insurance regulators.

Even in states where higher rates are approved, "It will take all of 1986 and 1987 to get the rate levels back to what is needed," Mr. Vairo said, explaining there is nearly a two-year lag between the approval of higher rates and the impact on insurers' bottom lines.

But, the higher cost of workers compensation insurance in 1986 will not be as great as the price increases in other property/casualty lines.

Except for Wausau Insurance Cos., the insurers' estimates of manual rate increases tended to be slightly lower than the 15.5% projected by industry sources and the NCCI (BI, Dec. 9, 1985).

Forecasting manual rates in 1986, a Hartford Insurance Group spokesman predicted a 12.5% average increase nationwide. But he said manual rates could climb as high as 50% in a specific state if rates are grossly inadequate.

Ward Jungers, assistant vp-workers comp for CIGNA Corp., the fourth-largest work comp insurer, predicts an 8% to 12% increase in manual rates in 1986. CIGNA had \$831 million in direct written premiums in 1984, according to Best's figures.

"There will definitely be another round of rate and price increases in 1986. They will probably not be as much as the insurers would like to see, but more than the employers want to see," Mr. Jungers said.

An Aetna representative predicted about an 11% increase, while a spokesman for two American International Group Inc. units—American Home Assurance Co. and National Union Fire Insurance Co. of Pittsburgh,—predicted an average 8% to 10% increase, which could range as high as 25%.

A spokesman for Liberty Mutual Insurance Co., the largest work comp insurer, predicted a 6% to 8% increase in filed rates this year.

Meanwhile, workers comp manual rates in California, where rates are set independently of the NCCI, increased an overall 8.2% earlier this month.

Joining higher manual rates in raising the cost of workers compensation will be insurers' insistence on more selectively and restrictively using premium reduction devices on individual accounts.

"The use of price-cutting tools is on the decrease," said Charles Coakley, senior counsel for the American Insurance Assn.

"They are all drying up, except for retrospective rating," he said. In addition, insurers are favoring incurred-loss retro programs over paid-loss retro programs.

"Companies are taking drastic market action and will probably continue through 1986," said the Alliance's Mr. Millikan.

The "conservative pricing environment"—reductions in the use of premium-cutting devices—began in the second half of 1984 and will continue into the near future, said Dick Lepinski, product manager for workers compensation with Wausau, the seventh-largest comp insurer with \$624 million in direct premiums in 1984.

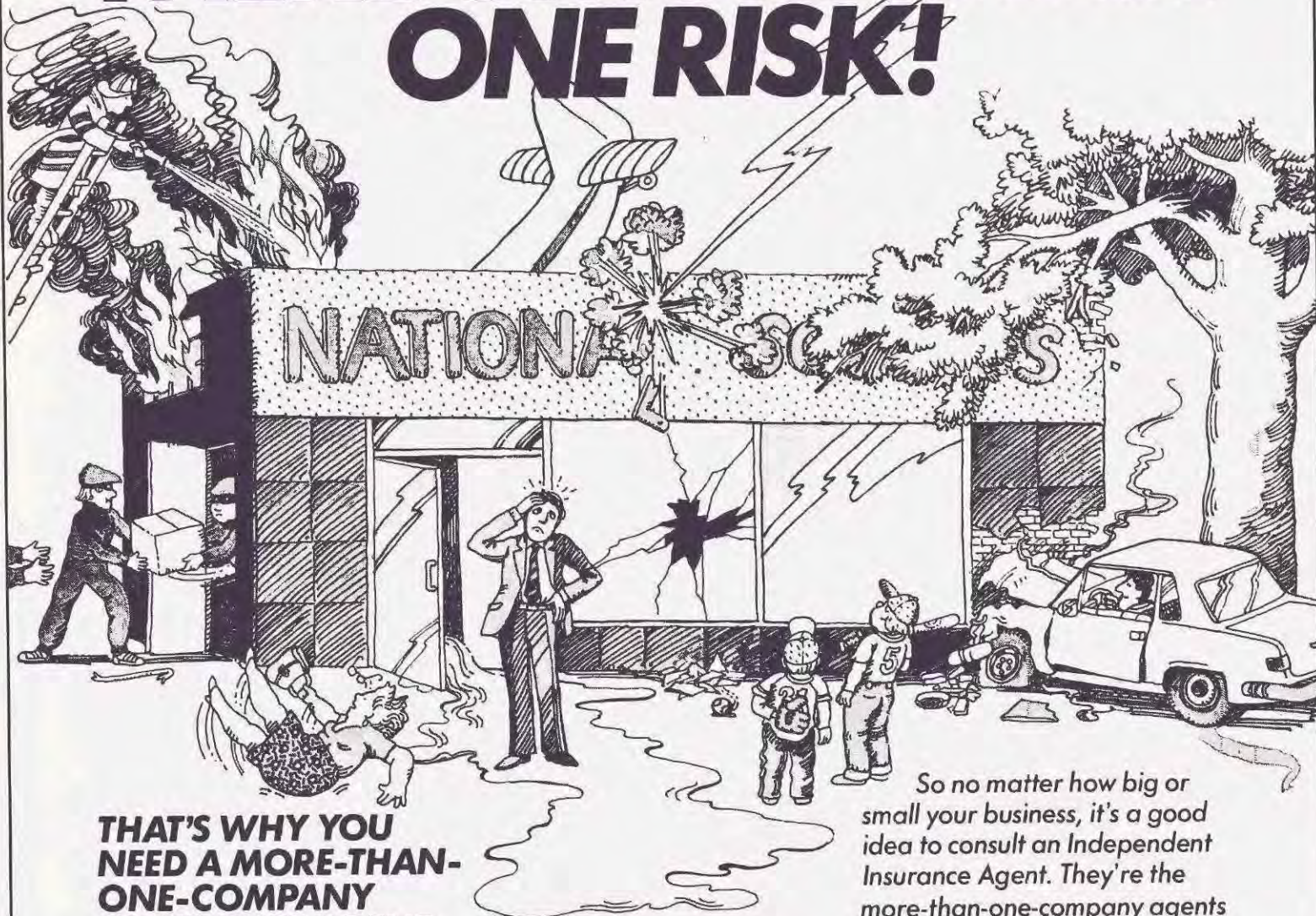
Specifically, insurers are:

- Restricting the use of dividend plans.

Generous dividend plans cost insurers more than many realize and have added 8 to 10 points to the industry's combined loss and expense ratio, said Tom W. Brown, corporate secretary with fifth-ranked Hartford, which had \$677 million

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IN BUSINESS, THERE'S MORE THAN ONE RISK!



THAT'S WHY YOU NEED A MORE-THAN- ONE-COMPANY INSURANCE AGENT.

Fire. Theft. Vandalism. Liability. Computer Crash. Pollution Liability. Product Recall. D&O Liability. Business Interruption Losses. Product Liability. Key Person Losses. These are just some of the many risks that businesses must face every day. What's the best way to manage these risks? Many risk managers turn to their Independent Insurance Agent. They know that an

Independent Agent is a true professional who can recommend creative programs that utilize traditional insurance, self-insurance, co-insurance, captives, or a combination that best suits the special needs of your business. And because Independent Agents represent several insurance companies not just one, they can help you select the best business coverages at the best price.

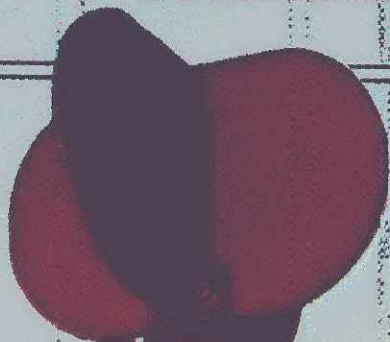
So no matter how big or small your business, it's a good idea to consult an Independent Insurance Agent. They're the more-than-one-company agents...and helping you manage your business risks is their business.

Contact your Independent Insurance Agent today. You'll find one wherever you find this symbol.



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Comp market

Continued from page 4
in direct written workers compensation premiums in 1984.

"Dividends reached a peak of 10% of premium in mid-1984. Between then and now insurers have reduced them 15%," the NCCI's Mr. Hilton said.

Mr. Millikan said dividends are now about 5% to 15% of premium and insurers are moving from a flat dividend for all policyholders to a sliding scale, based on an individual employer's loss experience.

This cutback affects a lot of employers, said Mr. Vairo.

Crum & Forster is cutting policyholder dividends 40% this year, Mr. Vairo said. The company also has tightened the criteria to participate in dividend plans, he said.

Richard Palczynski, second vp and actuary with Travelers Insurance Co., the second-largest work comp underwriter, said, "We will continue to restrict our use of dividend programs to profitable risks in profitable states."

Travelers wrote \$965 million in direct workers compensation premiums in 1984.

- Restricting the use of rate deviations.

For example, workers compensation insurers in Florida had used an average deviation of 15%, but that is now closer to 5%, Mr. Hilton said.

Most insurers are amending their filings to lower their deviations. Others are assigning policyholders to subsidiary companies dubbed "pups," which have lower approved deviations.

Aetna, the third-largest work comp insurer with \$853 million in direct written premiums in 1984, is among the insurers shifting some risks from one subsidiary to another in an effort to obtain a premium that is appropriate for the risk exposure, said Ms. Symonds.

"I haven't heard much uproar about this," Ms. Symonds said. "I think the shifting should level off next year."

Liberty Mutual is in the process of adjusting deviations downward for all of its companies, said John W. Purkis, the company's vp-underwriting.

- Pushing retrospectively rated plans on an incurred-loss basis for clients who can benefit from them.

Some 42% of employers purchased retrospectively rated programs for workers compensation in 1984. That climbed to 50% in 1985 and should at least equal that this year, Mr. Hilton said.

Insurers prefer to write retrospectively rated programs because the insurer is paid more in premiums if the policyholder's losses are more than anticipated.

And, insurers favor incurred-loss retro programs over paid-loss retro programs, because the incurred-loss programs require policyholders to pay more premium up front, which allows insurers to reap more investment income.

C&F Underwriters Group and U.S. Insurance Group, two Crum & Forster units, eliminated all paid-loss retros 18 months ago for risks in the 40 states east of the Rocky Mountains, Mr. Vairo said.

Industrial Indemnity Co., another Crum & Forster affiliate that writes in the 10 Western states, also has cut back on paid-loss retros, though three to five of the plans remain. Those programs will be switched to incurred-loss retros after 21 months, said Robert Whitehead, senior vp-underwriting.

The special accounts division of American International Group member companies American Home Assurance Co. and National Union Fire Insurance Co. offer only incurred-loss retros. The unit has not written new or renewal paid-loss retros for workers comp since late 1984, said Senior Vp James Fowler.

AIG is the 10th-largest workers compensation insurer with \$512 million in direct workers compensation premiums in 1984.

- Using less schedule rating.

"Companies are making substantial cuts in schedule rating," said Mr. Millikan. Some companies that had allowed schedule credits up to 25% have cut them 10% to 15% or are not using them at all, he said.

- Raising deposit premiums.

Two years ago, an insurer may not have required a deposit premium, but now the insurer wants \$50,000 up front, Mr. Hilton said.

Only statutorily mandated premium discounts based on the size of large accounts and experience rat-

ing remain generally untouched as premium-cutting devices.

The impact of direct manual rate increases and reduced use of premium-cutting devices on each premium, however, can vary "materially" depending upon the state, the type of risk and how it is evaluated in its classification, notes CIGNA's Mr. Jungers.

In addition, insurers are imposing tighter underwriting criteria before accepting a risk.

Insurers like CIGNA are "definitely" being more selective in choosing risks and are looking at an employer's loss experience and management quality, Mr. Jungers said.

This year will mark the return of

"realistic" marketing of workers compensation as companies return to responsible underwriting after a period of vigorous competition from 1981-84, said the Alliance's Mr. Millikan.

Liberty Mutual, the largest workers compensation insurer with more than \$1 billion in direct written premiums in 1984, won more business than it could handle because of other insurers' restrictive underwriting policies.

In 1985, Liberty Mutual's gross premiums grew an estimated 25%, Mr. Purkis said. That was 15% higher than usual, and "We could have grown even more if we didn't put the brakes on in the last quar-

ter." Liberty Mutual has established quotas for 1986 to ensure that growth does not outstrip the company's ability to provide quality service, he said.

Liberty Mutual had an 86% loss ratio for the first nine months of 1985, compared with 83.5% during the same period in 1984, another company spokesman said.

Insurers' actions have somewhat reduced the availability of workers compensation coverages for large employers, especially those with poor loss experience, a few sources said. That is forcing more risks into assigned risk pools (see page 7).

Continued on next page



Continued from previous page

More frequency of claims and some increase in severity of claims are among the many factors insurers say are increasing their losses.

Work-related accidents and injuries were up 11.7% in 1984, the biggest increase since 1973, the NCCI's Mr. Hilton said. The amount of time lost also increased.

Higher medical costs also contribute to increased workers compensation costs. Medical costs represent 35% of total work comp costs and are hard to contain, Mr. Hilton said.

Workers compensation insurers also complain that they are having some problems with the availabil-

ity of reinsurance, but not nearly the difficulties found in other property/casualty lines.

Other factors that tend to increase work comp costs include the increasing number of claims for occupational diseases and non-traumatic injuries; increased pressure to increase injured workers' benefits and overutilization of those benefits; the increased costs of rehabilitation; and unwarranted awards.

Insurers acknowledge that raising the cost of workers compensation could encourage more employers to consider self-funding their programs.

The last time there was a big

round of rate increases, a lot of employers went to self-insurance, said Hartford's Mr. Brown. "I'd rather not see that again, but I won't bet that we won't see that again."

"There will probably be a greater interest in self-insurance programs," said Mr. Vairo. But, lack of excess insurance may make it less attractive, he said.

Self-insurers made about 20% of all work comp benefit payments in 1980, compared with 32% from state and federal programs including black lung, and 52% from commercial insurers, said Richard B. Victor, executive director of the Workers Compensation Research Institute in Cambridge, Mass. ■

More workers comp buyers forced into assigned risk plans

More workers compensation risks are being forced into assigned risk plans as insurers tighten underwriting criteria.

The number of individual risks in assigned risk plans increased 44% to 179,310 in the first nine months of 1985, from 122,273 for a comparable period in 1984, according to the National Council on Compensation Insurance.

But that 44% increase is dwarfed by the 125% increase in premiums

employers in assigned risk plans paid during the same period.

Employers paid \$535 million in workers comp premiums for the first nine months of 1985, compared with \$234 million paid during the comparable period in 1984, the NCCI spokesman said.

The five states with the largest increases in premiums paid to assigned risk plans during the first nine months of 1985 were: Oregon, up more than 500% to \$6.8 million from \$1.1 million; New Mexico, up more than 300% to \$8.4 million from \$2 million; Georgia, up more than 200% to \$26 million from \$7.9 million; Illinois, up almost 200% to \$86.9 million from \$29.7 million; and Arizona, up almost 150% to \$1.2 million from \$500,000.

"However, there is no guarantee that pools will continue to provide the answer," said Robert L. Hilton, senior vp at the NCCI.

"Many workers compensation carriers are becoming disenchanted with writing workers compensation insurance. With increasingly poor loss experience, many insurers could—and some already have—drop the workers compensation line," he told the Conference of Insurance Legislators at their annual conference last fall.

"As this happens, it creates greater pressure on those carriers who stay on and continue to write workers compensation and share the huge losses," he said.

Some large work comp policyholders, especially those with poor loss records, are having difficulty finding coverage in the conventional marketplace, a few insurers and industry spokesmen said.

"The (insurance) companies don't want the big risks with bad experience," said Sandy Gilmartin, assistant manager of the NCCI's residual market operations.

In 1984, there were 206 risks with premiums of at least \$100,000 in assigned risk pools, she said. This is a 10.2% increase over 1983 when 187 such risks were in assigned risk pools. Risks in assigned risk pools by far have the worst experience, said Ms. Gilmartin.

At least 50 large employers, which pay at least \$500,000 in annual workers compensation premiums, have been forced into assigned risk plans, Mr. Hilton said.

One of those plans is Bath Iron Works Corp., a shipbuilder in Bath, Maine, which paid about \$10 million in work comp premiums for its 7,000 employees in 1985, according to a company spokesman.

Bath Iron Works has been in the state's assigned risk pool since September 1984. Although its loss experience is "not that good," the company is considering self-insuring, he added.

Other risks moving into assigned risk pools include municipalities, especially in Illinois and Arkansas, Ms. Gilmartin said.

When large risks are written by assigned risk plans, where losses are subsidized on a pro-rata basis by workers comp insurers, individual insurers complain they lose control over their own loss ratios.

While availability may be a problem for those large risks, it is generally not a problem for most employers seeking workers compensation coverage, most industry sources agree.

The only other availability problems were in states where there was "gross rate inadequacy," said Robert J. Vairo, chairman and CEO of C&F Underwriters Group, a Crum & Forster Corp. unit.

He mentioned specifically Texas, where rate increases totaling an average of 48.7% in the last year have since improved the availability of workers compensation insurance. ■

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opinions

Good idea whose time has come

LET'S MAKE A GOOD idea work.

All those involved in the workers compensation system should commit themselves to vocational rehabilitation.

As Associate Editor Carol Cain reports in her special spotlight package this week on vocational rehabilitation, there are numerous reasons for adopting vocational rehabilitation programs, not the least of which are humanitarian. Injured workers should not be allowed to sit idle, feeling sorry for themselves and collecting disability benefits, when they could be working. Workers injured on the job should be given every opportunity to return to work and live productive lives.

True, the economic benefits of vocational rehabilitation have not yet been proved. But, there are several studies under way now to determine if current vocational rehabilitation programs are cost-effective—saving more money in workers compensation disability benefits, which don't have to be paid after a worker returns to employment, than they cost.

If these studies find that recent vocational rehabilitation programs have not been cost-effective, that is no reason to scrap vocational rehabilitation. Instead, everyone involved in vocational rehabilitation and the workers compensation system should determine how to restructure these programs for cost-effectiveness.

Already, there are plenty of good suggestions for improving vocational rehabilitation programs.

One is that workers compensation laws should be revamped to properly integrate vocational rehabilitation into the system rather than treating it as an afterthought and expecting vocational rehabilitation to work miracles for controlling costs as well as returning workers to employment. As part of this integration into the entire system, workers compensation laws should

include economic incentives for employees to commit themselves to vocational rehabilitation. Currently, there are too many economic incentives in too many states for injured employees to refuse vocational rehabilitation and stay home and collect benefits.

The required reforms of workers compensation laws will take time. But, in the meantime, employers, insurers and vocational rehabilitation experts can do their best to integrate vocational rehabilitation into the system and to make it cost-effective.

Employers should commit themselves to vocational rehabilitation, whether it is required of them or not. And, rather than merely offering vocational rehabilitation to injured workers, employers should carefully monitor the vocational rehabilitation programs for appropriateness, thoroughness and cost. In addition, employers should make sure there is an appropriate job available for the worker to return to after rehabilitation.

This is a perfect time to persuade top management to adopt vocational rehabilitation programs, since workers compensation premiums for most employers will be increased this year. While the percentage of premium increases will be small in comparison with other liability insurance costs, this is an area where employer efforts to control and contain costs can show results.

Insurers, meanwhile, should strengthen their vocational rehabilitation programs, and they should not permit claims managers to lighten their own caseload by dumping inappropriate cases on vocational rehabilitation experts.

The vocational rehabilitation experts also should monitor their own work, refusing inappropriate cases, controlling the cost of the rehabilitation program and developing statistics on their successes and failures.

letters

Impact of wellness programs must be quantified

To the editor: The article "Small Businesses Leap into Wellness" (BI, Dec. 2, 1985) was, from my viewpoint, distressing. Small business can ill afford to commit resources without hope of measurable return on investment. However, no fewer than seven times in this article reference was made to: "...could not quantify reduction," "...the program has reduced injuries and absenteeism, but he had no statistics," "...does not have statistics on the cost or savings of the 4-year-old program..."

No figures? No statistics on a 4-year-old program? What kind of management is represented here? Perhaps the question is

reflexive. Management that swallows "wellness" as an easy answer also is apparently not competent or interested to keep simple records on its impact, or lack of it.

The only case of injury reduction presented was for Safeway Bakery Division. But looking at its numbers raises questions. The division had 1,760 lost workdays for 130 employees. Based on an average of 2,000 work hours per year, this would represent a lost workday rate of 1,350, 10 times the Standard Industrial Classification group average of 122 per 100 employees. I would think that virtually any action would have some posi-

tive effect in such circumstances.

I am not arguing against good health, but suggesting, without good verification, that the notion that wellness programs can relieve management of its responsibility to provide well-engineered, safe workplaces is indefensible. It also smacks of the same flawed thinking that perpetuates the myth of "safe lifting" as an approach to reducing back injuries.

Small business, and large business too, has too few dollars to throw away at "fad" programs.

Donald L. Morelli
Safety Consultant
Belmont, Calif.

Clarification offered on European Community product liability directive

To the editor: Two comments are in order on your article in the Oct. 21, 1985, issue on the product liability directive in force in the European Community effective July 30, 1988.

First, your readers should not be confused about the notion of strict liability. While many say the directive imposes strict liability, it actually imposes liability independent of the fault of the producer. The distinction is simply academic.

Strict liability (or, more correctly, strict liability in tort) is a court-made doctrine whose development in the United States has outpaced development elsewhere in the English-speaking world.

(Linguists will note that strict liability does not readily translate into other lan-

guages. In France and Belgium, for example, lawyers speak of "responsabilite objective," but in French-speaking Switzerland it is "responsabilite causale.")

Liability independent of fault is a product of statute law (or act of parliament).

And, liability independent of fault is not no-fault liability since the notion of fault is retained, e.g. contributory negligence.

Second, contributory negligence in the European Community (including the United Kingdom) is not the same as contributory negligence in the United States.

Liquor liability cover is available in California

To the editor: The front-page article in the Dec. 23, 1985, issue entitled "Dramshop Drought: Liquor Liability Marketplace Runs Dry," although very informative, is not accurate in our view, particularly as respects to the state of California.

Trinity E&S Insurance Services has been providing a liquor liability market for some time. Utilizing a company that is rated B-plus XII by A.M. Best Co., we provide a \$500,000 limit of liability on a claims-made form, with deductibles ranging between \$1,000 and \$5,000 per claim.

Contributory negligence in Europe is like comparative negligence in the United States: It does not "absolve a manufacturer of all liability if the user of the product was at all negligent."

What the contributory negligence rule in Europe does do is allow the court to reduce the liability of the producer in proportion to the victim's contribution to his own damage or injury.

John G. Cowell
Deputy Secretary General
Comite Europeen des Assurances
Paris

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

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Monopolistic work comp funds undecided on 1986 rate hikes

By JULIE TRUCK

Employers in six states must sit tight for several months as the officials of monopolistic state funds decide on 1986 workers compensation rates.

All the monopolistic funds operate on a fiscal year beginning July 1.

Only one such fund—in Washington—admits it expects to increase rates effective July 1. Nevada's fund expects stable rates.

Other state fund officials declined to speculate on 1986 rates, saying the actuarial studies detailing the previous year's losses are not due until around March.

Washington's fund, which insures 99% of the state's employers and 67% of all workers, probably

will hike rates to offset the state fund's deficit, said Joe Dear, deputy director of the Department of Labor and Industries.

As of July 1985, the fund's deficit was \$225 million. The fund needs a 33% increase to erase the deficit in one year, according to actuarial studies. But, because the fund expects lower costs now that the state's mandatory rehabilitation law has been repealed, rates probably will be hiked by a single digit.

Rates were increased an average of 18% in July 1985 and an average of 30% in 1984.

In addition to Washington, states that bar commercial insurers from underwriting workers comp coverage are Ohio, Nevada, North Dakota, West Virginia and Wyoming.

However, Wyoming is considering amending its constitution this year to let all employers self-insure and open the state up to commercial insurers, said Thomas Burt, program manager in the Workers Compensation Division.

Since 1915, the Workers Compensation Industrial Accident Fund has provided exclusive coverage for all workers whose employment is defined by statute as extra hazardous, which today accounts for about 62% of the state's workforce.

Other employments can be self-insured or employers can buy commercial insurance.

Wyoming also is considering legislation that would change the state's flat rating system to one based on claims experience.

Currently employers pay a flat 5% of total gross payroll during their first year of residence in the state. Subsequent monthly premiums are either 1% or 1.75% of total gross payroll, depending upon the employer's balance in the state fund each month.

If the balance is negative, the employer must pay 4.5% of gross payroll until the balance is positive.

As a result of this flat rating system, the fund lost about \$6 million during fiscal 1985 and \$15 million the previous year, Mr. Burt said.

The Legislature also is expected to consider reducing benefit levels when it reconvenes in January.

In the other states:

• Ohio's rates have declined overall about 27% since 1977, which includes a 6% increase for fiscal 1985, said a spokesman for the Bureau of Workers Compensation.

The 1985 rate increase reflected higher medical costs.

The Ohio fund covers about 70% of the state's workforce. The remaining workers are employed by self-insured companies.

A spokesman for the fund said he could not speculate on 1986 rates.

• Nevada's rates are expected to remain stable this year, said a spokesman for the State Industrial Insurance System. The last increase was in fiscal 1983, when rates jumped an average of 13.2%.

With the exception of 1983, rates have remained largely stable since 1976, he said.

• West Virginia's fund rates were slashed an average of 30% last year as part of a statewide effort to maintain the state's business base, said Bill Ireland, assistant director of the accounting division of the West Virginia Workers Compensation Fund. In 1984, rates rose an average of 10%, he said. 1986 rates have not been determined.

• North Dakota's fund rates have steadily decreased by 30% over the past five years, said Scott Delmore, assistant underwriter for the North Dakota Workers Compensation Bureau.

In fiscal 1985, rates declined an average 1.25% and in 1984 rates decreased about 7% for the fund's 22,000 policyholders.

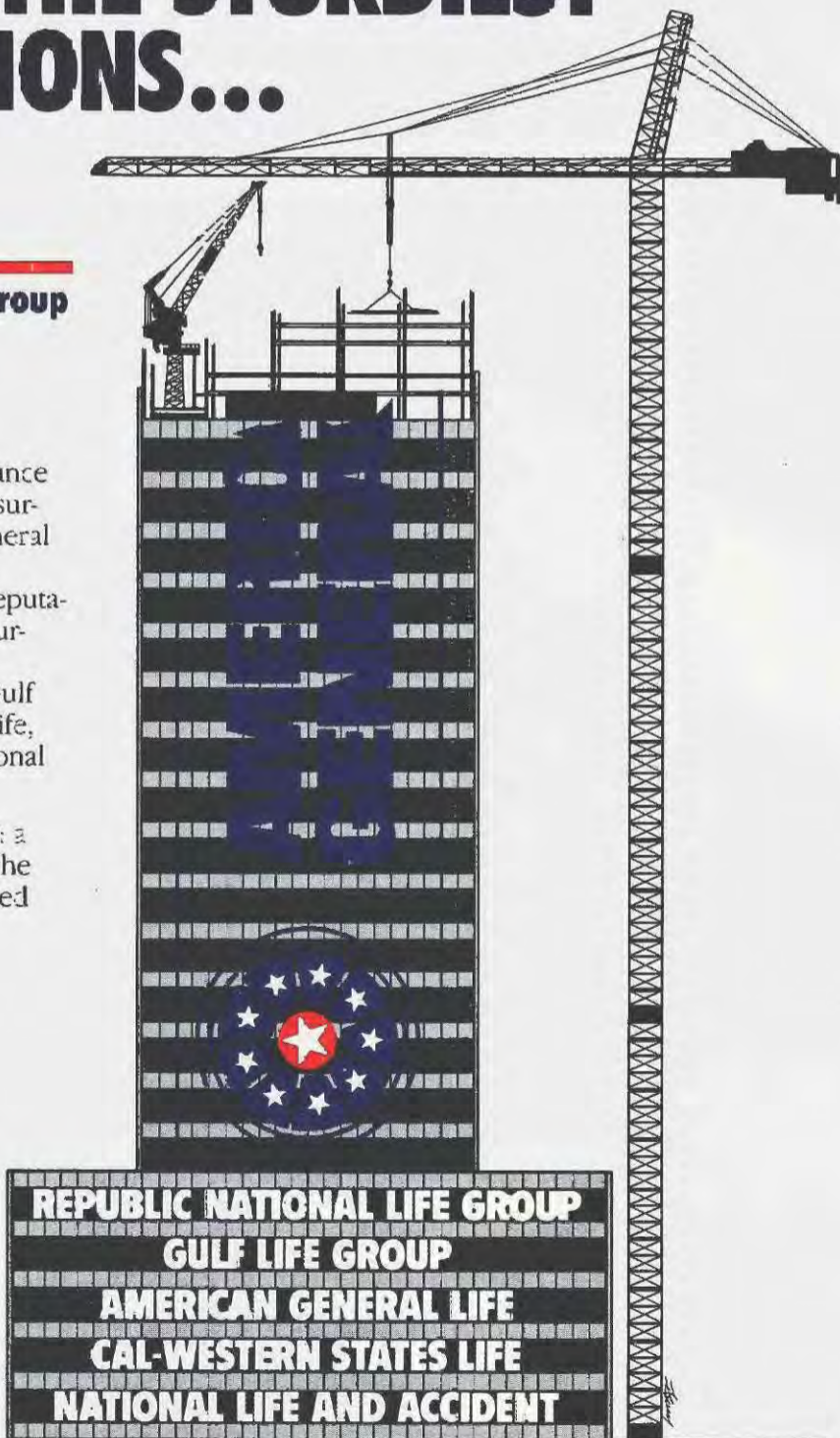
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Rehabilitation

Continued from page 3

society in general—a person working is a person paying taxes," says Joan Shute, assistant vp of rehabilitation in San Francisco for Industrial Indemnity Co., a subsidiary of Crum & Forster Corp.

A person out of work is a burden to society, points out James N. Ellenberger, assistant director of occupational safety, health and Social Security with the AFL-CIO in Washington.

"Vocational rehabilitation also has the humanitarian aspect to it. You're not putting people out to pasture," says Mat Dorangricchia, assistant general manager of the Nevada State Industrial Insurance System, a monopolistic state fund.

As a result, the issue now boils down not to whether there will be vocational rehabilitation in the future, but to how much there will be.

While 44 states include at least some reference to vocational rehabilitation in their workers compensation laws, only a handful of states that rewrote their workers compensation codes in the past 10 years have emphasized the role of vocational rehabilitation in the workers compensation system.

Minnesota and Florida are among the states that have revamped their statutes to build return-to-work incentives into their new laws, relying heavily on vocational rehabilitation programs. Massachusetts just joined that small group late last year with its new law (see story, page 20).

California was a pioneer in vocational rehabilitation, mandating in 1975 that employers offer injured workers these services.

But, vocational rehabilitation so far is not accomplishing all that it can, even in the more than a dozen states that mandate vocational rehabilitation, primarily because vo-

cal rehabilitation was written into the laws as an "add on" benefit. It was not directly tied to the benefit structure.

"You can't look at vocational rehabilitation in a vacuum," advises William Molmen, vp and director of the workers compensation governmental affairs unit of the American Insurance Assn. in San Francisco.

When reforming a workers compensation system, designers must focus on how vocational rehabilitation interrelates with permanent partial disability benefits, Mr. Molmen said, and almost everyone interviewed by *Business Insurance* agrees.

"You can't just graft vocational rehabilitation on existing systems without incentives to employers and employees," said Monroe Berkowitz, a professor of economics at Rutgers University in New Brunswick, N.J. Mr. Berkowitz was hired by a special commission in New

York to study that state's workers compensation system and expects to issue a report this month.

"The claims process should be a rehab process, but some think of it as an add-on benefit," said Industrial Indemnity's Ms. Shute.

"Vocational rehabilitation was probably the last big thing hooked onto workers compensation laws. It was readily assumed that workers were given medical treatment and their benefits—the emphasis always was on increasing benefits," said Eleanor Ross, state liaison adviser in the Office of Workers' Compensation Programs of the U.S. Department of Labor in Atlanta.

The role of vocational rehabilitation efforts wasn't even stressed in the landmark 1972 report of The National Commission on State Workmen's Compensation Laws, Ms. Ross said. The recommendations in that report have served as the basis of state workers compen-

sation reform during the past 13 years.

But some workers compensation experts always have considered vocational rehabilitation and workers compensation synonymous.

"Vocational rehabilitation is what the comp system is all about: To put people back to work," asserts Alan Tebb, general manager of the California Workers' Compensation Institute in San Francisco, an insurance industry-supported research organization.

An important aspect of integrating vocational rehabilitation into the entire workers compensation system is creating incentives for employees and employers to commit to vocational rehabilitation programs.

Everyone agrees that vocational rehabilitation will not succeed unless the worker is motivated.

"The more spectacular results of rehabilitation have been in cases of rather catastrophic types of injuries, where the motivation of the injured person was very strong to succeed. Where motivation is weak, even the best of rehabilitation specialists can produce only mediocre results," points out Douglas F. Stevenson, a Chicago attorney who is counsel to the Illinois Manufacturers' Assn. and executive director of the National Council of Self-Insurers.

"Motivation is the key," asserts Paul Leclair, assistant manager of rehabilitation with Liberty Mutual Insurance Co. in Boston.

"It doesn't do any good to force someone back to work. If someone is motivated, he will try to return to the former employer. In other words, if someone wants to return to work today, we can help them," Mr. Leclair says.

The injured worker's high level of innate motivation to return to work must be tapped soon after the injury if vocational rehabilitation is to be successful, notes Daniel Davis, senior vp and director of marketing for Intracorp, the Wayne, Pa.-based rehabilitation subsidiary of CIGNA Corp.

"That high level of motivation wavers a little if you wait three, six or nine months to begin vocational rehabilitation," said Mr. Davis—a point numerous other vocational rehabilitation specialists endorse.

Several factors other than a time lag also can affect an employee's motivation.

For instance, the employee with an injury may be "worn out, scared to death and tired from doing heavy work most of his life," said Ms. Shute.

"The expectation of financial gain from litigation also is a powerful factor," Mr. Stevenson added.

"No one can afford to say he 'feels good' until after the trial or settlement. Pending litigation is a strong factor interfering with successful rehabilitation. Some experts say that rehabilitation has no chance until the litigation is out of the way," Mr. Stevenson said.

"Legal providers have been given credit for prolonging the rehabilitation and workers compensation process. Lawyers insist on doing the communication," Nevada's Mr. Dorangricchia said.

"Litigation works against rehabilitation. No one gets well," declared Steve Keefe, commissioner of the Minnesota Department of Labor and Industry.

"In any jurisdiction where litigation is prevalent, mandatory vocational rehabilitation is not a mechanism to get employees back to work—it's something else to fight about," said Mr. Lewis (see Perspective, page 27).

Employers have used litigation to delay vocational rehabilitation in their defense of a workers compensation claim to deny all benefits to an injured worker. Employees' attorneys have used litigation to keep

Continued on next page



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Continued from previous page
the injured worker out of the job market in their efforts to ultimately increase the disability benefits awarded.

After prolonged litigation, "the worker believes he can't go back to work," noted Mr. Lewis.

Liberty's Mr. Leclair said he has seen reports from field offices that injured workers have told claims managers that their attorney said not to cooperate with vocational rehabilitation.

"They see a financial interest in not returning to work," he said.

This perceived financial gain by staying out of work and collecting compensation benefits was cited by others as well.

"To some injured workers, the financial support system our society has devised is all they want out of life, and it simply isn't possible to motivate them," Mr. Stevenson said.

"The claimant is concerned about his employer's bankruptcy, or his technological obsolescence, and he rushes to a benefit system that will safeguard his financial security.

"Since financial security is his overriding motivation, he stays on the benefit rolls where he can realize that security, and nothing can attract him away. In this area, rehabilitation specialists try a variety of techniques, but success is very elusive," Mr. Stevenson said.

In addition to commitment from the employee, there must be commitment to vocational rehabilitation by the employer.

Employers have to exercise control over the vocational rehabilitation efforts for their injured workers. And they have to keep in contact with the worker undergoing the rehabilitation to make it work.

"Keeping in touch with the injured worker, emphasizing an acceptance of the injury, has been offered as one manner in which to maintain control. Frequent communication between the employer and the insurer is another," noted the IAIABC's 1984 overview (see story, page 19).

Many experts insist that to create these incentives among employees and employers, state statutes must be redesigned. And, they frequently refer to Minnesota's 1983 Workers' Compensation Act, a massive overhaul of the system that was phased in and entirely in place by Jan. 1, 1984.

"Historically, injured employees in Minnesota remained off work longer, received higher benefits and rates for permanent partial disability and temporary total disability and litigated their claims more often than injured employees in Minnesota's neighboring states," said Jeffrey B. Oberman, an attorney in St. Paul.

Minnesota's reform measure adopted concepts and procedures new to workers compensation.

Often called a "two-tiered" system, the Minnesota law is based on the proposition that after a fixed period of time during which an injured employee is paid temporary total disability benefits, the employee's additional compensation depends primarily upon whether the employee attracts a suitable job offer, Mr. Oberman said.

"More specifically, temporary total disability payments cease 90 days after the employee reaches maximum medical improvement, or 90 days after the completion of an approved course of retraining, whichever is later," he said.

Once temporary total disability benefits cease, the two-tiered system provides for the payment of either "economic recovery benefits" or "impairment compensation benefits" to the employee. The amount of these benefits will vary, depending upon the employee's extent of permanent disability and return to work efforts. The system eliminates traditional permanent partial disability benefits that no longer exist, Mr. Oberman said.

Most agree it is too early to judge the success of the Minnesota system. In fact, the state Department of Labor and Industry currently is involved in a closed case study to find out how it's working.

But Steve Keefe, commissioner with the department, said several "interesting effects" of vocational rehabilitation in the new system already have been discovered, and not all of them are positive.

For example, the system is creating needless costs.

For instance, the law requires that a rehabilitation assessment be filed after 30 days of lost time.

But some injured workers referred for vocational rehabilitation at that time don't need it, Mr. Keefe said. Someone with a broken leg, for example, may need to stay out of work for 60 days, but it's clear the employee will return to work.

"We think employers are confused about this provision in the law and they think it means every

case needs to be referred," he said.

Also, employers that self-insure their workers compensation in Minnesota appear to be referring injured workers for vocational rehabilitation, whether they need it or not, because the self-insurers think it's a preventive measure, Mr. Keefe said.

And, there are problems with overutilization of rehabilitation in Minnesota created by workers compensation insurers, he said.

A lot of insurers are cutting back on their internal staff, creating larger caseloads for their claims managers, he noted. To reduce their own workloads, these claims managers are shifting many of their cases that don't need vocational rehabilitation to qualified rehabilitation counselors, thereby prolonging the effort to get the employee back to work and increasing the cost of the case.

Other states that have attempted to build incentives into their laws

also are discovering some negative side-effects.

For instance, the drafter of Colorado's mandatory vocational rehabilitation law said disability benefits are not truly tied to wage loss, decreasing the incentive for workers to participate in vocational rehabilitation.

Furthermore, in Colorado, "Vocational rehabilitation is being used as a bargaining chip for settlements. There is little incentive," said Ronald Jaynes, the Denver attorney who drafted the Colorado law in the mid-1970s when he was director of the Division of Labor.

"The law isn't a total failure, but it's not economically working," Mr. Jaynes said, adding he hopes a study will be undertaken soon to determine how the law can be improved.

Despite an increasing awareness that laws need to be amended to integrate vocational rehabilitation with all aspects of the workers

compensation system, there is not a groundswell of support for the needed reforms.

"Vocational rehabilitation is one area that doesn't get the attention it deserves when people talk about needed reform," contends the AFL-CIO's Mr. Ellenberger.

"All the parties in workers compensation are missing the boat when it comes to vocational rehabilitation," he charges. "The purpose of the workers compensation system is not only to return an injured worker to maximum medical recovery, but also to get that worker back to the job, and to benefit society."

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Vocational rehab costs soaring: Study

By CAROL CAIN

The average cost of vocational rehabilitation in California increased nearly four times faster than total workers compensation incurred losses over the last eight years, according to a recent study.

The average vocational rehabilitation expense per case in 1985 was \$8,947, more than double the average cost of \$3,939 in 1980. The average cost in 1978 was \$2,327.

Incurred losses in 1985 totaled an estimated \$3 billion, compared with \$1.17 billion in 1978.

The California study, which was conducted by the California Workers' Compensation Institute, is touted by workers compensation statistics devotees as the best information available on the costs and

Formal schooling plans, the longest in duration and most expensive, have the lowest success rates. Yet formal schooling continues to be the most common rehabilitation method used.

workings of vocational rehabilitation programs.

Another analysis has been conducted by the Florida Bureau of Rehabilitation, part of the state Division of Workers' Compensation.

"There is no single explanation for the rapid escalation," notes the California study, released in November by CWCI. The San Francisco-based research institute,

organized in 1964, is funded by the insurance industry.

However, some methods of rehabilitation have proved to be cost-effective, with successful vocational rehabilitation inversely related to costs.

Short-term rehabilitation programs, involving modified or alternative work with the same employer, are the least expensive and

most effective in returning injured workers to the labor market and to pre-injury earnings levels.

But formal schooling plans, the longest in duration and most expensive, have the lowest success rates.

Yet formal schooling continues to be the most common rehabilitation method used.

While the California study did not find a single reason for the huge increase in vocational rehabilitation costs, rehabilitation plan duration is cited as the principal cost variable.

The mean length of a rehabilitation plan increased to 6.9 months in 1985, compared with 5.6 months in 1980, explaining a significant portion of the cost escalation, the study notes.

The report also points out that the increased costs cannot be attributed to inflationary pressures alone, since the Consumer Price Index rose only 60% during the 1978-85 period.

"Nor are benefit increases solely responsible," the study says.

Benefit payments account for about half of all rehabilitation costs, the report says. And the maximum weekly payment for temporary disability indemnity increased only 45% during the same period.

In 1975, when mandatory vocational rehabilitation was introduced in California, rates were increased 2.7% to cover the cost, said Alan Tebb, CWCI's general manager.

This compares with rate increases for rehabilitation of 6.9% in 1980, 4.8% in 1978 and 3.7% in 1976.

CWCI predicts that this year vocational rehabilitation expenditures in California will reach 15% of all incurred workers compensation claims costs.

The CWCI research study is the latest in a series designed to monitor the provision of rehabilitation services to injured workers, identify emerging issues and assist practitioners in the prompt and effective delivery of the benefit. Similar studies were conducted in 1978, 1980 and 1982.

The study shows that vocational rehabilitation is working within California's workers compensation system, but not as well as it should, according to CWCI's general manager.

"That's the whole purpose of the exercise we're doing," Mr. Tebb said.

This latest study was based on data collected from 822 cases submitted for closure to the Rehabilitation Bureau, California Division of Industrial Accidents, during a four-week period ending March 15, 1985.

"We went to insurers and asked them to cooperate... this is not a random sample," Mr. Tebb explained.

However, he said the sample also is not as large as he had hoped it would be.

Besides looking at overall costs, the study also zeroed in on the average plan costs according to plan type.

A plan is the specifically designed rehabilitation effort for an injured worker and may include several weeks of occupational therapy, retraining or simply a modified work program.

According to the California findings, costs vary substantially by type of rehabilitation plan, ranging from an average of \$2,081 for modified work with the same employer to \$18,386 for formal schooling programs.

And these results also show that a plan for a modified job with the same employer has an average plan length of 5.4 months, compared with a plan for formal school, which has an average plan length of 8.3 months.

While these are California figures, they could "bear up in other states," Mr. Tebb said.

The California study also points out that, contrary to popular opinion, few injured workers participate in more than one rehabilitation plan.

"Overall, the number of plans implemented in the 1985 sample was 1.2 per worker, five individuals started three plans each and one worker started four," notes the CWCI study.

Among other findings in the study:

• Vocational rehabilitation expenses increased 284% overall since

Continued on page 16

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Rehab studies

Continued from page 14
1978, the first year CWCI measured rehabilitation costs.

During that same period, the average cost of specific return-to-work programs rose 251%, according to the study.

- Some 45% of claims with rehabilitation involvement result in development of a return-to-work plan, which according to the CWCI is a "substantial improvement" from the 19% in 1978.

- Delays, either in initiating or completing vocational rehabilitation services, cost an average of \$76 to \$716 for each month of delay.

Florida's Bureau of Rehabilitation, part of the state's Division of Workers' Compensation, released its analysis of vocational rehabilitation costs in July 1985.

As part of the 1979 reforms to its workers compensation system, Florida now requires that workers

compensation insurers and self-insurers pay for the cost of vocational rehabilitation, including reasonable board, lodging and travel, for a period of 26 weeks, with one 26-week extension.

If vocational rehabilitation services are not voluntarily offered or accepted, the Division of Workers' Compensation may order such services. Refusal to accept rehabilitation results in a 50% reduction in compensation for each week of refusal.

The Florida report is based on 3,688 individualized written vocational rehabilitation plans filed the bureau from July 1984 through June 1985.

Among the report's findings:

- The average cost of each case was \$2,419.

- Of the closed cases, 14% of the injured workers returned to the same job with the same employer; 17% to a different job with the same employer; 6% to the same job with a different employer; 59% to a different job with a different employer; and 4% became self-employed.

- Of the individualized written rehabilitation plans, some 46% were for workers with back injuries, 15% had knee injuries, 5% had ankle injuries, 4% had leg injuries, 3% had shoulder injuries, 3% had foot injuries, and 2% or less had various other injuries.

The average age of the injured worker in the Florida study was 41 years old. Sixty-nine percent of those surveyed were men.

Several other studies across the country are under way, with some of those results expected as early as this spring (see story, page 18). ■

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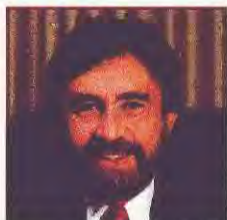
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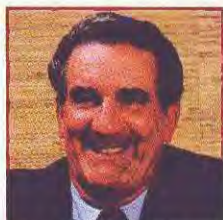
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People and Performance

Success rate varies widely

The success rate of vocational rehabilitation programs varies, according to statistics from several providers of the service:

- About 95% of workers injured on the job return to work within eight weeks after receiving vocational rehabilitation through Liberty Mutual Insurance Co., according to Paul Leclair, assistant manager of rehabilitation for the Boston-based insurer.

- Minnesota's Department of Labor & Industry reported improvement in the performance of rehabilitation programs in that state, according to a study completed a year ago.

Between 85% and 90% of injured workers in Minnesota returned to a "suitable job"—one that meets economic and permanency tests—compared with 65% to 75% before 1982, said Steve Keefe, commissioner of the Minnesota Department of Labor & Industry.

- About 60% of the injured employees who receive vocational rehabilitation services from ConServCo, a Tampa, Fla.-based affiliate of Travelers Corp., return to the workplace.

But in some states, that figure is higher, depending on the state law and the incentives, said Laurey M. Stryker, the company's vp-planning and development.

- Intracorp, the rehabilitation subsidiary of CIGNA Corp., which contends it is the oldest and largest vocational rehabilitation provider, generates a return-to-work ratio of 35% to 40%, according to Daniel Davis, senior vp and director of marketing with the Wayne, Pa.-based company.

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Vocational rehab experts endorse wholistic approach

By CAROL CAIN

The key to returning more injured employees to the workplace in a shorter period of time is to offer vocational rehabilitation to employees as soon as possible after an injury occurs, experts advise.

Too often, rehabilitation efforts in workers compensation cases have been focused only on medical rehabilitation.

And, the vocational rehabilitation plan should be designed with the needs and abilities of the individual injured employee in mind—something the experts call a wholistic approach.

To accomplish these objectives, vocational rehabilitation providers are taking advantage of advances in computer and medical technology.

"Where vocational rehabilitation is most successful is where it is closely integrated with medical rehabilitation," said Richard LaFon, executive director of the National Assn. of Rehabilitation Professionals in the Private Sector. The 9-year-old educational association based in Twin Peaks, Calif., represents an estimated 10,000 vocational rehabilitation professionals in North America and Australia.

Many large vocational rehabilitation providers have used the wholistic approach since the early 1970s, but others are only beginning to follow that lead today, Mr. LaFon said.

"The state of the art is to look at the individual as uniquely as possible and to consider that person's interest and aptitudes and abilities, goals and psychological needs within the context of his or her family," added Grace Gianforte, a certified rehabilitation counselor and owner of Associates in Rehabilitation & Management in Chicago.

As part of this wholistic approach, vocational rehabilitation providers are refocusing on the time-honored technique of "work hardening," in which an injured employee is gradually returned to the workplace to increase his or her tolerance to work.

"All around the country there is more reliance on the concept of work hardening. It's been around about 30 years, but there is more emphasis on it now," Mr. LaFon said.

"Once a person is out of work for several months, the physical strength is weakened," he explained.

In some cases, work hardening means that an injured employee is returned to only light-duty work for a period of time until he or she becomes strong enough to return full time to a previous job.

An example of such a technique involved an electronics technician who sustained a fracture of his right elbow, explained Don Featherstone, rehabilitation coordinator with Intracorp in Anaheim, Calif. Intracorp is the Wayne, Pa.-based vocational rehabilitation subsidiary of CIGNA Corp.

The employee was able to return to work at the same company, but he was unable to do the same type of job he had before the injury and instead was assigned to do paper work, Mr. Featherstone said.

However, the worker missed his old job. He only had the equivalent of a high school diploma and had been making a good salary, Mr. Featherstone explained.

Intracorp consulted with the injured worker's physician, who said the employee could return to his former job if he could use power tools that would reduce the amount of torque the job placed on his elbow.

Although such tools were not commercially available, the employer's machine shop was able to produce custom-made tools for the injured worker, Mr. Featherstone said.

Once the tools were in hand, the injured worker spent the next six weeks working four hours a day in the assembly job and four hours a day doing paper work. During the next two weeks, he increased the amount of time assembling to six hours a day. Finally, he returned to his old job full time, Mr. Featherstone said.

In another example of work hardening, an injured employee builds up stamina and strength in a simulated situation created by an occupational therapist. Again, the amount of time spent in this simulated situation is increased gradually until the injured employee is back to full speed.

Although work hardening appears to be an easy-to-implement concept, some workers compensation experts aren't sure that work hardening is the correct solution in every case.

"Our concern is that the injured worker's attorney will use work hardening (exercises) to say his client should be declared 100% disabled if work hardening is not successful," said Joan Shute, assistant vp of

rehabilitation for Industrial Indemnity Co. in San Francisco, a Crum & Forster subsidiary.

But work hardening and other methods of integrating vocational rehabilitation with medical rehabilitation are becoming the focus of state efforts to reform their workers compensation systems.

A recent example is Minnesota, where injured workers historically have remained away from work longer than employees in some neighboring states. In 1983, the Minnesota Legislature made major changes in its workers compensation system, including how benefits are paid.

The new law, all provisions of which were in effect by Jan. 1, 1984, provides temporary total disability benefits to injured workers for a certain length of time. Additional compensation depends upon whether the employee has attracted a "suitable job offer," said Jeffrey B. Oberman, a St. Paul Minn.-based attorney.

"Temporary total disability payments cease 90 days after the employee reaches maximum medical improvement or 90 days after the completion of an approved course of retraining, whichever is later," Mr. Oberman said.

Once temporary total disability payments cease, the Minnesota system pays either "economic recovery benefits" or "impairment compensation" to the employee, the amounts of which will vary depending upon the employee's extent of permanent disability and vocational rehabilitation efforts, he said.

Thus, vocational rehabilitation is stressed in the Minnesota system.

"We're defining 'rehabilitation' a little broader. . . It's hard to separate out the vocational rehabilitation part" from a worker's medical rehabilitation, notes Mary Jo Glumack, director of rehabilitation and medical services with Minnesota's Department of Labor and Industry.

The Minnesota system is centered on getting people back to work, which means thinking about vocational rehabilitation from the beginning, she said.

While vocational rehabilitation providers emphasize the wholistic approach is the best way to return an injured employee to the workplace, they also note that technological advances are aiding their efforts.

For instance, Ms. Gianforte and other vocational rehabilitation specialists are using computers to help them identify jobs and placement services available to injured workers.

Publications and other information about jobs compiled by the U.S. Department of Labor can be stored in a computer. Once in the computer, injured workers can be more easily furnished with information about the labor market, Ms. Gianforte said.

The Dictionary of Occupational Titles, also available for computer use, can be interfaced with information from state employment agencies to identify available jobs that can be filled by injured workers.

"I think clients have access to more resources than ever before. . . and we put them in touch with those resources," Ms. Gianforte said.

Larger rehabilitation providers, like Intracorp and Atlanta-based Crawford & Co., have developed their own job identification and placement computer programs.

"We've developed our own localized job bank," notes Patrick Norton, assistant vp of Crawford's health and rehabilitation division.

Crawford will place a major emphasis on employment and vocational counseling during the next year, Mr. Norton said, adding that computers will play a major role. Information obtained about an injured worker by a vocational counselor will be matched via computer with available jobs, he explained.

A similar computer-based job skills analysis program also is being used by Intracorp. The VOCOMP program generates a list of potential employment situations to match the injured worker's skills, said Daniel Davis, the company's senior vp and director of marketing.

Automation therefore enhances the job-matching services vocational rehabilitation specialists have always used, Mr. Davis said.

Medical advances also have enhanced the vocational rehabilitation process, said Ralph Matkin, president of Vocational Management Systems, a rehabilitation consulting firm in Murphysboro, Ill.

With the development of prostheses and various surgical procedures, injured workers are now not only made medically whole, but often are able to return to their same jobs after a serious accident, Mr. Matkin said.

'Where vocational rehabilitation is most successful is where it is closely integrated with medical rehabilitation,' says Richard LaFon of the National Assn. of Rehabilitation Professionals in the Private Sector.

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Studies examine vocational rehab costs

By CAROL CAIN

Several studies are under way to determine the cost and effectiveness of vocational rehabilitation programs within the workers compensation system.

"With so much emphasis on the rehabilitation of occupationally disabled employees, the primary and most controversial issue concerns costs," noted a report of the Rehabilitation Committee of the International Assn. of Industrial Accident Boards & Commissions, presented during the group's annual meeting last August in Sun Valley, Idaho (BI, Sept. 9, 1985).

The IAIABC is one of the groups that recently have embarked on a study of vocational rehabilitation.

Questions concerning vocational rehabilitation effectiveness are difficult to answer because there is little data on which to base conclusions, said Eleanor Ross, a member of the IAIABC's Rehabilitation Committee as well as state liaison adviser in the Office of Workers Compensation Programs of the

U.S. Department of Labor in Atlanta, Ga.

The IAIABC's study, under the control of its rehabilitation and statistics committees, is expected to influence new regulations governing vocational rehabilitation and procedures used, Ms. Ross said.

The two-year study hopes to address such questions as: Is vocational rehabilitation worth the expense involved? Are people returning to the job market who would not have if rehabilitation services had not been provided? Can the rehabilitation of occupationally disabled employees be justified economically or otherwise in the workers compensation system?

The study will be prospective, including all workers compensation cases referred for vocational rehabilitation during the six-month period of Jan. 1 to June 10, 1986. These cases will be tracked until they are closed or for up to two years by jurisdictions participating in the study.

The IAIABC has prescribed the format for collecting the data and

how it should be analyzed to project costs and the effectiveness of the rehabilitation measures, Ms. Ross said.

All United States jurisdictions and Canadian provinces have been asked to participate in the study. So far only 11 have agreed to, saying they will collect the data for the study: Arizona, Georgia, Hawaii, Minnesota, Nevada, Ohio, Oregon, Wisconsin, West Virginia and the Canadian provinces of Newfoundland and Ontario.

In addition to providing data, the IAIABC study will encourage jurisdictions to study their own rehabilitation programs, said Mat Doran-gricchia, chairman of the IAIABC Rehabilitation Committee and assistant general manager of Nevada's State Industrial Insurance System, a monopolistic state fund.

Three other studies are trying to answer the same or similar questions:

- Minnesota's Department of Labor & Industry is in the middle of a study involving 6,000 to 8,000 closed workers compensation cases.

"We want to see what works," said Steve Keefe, commissioner of the department.

The Minnesota study, which is expected to be completed by spring, "will analyze and test some of the conventional wisdom of our rehabilitation experts, such as that vocational rehabilitation works better if there is early intervention," Mr. Keefe said.

- The Workers Compensation Research Institute in Boston also expects to release this spring the results of its study of 3,700 workers compensation cases in New York, which involved vocational rehabilitation.

This study expects to address such factors as the merits of early intervention, the differences in services among vocational rehabilitation providers, the number of employees who return to work and what amount of prior earnings they secure, said John Gardner, a senior economist with the WCRI.

- Two private research and consulting firms recently began a two-year study to analyze rehabilitation programs provided by for-profit organizations.

The intent of this effort is to identify management strategies that are most likely to be successful, keying on typical situations that pose the greatest challenges to rehabilitation practitioners; the most effective strategies for staffing, coordination of services and marketing; and procedures and practices that offer the greatest

promise of producing optimum results for the dollars expended.

The study will analyze rehabilitation and return-to-work programs for individuals injured in accidents unrelated to work as well as workers compensation cases. But, because about 80% of rehabilitation expenditures involve workers compensation claims, the researchers expect to focus their study on rehabilitation in workers compensation cases, said Mary Vencill, project director with BPA (Berkeley Planning Associates), a private, research and consulting firm in Berkeley, Calif.

BPA, along with Harold Russell Associates Inc. in Winchester, Mass., was contracted by the Rehabilitation Services Administration of the U.S. Department of Education to do the study.

In addition to these four studies, a study has been proposed of portions of Colorado's workers compensation system, including the effectiveness of rehabilitation efforts, said Ronald Jaynes, a Denver attorney who drafted the state's mandatory vocational rehabilitation law in 1975. Funding of the proposed study is still being discussed.

The Colorado law "isn't a total failure," according to Mr. Jaynes, but it isn't working economically because there are too many cases. A study of closed cases could track such statistics as whether injured workers have returned to work and at what earning capacity. ■



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Employer meddling can hasten mending

By CAROL CAIN

Vocational rehabilitation should be a primary concern to employers, but for most it is not, according to professionals in the field.

"Most employers, unless they're self-insured, don't really sit down and study it," said Daniel Davis, senior vp and director of marketing for Intracorp, the Wayne, Pa.-based rehabilitation subsidiary of CIGNA Corp.

"In most cases, employers are not the primary customer—insurers are—though employers pay the freight in premiums," Mr. Davis said.

"Vocational rehabilitation is just not a hot item. There's very little direct employer involvement unless the employer is self-insured," said Roberta Mendonca Cook, counsel for insurance and employee benefits for the California Chamber of Commerce in Sacramento.

However, in some states like California, employers' consciousness is rising as vocational rehabilitation becomes an integral part of workers compensation reform activity (see story, page 20).

Workers compensation experts also are predicting that as workers compensation costs continue to escalate, more attention will be focused on remedies like vocational rehabilitation.

Employers should be an active partner in vocational rehabilitation plans to ensure that workers compensation costs are controlled, Mr. Davis said.

"It is very wise and prudent for an employer to stay close to injured workers, whether the employer likes the worker or not," advised Mat Dorangricchia, assistant general manager of the Nevada State Industrial Insurance System, the state's exclusive workers compensation fund.

Mr. Dorangricchia also chairs the Rehabilitation Committee of the International Assn. of Industrial Accident Boards & Commissions, which is conducting an intensive study of vocational rehabilitation (see story, page 18).

"Often an injured worker gets entrenched in the workers compensation channel and becomes distant to the employer," Mr. Dorangricchia said. He advises employers to call the worker periodically and say: "You have a job when you come back; don't get used to staying at home."

This type of employer interest does a lot to motivate an employee to return to work, Mr. Dorangricchia added.

But, often, employers take the silent approach, observers note.

For instance an attorney for an Ohio business group said that while more employers would like to see injured workers take advantage of vocational rehabilitation, "it's up to the employee to get it."

Such employer attitudes must change if the workers compensation system is going to work more efficiently, said Joan Shute, assistant vp of rehabilitation for Industrial Indemnity Co. in San Francisco, a Crum & Forster subsidiary. Employers must want injured employees to return to work, Ms. Shute said.

Often, however, bad feelings exist between the employer and an employee, "and the employer doesn't want to take him back," said Don Featherstone, rehabilitation coordinator in Intracorp's Anaheim, Calif., office.

Those bad feelings sometimes stem from attorney involvement in a workers compensation case, he said.

To prevent such a situation, vocational rehabilitation profes-

'Vocational rehabilitation is just not a hot item. There's very little direct employer involvement unless the employer is self-insured,' says Roberta Mendonca Cook of the California Chamber of Commerce.

sionals urge employers to keep in close contact with an injured worker from the first day of the injury.

"A rejection from the employer—even a perceived rejection—often will manifest in measurable physical symptoms," Mr. Dorangricchia said. He advises employers to make those periodic phone calls and keep in touch with the injured

worker.

Once an injured worker becomes a cog in the workers compensation system, it is very easy "to become seduced by the benefits," Mr. Dorangricchia said. "Some benefits are very high, and an injured worker often can adapt to them," he said.

Periodic contact "will keep the worker from drifting. It's not

'bleeding heart' stuff; it's good business," he said.

Employers also should be willing to provide light-duty work or make alterations in the pre-injury job in order to get the injured employee back to work, according to Mr. Dorangricchia and several other observers.

One Nevada employer even provided a couch with a nearby phone so an injured worker was able to lie down while working, Mr. Dorangricchia said, though he admitted this type of arrangement could be abused.

While it's important to keep in touch with injured employees, an employer also should stay in close contact with its worker compensation insurer, experts say.

"I know the employer pays a pre-

mium for services, but it's the customer that is demanding that gets the best service," Mr. Dorangricchia said.

Experts also advise employers that self-insure their workers compensation exposures to have a rehabilitation specialist on staff.

"How can an employer evaluate a vocational rehabilitation plan without a rehabilitation specialist on staff?" asked Eleanor Ross, state liaison adviser in the U.S. Department of Labor's Office of Workers' Compensation Programs in Atlanta.

Ms. Ross said that to attract a qualified specialist, an employer needs to offer an attractive salary, give authority to that person to make decisions and then offer sup-

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States may alter vocational rehab rules

By JULIE TRUCK
and CAROL CAIN

Several states are examining ways to fine tune vocational rehabilitation provisions in their workers compensation laws to improve the services provided to injured workers and to reduce costs.

Legislatures in at least four states—California, Colorado, Kansas and Illinois—are expected to consider proposals to modify existing vocational rehabilitation statutes.

And, in the last year, several states have modified the vocational rehabilitation provisions of their workers compensation laws, including Washington state, which repealed its mandatory rehabilitation requirements.

Forty-four states now address some aspect of vocational rehabilitation in their workers compensation statutes. And, about 15 states and the District of Columbia have adopted some form of mandatory vocational rehabilitation.

Some of these mandatory laws are vague, workers compensation observers say. For instance, some laws only require that employers provide vocational rehabilitation, without specifying what kind of services should be provided and what type of injured workers should be provided with rehabilitation benefits.

In addition to clarifying requirements, legislatures are looking at ways to cut the cost and improve the effectiveness of vocational rehabilitation programs.

"I don't see a movement away from mandating vocational rehabilitation," said Jill Martin, president of Comprehensive Rehabilitation Service Inc., a Portland, Ore.-based private rehabilitation provider.

"Rather, I think we're seeing changes in all vocational rehabilitation systems to fine tune them and make them work better," Ms. Martin said.

California is one state that is expected to "fine tune" its system this year.

A.B. 1000, a workers compensation reform bill now pending in the California Legislature, will "attempt to integrate vocational rehabilitation benefits within the rest of the workers compensation system," explains Alan Tebb, general manager of the California Workers Compensation Institute in San Francisco, a research and statistical organization funded by the insurance industry.

The California measure, which was introduced last fall, was expected to be considered when the Legislature reconvenes this month (BI, Sept. 23, 1985; Oct. 14, 1985; and Nov. 18, 1985).

California in 1975 became the first state to require mandatory vocational rehabilitation, Mr. Tebb said, though the current law does not specify what types of injured workers should receive rehabilitation benefits.

A.B. 1000 would add detailed provisions that would clarify when an employer would have to provide vocational rehabilitation services to an injured worker.

The legislation also would penalize a worker who refuses to complete an approved vocational rehabilitation plan or cooperate in the development of such a plan. Such a worker would lose his or her temporary total disability benefits as well as additional benefits paid to reimburse the worker for ancillary rehabilitation costs, like transportation to a rehabilitation center.

In addition, the bill also establishes a rehabilitation bureau within the Division of Workers Compensation to develop, review and approve vocational rehabilitation programs.

California's current vocational

rehabilitation provisions are not workable because an employee is not given an incentive to undergo vocational rehabilitation, said Roberta Mendonca Cook, counsel for insurance and employee benefits for the California Chamber of Commerce. The Chamber and

other business groups drafted the proposed legislation.

"There's just a horrible outpouring of benefits going to an injured worker," she said.

In Illinois, a group spearheaded by the workers compensation unit of the Illinois State Bar Assn. is

drafting an amendment to the state workers compensation law that will set guidelines for vocational rehabilitation programs.

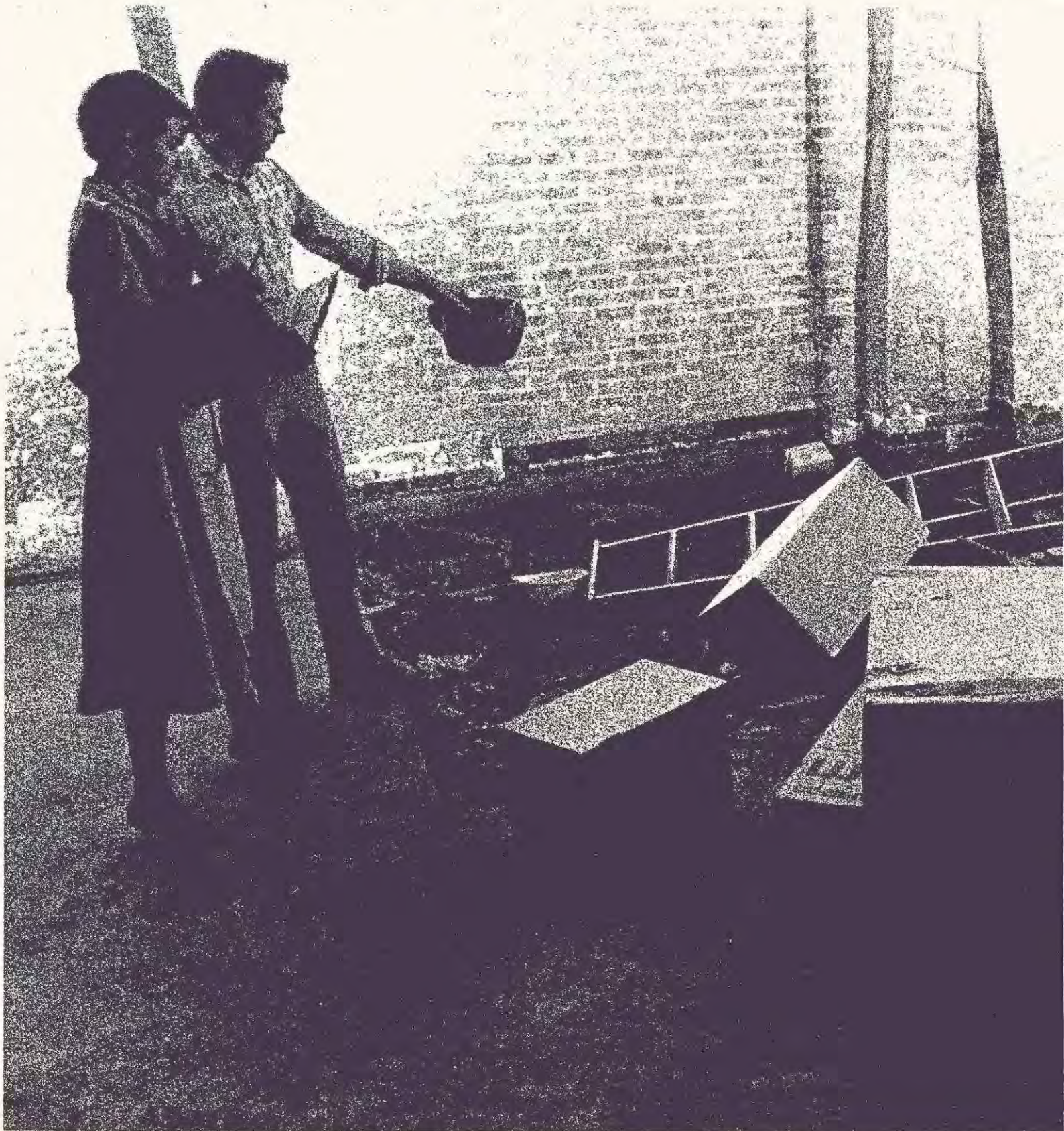
A hearing on the proposal is slated for March 21 at the bar association's headquarters in Chicago, after which it will be submitted to

the association's board for inclusion in its 1986 legislative package, said Stuart H. Gold, who chairs the ISBA's workers compensation unit.

"We felt that the Illinois law, as worded now, is somewhat vague," Mr. Gold said, explaining that the

Continued on next page

WITH A UAC ADJUSTER THERE'S A LOT GOING FOR



Continued from previous page
law now says insurers are to provide rehabilitation benefits but does not address the qualifications of rehabilitation providers.

Another attorney on the council pointed out that Illinois Industrial Commission rules say an employer shall provide rehabilitation "But historically that was thought to be physical rehabilitation... part of the medical benefits. Vocation always was shunted off to the side."

said J. Gregory Householder, an attorney in Kankakee, Ill.

A vocational rehabilitation plan, according to the Industrial Commission rules, should be submitted by the employer or insurer within 120 days of injury. "But this is ignored by both sides," he said.

Under a draft outline of the proposed amendment:

● When an employee has suffered a work-related injury that apparently will preclude him or

her from engaging in suitable employment, the employee shall be entitled to a full evaluation for participation in a vocational rehabilitation plan.

Suitable employment is defined as employment, when possible, in an occupation of a similar or higher economic level, taking into consideration the employee's age, education, work history, physical limitations, desires and motivations.

● The vocational rehabilitation

plan should be formulated by a physician or a qualified specialist as determined by the Illinois Industrial Commission.

● The employer or employee has the right to select a physician or qualified vocational rehabilitation specialist to perform rehabilitation screening. The employee has the right to select a physician or qualified vocational rehabilitation specialist to carry out the rehabilitation plan, provided the plan is

reasonable and necessary.

● An employee's temporary total disability benefits will be suspended if he or she fails to participate in a reasonable and necessary vocational rehabilitation plan.

In Kansas, a bill before the House Labor and Industry Committee, S.B. 365, would reduce workers compensation benefits for injured workers who do not participate in vocational rehabilitation programs.

The law would also authorize the appointment of a state rehabilitation administrator to direct and approve vocational rehabilitation programs for workers whose injuries prevent them from returning to a job comparable to their pre-injury occupation.

The administrator would have the authority to refer an injured worker to a rehabilitation facility for evaluation and approve or reject rehabilitation proposals.

In addition, the bill sets up a Workers' Compensation Rehabilitation Fund that will be managed by the state Treasury. Vocational rehabilitation testing and training expenses would be paid by the fund, which would be financed through an annual assessment of workers compensation insurers and self-insured employers, said Bud Langston, rehabilitation administrator of the Division of Workers' Compensation.

In Colorado, at least one bill is expected to be introduced this session to give the Division of Labor more clout in resolving disputes between an injured worker and an employer, insurer or rehabilitation provider over the worker's rehabilitation, said Bob Husson, director of the Colorado Division of Labor. Details of the proposal have not yet been formulated.

The bill also may call for increased gathering of cost data and performance reports to monitor the state's rehabilitation providers. Mr. Husson said, "I suspect that there will be more discussion about vocational rehabilitation problems... and the costs and value of such services," he said.

The cost of vocational rehabilitation services is the major reason Washington state last May rescinded its mandatory vocational rehabilitation law.

The Washington Legislature was convinced that the cost of providing mandated vocational rehabilitation services outweighed the benefits, observers in the state said.

"Every indication was that while vocational rehabilitation services were expensive, they were not getting the injured worker back to work any quicker," said a spokesman for the Washington Department of Labor and Industries, which administers Washington's workers compensation system and the Division of Industrial Insurance, the state's monopolistic workers compensation fund.

Under the new Washington law, injured workers must first be classified as unemployable by the Department of Labor and Industries before employers must provide them with vocational rehabilitation. Observers note that few workers are placed in this classification.

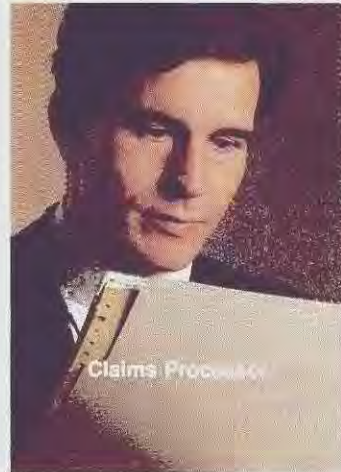
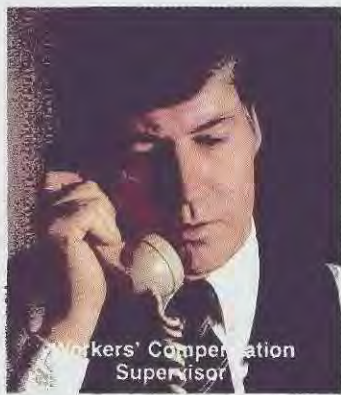
Previously, injured workers whose injuries barred them from returning to their former jobs or their usual occupation automatically were eligible to receive vocational rehabilitation services, the spokesperson said.

As a result of the mandatory law, the state fund, which insures about 99% of the state's employers, paid \$27 million to private vocational rehabilitation consultants in fiscal 1985, up from \$3.2 million in 1981, the year the law took effect, said a department spokesman.

In addition, the fund spent about \$100 million on all types of vocational rehabilitation costs in 1985, an amount equal to about one-sixth of its premium volume, the department

Continued on next page

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State action

Continued from previous page
ment spokesman said.

Rapidly increasing costs necessitated drastic action by the Legislature, said Joe Dear, deputy director of the Department of Labor and Industries.

"The survival of the Washington system was our issue. We had a short amount of time in which to act," Mr. Dear said.

But, he added many vocational rehabilitation providers in the state "probably felt like they were steamrolled" by the legislation.

Rehabilitation providers also argue that the Department of Labor and Industries, facing a state fund deficit of about \$200 million in 1985, needed to find a political scapegoat and targeted vocational rehabilitation.

"Vocational rehabilitation has been successful all around the United States," said Bob Lancaster, vp of Cascade Rehabilitation Counseling, a rehabilitation firm based in Vancouver, Wash., who believes the mandatory law should not have been changed.

The department currently is surveying the effect of the new law on the rehabilitation suppliers that remain in the state.

In March 1985, the state had 320 rehabilitation firms and 1,500 registered counselors, Mr. Dear said, adding that the department expects that number to "be substantially down" because of the law.

Some workers compensation experts predict other states may follow Washington's lead and amend their mandatory vocational rehabilitation statutes.

"The situation in Washington is definitely prompting other states to look at the effectiveness of rehabilitation," said Daniel Davis, senior vp of Intracorp, a Wayne, Pa.-based subsidiary of CIGNA Corp. that provides vocational rehabilitation services.

So far, however, other states have only clarified their vocational rehabilitation laws.

A new Georgia law that takes effect July 1 says an injured worker must receive an assessment of whether he or she needs vocational rehabilitation services within 45 days of the injury. Under the current law, the assessment does not have to be provided until 105 days after an injury.

However, the new law shortens the number of weeks of rehabilitation that must be provided to an injured worker to 26 weeks from 52 weeks.

"We want the injured worker to receive benefits to which they are entitled and at the same time be as cost-effective as possible," said Don Anderson, director of rehabilitation for the State Board of Workers Compensation.

The new Georgia law also requires that rehabilitation suppliers, counselors or nurses be certified by one of four professional organizations in an attempt to "upgrade" the quality of individuals providing rehabilitation services, he said.

In Maine, a law that became effective Jan. 1 also spells out the deadlines by which an injured worker must be provided with vocational rehabilitation.

According to the law, an employer or workers compensation insurer must submit a report to the state's rehabilitation administrator within 120 days of a workplace injury resulting in an employee's incapacity. The report must state whether the employee is likely to return to his or her previous employment.

If the report indicates that the employee is not likely to return to work, a rehabilitation evaluation must be provided within 30 days.

If the evaluation determines that rehabilitation services are warranted, a vocational rehabilitation provider of the employee's choice

has 60 days to develop a plan.

Some rehabilitation experts say the new Maine law—while a step in the right direction—is so complex that it will evolve into a costly program in which rehabilitation for injured workers will be lost in paper work. Some also contend that a worker has to wait too long to receive rehabilitation services under the law.

"I think it's a terrible mistake because what I think you will see is referral being made so far down the line that it will be more costly in the long run," said Albert P. Cohen, a Baltimore-based government relations consultant specializing in vocational rehabilitation and

workers compensation issues.

"The bottom line is that rehabilitation will start looking less good than it, in fact, should," he explained.

In Massachusetts, an overhaul of the state's workers compensation system approved by the Legislature last year includes provisions addressing vocational rehabilitation (BI, Sept. 30, 1985; Dec. 9, 1985).

Under the new law, an Office of Education and Vocational Rehabilitation will be established to review cases and determine whether an injured worker is eligible to receive vocational rehabilitation services, said Martin Foley, legislative director for the state AFL-CIO in Bos-

ton.

The law also will establish a trust fund that will pay the cost of vocational rehabilitation evaluations if an insurer refuses to pay. However, if a subsequent rehabilitation program is successful, the insurer will be required to pay the fund an amount equal to 200% of the rehabilitation expenses, he said.

The legislation was intended to provide a strong incentive for insurers to pick up the cost of vocational rehabilitation, Mr. Foley explained.

Finally, in Oregon, a strong push by self-insured employers resulted in a new law that is intended to cut rehabilitation costs by phasing out

the Rehabilitation Reserve Fund managed by the Department of Workers Compensation.

Beginning this month, the fund no longer will pay for vocation rehabilitation costs. Instead, the costs will be paid directly by insurers and self-insurers.

Under the old Oregon system, insurers and self-insurers were billed for rehabilitation services by the providers. The insurers then were reimbursed by the fund, whose operations were financed through employer assessments.

The old program was an "incredibly cumbersome system," said John Kaplan, Portland's district manager for Intracorp. ■

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JAN. 27. Asbestos: The Architect's Response and Professional Liability: Coping with the Insurance Crisis teleconference/seminars, sponsored by the American Institute of Architects. Specific site information will be provided at the time registration is confirmed. \$99 before Jan. 20; \$125 after Jan. 20; \$198 for both programs. Brenda Henderson, AIA Professional Development Programs, Asbestos/Liability Teleconference, 1735 New York Ave. N.W., Washington, D.C. 20006; 202-626-7353.

JAN. 27-28. Insurance, Excess and Reinsurance Coverage Disputes seminar in San Francisco, sponsored by the Practising Law Institute. \$395. Course handbook only \$40. Ann Tracy, Public Information Officer, Practising Law Institute, Department A5, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JAN. 27-31. Occupational Health Nursing:

Basic Theory and Update course in Los Angeles, sponsored by the Institute of Safety and Systems Management of the University of Southern California; \$550. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-6523/6524.

JAN. 28. The New Insurance Services Office Commercial Property Forms Workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia Inc.; \$90 for members; \$105 for non-members. Also **March 13** and **April 29** in Philadelphia. The Insurance Society of Philadelphia Inc., 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

JAN. 29. An Insurance Odyssey (The Twentieth Century) meeting in Minneapolis, sponsored by the Insurance Federation of Minnesota; free. Insurance Federation of Minnesota, 1310 Pio-

neer Building, P.O. Box 1467, St. Paul, Minn. 55101; 612-292-1099.

JAN. 29-31. Regulation of Chemicals in the Global Environment: Protecting the Public Against Hazards from Chemicals program in Brussels, Belgium, sponsored by The Bureau of National Affairs; \$420. International Chemicals Symposium Registrar, BNA Conferences, The Bureau of National Affairs Inc., 2550 M St. N.W., Suite 699, Washington, D.C. 20037; 800-424-9890, 202-452-4420 in Washington.

JAN. 30-31. Executive Compensation and Benefits: The Impact of Tax Legislation seminar in New York, sponsored by American Management Assn.; \$495 for members; \$570 for non-members. Phyllis White, American Management Assn., 135 W. 50th St., New York, N.Y. 10020; 212-903-8234.

JAN. 30-31. Executive Compensation: Planning Techniques and Strategies seminar in New York, sponsored by the Practising Law Institute. Also **Feb. 27-28** in San Francisco; \$390. Course handbook only \$40. Ann Tracy, Public Information Officer, Practising Law Institute, Department

A5, 810 Seventh Ave., New York, N.Y.; 212-765-5700.

JAN. 31. Seventh Annual Risk Management Conference—Orange Empire Chapter in La Mirada, Calif.; \$60. Jeanne M. Warner, 1943 Rodney Drive, #306, Los Angeles, Calif. 90027; 213-662-5846.

FEB. 5-6. Financial Analysis for Risk Management Decisions program in Phoenix, Ariz., sponsored by The College of Insurance; \$700 plus \$50 per organization. Also **March 12-13** in Tampa, Fla. Laura McKeon, Professional Development Programs, The College of Insurance, One Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

FEB. 5-7. Challenges of the Changing Marketplace conference in Atlanta, sponsored by the Atlanta Chapter of the Risk & Insurance Management Society; registration for members, \$100 in advance, \$125 on site; registration for non-members, \$115 in advance, \$140 on site; \$25 for students. Dennis F. McGovern, Kimberly Clark Corp., 1400 Holcomb Bridge Road, Roswell, Ga.

30076; 404-587-8000; or James S. Trieschmann, University of Georgia, Brooks Hall, Athens, Ga. 30602; 404-542-4290.

FEB. 5-8. 1986 Winter Workshop of the American Assn. of Managing General Agents in Orlando, Fla.; \$295 before Jan. 27; \$315 after Jan. 27. AAMGA, Suite 800, 1001 Connecticut Ave. N.W., Washington, D.C. 20036; 202-223-0388.

FEB. 6-7. The Crises in Directors & Officers Liability Insurance: Advising Corporations on Alternatives, Indemnification & the Business Judgment Rule conference in New York, sponsored by Law & Business Inc.; \$425. Also, **March 13-14** in San Francisco. Law & Business Inc., 855 Valley Road, Clifton, N.J. 07013; 800-223-0231; 201-472-7400 in New Jersey.

FEB. 10. The New Insurance Services Office Commercial General Liability Policy Workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia; \$90 for members; \$105 for non-members. Also **March 6** and **April 22** in Philadelphia. The Insurance Society of Philadelphia Inc., 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

FEB. 12-13. London Market and its Future conference in London, sponsored by Risk Research Group Ltd.; 293.25 pounds (about \$410.55); 517.50 pounds (about \$724.50) for two registrants from same organization. Judith Hobday, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London, EC4V 4DD; 01-441-236-2175.

FEB. 13-14. International Benefits Information Service Interchange in Toronto, sponsored by Charles D. Spencer & Associates; \$400 for subscribers to the International Benefits Information Service Briefing Service; \$475 for non-subscribers. Charles D. Spencer & Associates, 222 W. Adams St., Chicago, Ill. 60606; 312-236-2615.

FEB. 17-19. Fifth Annual Pension Seminar in Kissimmee, Fla., sponsored by Corbel & Co.; \$395. Brenda Chatham, Registrar, Corbel & Co., P.O. Box 17548, Jacksonville, Fla. 32245-7548.

FEB. 17-19. Solvency Assessment course in London, sponsored by Risk Research Group Ltd.; 488.75 pounds (about \$684.25). Judith Hobday, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London, EC4V 4DD; 01-441-236-2175.

FEB. 18. Perspectives on the New Insurance Services Office Commercial General Policies seminar in Hartford, Conn., sponsored by the Connecticut Valley Chapter of the Risk & Insurance Management Society; \$15 for members; \$18 for non-members. David Snider, P.O. Box 2079, Hartford, Conn. 06145.

FEB. 19. OSHA Hazard Communication conference in Springfield, Ill., sponsored by the Illinois State Chamber of Commerce; \$45 for ISCC members; \$70 for non-members. Also **Feb. 25** in Chicago. Carol Jensen, Illinois State Chamber of Commerce, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

FEB. 19. Insurer/Reinsurer Insolvency workshop in Atlanta, sponsored by the Society of Chartered Property and Casualty Underwriters; \$80 for members; \$95 for non-members. Also **April 3** in Jacksonville, Fla. Mari Jennings, Professional Services Department, Society of CPCU, Kahler Hall, Providence Road (CB #9), Malvern, Pa. 19355; 215-251-2741.

FEB. 19-20. Working with the New Versions of the Comprehensive General Liability Forms: Occurrence vs. Claims-Made Approach conference in New York, sponsored by Executive Enterprises Inc.; \$795; \$695 for each additional registrant from the same organization. Executive Enterprises Inc., Session #621NS03/E6001, 33 W. 60th St., New York, N.Y. 10023-7988; 212-489-2680.

FEB. 20. Corporate Homicide—Verdict: Murder seminar in Milwaukee, sponsored by the Wisconsin Chapter of the American Society of Safety Engineers; \$225. American Society of Safety Engineers, P.O. Box 391, Manitowoc, Wis. 54220-0391.

FEB. 21. Health Claims seminar in Philadelphia, sponsored by Benetics Corp.; free. Benetics Corp., One Corporate Center, Suite 1500, Hartford, Conn. 06103; 203-249-7260.

FEB. 24-28. Reinsurance Practice course in London, sponsored by Risk Research Group Ltd.; 718.75 pounds (about \$1,006). Judith Hobday, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London, EC4V 4DD; 01-441-236-2175.

FEB. 27. Risk Management of PCBs in Electrical Systems seminar in Oakland, Calif., sponsored by Electro-Test Inc.; \$175; \$30 discount for cash payments. Also **March 4** in Oakland, Calif.; **March 6** in Pasadena, Calif.; **March 11** in Miami; **March 12** in Jacksonville, Fla.; **March 13** in Mobile, Ala.; **March 18** in New York; **March 19** in Philadelphia; **March 20** in Washington; **March 25** in Kansas City, Mo.; **March 26** in St. Louis; **March 27** in Little Rock, Ark.; **April 1** in Jackson, La.; **April 2** in New Orleans, La.; **April 3** in Atlanta; **April 8** in Detroit; **April 9** in Cleveland; **April 10** in Pittsburgh; **April 15** in Houston; **April 16** in Dallas; **April 17** in Oklahoma City; **April 22** in Cincinnati; **April 23** in Columbus, Ohio; **April 25** in Indianapolis; **April 29** in White Plains, N.Y.; **April 30** in Hartford, Conn.; **May 1** in Boston; **May 6** in Nashville, Tenn.; **May 7** in Columbia S.C.; **May 8** in Raleigh, N.C.; **May 13** in Chicago; **May 14** in Des Moines, Iowa; **May 15** in Minneapolis; **May 20** in Long Island, N.Y.; **May 21** in Clifton, N.J.; **May 22** in Niagara Falls, N.Y.; **May 28** in Baltimore; **May 29** in Harrisburg, W.Va. Electro-Test Learning Center, P.O. Box 159, 3470 Fostoria Way, San Ramon, Calif. 94583; 415-866-8566.

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REHABILITATING WORK COMP

By John H. Lewis

ANYONE WHO HAS BEEN involved with workers compensation for more than 10 years can remember when vocational rehabilitation played only a minor role in the day-to-day concerns of most systems.

Rehabilitation activities were used primarily in two areas. The first involved catastrophic cases, in which it was clear that without significant help the injured worker would face a life of total economic reliance upon workers compensation benefits, Social Security disability benefits and perhaps welfare.

The rehabilitation efforts were based primarily upon economic considerations, in that they sometimes permitted the insurer or employer involved to avoid paying permanent total disability benefits or facilitated settlement on more favorable terms.

A more cynical view might have been that they amounted to little more than public relations activities, attempting to provide favorable publicity for a deficient workers compensation system.

Perhaps the more common use of vocational rehabilitation was to develop evidence in cases involving disputes over "loss of wage-earning capacity" or "extent of disability."

When used in this manner, the primary goal of rehabilitation had little to do with re-employment. The focus was on obtaining expert testimony that the worker either could return to full employment or was totally without the ability to compete in the job market.

This is not to say there were no cases in which moderately injured but significantly disabled individuals were returned to full, gainful employment. There were, but more often they were the result of informal efforts outside the mainstream of workers compensation.

Workers compensation and vocational rehabilitation have changed dramatically since the early 1970s. Benefit levels and the value of disability ratings have risen significantly, most states have experienced substantial increases in claimants' use of attorneys, and court decisions have made the system much more technical in its operation.

Vocational rehabilitation not only has become an entitlement in more jurisdictions, but also it has taken on broader responsibilities.

All of these factors have combined to make rehabilitation the workers compensation growth industry of the 1980s. Has it also resulted in more permanently injured workers being returned to meaningful employment? Unfortunately, the answer probably is no, and it may remain so unless changes are made in the way vocational rehabilitation relates to the rest of the workers compensation program.

The major reason for this is that virtually none of the major incentives in

the system favors successful return to work, at least not in the short term. Most benefit systems provide little correlation between the aggregate size of the permanent disability benefit and post-injury employment status, with or without successful rehabilitation.

The most prevalent way of awarding benefits, the schedule, has virtually no tie between employment and benefit, since the controlling factor is loss of use as determined primarily by doctors' evaluations.

The other commonly used benefit mechanism typically involves the determination of the injured employee's loss of wage-earning capacity, or loss of ability to compete, or some other equally mystical legalism. Most states, either by statute or case law, make actual post-injury employment a factor in determining the extent of loss, or even may make earning prima facie evidence of the extent of loss.

However, once again it is possible, if not probable, that actual income may not have a significant impact on the award.

This also holds true for permanent total disability cases in some states. Even in the event of successful rehabilitation that enables the injured worker to return to significant, gainful employment, permanent total disability status may be found and full benefits paid if, for example, it is determined that the claimant would be unable to compete in the labor market if the need ever arose.

These circumstances have serious implications for employers as well as for the delivery of rehabilitation services. An employer or insurer may have little or no incentive to provide vocational rehabilitation unless forced to do so. And, when that occurs, it becomes an added cost rather than a savings.

Also, if vocational rehabilitation is a necessary component of the workers compensation system, then under the benefit systems just described, it almost certainly would have to be mandated, and often litigated, rather than left to the judgment of the employer or its insurer.

The incentives for cooperation with rehabilitation efforts intended to restore employment quickly and efficiently are just as poor for the other players: the claimant, the attorney and even the rehabilitation provider.

In most instances, the more involved and grandiose the rehabilitation program, the greater its cost, the longer the claimant receives temporary total disability benefits and the higher the reserve, settlement value and resulting attorney's fees.

All of this occurs without any guarantee of success and with little immediate reward for anyone if the rehabilitation program does work.

Even without the negative incentives built into the compensation system, there are numerous reasons not to cooperate with rehabilitation efforts.

The claimant may perceive a threat to the value of the case should rehabilitation result in the ability to return to work, let alone actual return to work. For many employees, particularly those involved in litigation, the entire focus of the claim is upon the short-term financial reward for injury.

The fact is ignored that the litigation process itself and its emphasis upon

injury, rather than recovery, may result in inability to return to work, despite the real possibility that the settlement may not even come close to dealing with the income lost through under- or unemployment problems.

Indirect pressures also exist for the claimant's attorney, since the involvement of an "unfriendly" vocational rehabilitation consultant may threaten the lawyer's perceived right to control the case and the claimant.

More importantly, for those claimants' attorneys primarily concerned with the amount of their fees, the reward currently provided by the compensation system encourages the use of rehabilitation as leverage to increase settlement value by increasing cost exposure, or simply encourages attempts to force acceptance of the most expensive rehabilitation program possible, since that will increase the "value" of the benefits obtained when attorney's fees are calculated.

The results can be disastrous. In many states, vocational rehabilitation has become little more than another issue to litigate, with rehabilitation more often than not just a tool with which to manipulate the settlement process.

Rehabilitation also has become very expensive, despite the lack of significant proof of its value, either to injured workers or to the system.

In fact, its impact often may be negative, because of the current emphasis on confrontation. To the extent it prolongs the return-to-work process and creates more dissatisfaction with the compensation system, it is highly likely rehabilitation deters return to work as often as it results in re-employment.

The risk manager or other individual responsible for dealing with workers compensation is left in a rather unenviable position.

It often is difficult to justify providing rehabilitation services on a voluntary basis. Not only are the potential cost savings questionable, but there also may exist a threat of increased litigation and expense from the mere attempt to provide rehabilitation.

The short-term solutions to this problem are few. Perhaps the only real alternative to expensive and drawn-out vocational rehabilitation programs is heavy emphasis on case control and direct re-employment activities.

The more effective solution requires statutory changes to create an atmosphere in which vocational rehabilitation can operate properly. This is difficult and time-consuming. And, even when changes are made, they may be impossible to implement properly.

Still, a less-than-perfect implementation of a well-designed program is better than most of those currently in effect.

Ideally, workers compensation should provide financial incentives for the employer or the insurer voluntarily to furnish re-employment opportunities and cost-effective training and placement.

Compensation for lawyers and rehabilitation providers should at least be influenced by the success of the rehabilitation program, and the permanent disability benefits paid should not reward failure or lack of cooperation.

The first goal is being approached in

different ways by a number of states, including Minnesota, Wisconsin, Florida and Louisiana. These states, as well as some others, have permanent disability systems that provide varying levels of correlation between post-injury employment status and the amount of the permanent partial disability benefit.

However, the effectiveness of these laws often is hampered by mandatory rehabilitation provisions that interfere with the financial incentives.

The recent law change in Massachusetts may offer a better opportunity for evaluating economic incentives as a method of controlling the delivery of vocational rehabilitation benefits. The Massachusetts law now will provide rehabilitation primarily on the basis of agreement between employer and employee, with a "safety net" furnished by the state when employers and insurers act contrary to the economic incentives in the benefit structure.

Furnishing incentives for lawyers and providers is harder.

It may be argued that rehabilitation providers that are successful in returning workers to employment will be rewarded with more clients and more cases. But, this free-market approach is limited, due to the many rehabilitation programs that never are completed and the current emphasis on reasons other than return to work for using rehabilitation.

If the emphasis is changed and adequate records are kept on the relationship between evaluation, proposal and result for each provider, better choices could be made.

A more radical approach may be worth considering to improve the incentives for lawyers: a fee determination that does not consider the value of any rehabilitation program unless and until it shows results. This approach also may apply to rehabilitation providers.

It may be impractical, difficult to implement and frustrating. But, is it any worse than what we have?

For employees, there are several benefit systems that arguably provide incentives to cooperate with rehabilitation and programs, or at least do not offer disincentives.

In an impairment-based system, which provides permanent disability benefits without any consideration of employment or employability, the worker would appear to be better off returning to the best employment available, since the wages would be in addition to benefits otherwise payable.

Systems that place primary emphasis on the replacement of lost income, penalize the worker for refusal to cooperate with rehabilitation efforts, and deny benefits for income losses that could reasonably have been avoided by the worker also should serve rehabilitation well, since the certainty of earned income should overcome the temptations offered by the possibility of replacement benefits.

Unfortunately, systems frequently do not operate as intended. Claimants perceive or are told that the best way to reach the ultimate settlement is to stay off work as long as possible and present a picture of helplessness, even when benefits are based upon impairment.

To some extent this may work,

Continued on next page



John H. Lewis is a workers compensation expert based in Coconut Grove, Fla. Mr. Lewis has served as a consultant to several states that have drafted workers compensation reform measures.

ASK A BENEFIT MANAGER

Management scrutiny of benefits won't ease

Q

I have been a benefits professional for many years, but it's only recently that I have become aware of the increased concern that my company's management has over the scope of our employee benefits program. I assume that this

concern is because of the annual costs of our benefits program. My company's profitability has improved, however, and I would expect the pressure on benefits personnel to reduce costs to lessen. Do you agree?

A

No, I disagree. Despite the improved profitability of many companies during the last one or two years, cost pressure will continue to be the dominant factor affecting the employee benefits function in 1986 and beyond.

There are three major reasons for

this pressure:

- First, the intense competition, both at home and abroad, is forcing many companies to re-examine their financial viability and, in some cases, to reorganize.

The reorganizations—for example, the increased number of mergers and leveraged buyouts—focus not only on the annual expense a company incurs on account of its benefits program, but also on the long-term liabilities represented by these benefit programs as they may affect the present or future value of the business.

In many cases, companies have only begun to measure these liabilities; in virtually all cases, however,

the liabilities represented by these benefit programs significantly affect the value of the business.

- Increased governmental legislation continues to shift the burden of providing pension and health care benefits from the public to the private sector and to increase the costs of a company's benefit programs.

In addition, several court decisions have found that retiree benefit programs represented an implied contract that cannot be revoked or curtailed.

And, I would not be surprised if Congress were to mandate cost-of-living increases in the pension benefits provided by the public sector to retirees or to require that Medicare be secondary to the company health insurance program covering retired employees.

The increased liabilities and costs represented by this cost-shifting by the federal government will continue to affect your company's benefit programs for years.

- Finally, the need for increased productivity as measured against very tight profit margins will force companies continually to reassess the current and future costs of their benefit programs to ensure they are getting the maximum value for their dollar.

Given the current diversity of the workforce, the pressure for increased productivity probably will require benefit professionals to "target" their most productive employee groups and to redesign their programs to be most responsive to the needs of these groups.

In fact, there may well develop a "two-tier" system of employee benefit programs over the next 10 years: one designed for the average employee and another designed for highly productive or key employees.

We already are seeing the emergence of this trend in the expansion of non-qualified supplemental retirement plans for key executives and in the reorganization of our health care system, including the growth of health maintenance organizations and preferred provider organizations—a form of "competitive socialized medicine"—rather than the traditional fee-for-service system.

For all of these reasons, you can expect the dimensions of your employee benefit program to continue to broaden in the future and to merit the increased attention of your senior management.

In fact, the complexity, diversity and financial importance of the employee benefits area is evidence that this function now has become a key organizational element affecting a company's current and future viability as a business.

To be effective in today's and tomorrow's competitive environment, therefore, the benefit professional must operate as a general manager and achieve the skills necessary to measure and control not only the traditional employee relations and personnel aspects of his or her company's benefit program, but also the financial, legal and tax effects of these programs. ■

Would you like advice from an experienced colleague on a risk management, benefit management or actuarial problem? Three features in the Perspective section of Business Insurance can give you some answers.

Ask A Benefit Manager, Ask A Risk Manager and Ask An Actuary answer written questions from readers on risk and benefit management issues and actuarial problems.

This month's column, on employee benefit issues, is written by Joseph Duva, director of employee benefits and compensation at SCM Corp. in New York. Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco, answers risk management questions. And, William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions.



Mr. Duva

Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Miner's column appears on the first Monday of every other month. Mr. Duva's next column will appear in March.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Text on rehabilitation is valuable for all

"Insurance Rehabilitation: Service Applications in Disability Compensation Systems"

By Ralph E. Matkin

Published by PRO-ED Inc., 5341 Industrial Oaks Blvd., Austin, Texas 78735

361 pages; softcover, \$18 prepaid

By Carol Cain

ALTHOUGH WRITTEN FOR vocational rehabilitation professionals, Ralph Matkin's textbook is a handy reference for anyone involved in workers compensation or the field of vocational rehabilitation.

The book by Mr. Matkin, who is president of Vocational Management Systems, a rehabilitation consulting firm in Murphysboro, Ill., contains a mixture of history, theory, philosophy and

books & ideas

practical applications of rehabilitation services.

Throughout the book, Mr. Matkin makes the point that teamwork is key to making vocational rehabilitation work and getting an injured worker back to work.

For example, in the chapter on disability case management, he says: "Effective disability management involves a team effort consisting of highly trained professionals in the field of insurance claims handling, medicine and vocational rehabilitation. Most importantly, however, disability management must involve the disabled client, as well as other significant persons concerned with the client's welfare, to effectively plan and implement

vocational rehabilitation goals."

On other pages, he stresses that "it is through the use of effective communication of relevant and comprehensive vocational information that the rehabilitation professional and disabled client can move closer to attaining job placement."

Mr. Matkin says his intention with the book is to supplement, rather than to replace, existing vocational rehabilitation philosophies and practices.

"The goal of this text is to provide information and background about disability insurance compensation systems in order for rehabilitation professionals to become better prepared to provide their services effectively and efficiently within that context," he

explains.

He accomplishes this goal by identifying insurance systems and their regulatory frameworks, by focusing on rehabilitation services practiced within insurance systems, by promoting increased understanding of vocational rehabilitation and insurance issues among both public and private sector practitioners and by inviting the rehabilitation community to become active participants in compensatory systems affecting disabled citizens.

In addition, the book includes three glossaries—on insurance terms, legal terms and occupational terminology—and 10 appendices, including a directory of state vocational rehabilitation offices, which make it a welcome addition to a workers compensation manager's or risk manager's bookshelf. ■

Vocational rehabilitation

Continued from previous page

although the additional benefits probably will fall short of the actual income loss. Systems that provide high income replacement seem incapable of making the decisions needed to let the system operate properly.

As is often the case, moderation may be the key to designing a program that both supports vocational rehabilitation and provides an appropriate benefit package for those with permanent disabilities. Decisions on rehabilitation must rest primarily on economic incentives; the "mandated through litigation" approach simply does not work for either side.

A safety net also must be provided, because there always will be employers and insurers that will fail to perform, no matter what the incentives may be.

Finally, the benefit structure should provide a balance between impairment and income benefits. Income-sensitive benefits can prompt employers and insurers to deliver rehabilitation voluntarily, but should not be so high as to encourage claimants to stay home.

Impairment benefits also can be included, particularly for significant injuries, recognizing consequences of injury that cannot easily be quantified and the inability of systems to deal with income-related losses as

satisfactorily as might be desired.

However, it must be recognized that, no matter how thoughtful and well-intentioned the proposal, its implementation depends on the proper functioning of the administration and litigation systems that control workers compensation on a day-to-day basis.

If the rest of a workers compensation program is not working, there is little reason to believe simple benefit changes will fare any better. Without proper control and support, any rehabilitation program will fail, not only as a result of its expense, but also because it may cause real harm to those who need rehabilitation. ■

Compilation of informational material

commercial property/ casualty insurance

- A brochure describes insurance services of interest to **utility risk managers** offered by Crump London Underwriters. For a free copy, write 101 in the box on the reader service coupon.
- "New CGL: A Checklist for the Change," a three-page reprint available from International Risk Management Institute Inc., offers advice to risk managers for making the transition to the **1986 CGL program**. For a free copy, write 102 in the box on the reader service coupon.

- A paper available from Shand, Morahan & Co. Inc. outlines the **differences between claims-made professional liability policy forms and the new CGL claims-made form**. Also included is a chart illustrating differences between other CGL claims-made forms, such as those proposed by Lloyd's of London and H.S. Weavers (Underwriting) Ltd. For a free copy, write 103 in the box on the reader service coupon.

- "How Effective is the Pollution Exclusion?" a reprint available from Claims Reporter, discusses whether the **standard pollution exclusion** extends to unintended results of intentional dispersal. For a free copy, write 104 in the box on the reader service coupon.

- A flier available from Victor O. Schinnerer & Co. Inc. describes the Schinnerer/Travelers **Real Estate Agents Errors and Omissions Insurance Program**. For a free copy of the flier, write 105 in the box on the reader service coupon.

- "The Schinnerer Project Insurance Program" is a booklet describing the features of the **professional liability program for architects and engineers** offered by Victor O. Schinnerer & Co. Inc. For a free copy, write 106 in the box on the reader service coupon.

- "PIC Newsletter" is a quarterly publication containing information on insurance topics and on **products available from Professional Insurance Consultants Inc.** For a free subscription, write 107 in the box on the reader service coupon.

- A flier describes Industrial Risk Insurers' package of **fire, difference-in-conditions and boiler-machinery insurance**. For a free copy, write 108 in the box on the reader service coupon.

- A four-page brochure available from International Risk Management Institute Inc. describes reference manuals available from the company. The manuals contain information on **claims-made and occurrence coverage triggers**, new classifications and rating, and endorsements for new policies. For a free copy of the brochure, write 109 in the box on the reader service coupon.

- American Assn. of Insurance Services, a rating organization for the property/casualty insurance industry, publishes "Viewpoint," a bimonthly newsletter containing information about **AAIS programs and services** and insurance issues. For a free subscription, write 110 in the box on the reader service coupon.

- A pamphlet describes the products and services of **Zurich-American Insurance Group**. A list of office locations is included. For a free copy, write 111 in the box on the reader service coupon.

- The text of a speech entitled "Motion Picture Producer and Investor Protection," which discusses **motion picture completion guarantees**, insurance for producers of motion pictures and limited partnership financial guarantee bonds, is available from American National General Agencies. For a free copy, write 112 in the box on the reader service coupon.

- A flier available from Victor O. Schinnerer & Co. Inc. contains information on the **CNA/Schinnerer Architects/Engineers Professional Liability Insurance Program**. For a free copy, write 113 in the box on the reader service coupon.

- A kit containing information on insurance programs providing corporations, associations and government entities with **reimbursement for legal expenses** for lawsuits that allege wrongful discharge, discrimination or sexual harassment is available from NAS Insurance Services Inc. For a free copy, write 114 in the box on the reader service coupon.

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Continued on next page

Guide to special Info section

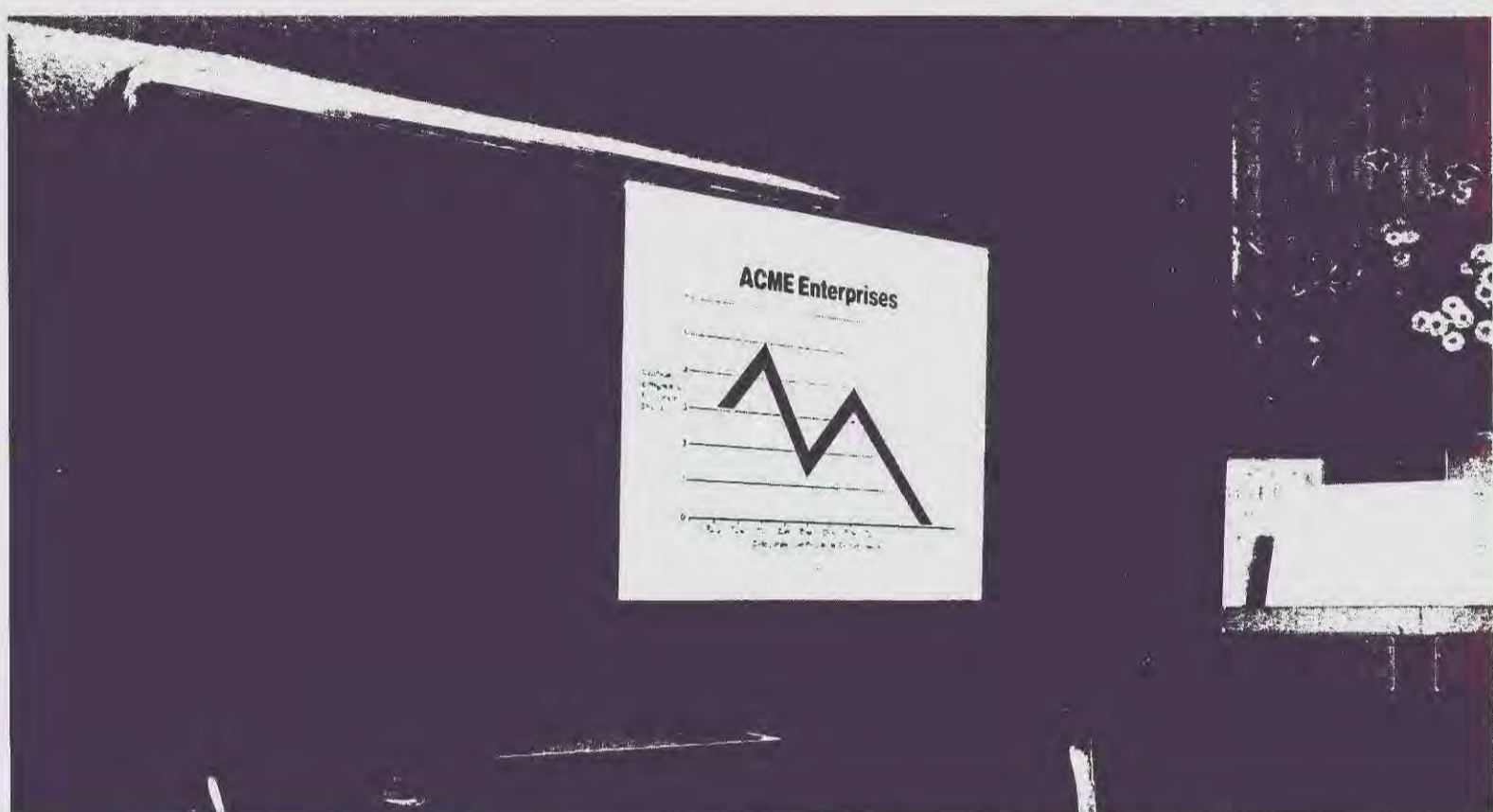
The annual special Info section is an editorial compilation of current informational materials available on topics of interest to risk, employee benefit and financial executives. The listings are published free of charge by *Business Insurance*.

The materials, all free of charge, are organized under these headings: commercial property/casualty insurance, employee benefits, employee benefit information systems, fidelity & surety, financial services, international, loss control/people, loss control/property, reinsurance, risk management, risk management information systems, self-insurance services and workers compensation.

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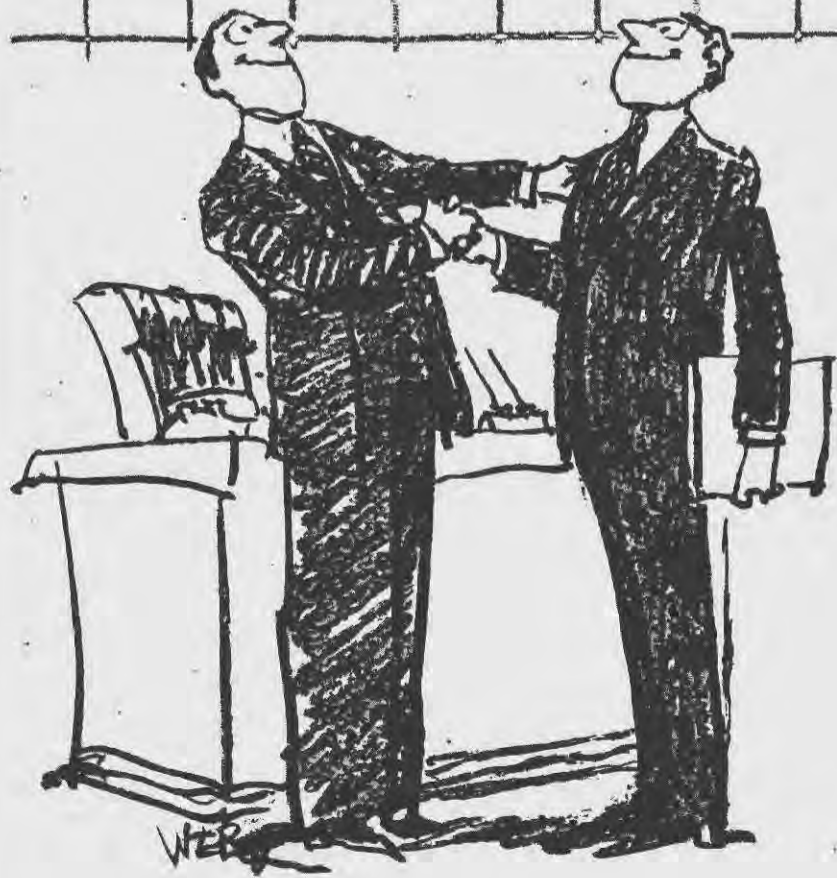
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• A booklet available from Buck Consultants Inc. discusses the features of **cash balance pension plans.** For a free copy, write 257 in

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• "Report on State Pension Commissions," prepared annually by Johnson & Higgins, provides information on recent **legislation affecting pension plans** in each state. For a free copy, write 258 in the box on the reader service coupon.

• Buck Consultants Inc. offers a booklet that discusses the provisions of the **Deficit Reduction Act of 1984** that may affect qualified defined benefit and defined contribution plans. For a free copy, write 259 in the box on the reader service coupon.

• "Medical Cost Management," a 14-page brochure available from Conservco, describes the **cost-containment programs** of the company. For a free copy, write 260 in the box on the reader service coupon.
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Continued from previous page

- A pamphlet describes "Risk Financing: Cash-flow Plan Alternatives," a two-volume reference book available from International Risk Management Institute Inc. The volumes provide information on a variety of **risk financing plans** and the tax and accounting implications of various plans. For a free copy, write 714 in the box on the reader service coupon.

- A directory of Crawford & Co.'s **claims offices**, including property/casualty adjusters, heavy equipment appraisers and health and rehabilitation office locations, is available from the company. For a free copy, write 715 in the box on the reader service coupon.

- "The Construction Risk Management Manual," a two-volume reference book containing information on risk management and insurance of interest to those in the **construction and insurance professions**, is described in a pamphlet available from International Risk Management Institute Inc. For a free copy, write 716 in the box on the reader service coupon.

- "J&H Infoline," a flier published periodically by Johnson & Higgins, contains information and ideas of **interest to risk managers**. For a free copy, write 717 in the box on the reader service coupon.

risk management information systems

- A 64-page booklet describes the **Sigma+ System** available from Risk Sciences Group. The system is designed to integrate claims data from **multiple claims services** into a single report. For a free copy, write 718 in the box on the reader service coupon.

- RISKMASTER software, of interest to **hospital risk managers**, is described in a notebook available from SOFTEC Inc. For a free copy, write 719 in the box on the reader service coupon.

- Rollins Burdick Hunter Co. offers a brochure entitled **RISKAN: Answering New Challenges in Risk Management**, which describes the company's **risk management information system**. For a free copy, write 720 in the box on the reader service coupon.

- The features of SISDAT, a **risk management information system** available from Crawford & Co., are described in a booklet. For a free copy, write 721 in the box on the reader service coupon.

self-insurance services

- A report available from Qic-Claim Assn. discusses **self-funding employee health care**. Also included are a case study and information on the feasibility of self-funding. For a free copy, write 800 in the box on the reader service coupon.

- CAMIS, an **automated claims administration** system for self-insured companies, is described in a four-page paper available from SW Medical Data Systems Inc. Also included is general information on evaluating automated claims-administration systems. For a free copy, write 801 in the box on the reader service coupon.

- The services of Certified Claims Corp., a **claims management, auditing and consulting** company, are described in a brochure.

For a free copy, write 802 in the box on the reader service coupon.

- The **disability claims services** for self-insured companies available from Thomas L. Jacobs & Associates are outlined in a brochure. For a free copy, write 803 in the box on the reader service coupon.

- Countrywide Services Corp., a company specializing in investigation, administration and trial preparation of **product liability claims**, offers a brochure describing its services. For a free copy, write 804 in the box on the reader service coupon.

- "Self Insurance—The Alternative" is a pamphlet discussing the concept of **self-funding employee benefits** and is available from Health Claims Administration Inc. For a free copy, write 805 in the box on the reader service coupon.

Continued on next page

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• A booklet available from Risk Management Service Co. describes the company's **claims administration services**. For a free copy, write 806 in the box on the reader service coupon.

• A 14-page manual summarizes the **health claims administration and billing system** available from WLT Software Services Inc. For a free copy of the article, write 807 in the box on the reader service coupon.

• A reprint available from Kelly & Associates Inc. discusses the possible advantages of self-funding **medical, dental and other health benefit plans**. For a free copy, write 808 in the box on the reader service coupon.

• The **claims management and related services** available from Adjustco Inc. are described in a brochure. For a free copy, write 809 in the box on the reader service coupon.

• "Considerations in Selecting a **Micro vs. Mainframe Automated Claims System**" is the title of a flier available from SW Medical Data Systems. For a free copy, write 810 in the box on the reader service coupon.

• A booklet describes the **computerized information system capabilities** of SW Medical Data Systems Inc. For a free copy, write 811 in the box on the reader service coupon.

• The **claims system evaluation and selection services** offered by Thomas L. Jacobs & Associates are outlined in a flier. For a free copy, write 812 in the box on the reader service coupon.

• "Self-Insurance for Hospitals: A Risk Management Approach" contains information on **risk control and risk financing for hospitals** considering self-insurance. The booklet is available from Victor O. Schinnerer & Co. Inc., and includes a sample timetable for implementing a self-insurance program. For a free copy, write 813 in the box on the reader service coupon.

• Differences in on-line and off-line **automated claims administration systems** and criteria for use in selecting the most appropriate system are discussed in a paper available from SW Medical Data Systems Inc. For a free copy, write 814 in the box on the reader service coupon.

• A brochure provides information on the **claims management and related services** offered by Johns Eastern Co. Inc. For a free

copy, write 815 in the box on the reader service coupon.

• A booklet available from Administrative Concepts Inc. contains information on the possible **advantages of self-funding employee medical, dental and vision plans**, as well as the claims administration services offered by the company. For a free copy, write 816 in the box on the reader service coupon.

• The **health claims management systems** available from Qic-Claim Assn. is described in a report available from the company. For a free copy, write 817 in the box on the reader service coupon.

• A brochure available from Thomas L. Jacobs & Associates describes the features of the company's software package for use in **disability claims management**. For a free copy, write 818 in the box on the reader service coupon.

• A three-page checklist for selecting an automated **health claims administration system** is available from SW Medical Data Systems Inc. For a free copy, write 819 in the box on the reader service coupon.

• Noble Lowndes International Inc.'s **ACES (Automated Claims Entry System)**, which is designed for use by self-insured corpora-

tions, third-party administrators and insurance companies, is described in a brochure. For a free copy, write 820 in the box on the reader service coupon.

workers compensation

• The text of a speech discussing the possible changes in the California **coming and going rule** is available in a reprint from the Claims Reporter. For a free copy, write 900 in the box on the reader service coupon.

• The workers compensation services available from The Westcott Corp., a **settlement consulting firm**, are detailed in a pamphlet. For a free copy, write 901 in the box on the reader service coupon.

• A **directory of Crawford & Co.'s health and rehabilitation offices** throughout the United States

comings & goings: buyers

Meridian names Maher to risk management job

Kenneth M. Maher, 31, has been promoted to assistant vp-corporate risk management at Meridian Bancorp Inc. in Reading, Pa. In his new position, Mr. Maher will design, coordinate and administer Meridian's insurance programs, in addition to loss control and claims management duties. Mr. Maher, who joined the bank in February 1985, reports to Michael Mizak, senior vp-financial accounting, and replaces **Randall Cooper**, who has joined the Risk Planning Group division of Tillinghast, Nelson & Warren Inc. as a consultant. Prior to joining Meridian, Mr. Maher was director of risk management at Jeanes Health Systems in Philadelphia. Mr. Maher has a bachelor of arts degree in criminal justice from C.W. Post College in Brookville, N.Y., and a master of business administration degree in risk and insurance from Temple University in Philadelphia. He is a member of the American Bankers Assn. and the Hospital Assn. of Pennsylvania Risk Management Society, and he is the past president of the Delaware Valley Health Care Risk Management Society. In addition, he currently is studying for the associate in risk management designation.



Mr. Maher

Douglas J. Lint, 43, has been named director-international compensation and benefits at United Technologies Corp. in Hartford, Conn. In this newly created position, Mr. Lint will coordinate the implementation of international compensation and benefit programs for United Technologies and will report to Daniel P. O'Connor, director-compensation and benefits for the company. Mr. Lint, who had been vp-personnel at Carrier International Corp., a United Technologies affiliate, has a bachelor of arts degree in psychology from Ohio State University in Columbus, Ohio.

In addition, United Technologies has appointed **Lawrence A. Cavanaugh** to the newly created position of senior manager of employee benefits in the company's human resources department. Mr. Cavanaugh, 48, will be responsible

for employee benefits planning and the development of new and existing benefit plans for United Technologies and its subsidiaries. He will report to Carl E. Lindquist, director of employee benefits for the company. Previously, Mr. Cavanaugh had served as an assistant general counsel for United Technologies. He has a bachelor of arts degree from Fairfield University in Fairfield, Conn., a master's degree from Trinity College in Hartford, Conn., and a doctor of law degree from the University of Connecticut in Storrs, Conn.

• A manual available from WLT Software Services Inc., a data processing company, summarizes the **workers compensation computer system** designed by the company. For a free copy, write 903 in the box on the reader service coupon.

• Services available from The Remedy Co., including **claims control, cost savings through medical management, vocational rehabilitation and labor market surveys**, are described in a brochure. For a free copy, write 904 in the box on the reader service coupon.

• A reprint from the Claims Reporter discusses the 1984 amendments to the **Longshore and Harbor Workers' Compensation Act**. For a free copy, write 905 in the box on the reader service coupon.

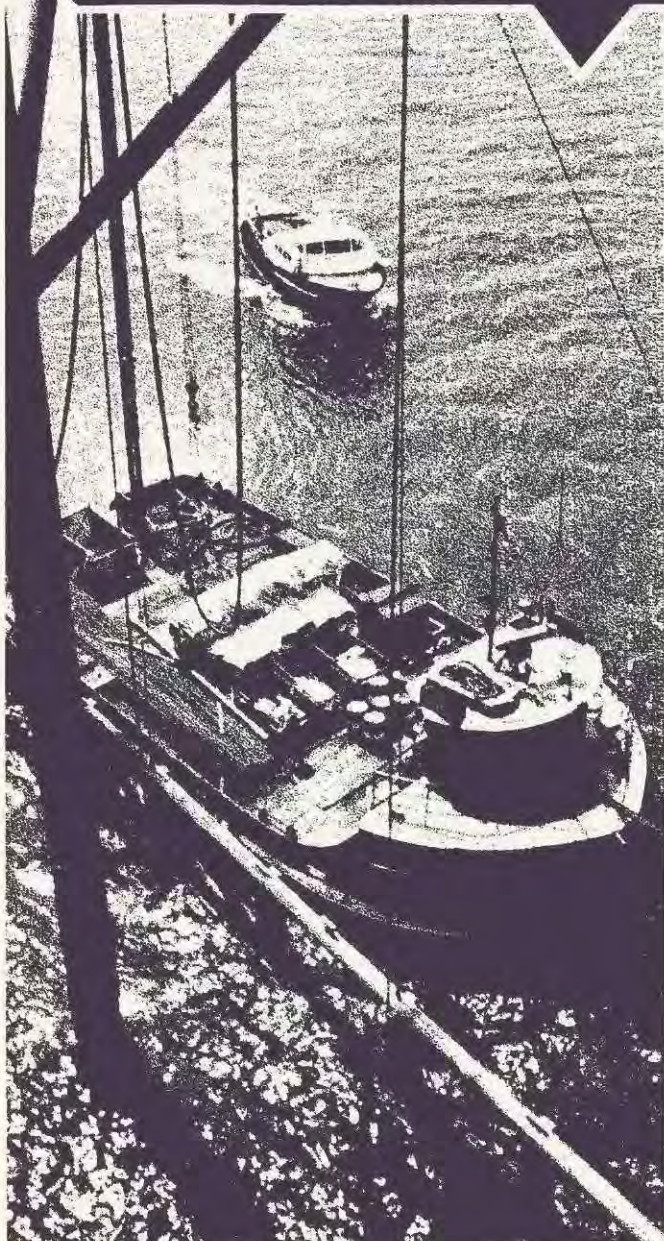
Frank R. Tierney III, 36, has been promoted to vp-risk management at Consolidated Natural Gas Co. in Pittsburgh. Mr. Tierney, who was previously assistant vp-risk management at Consolidated Natural Gas, will report to Harry P. Sullivan, senior vp and general counsel. In the newly created position, Mr. Tierney will be responsible for the company's risk management program, including property/casualty insurance and loss control programs. Mr. Tierney joined Consolidated Natural Gas in 1974 as an assistant manager of insurance, was promoted to manager of insurance, then director of insurance in 1982. He was named assistant vp the following year. Mr. Tierney holds a bachelor of science degree in marketing from the University of Delaware in Newark, Del. He is chairman of the Products and Services Committee of the Risk & Insurance Management Society and past president of RIMS' Pittsburgh chapter. In addition, Mr. Tierney is past chairman of the American Gas Assn.'s Risk Management Committee and a member of the Society of Chartered Property Casualty Underwriters and serves on the Underwriting Committee of AEGIS Ltd., which is a mutual insurance company for the utility industry.

Mr. Tierney

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"Lloyd's, London, Correspondents"

washington**Reagan signs bill to extend OPIC's underwriting authority**By **JERRY GEISEL**

WASHINGTON—The Overseas Private Investment Corp. can again write new business.

President Reagan has signed legislation, S. 947, that extends the underwriting authority of the Overseas Private Investment Corp. through Sept. 30, 1988.

OPIC, the federal agency that offers political risk insurance to U.S. companies investing in less-developed countries, had ceased writing new business when Congress failed to renew its underwriting authority after it expired last Sept. 30.

Aside from giving the agency a new three-year lease on life, the legislation allows OPIC to offer business interruption insurance for the first time.

The legislation also would give OPIC authority to establish a pilot program to reinsure commercial insurers writing political risk coverages. Under this program, the agency's maximum exposure could not exceed \$50 million per country with a \$150 million aggregate limit.

Asset reversion

Phillips-Van Heusen Corp., is terminating four pension plans covering hourly and salaried employees to recover about \$20 million in excess assets, the New York apparel company says. Four identical plans are being established to replace the terminated plans.

The transaction will allow the company to gain use of the excess assets, a spokesman said. Also, he said, participants will become fully vested in their accrued benefits upon plan termination.

Annuities will be purchased to guarantee benefits.

The terminated plans, which all offer first and full vesting after 10 years of service, have about 3,000 participants, the company said.

EEOC withdraws rules

The Equal Employment Opportunity Commission has withdrawn rules that guide employers in complying with federal laws that require companies to give older workers and their spouses the option to enroll in group health care plans.

While the rules have been withdrawn because of a dispute between the EEOC and the Office of Management and Budget, employers still must give those workers and their spouses the option of enrolling in corporate health care plans, rather than the federal Medicare program, for their primary health care coverage.

That option was required by the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984.

The dispute between the EEOC and the OMB erupted when the EEOC proposed that disabled spouses who chose Medicare for primary coverage subsequently could receive employer-provided Medicare supplemental coverage.

The OMB had opposed this proposal because it believed that disabled spouses would have a financial incentive to opt for Medicare for their primary coverage if they were able to supplement it with employer-provided benefits.

If given an opportunity to choose, older employees will nearly always opt for employer plans over Medicare, which usually has much higher deductibles and coinsurance requirements.

As more older workers select employer plans for primary cover-

age, this shifts more costs from Medicare to employers, which was Congress' intent when it enacted TEFRA and DEFRA.

TEFRA requires companies with more than 20 employees to offer workers between the ages of 65 and 69 the choice between enrolling in the corporate health plan or sticking with Medicare. If these older workers had spouses who were between the ages of 65 and 69, employers also had to offer health care coverage to those spouses.

Under DEFRA, employers have to offer health care to spouses who are between 65 and 69, even if the employee is under 65. ■

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States take further steps to aid buyers

By JOANNE WOJCIK O'HARE

Government officials in four states are using their authority to help insurance buyers find coverage in a continually shrinking market:

- A Wyoming General Assembly panel approved legislation last month that would establish a \$3.4 million fund to finance a self-insurance plan for the state and would lower the cap on liability awards against government entities.

- A second bill, which also gained committee approval during the fall session, would set up a similar program for local governments.

- The Kansas Insurance Assistance Plan, designed to help insurance consumers in that state obtain needed commercial coverage, was launched Jan. 1.

- In response to consumer complaints about midterm cancellations and non-renewals, Mississippi Insurance Commissioner George Dale has sent cancellation guidelines to chief executive officers of all property/casualty insurers licensed in the state.

- Michigan Insurance Commissioner Herman W. Coleman and his staff have been working with insurance industry representatives

and the state Legislature to develop voluntary standards that would improve the commercial property/casualty insurance marketplace.

Wyoming's Joint Judiciary Interim Committee plans to introduce the two self-insurance measures in the Senate during the Legislature's 20-day budget session in February.

However, an Insurance Department official thinks there may not be enough time for lawmakers to work on the insurance legislation.

Tom Power, the department's chief examiner and actuary, said the governor may have to call a special session, during which other measures—including tort reform and changes in the state's medical malpractice law—may be considered.

The state plan, covering all state agencies and peace officers, also would amend the Wyoming Governmental Claims Act of 1979 by reducing the cap on awards for damages against any state or local governmental entity to \$250,000 from the current \$500,000. Group awards would be limited to \$500,000, according to Mr. Power.

Although Mr. Power didn't know how the panel came up with the \$3.4 million figure for the self-insurance fund, he did say that was

the approximate amount the state paid for all of its insurance coverage during 1985.

The proposed self-insurance program for local governments would be open to all counties, cities and school districts in the state.

Claims would be paid from a fund composed of premiums paid by participants. The size of the pool has not been projected.

Should the local insurance program need a bailout, the bill calls for the state to provide the necessary money from its general fund.

Both Wyoming self-insurance plans would be administered by the state Department of Administration and Fiscal Control.

The Kansas market assistance plan was created by the cooperative efforts of insurers and agents under the authority of a Kansas insurance statute, said Insurance Commissioner Fletcher Bell.

Mr. Bell said he received complaints from every area of the state that policies were being canceled or not renewed. Although there is no Kansas law prohibiting companies from canceling an insurance contract, they must provide 30 days' written notice, he said.

"Some policyholders are finding themselves in a situation where

their coverages are terminating and there is no replacement policy to be found," Mr. Bell said.

The commissioner's staff will help coordinate market information for policyholders through a producers subcommittee and an underwriting subcommittee, which Mr. Bell has appointed.

The producers panel, composed of two representatives from the Independent Insurance Agents of Kansas, two from the Professional Insurance Agents and one from excess/surplus lines agents, will review applications and decide whether to:

- Remarket the risk to the present or most recent insurer.

- Check other markets of the submitting producer.

- Check all other known insurer markets.

- Negotiate extensions of coverage with the prior insurer to permit exploration of markets or accumulation of underwriting data.

- Refer the application to the underwriting subcommittee.

The underwriting panel is made up of one representative from the American Insurance Assn., one from the National Assn. of Independent Insurers, one from the Alliance of American Insurers, one from unaffiliated insurers and one from excess/surplus lines insurers.

It will establish a rotation system that permits participating insurers to quote risks they are qualified to write in the voluntary market. According to the membership provisions of the plan, all insurers receiving notification from the Kansas Insurance Department are considered voluntary participants, unless they request otherwise.

Consumers in Kansas who need assistance in locating an insurer to quote on a particular risk can write the Kansas Insurance Assistance Plan, c/o the Kansas Insurance Department, 420 S.W. Ninth St., Topeka, Kan. 66612.

Mr. Dale's letter to Mississippi in-

surers states policy cancellations should be prompted only by unfavorable underwriting factors not present at the inception of coverage.

All insurers that stop writing a product or line of insurance should arrange coverage with another insurer or retain all policyholders until the policies expire, he said.

Policyholders also must be given 60 days' notice of premium increases, policy non-renewals or cancellations.

The Michigan standards, scheduled to expire at the end of 1986, require that a notice of non-renewal be mailed at least 45 days before the policy expires.

If the notice isn't received within the specified period, the policyholder has the option of continuing coverage for up to 45 days from the date of receipt, as long as the policyholder pays the premium for the extended coverage in advance.

The guidelines allow prepaid policies in effect for more than 90 days to be canceled for the following reasons with the indicated amount of notice:

- Non-payment of premium, fraud or material misrepresentation: 10 days.

- Change in the risk that substantially increases any covered hazard, except to the extent that the insurer should have foreseen the change or considered the risk in writing the contract: 30 days.

- Failure of the policyholder to comply with reasonable safety recommendations: 20 days.

Premiums should not be increased midterm, unless increases are permitted under terms of the policy or if the policyholder's exposure increases, according to the guidelines.

And, an insurer is advised to present a policyholder or agent with a loss history within 30 days of a written request. However, loss history requests are limited to one per year.

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Benefit tax status

Continued from page 2
assistance, is covered under Section 127 of the tax code. Group legal benefits are covered under Section 120 and van pooling is covered under Section 124.

Similar doubt over the tax-favored status of these benefits occurred in 1984.

On Dec. 31, 1983, Section 127, covering tuition reimbursement benefits, expired. However, it wasn't until October 1984 that Congress passed legislation retroactively extending the tax-free status of tuition reimbursement benefits through Dec. 31, 1985 (BI, Oct. 8, 1984).

The legislation also imposed a per-employee annual \$5,000 cap on the maximum amount of tax-free tuition reimbursement.

At the same time, Congress approved another bill extending the tax-free status for group legal plans through Dec. 31, 1985. Section 120 had been due to expire on Dec. 31, 1984.

While the IRS currently is not directing employers to withhold taxes for workers receiving tuition reimbursement, group legal and van pooling benefits, an IRS spokesman said in early 1984—shortly after Section 127 had expired—that the agency expected employers to withhold taxes for employees receiving tuition reimbursement benefits (BI, Feb. 6, 1984).

However, employers probably were pretty evenly divided in deciding whether to withhold taxes, said Denise Georgemiller, a consultant with Hewitt Associates in Lincolnshire, Ill.

"Employers took both courses of action. Some began to withhold taxes right away, while others waited," according to Ms. Georgemiller.

For example, Hewlett-Packard Co. in Palo Alto, Calif., withheld taxes in 1984 for employees receiving tuition reimbursement benefits, recalled Art Young, the company's benefit manager.

Later, when Congress retroactively extended the tax-favored status of tuition reimbursement benefits, Hewlett-Packard adjusted withholding rates so the proper amount of taxes was withheld, Mr. Young said.

However, some question if as many employers will withhold taxes during the current uncertainty as in 1984.

"Some employers will be careful and withhold. Many will not," predicts TPF&C's Mr. Klein.

However, Mr. Klein notes that many employers, recalling the 1984 experience, believe lawmakers will pass retroactive legislation this year.

Frank McArdle, education and communications director for the Employee Benefit Research Institute, a Washington-based benefits think tank, said there is a reasonably good chance that Congress during the next several months will approve legislation to provide for a retroactive extension of the tax-favored status of at least tuition reimbursement and group legal benefits.

Mr. McArdle notes that tax legislation, H.R. 3838, passed in December by the House, called for the extension of tuition reimbursement and group legal benefits through Dec. 31, 1987.

Van pooling is not included in that bill.

In addition, two key members of the Senate Finance Committee—Chairman Robert Packwood, R-Ore., and Sen. Lloyd Bentsen, D-Texas, have said they favor the continuation of tuition reimbursement and group legal benefits, Mr. McArdle noted.

In addition, the Reagan administration advocated the extension of those benefits through Dec. 31, 1987, in its last major tax reform

proposal, according to Mr. McArdle (BI, June 3, 1985).

The failure of Congress to pass extensions for tuition reimbursement and group legal benefits was due more to the confusion that prevailed during the last few weeks of the session than antipathy toward these benefits, according to observers.

Of the three benefits, tuition reimbursement programs are the most popular.

EBRI's Mr. McArdle says 5 million workers may be covered under employer-provided programs. A survey by TPF&C found that more than 90% of Fortune 500 companies provide tuition reimbursement programs.

If employers don't withhold taxes for the benefits, 'This can lead to situations where employees become irate when they find out they owe additional taxes, but haven't saved any money to pay for those taxes,' says Mr. Klein of TPF&C.

Typically, a company will not reimburse an employee for tuition until a course has been completed. In addition, employers often will require a passing grade for reimbursement and may base the percent of reimbursement on the grade the employee earns in the course.

Sometimes, a dollar cap is imposed on reimbursement. Such a cap averages between \$1,000 and \$1,500, according to Hewitt's Ms. Georgemiller.

In addition, some employers will place a ceiling on the maximum number of courses for which the company will provide reimburse-

ment.

Under group legal plans, which Mr. McArdle says may cover as many as 2 million people, benefits for certain legal functions, like handling a divorce or drafting a will, will be provided under a fixed schedule.

Group legal plans most often are found in collectively bargained situations.

No reliable estimates are available on the number of people who participate in group van pooling programs covered under Section 124.

In these arrangements, an employer may purchase vans and subsidize some of the costs of operating the vans. ■

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Claims-made form

Continued from page 1

sumers, create potential for gaps in coverage and possible bankruptcy of a business caught by large exposures with inadequate coverage or no insurance at all," said New York Insurance Commissioner James P. Corcoran in rejecting ISO's filing.

Aside from concerns about the claims-made contract itself, some regulators that rejected the form complained about how ISO handled the filing of CGL proposals.

Mr. Jones said while ISO officials and liability insurers have been working on the new CGL forms for about 10 years, "they waited until the 11th hour to get input from insurance regulators."

ISO "took the regulators for granted" and assumed that states would approve the new claims-made form, Mr. Jones said, though he noted that problems in the property/casualty industry have prompted regulators to take a much closer look at policy filings. Other regulators say buyers' concerns prompted the scrutiny.

Regulators also complain that ISO proposed a revision of the CGL form that would include defense costs within policy limits before regulators completed their review of the claims-made proposal.

"ISO riled a lot of us by submitting the defense cost amendment before we had finished with the claims-made form," said John George, director of the Alaska Department of Insurance.

After some prompting by the National Assn. of Insurance Commissioners, ISO is delaying filing the defense cost amendment until at least Feb. 15 (BI, Dec. 23, 1985).

The technical changes regulators are seeking in the claims-made form are largely embodied in model policy language approved last month by the NAIC.

Regulators demanded adding a provision mandating the insurer to reinstate aggregate policy limits when the policyholder buys the "unlimited" tail coverage endorsement, which provides an unlimited time period in which to file claims. The tail coverage as written now, however, can be limited to the original policy aggregate limits or to whatever reinstatement the insurer

is willing to provide.

So far, ISO has been unreceptive to any mandatory reinstatement of a specific amount of limits.

The current claims-made proposal also allows insurers to charge up to 200% of a policy's original premium for the tail coverage, which responds to claims stemming from incidents occurring within the policy period but reported after the policy expires.

Regulators worry that policyholders may be buying little or no tail coverage if they have exhausted or nearly exhausted the aggregate limits of the expiring claims-made coverage.

Regulators also have expressed concern about the availability of claims data to CGL policyholders. Without this information, regulators say, policyholders cannot make an informed decision on whether to purchase tail coverage.

Regulators want ISO to include a provision in the claims-made policy requiring insurers to provide policyholders with loss information and claims data.

"When the insured purchases the tail, we feel strongly that he should know what he's getting," said Roger Langley, manager of the fire and casualty division of the North Carolina Department of Insurance.

State regulators also oppose the current claims-made proposal because they believe the contract is too complicated for many buyers. They say its use should be reserved for certain types of risks.

"The claims-made form is inherently different from any form of insurance coverage the insured is likely to be familiar with, and the insured's perception of the coverage is, therefore, likely to be colored by such previous experience," Ronald C. Humpsted, special deputy commissioner of the Michigan Insurance Bureau, wrote in an order rejecting the form.

"Thus, the reduction in coverage will not be readily apparent to insureds, and gaps in coverage are likely," Mr. Humpsted said. "Many insureds will be under the impression that they have received another bargain from their insurer, as has been the case in recent years of cash-flow underwriting."

Regulators also contend the problems the claims-made CGL is

intended to cure—like the stacking of policy limits and overly broad interpretation of coverage—affect only about 5% of all CGL policies. Regulators say the industry should try to isolate these problem areas and draft policy language that would restrict coverage to the contemplated exposure.

The regulators specifically object to the application of claims-made coverage to small businesses.

"Let's face it. There is widespread confusion not only among regulators, but among agents as well," said Mr. Jones. "And, if agents and regulators are having trouble determining what the claims-made policy covers, just think of the confusion it will cause the buyer."

Regulators also note some buyers won't understand what triggers coverage under the claims-made form. Unlike an occurrence policy, which is triggered by an occurrence or incident that results in a claim, the claims-made policy is triggered only by the actual filing of the claim. And, the claim must be filed during the policy period to trigger coverage.

ISO attempted to address regulators' concerns about the coverage trigger when it revised the claims-made form in October by adding an automatic, five-year extended reporting period if a policy's retroactive date is changed. The extension provides coverage for incidents reported to the policyholder or insurer within 60 days of the prior policy's expiration, as long as the formal claim is filed within five years and no other coverage is available (BI, Dec. 30, 1985).

But some regulators say this does not go far enough.

Ohio's Mr. Jones said the coverage trigger is much too complicated for the average insurance buyer to understand. "I've sat in on 15 hours of meetings with ISO, and I still don't know what triggers a claim."

Mr. Jones says that before Ohio will approve the form, ISO must make it absolutely clear how coverage is triggered. "The policyholder shouldn't have to have a lawsuit in hand and a lawyer by his side to trigger coverage."

Most of the regulators that rejected the claims-made form also have raised concerns about the use

St. Paul to file own form

ST. PAUL, Minn.—The St. Paul Cos. Inc. is breaking ranks with the Insurance Services Office and will file its own claims-made commercial general liability policy form with state insurance departments.

St. Paul decided to file its own claims-made CGL policy form within the next few weeks because ISO's form is available for use in only 14 states, said James E. Bachman, a senior vp with St. Paul.

"We wanted to have a claims-policy available for use as quickly as possible," Mr. Bachman explained. "And, we think our form addresses most of the concerns raised by regulators and the public."

St. Paul has 10 years of experience writing claims-made coverage, more than any other insurer, Mr. Bachman said.

St. Paul would be ready to implement the new policy 30 to 60 days after state regulatory approval. The insurer is shooting for an effective date of March 1.

There are three major differences between St. Paul's form and ISO's form:

- St. Paul's form mandates reinstatement of the policy's full aggregate limits when the policyholder buys extended reporting period or "tail" coverage. ISO's form leaves reinstatement of policy limits for tail coverage up to the insurer.

- Reporting of an incident triggers coverage under St. Paul's claims-made policy form, rather than requiring that the policyholder receive a claim demand to trigger coverage.

- Multiple claims from a single event are charged to the policy in force at the time a claim for that event is first filed, under the St. Paul form. ISO's form allows claims stemming from one event to be charged to more than one policy.

St. Paul's form also contains several other minor differences from the ISO policy form, according to Mr. Bachman.

—By Robert A. Finlayson

of the form's retroactive date and "laser" endorsements.

The retroactive date endorsement allows the insurer to exclude coverage for incidents that occur before a certain date, while the various laser endorsements can be used to exclude coverage for particular products, incidents or locations.

Virginia Insurance Commissioner James M. Thomson says he will not approve laser endorsements unless ISO includes a signature line indicating the policyholder's acknowledgment and acceptance of the endorsement.

Besides these major concerns, regulators have expressed other worries about the form:

- Regulators in several states want a provision added that requires insurers to offer tail coverage to policyholders canceled for non-payment of premium.

Under ISO's proposal, insurers are only required to offer tail coverage to buyers whose coverage is

canceled or not renewed for reasons other than non-payment.

Michigan's Mr. Humpsted says an insurer that faces losses if a policyholder buys the optional tail coverage could reduce its exposure by canceling coverage should a policyholder inadvertently overlook the due date of a premium notice.

New York and Illinois also support this requirement.

- North Carolina wants insurers' assurance they will provide statistics to allow states to determine what types of risks are written on claims-made forms.

Mr. Langley says the statistics would enable the state to make sure insurers do not use claims-made coverage for small businesses.

- Regulators in Washington state want ISO to explain how money reserved for expected claims will affect the aggregate limits available if the policyholder buys the tail coverage.

For example, if a company has a \$1 million claims-made policy and the insurer sets up a \$500,000 reserve for an expected claim, is the buyer only entitled to \$500,000 in tail coverage? asks Deputy Commissioner David H. Rogers.

- Virginia officials are concerned about the impact claims-made policies will have on guaranty funds.

In particular, the department wants to know if a state guaranty fund will be tapped to provide tail coverage to a claims-made policyholder whose insurer is declared insolvent, explains Mr. Thomson.

While most of the states that have rejected the claims-made form did so by issuing an order describing why, New York told ISO that it would establish minimum standards that all claims-made policies must meet. These standards, which were released by Mr. Corcoran in October, will be promulgated as regulations in February, said an Insurance Department spokesman (BI, Oct. 28, 1985).

In addition, the Tennessee Department of Commerce and Insurance, which has approved the ISO claims-made policy, will propose next month new regulations patterned after the model claims-made language adopted by the NAIC, says Commissioner John C. Neff.

The proposed regulations would require insurers to provide policyholders with certain loss data 30 days after a notice of cancellation or non-renewal; give policyholders 30 days after cancellation to purchase tail coverage; and require that a specific percentage of aggregate policy limits be reinstated when tail coverage is purchased. ■

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Insurer capital

Continued from page 2
its policyholder surplus to about \$40 million.

● Signet Reinsurance Co., based Convent Station, N.J., which received a \$12.5 million capital infusion after its parent company, W.R. Berkley Corp., sold \$40 million in convertible debentures. Signet now has a policyholder surplus of \$27.5 million.

Two other insurers also benefited from the Berkley offering. Admiral Insurance Co., a Cherry Hill, N.J., Berkley unit received \$7.5 million, increasing its surplus to about \$38 million. And, Carolina Casualty Insurance Co., a Berkley affiliate based in Jacksonville, Fla., received a \$6 million infusion, increasing its policyholder surplus to about \$15 million.

● Hansa Reinsurance Co. of America, which received a \$10 million infusion from its parent company, Hansa International Insurance Co. in Stockholm, Sweden, increasing its policyholder surplus to \$20.5 million.

● Zurich Reinsurance Co. of New York, which received a \$9 million infusion from Zurich Insurance Co. of Zurich, Switzerland. Zurich Re now has a policyholder surplus of about \$21 million.

● Warwick Insurance Co., based in Morristown, N.J., which last month received a \$4 million contribution to its policyholder surplus from its parent company, Warwick Insurance Managers, which had earlier raised the funds in a common stock offering (BI, Nov. 25, 1985). Warwick Insurance Co.'s surplus is now an estimated \$8.7 million.

An AIG spokesman says proceeds from the AIG stock offering will be added to general funds to be used for "general corporate purposes, including possible investments in, or extensions of credit to, subsidiaries."

In addition to last month's offering, AIG netted \$287 million during last year's third quarter when it sold 3.45 million shares of common stock (BI, Dec. 2, 1985).

AIG could not furnish data on its year-end 1985 policyholder surplus. At the end of 1984, AIG's aggregate policyholder surplus totaled \$1.6 billion.

An Aetna spokesman said the \$75 million in proceeds from its stock sale will go toward "general corporate funds, to support its base insurance, primarily the property/casualty lines, as well as its financial services businesses."

Aetna, which reported a policyholder surplus of \$1.1 billion as of Sept. 30, could not estimate its year-end surplus.

Skandia America's president and chief executive officer, James F. Dowd, said his company would increase its premium volume as a result of the \$50 million infusion, although "we're not looking to embark on anything new."

Over the last 18 months, he says, Skandia America "has become increasingly restrictive" on what business it will accept, Mr. Dowd said, and it plans to continue on this course.

Gerald L. Friedman, chairman and chief executive officer of FGIC Corp., parent company of Financial Guaranty Insurance Co., said it will use the \$38 million in new funds to support premium growth.

The funds were contributed by FGIC Corp.'s owners: General Electric Credit Corp., General Re Corp., Kemper Group, Merrill Lynch & Co., J.P. Morgan & Co. and Shearson Lehman Bros.

Financial Guaranty, which specializes in insuring tax-exempt municipal bonds, also received a \$19 million capital infusion last March and an additional \$45 million infusion in June. An additional \$25 million infusion is planned for next month.

Mr. Friedman says the insurer

expects to have \$400 to \$500 million in capital and surplus "within the next year or so."

Evanston Insurance Co. will use its \$22.5 million capital infusion to write more business, says Joseph J. Prochaska Jr., chairman and chief executive officer of Shand, Morahan & Co., an Evanston-based underwriting manager. Shand, Morahan owns 52% of Evanston Services, Evanston Insurance Co.'s parent, and manages the surplus lines insurer's operations.

Philadelphia Reinsurance Corp.'s president, Willem K. Dikland, says the company will not write against the \$15 million capital infusion "right away."

Although the company will consider new business, "that is not our primary objective," he said.

The new funds "will be used to strengthen our overall market position. It will basically be used first for strengthening our image" he explained.

Signet's \$12.5 million capital in-

fusion will be used to "support expansion of existing treaty operations and its entry into the facultative market," according to an official at W.R. Berkley, Signet's parent.

Charles E. Erickson, Signet's executive vp, says about 60% of the reinsurance the company assumes is for commercial risks. The company generated about \$20 million in net written premium in 1985.

Admiral's \$7.5 million capital infusion will enable the surplus lines insurer to increase its writings in its specialties, which include professional liability coverages and financial guarantees for real estate tax shelters, says Admiral President Michael J. Snead. The company generated about \$45 million in net written premiums last year.

Admiral, which is the largest insurer owned by W.R. Berkley, had also received a \$10 million capital infusion from its parent last year (BI, Aug. 12, 1985).

James C. Blanton, president of

Carolina Casualty, which received a \$6 million infusion from Berkley, says: "We will probably increase our writings in 1986."

Carolina Casualty, which specializes in long-haul trucking, generated an estimated \$30 million in net written premiums last year.

Hansa Re and Zurich Re's capital infusion represents "a good opportunity to expand our business," says Ake H. Brandin, president of StellaRe Management Corp. in New York, which manages both companies.

Now that the property/casualty market has turned, he says, "We want to take advantage of it in writing new business."

"We're basically going to write the same business as before," but more of it, he says. The two companies, which combined wrote about \$21 million to \$22 million net premiums in 1985, will increase the volume to as much as \$35 million in 1986.

Warwick Insurance Co., which

received \$4 million from its parent, plans to increase the amount of new business it writes as well as work on "business development" plans, says a spokesman for the insurer, whose two biggest lines are workers compensation and commercial multiperil.

"It's mostly going to be just adding on new customers," he says.

Late last week, Transatlantic Reinsurance Co. in New York received a \$20.8 million capital infusion from its parent companies, which include AIG, increasing its surplus to \$104.3 million.

Transatlantic Re President Robert M. Huggins said the reinsurer received the capital "because we see favorable market conditions and we want to maximize our abilities" to participate in them.

Of the \$20.8 million, \$13.2 million was contributed by AIG subsidiary American Home Assurance Co., he said. The capital contribution boosts AIG share of Transatlantic Re to 49.99% from 47.2%. ■

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Kerr-McGee coverage

Continued from page 2

ered by C.L. Frates & Co. in Oklahoma City, she said.

Spokesmen for Kerr-McGee and C.L. Frates would not comment on the underwriters of the excess workers compensation coverage.

The spokeswoman at the workers compensation court said state law requires Kerr-McGee to pay a \$1,000 benefit that would apply to costs of the burial for the man who died in the accident.

Because the victim was unmarried, no other workers comp benefits would be payable unless he had minor children, the spokeswoman said.

Law also requires the company to pay 100% of the medical costs of employees who were treated at the hospital. And, employees who miss more than three days of work would be

eligible to receive two-thirds of their gross pay, not to exceed \$217 per week, she said.

As of last Wednesday, no workers comp claims had been filed as a result of the accident, the spokeswoman said.

Mr. Poulson would not disclose the amount of the company's self-insured retention for liability risks, but he said it was substantial enough to handle any claims from the accident.

"I think there will be some (legal) action, but again, it's going to be of the size that really would not exceed our SIR," he said.

No claims had been filed as of the middle of last week, he added.

Mr. Poulson refused to name the company's excess liability insurers or limits of the coverage, saying only that it was written in North American and London markets.

Shortly after the leak, the Nuclear Regulatory Commission closed the plant to investigate the accident.

Mr. Poulson said Kerr-McGee carries no business interruption coverage but added, "We believe any commitments can be filled from our existing inventory" while the plant is shut down. It can only be reopened by order of the NRC, he added.

Last September, the NRC issued a safety evaluation report as part of its licensing renewal procedure that listed 15 safety violations at the plant over the last eight years. Although the report termed the violations excessive, a spokeswoman for the NRC said the violations were "not too serious."

"You would be hard-put to find many licensees that have not had that many violations over that many years," she added. "Maybe the writer of the report felt it was too many or some of them were repeat violations."

The violations cited in the report included improper posting of signs, failure to survey uranium levels in some areas and inadequate

decontamination procedures.

The report did not stand in the way of the plant's license renewal, which is valid until 1990.

The NRC spokeswoman said it is unclear whether the method workers were using to release the gas from the cylinder that ruptured was unapproved.

"We would expect them to look at a procedure that would do it safely," she said. "But it's too early to say if it was a violation."

Kerr-McGee is perhaps best known because of publicity surrounding the case of Karen Silkwood, a worker who became contaminated with plutonium in 1974 while employed at another of the corporation's plants. Ms. Silkwood became an activist who created controversy over safety conditions at the plant.

She was killed in a car crash soon after she began her efforts to prove there were unsafe conditions at the Kerr-McGee facility. ■

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Risk/employee benefits:

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Sub-total... 22,087

Associations... 804
Government, unions and educational systems...1,030

Commercial Consumers

Sub-total... 23,921

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Insurance companies...6,089
Financial institutions...536
Actuaries, attorneys, adjusters, appraisers and consultants...3,464
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TOTAL... 44,878

* Source: Business/Occupational breakdown of qualified circulation, May 6, 1985 issue, as submitted to BPA for June 1985. BPA Publisher's Statement.

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Self-insurers assessed

Continued from page 1

When assessment bills were mailed last month by the Office of Self-Insurance Plans, the fund had a balance of about \$600,000, reports Joseph E. Markey, legislative advocate for the California Self-Insurers Assn.

The fund estimates its total ultimate liabilities at \$4 million, according to Paul Bayer, chairman of the fund and manager of group benefits at Crown Zellerbach Corp. in San Francisco.

Between 600 and 700 companies must comply with the assessment, but when recognizing subsidiaries, affiliates and branch offices, some 1,500 self-insurance certificates are affected.

Denny's Inc., the La Mirada, Calif., restaurant chain, for example, has about 143 certificates of self-insurance for its various locations, notes Mr. Markey, who is also the fund's secretary/treasurer.

If a current self-insurer does not pay the assessment, the Office of Self-Insurance Plans will proceed to take away its certificate, said Richard S. Anderson, manager of the office in Sacramento. But it is highly unlikely that an employer would risk his right to self-insure by ignoring the assessment, observers agree.

If a former self-insurer does not pay its assessment, fund directors say they will explore their legal options. The law creating the fund permits the fund to assess companies that have stopped self-insuring in the three years prior to an assessment, but it does not establish sanctions against those who don't comply.

About 40 companies that formerly self-insured had been sent assessment notices.

California requires that companies that no longer self-insure workers compensation or go out of business after self-insuring the risk maintain deposits with the state to cover outstanding liabilities. Therefore, the fund can find these companies to assess them.

While almost all the assessments are due Wednesday, due to a paperwork error by temporary clerical help, about 50 employers received their notices late and therefore will have until Feb. 5 to make their payment, Mr. Anderson said.

While fund directors hear grumbling from workers comp managers who resent having to pay for the mistakes of other businesses, most

self-insurers are paying the assessment.

"It's one of those things that's a part of doing business in self-insurance in the state," says Greg Vach, regional director of work comp for Ralston Purina Co. in San Diego. Ralston Purina, based in St. Louis, self-insures its workers comp exposure in about 40 states.

Fund directors are empowered to make individual assessments of 1.5%, to a maximum of 2% per year. Since this assessment technically took effect Dec. 15, 1985, the fund could turn to employers before this year is out for a 1986 assessment if required.

While this assessment is expected to cover liabilities due this year, if claims accelerate or more self-insurers go bankrupt with insufficient funds to pay workers compensation claims, additional assessments may be needed, Mr. Markey says.

Despite the Office of Self-Insurance Plans' efforts to monitor self-insurers' financial positions, Mr. Anderson predicts other companies with deposits insufficient to pay claims will go under in the future.

"There's no question in my mind that we'll have some more," he says. "That's just the nature of the animal."

The self-insurers' security fund was initially created to assist injured employees of California Cannery & Growers, a self-insured cooperative whose \$2.1 million surety bond posted with the state fell short of an estimated \$3 million in work comp liabilities when it went under in 1983 (BI, April 9, 1984).

The fund has since had to respond to three other self-insurers that failed without enough assets to pay workers comp claims. These are: Certified Alloy Products Inc. of Long Beach; IML Freight Inc. of Salt Lake City; and, most recently, Lee Way Motor Freight Inc. of Oklahoma City (BI, April 15, 1985).

Cal Cannery still faces \$2 million in outstanding liabilities, estimates Thomas R. Leonard, president of Associated Claims Management Inc. in Walnut Creek, Calif., which is handling claims against the company.

Associated Claims also is administering claims against IML, which faces 80 open claims with future liabilities of \$400,000, estimates Mr. Leonard.

Claims against the other two businesses, Certified Alloy and Lee Way, are being administered by ComCo Management Inc. in Placentia, Calif.

A dispute between the security fund and Certified's bankruptcy estate over entitlement to proceeds from the sale of securities Certified deposited with the Office of Self-Insurance Plans was recently settled, giving the fund access to \$400,000.

But, the fund can gain access to the money only under certain conditions, among them that the money must be earmarked for employees of Certified and not paid to workers of the three other employers. Prior to this, surety bond or security proceeds from the four businesses were pooled to pay outstanding claims against any of them.

"We can live with that restriction," Mr. Markey says.

Lee Way now has about \$1.2 million in outstanding liabilities, with only about \$200,000 remaining in its bond, which was issued by St. Paul Fire & Marine Insurance Co. ComCo has paid out about \$124,000 in benefits since it was assigned Lee Way's claims Nov. 1, according to Robert J. Ellison, executive vp in Los Angeles.

Many self-insurers expressed surprise and confusion when they received their bills, which were accompanied by an explanation by Mr. Bayer. They were warned, however, by articles in insurance magazines and CSIA's newsletter.

Both Mr. Bayer and Mr. Markey report receiving calls from work comp managers seeking an explanation of the fund and how it works. Many seemed unaware of the fund's existence.

But, those who have followed the fund's activities voice support for it.

"It's a primary example of self-insureds cleaning up a potentially difficult situation in an admirable way," says Thomas Youngdale, work comp supervisor at Chevron in San Francisco.

He calls the fund a "workable solution" and says the assessment is reasonable.

"Those who know the purpose of the fund understand the need for assessment," observes Crown Zellerbach's Mr. Bayer.

The fund's assessment is a small price to pay to protect the self-insurance concept in general and to self-insure in California in particular, he says. Crown Zellerbach's assessment is about \$5,000.

For the lumber and paper concern, California is among the states charging the least in fees for the privilege of self-insuring, he notes.

Mr. Bayer advises those workers comp managers who might resent the assessment to compare it with the cost of commercial insurance. ■

Pine Top suit

Continued from page 1

The complaint does not specify the total premiums or losses generated by the carnival and association program business, and no one involved in the litigation would provide the figures.

Charging violations of the federal Racketeer Influenced and Corrupt Organizations Act, Pine Top could recover triple its \$21 million demand for actual damages.

In addition to charging common law fraud, breach of contract and negligence, the suit also seeks an injunction barring several insurance companies named as defendants from drawing down on letters of credit posted by Pine Top as reinsurance security.

Two Howden underwriting companies have drawn down about \$2.3 million under letters of credit since last October, after Pine Top presented A&A and Howden officials with what it said was evidence of fraud.

A&A and the other defendants have not yet filed answers to the lawsuit.

However, John A. Bogardus Jr., A&A's chairman and chief executive officer, said in a statement that the Pine Top complaint is "without merit," characterizing the RICO charges as "highly suspect."

"Their unsubstantiated allegations against present Howden employees are particularly reprehensible," Mr. Bogardus added, referring to the lawsuit's allegations that three current Howden officials participated in the alleged scheme. None of the three is named as a defendant.

"For some time, A&A subsidiaries have been attempting to collect monies from Pine Top that are due and owed to our clients and

Continued on next page

CIGNA settles Acmat suit

Continued from page 2

orate on the settlement statement.

"There is a good relationship between the two companies," said Henry W. Nozko Jr., Acmat executive vp, adding that the settlement "is a very sensitive issue."

However, according to industry sources, Acmat also may have received additional cash payments and legal expense reimbursements from CIGNA.

The coverage CIGNA provided included workers compensation, general liability and commercial automobile insurance.

Acmat was subsequently able to obtain new insurance with Great American Surplus Lines Insurance Co. of Cincinnati and two other excess insurers, but at a substantially higher cost (BI, April 8, 1985).

According to Mr. Nozko Sr.'s statement, the actual buyer of the Acmat stock is Aetna Insurance Co. Aetna is a former subsidiary of Connecticut General Corp. that became part of CIGNA in 1982 when INA Corp. and Connecticut General merged to form CIGNA.

Recently, CIGNA announced it had agreed to transfer its rights to the trade name "Aetna" to Aetna Life & Casualty Co. for an undisclosed sum.

"The settlement indicates that in CIGNA's view, it didn't want to structure it as if it were compensating Acmat and admitting liability," according to David J. O'Leary, director of research for Fox-Pitt Kelton Inc., an institutional brokerage firm specializing in insurance stock research.

"They didn't want to establish a precedent," should there be any similar lawsuits in the future, he said.

Mr. O'Leary also said that continuing consulting and contracting services between the companies could benefit CIGNA if it again begins insuring asbestos abatement contractors.

CIGNA would be able to rely on Acmat's technical expertise and advice on loss control, he said.

For Acmat, the settlement represents an approximately \$1 million capital infusion that could assist it in the operation of a new insurance company it has created with other investors to specialize in asbestos contractors, Mr. O'Leary added.

Mr. O'Leary, whose firm has studied the new insurer, United Coastal Insurance Co., says that because Acmat can choose which contractors to insure—such as those most responsible and technically advanced—it should face few, if any, third-party personal injury losses from asbestos exposure, and become very profitable.

"The profits it is going to make will be enormous," he said.

Nevertheless, Mr. O'Leary said there was no question Acmat was damaged through loss of business by CIGNA's cancellation, and that Acmat did not come out ahead in the settlement.

Acmat's suit against CIGNA and three subsidiaries, which was filed in state superior court in Hartford last April, charged that CIGNA changed its position several times on whether it would provide Acmat with insurance, and as a result interfered with Acmat's business operations.

CIGNA did not provide insurance even after it granted the company excellent ratings following on-site inspections of performance and safety procedures at numerous Acmat projects, according to the suit.

After losing its insurance, Acmat said, the company was placed in an assigned risk pool for workers compensation, its national prominence and excellent reputation as a contractor in the construction business were damaged and it was not able to purchase enough insurance.

In addition to asbestos removal, Acmat contracts on heating, ventilation, air conditioning, plumbing and electrical projects. ■

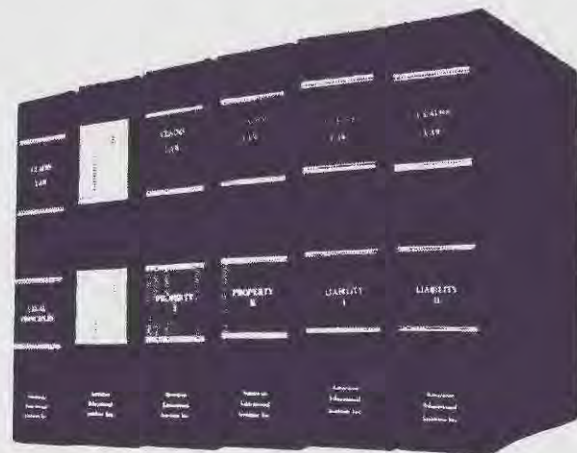
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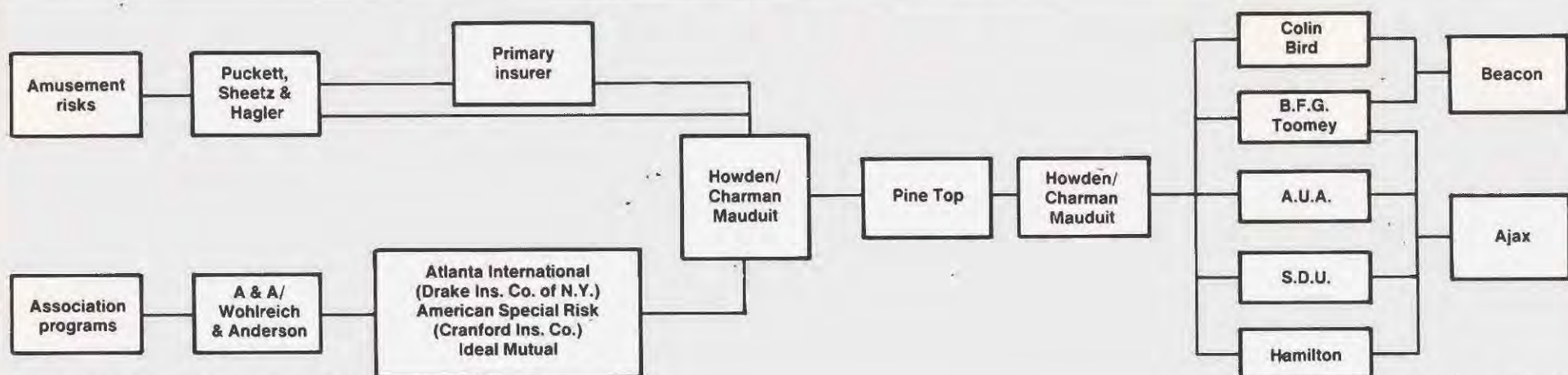
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Pine Top traces premium flow



Source: Pine Top vs. Alexander & Alexander Services et. al.

Chart: Amy Palmer

Pine Top suit

Continued from page 45

our companies," Mr. Bogardus said. "It is most unfortunate that Pine Top has chosen this inflammatory route to respond to A&A's claims against it."

"It seems very strange to me that when one party does what it is legally entitled to do with letters of credit, the other party files a RICO action," added Ronald J. Roessler, A&A's vp and general counsel.

American Special Risk held Pine Top letters of credit totaling \$2.7 million at the end of 1984 while Atlanta International held \$936,000, according to annual statements filed with the Delaware and New York Insurance Departments.

In addition to A&A Services, Alexander Howden Holdings and Mr. Bird, the suit names:

- Alexander Howden Insurance Brokers Ltd.
- Alexander Howden Services Inc., a U.S. brokerage operation, and its predecessor firm, Wohlreich & Anderson Ltd.
- A&A of New York Inc.
- Peter J. Charman & Co. Ltd., formerly Charman Mauduit.
- Castle Court Ltd., a corporation through which funds were allegedly transferred from Charman Mauduit to Howden.
- Though the complaint identifies Castle Court as a Bermuda-based merchant bank, B.G. Chapple, Pine Top's deputy managing director, said that Castle Court Trust Ltd.—which handled the funds in question—is a U.K.-based depository institution that was liquidated in 1984.
- Rydata Ltd., a British corporation owned at various times by

Howden or its employees—including Mr. Bird—and which allegedly owned "a substantial beneficial interest" in Charman Mauduit.

- B.F.G. Toomey and Toomey Associates (Bermuda) Ltd.

- Southrock Ltd., another British corporation through which Mr. Bird owned an interest in B.F.G. Toomey.

- Three Bermuda-based underwriting management companies, including Alexander Underwriting Agencies Ltd., which was jointly owned by A&A and Howden; and SDU Ltd. and Hamilton Underwriting Agencies Ltd., both owned by Howden.

- Howden-owned insurance companies, including Atlanta International Insurance Co. and its predecessor, Drake Insurance Co. of New York; and American Surplus Lines Insurance Co. and its predecessor, Cranford Insurance Co.

A&A announced last year that it would discontinue the Howden underwriting operations.

- Ideal Mutual Insurance Co., which is currently being liquidated by the New York Insurance Department.

The Pine Top complaint also names New York-based Citibank, which issued letters of credit on Pine Top's behalf to the Howden insurance companies, and Ideal Mutual. The bank is not accused of any wrongdoing in the suit.

Pine Top stopped most underwriting in 1982 and is now running off its business, according to Mr. Chapple at Pine Top. The insurer suffered underwriting losses of 19.4 million pounds in 1984 and 25.2 million pounds in 1983 on premium income of 7.1 million pounds and 18.3 million pounds, respectively.

After adding about 40 million pounds to reserves in those two years, Pine Top finished 1984 with a fund for claims payments of 37.4 million pounds.

Greyhound Holdings Ltd. contributed an additional 22.7 million pounds to Pine Top in February 1985, according to the insurer's 1984 annual report.

The conspiracy alleged by Pine Top operated between January 1978 and December 1982 and involved the manipulation of "huge streams" of premium income generated by underpriced carnival and association product liability business.

Howden Insurance Brokers and Charman Mauduit presented most of these risks to Pine Top as "package deals," in which retrocessions to Beacon and Ajax were already in place, according to the complaint.

Pine Top wrote some of the carnival business as a primary insurer, while on other risks it acted as a reinsurer of other primary insurers. Primary insurers reinsured by Pine Top included Lexington Insurance Co., a unit of American International Group Inc., according to one source who requested anonymity.

Lexington's 1983 annual statement as filed with the New York

Insurance Department showed \$256,000 recoverable on paid and unpaid losses from Pine Top.

Lexington officials could not be reached for comment.

On the association business—produced initially by A&A and Wohlreich & Anderson—Pine Top acted as a reinsurer of the Howden-owned insurance companies and Ideal Mutual, the suit says.

Howden and Charman Mauduit acted as intermediaries on business flowing into Pine Top as well as on Pine Top's retrocessions to Beacon and Ajax, the complaint says.

Beacon and Ajax were bound on the retrocessions by Mr. Bird, B.F.G. Toomey, Alexander Underwriting Agencies, SDU and Hamilton, the suit adds.

Pine Top's lawsuit charges that Howden and Charman Mauduit concealed material information about the deals, including that:

- Howden had an interest in Charman Mauduit through Rydata.

Howden formed Rydata as an incentive for key employees, who used it as an investment vehicle. The profits from the eventual sale of Rydata shares were subject to the U.K.'s relatively low capital gains tax rate, according to a source who asked not to be identified.

Howden sold 100% of Rydata's stock to 11 employees, who in some cases financed their purchases with bank loans guaranteed by Howden, the source said. Mr. Bird owned 6.7% of Rydata.

Howden ultimately bought out the employees' shares and liquidated the company, according to the source.

At various times, Rydata owned 10% to 15% of Charman Mauduit, Mr. Bird confirmed.

"I doubt that anybody at Pine Top knew, but I don't think it made any difference," Mr. Bird said of the shareholding.

- Mr. Bird had an interest in B.F.G. Toomey through Southrock.

Mr. Bird confirmed that he held 10% of B.F.G. Toomey's stock through Southrock starting in 1977, when the London brokerage was formed. He added that he never received any money or dividends from the stock and that he had no interest in Toomey Associates (Bermuda).

- B.F.G. Toomey bound business for Beacon and Ajax in London, despite the facts that Toomey had no binding authority for Beacon, and that neither insurer was licensed to underwrite in the U.K.

- A&A and Howden owned Alexander Underwriting Agencies, SDU and Hamilton, and could use them to obtain placing broker's commissions for Howden.

- Mr. Bird had a binding authority for Beacon that authorized brokerage commissions of up to 32.5% of premiums paid to Beacon; coverholder's commissions of an additional 2.5% payable to the underwriting manager; and a profit commission of another 20%. The profit commission, the complaint says, was calculated yearly by deducting claims actually paid during

the year from gross premiums written. This allowed a profit commission on long-tail business that ultimately produced underwriting losses.

Mr. Bird said that his binding authority included a deficit clause that would adjust profit commissions based on losses paid after the end of a policy year. He added that, in any case, no profit commissions were ever paid on business he bound.

Mr. Bird also noted that the 32.5% allowance for brokerage commissions was not unusually high for treaty business and that it was intended to cover all of Beacon's policy acquisition costs. Pine Top kept nearly a third of the allowance—10%—as an override on all business he bound, Mr. Bird added.

Howden received the 2.5% coverholder's commission, Mr. Bird said. "There was no personal gain in this for anybody," he insisted.

Pine Top may use the Beacon rehabilitation plan, filed in Wake County Superior Court in Raleigh, N.C., to support at least some of its arguments.

"The rehabilitator has determined that business placed with Beacon pursuant to the Colin Bird binding authority was grossly underpriced, committing Beacon to coverages that were far in excess of Beacon's ability to pay," the plan reads. "In general, Colin Bird and others at Howden did not act in good faith toward Beacon as dictated by the fiduciary responsibility undertaken by Colin Bird and Howden pursuant to the binding authority."

The North Carolina department also has questioned Mr. Bird's relationship with B.F.G. Toomey, according to V. Lane Wharton Jr., a Raleigh, N.C., lawyer representing the department.

The rehabilitation plan notes not only Mr. Bird's stock interest in B.F.G. Toomey, but also a \$50,000 loan Mr. Bird received from the underwriting manager, Mr. Wharton said.

In addition, B.F.G. Toomey was found to have bound business for Beacon in London, even though its contract with Beacon empowered it only to submit business to Beacon with underwriting recommendations, according to Mr. Wharton.

Mr. Toomey denied that B.F.G. Toomey bound business for Beacon in London, saying B.F.G. Toomey acted only as a "contact office" for Beacon. Mr. Toomey—currently an executive with Washington Financial Services in London—added that he left B.F.G. Toomey in 1982 and sold his 25% share in the company, which has since been liquidated.

The insurance department argues in its rehabilitation plan that it may have sufficient grounds to deny claims on reinsurance contracts bound through Mr. Bird and B.F.G. Toomey, Mr. Wharton said.

Alternatively, the department may ask for a ruling allowing it to recover claims payments from Howden, he added.

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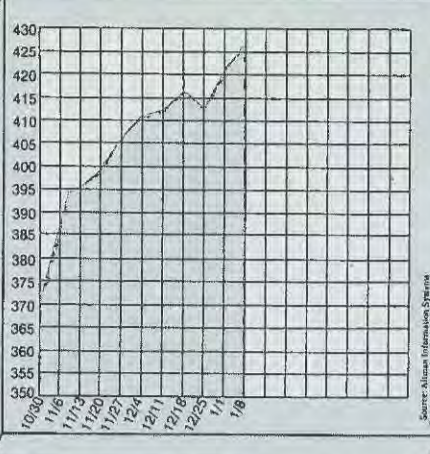
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BI Insurance Index



Brokers budget with eye for maximum motivation

By **LEONARD M. WILSON**
Special to Business Insurance

IT IS BUDGET TIME again in the world of insurance brokerage. Budgets or profit plans are mechanisms of motivation as well as financial control.

If goals are set too high, they undercut the incentive purpose. If goals are set too low, less than full effort may be expended and business may be lost.

In times of rapidly moving variables like premium rates or expenses, finding the proper target to maximize motivation can be difficult.

In 1985, the budgets of most public brokers were probably too conservative. They did not make adequate allowance for the surge in premium rates.

On the threshold of 1986, few observers would dissent from the view that premium rates and new business rates again will be strong.

In addition, expenses should be more easily managed, particularly in view of the low inflation rate.

These are the broad assumptions from which brokers' detailed profit plans have to be constructed.

We have no access to the planning process of the publicly owned brokers. So, let us once again look over the shoulder of the financial officer at Risk-Adverse Brokers, a fictional entity. We might find a representative budget as described below.

An increase in premium rates will lift commissions about 15%, likely a shade less than the impact in 1985. Later in the year, the momentum of rate increases could begin to lag somewhat.

New business will again come close to matching premium rates as a source of incremental commissions. In tight markets, new business seems to come in over the transom for the highly professional broker.

The publicly owned brokers benefit from their clout and expertise. Lost business



Mr. Wilson

Leonard M. Wilson, a special limited partner at L.F. Rothschild, Unterberg, Towbin in New York, specializes in insurance brokerage stocks. He is a member of the New York Society of Security Analysts.

should stay at very low levels since tight markets do not offer too many alternatives to clients.

The economy should be a modestly positive factor, expanding 2% to 3% in real terms. Inventories and payrolls should rise. Capital spending may be a little stronger than the consensus forecast.

In the realm of expenses, head count is slated to rise more rapidly. An increase of 4% to 5% year-over-year seems plausible. Expanding profitability once again is providing the wherewithal to think about longer-term staffing needs.

Inflation can be expected to stay at a restrained 3% to 4% in 1986.

Investment income faces lower short-term interest rates, but the higher premium volume might still permit a 10% to 15% rise in this sector.

Reinsurance brokerage, which is very important to some of the public brokers, posted a banner 1985. Commission gains in the area of 20% to 25% certainly seem plausible for 1986 budgeting purposes. Reinsurance capacity is very tight and reinsurance is still a seller's market.

Employee benefit revenues, without any help from increased premium rates, may rise 10% to 12% for the year.

International insurance brokerage also is benefiting from tight markets. The swing, though, seems less dramatic than in the United States, but a weak dollar helps upon currency translation. A suitable projection for 1986 might be an increase of 30% in foreign commissions, close to half from currency benefits.

What does all this add up to for the income statement? The budget allows for a 25% rise in total revenues. This seems attainable, and a highly motivated staff may be able to exceed it.

Expenses, reflecting sizable incentive compensation tied to profits and performance, are likely to rise 20%. This is a hefty gain that could be braked if revenue growth were to fall short.

The result of this budget calls for a gain in profit margins and a substantial rise in earnings. Net income certainly should rise 30%, and perhaps more, depending upon how figures on revenues and expenses finally fall in line.

This intensely positive outcome seems almost in the bag. Are there any small clouds? Not yet, at least for the budget. In the real

world, profit center managers will have to be on their toes to look out for the unexpected. Complacency could be the major pitfall of 1986. Otherwise, the year looks like another nifty one for insurance brokerage.

Reliance Insurance Group

Reliance Financial Services Corp., an affiliate of Reliance Insurance Group, has sold Toronto-based Pilot Insurance Co. to General Accident Fire & Life Assurance Co. for \$143.6 million.

Reliance sold Pilot to London-based General Accident because "Pilot was Reliance's only non-U.S. operation," a Reliance spokesman said.

"Reliance wants to concentrate its insurance activity in the domestic market, where the cycle is turning around and presenting good operating conditions," the spokesman said.

While the spokesman would not say specifically how Reliance would use the funds generated by the Pilot sale, there is "no question that the additional funds will provide capital for U.S. operations."

Pilot, which primarily writes automobile and property coverages, generated an estimated \$157 million Canadian (\$111.5 million U.S.) in earned premiums in 1985, up from \$128 million Canadian (\$90.9 million U.S.) in 1984, according to General Accident. Pilot's assets were \$85 million Canadian (\$60.4 million U.S.) at year-end 1985, General Accident said.

Pilot's capital and surplus at year-end 1984 was \$53.2 million Canadian (\$37.8 million U.S.), according to A.M. Best Co.

Crum & Forster

Standard & Poor's Corp. has downgraded the claims payment rating of Crum & Forster Corp. and its affiliates to AA from AAA, thus lowering the ratings of 274 tax-exempt bonds insured by Industrial Indemnity Co., a Crum & Forster unit.

Alan Levin, an S&P assistant vp, said Crum & Forster's claims payment rating was lowered because its "fundamental results have been poor. Crum & Forster is lagging behind the industry in terms of recovery as anticipated."

Crum & Forster posted an aftertax operating loss of \$32.2 million in the first nine months of 1984.

However, Mr. Levin noted that S&P considers AA "a very high rating."

Continental Corp.

Continental Corp. has restated its 1984 financial statements at the request of the Securities and Exchange Commission to reflect the effect of a change in accounting principles.

During 1984 the company changed the rate at which it discounted certain workers compensation reserves to 7% from 3.5%. The restated results reflect the application of the 7% rate to all previously existing as well as newly created reserves.

The change reduced Continental's 1984 aftertax operating income to \$98.7 million from 102.4%, while the company's net income was increased to \$324.6 million from \$304.5 million.

HRM Inc.

Minneapolis-based Health Risk Management Inc., a privately held corporation that helps major employers manage health costs, has successfully completed a \$3.8 million private placement of its common stock.

The placement was conducted by Adkins Securities Inc., a St. Cloud, Minn., investment banking firm, which placed a total of 858,000 common shares with certified investors at \$4.50 per share. The minimum unit purchase was 6,000 shares or \$27,000.

Health Risk Management President Gary T. McIlroy said the proceeds from the placement will be used for working capital, the continuing updating of HRM's data bases, data processing and telecommunications equipment and research and development of new products.

British Issues

7 Jan Companies	Price	P/E	Div.	Yield	High-Low
Comml Union	240	N/M	16.9	7.0	243-235
Genl Accident	730	33.2	31.4	4.3	740-727
Gdn Royal Exch	752	65.4	38.6	5.1	753-730
Royal	815	50.9	35.0	4.3	825-802
Sun Alliance	535	89.2	23.6	4.4	543-527

Brokers	Price	P/E	Div.	Yield	High-Low
CE Heath	670	8.7	37.5	5.5	672-662
Hogg Robinson	275	11.2	13.4	4.9	280-275
JH Minet	250	11.4	11.4	4.6	253-247
Sedg Grp	372	14.9	17.8	4.8	372-357
Stew Wrightson	700	13.5	32.8	4.7	705-693
Willis Faber	823	21.1	23.6	2.9	828-803

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

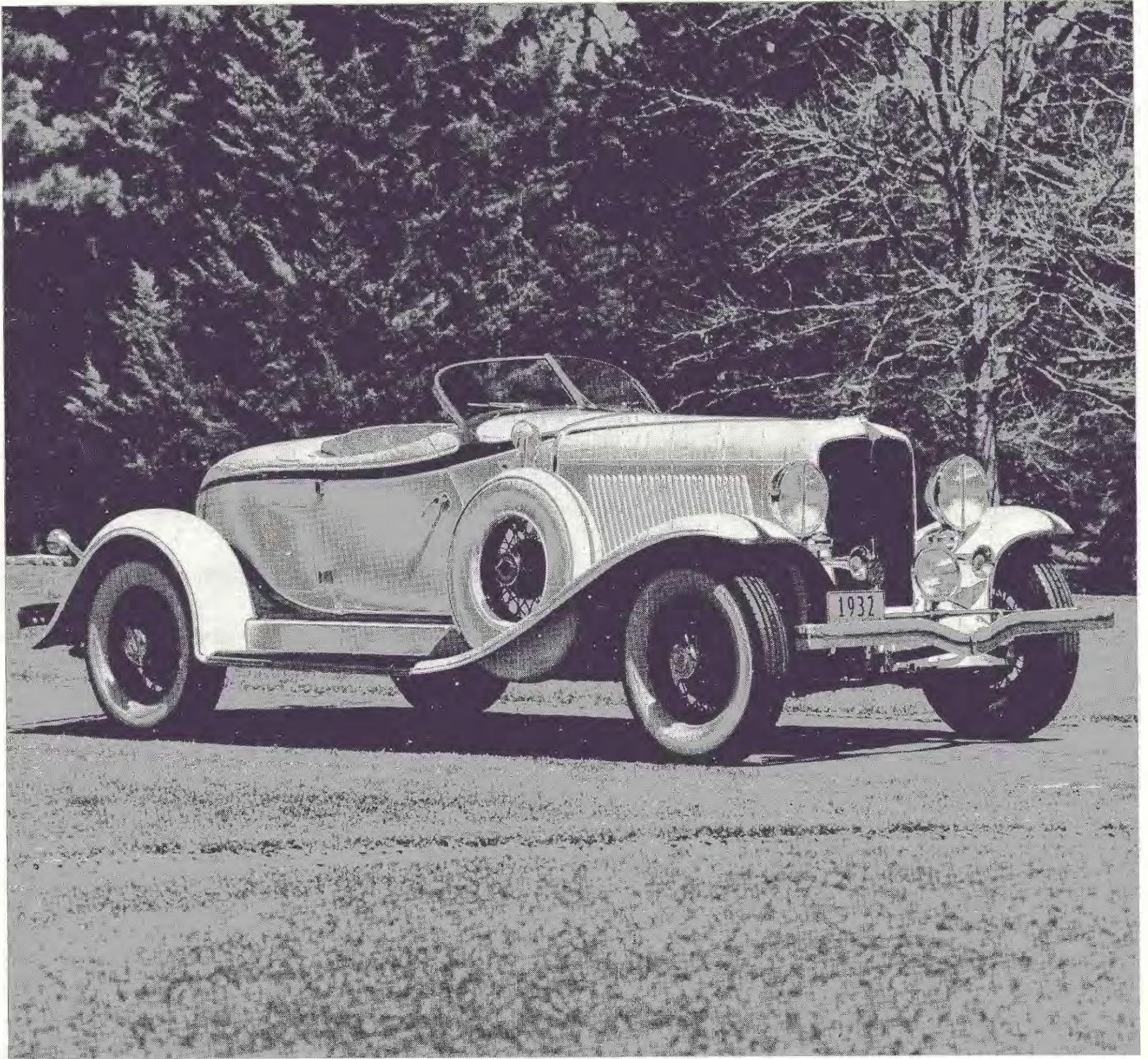
BI Industry Stock Report

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Brokers	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	
Alexander & Alexander Svcs	NYSE	33.25	0.0	0.0	1.00	3.0	33.38	32.38	759.4
Baldwin & Lyons Inc	OTC	71.00	1.1	15.7	0.80	1.1	74.00*	71.00	4.0
Corroon & Black Corp	NYSE	58.50	-2.9	79.1	1.00	1.7	59.75	58.50	45.6
Crump & H Cos Inc	OTC	23.00	-4.2	24.7	0.25	1.1	23.50	22.50	188.4
Enett & Chandler Cos Inc	OTC	19.00	4.1	32.8	0.00	0.0	19.00*	18.00	68.5
Gallagher Arthur J & Co	OTC	49.00	1.6	24.0	0.28	0.6	49.00	47.50	14.9
Hall Frank B & Co Inc	NYSE	27.25	0.0	0.0	0.00	0.0	28.38	26.63	315.7
Marsh & McLennan Cos Inc	NYSE	84.25	3.4	20.1	2.70	3.2	86.13*	81.63	386.6
Poe & Assoc Inc	OTC	13.50	-0.9	0.0	0.80	5.9	13.50	13.50	3.9
AGENTS/BROKERS	AVERAGE			154.0		1.8			
Conglomerates & Holding Cos.									
American Express(Fireman's Fd)	NYSE	52.25	-1.4	16.7	1.36	2.6	53.13	52.25	3,904.6
Anderson Clayton(Ranger/PanAm)	NYSE	56.00	0.9	38.9	1.32	2.4	56.25*	55.00	181.3
Arco Inc	NYSE	10.00	6.7	0.0	0.00	0.0	10.00	9.50	728.7
Berkley M R Corp	OTC	34.50	0.0	107.8	0.32	0.9	35.00*	33.75	149.4
CIGNA Corp	NYSE	65.50	1.9	31.8	2.60	4.0	66.25*	63.00	689.2
CNA Finl Corp (CNA)	NYSE	61.50	-4.7	19.2	0.00	0.0	64.75	61.50	267.5
General Re Corp	NYSE	102.25	2.1	111.1	1.56	1.5	102.25	98.88	777.9
ITT (Wartburg Group)	NYSE	37.75	-0.7	11.8	1.00	2.6	39.38*	37.75	3,309.6
Sears Roebuck & Co. (Allstate)	NYSE	36.00	-7.7	10.1	1.76	4.9	38.50	36.00	5,077.9
Teledyne Inc (Argonaut)	NYSE	323.25	-2.2	7.0	0.00	0.0	340.00*	323.25	500.3
Transamerica Corp	NYSE	33.00	-2.2	16.0	1.68	5.1	34.00	33.00	809.6
(Occidental & Fred S. James)	NYSE								
CONGLOMERATES/HOLDING COS.	AVERAGE			12.5		1.4			
Insurers									
Aetna Life & Cas Co	NYSE	54.50	1.9	20.5	2.64	4.8	54.63*	53.00	2,001.3
American General Corp	NYSE	35.00	0.4	10.6	1.00	2.9	36.13*	34.50	1,773.7
Ameri Heritage Life Invmt Co	NYSE	43.38	2.1	12.5	1.20	2.8	43.63*	42.63	6.7
American Indty Finl Corp	OTC	19.75	1.3	0.0	1.12	5.7	19.75	19.50	42.4
American Intl Group Inc	NYSE	108.75	2.6	27.1	0.44	0.4	110.88*	105.00	473.8
Aneco Reins Ltd	OTC	0.75	0.0	0.0	0.00	0.0	0.75	0.75	12.2
Aveco Corp	NYSE	37.50	1.4	14.9	0.60	1.6	38.38*	37.50	17.7
Business Mens Assurn Co Amer	OTC	31.13	0.4	8.7	1.04	3.3	31.25	30.75	9.7
Chubb Corp	NYSE	57.00	3.9	20.7	1.56	2.7	57.00	55.00	251.2
Combined Intl Corp	NYSE	52.13	0.7	9.5	2.16	4.1	52.13*	51.25	364.1
Continental Corp	NYSE	45.00	-4.3	22.3	2.60	5.8	46.25	45.00	684.0
Crown Life Ins Co	OTC	260.00	-3.7	15.7	0.00	0.0	270.00	260.00	1.2
Durham Corp	OTC	40.25	-0.6	7.4	1.28	3.2	41.00	40.25	23.4
Farmers Group Inc	OTC	70.13	2.7	11.8	1.76	2.5	70.25	68.25	746.9
Fireman Fd Corp	NYSE	33.38	8.1	0.0	0.30	0.9	33.38	30.88	772.9
Fremont Gen Corp	OTC	26.75	9.7	2.6	0.48	1.8	26.75	25.38	1,024.1
Great West Life Assurn Co	OTC	490.00	0.0	12.6	1.60	0.3	490.00	490.00	0.0
Home Group Inc	AMEX	25.25	3.1	0.3	0.00	0.0	25.50	24.38	551.3
Manover Ins Co	OTC	53.25	3.4	55.5	0.56	1.1	53.25*	51.50	107.2
Hartford Steam Boiler Insprtn	OTC	64.50	3.2	15.2	2.00	3.1	64.50*	62.75	31.1
Kans City Life Ins	OTC	29.25	8.3	11.5	0.87	3.0	29.25	27.50	24.0
Kemper Corp	OTC	72.00	-1.4	20.7	1.80	2.5	73.00	70.13	391.5
Liberty Corp S C	NYSE	34.75	1.8	15.0	0.72	2.1	34.88	34.13	187.9
Lincoln Natl Corp Ind	NYSE	53.00	5.7	12.5	2.00	3.8	54.13*	49.88	725.4
Wisconsin Ins Group Inc	NYSE	2.75	0.0	0.0	0.00	0.0	2.75	2.75	630.5
Monumental Corp	OTC	35.13	1.1	11.9	1.40	4.0	35.13	34.63	87.5
Nobel Ins Ltd	OTC	12.88	8.4	16.9	0.25	1.9	12.88	11.75	57.3
Northwestern Natl Life Ins	OTC	26.00	7.8	6.8	0.80	3.1	26.00	24.00	296.5
Ohio Cas Corp	OTC	68.88	-1.3	23.2	2.80	4.1	70.50	68.88	307.7
Old Rep Intl Corp	OTC	37.13	4.2	10.0	0.74	2.0	37.38	35.50	215.3
Orion Cap Corp	NYSE	31.50	-0.8	0.0	0.76	2.4	32.13	31.50	50.4
Protective Corp	OTC	22.75	3.4	8.5	0.66	2.9	22.75	21.50	223.0
Provident Life & Acc Ins Co	OTC	27.38	3.8	7.4	0.76	2.8	27.38	26.88	170.9
St Paul Cos Inc	OTC	82.50	3.3	0.0	3.00	3.6	82.50*	78.63	276.4
SAFECO Corp	OTC	48.38	4.3	17.2	1.60	3.3	48.38*	45.63	326.5
Sri Corp	OTC	17.00	0.7	566.7	0.80	4.7	17.25	17.00	148.2
Seibels Bruce Group Inc	OTC	19.63	-5.4	4.0	0.80	4.1	20.25	19.63	89.3
Statesman Group Inc	OTC	5.25	2.4	0.0	0.05	1.0	5.63	5.19	163.0
Tokio Marine & Fire Ins Co	OTC	214.75	-6.3	40.4	1.05	0.5	225.50	214.75	4.9
Torchmark Corp	NYSE	22.63	2.8	8.9	0.60	2.7	22.88	22.25	984.3
Travelers Corp	NYSE	47.00	-2.1	11.4	2.04	4.3	47.75	46.75	2,493.0
United Fire & Cas Co	OTC	32.50	0.0	15.2	1.20	3.7	32.50	32.50	0.5
United States Fid & Gty Co	NYSE	40.63	4.2	10.2	2.20	5.4	41.50*	38.75	796.0
UsLife Corp	NYSE	37.63	-0.3	8.5	1.12	3.0	38.63	37.13	172.5
Washington Natl Corp	NYSE	25.63	-2.4	8.9	1.08	4.2	25.75	25.50	121.4
Zenith Natl Ins Corp	OTC	24.50	-4.						

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