$5

Business Insurance

July 23, 2007

www.businessinsurance.com

ASSURANT CEO, OTHER EXECS PUT ON ADMINISTRATIVE LEAVE AMID SEC FINITE PROBE / PAGE 3

PROPERTY, LOST BUSINESS CLAIMS EXPECTED FROM HUGE PIPE BLAST IN NEW YORK CITY / PAGE 3

PROSECUTORS CAN'T FORCE COMPANY TO HOLD BACK EXECS' DEFENSE COSTS / PAGE 4

In Brief

Insurers to fund portion of L.A. Archdiocese pact

A dozen insurers will pay $227 million of the record $660 million settlement reached recently by the Archdiocese of Los Angeles and victims of clergy sexual abuse, a market source said. The settlement resolves 508 civil cases against the Archdiocese, which said in a statement that it would sell some properties in order to fund its portion of the settlement—a reported $250 million. The remainder will be paid by other religious orders.

House subcommittee to mark up TRIA bill

The House Financial Services Committee's Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee on Tuesday will mark up the Terrorism Risk Insurance Revision and Extension

See **IN BRIEF** page 26

BENEFITS MANAGEMENT

DENTAL & VISION BENEFITS

Rising medical costs cause some employers to cut back on vision, dental offerings; employers fold vision coverage into wellness programs; excessive computer use may lead to vision disorder; rollover options take dental plans into consumer-driven arena. Page 11

N.Y. officials fight plan to rank docs

Employers support insurer efforts to rate provider cost, quality

By GLORIA GONZALEZ

Employers are defending the efforts of health insurers to rank health care providers on cost and quality despite concerns from government officials and providers that the programs may drive consumers to choose doctors based on price or faulty data.

The controversy results from the New York attorney general's office threat to go to court to stop a UnitedHealth Group Inc. unit from implementing later this month a program to rank doctors in New York.

Employers, however, say that the action by the officials is unlikely to deter the growth of the ranking programs as they are a critical part of consumerism and efforts to improve the health care system.

Minnetonka, Minn.-based UnitedHealth said it would delay the implementation of the program to use cost and quality metrics to rank doctors in New York, New Jersey and Connecticut until the fourth quarter of 2007 to give physicians more time to become familiar with the program. A UnitedHealth spokesman said the insurer made the decision before it received a letter from New York Attorney General Andrew Cuomo.

The "Premium Designation" program analyzes physician and hospital practices against established clinical guidelines for quality care and is designed to raise consumer awareness of differences among health care practices that can affect both the effectiveness and cost of care and treatment, the insurer says.

The New York Attorney General's office, though, said consumers may be steered to doctors based on "faulty data and criteria" and may be encouraged to choose doctors based on price rather than quality. In addition, the insurer's profit motive may affect the accuracy of its quality rankings because high-quality doctors may be more expensive, the officials say.

The alarms raised by New York officials are legitimate and are considerations anytime an insurer is the organization issuing the data, said Regina Herzlinger, a professor of business administration at the Harvard Business School in Boston. "Not to say UnitedHealth is evil or doesn't have the consumer's interest at heart, but the insurer is clearly conflicted," she said.

The American Medical Assn. said

See **RANK** page 23

LANDOV

Individuals who say their work at the World Trade Center site made them sick are suing WTC Captive, seeking to have their claims paid.

Ground Zero workers sue liability captive

Claimants charge city's WTC Captive mishandled funds

By RUPAL PAREKH

NEW YORK—WTC Captive Insurance Co. has wasted and misused its $1 billion in federal funding on legal and administrative fees instead of compensating injured Ground Zero workers, charges a lawsuit filed in a New York court last week.

The lawsuit, brought on behalf of three plaintiffs, claims that "Despite the payment of tens of millions of dollars for claim defense and administration, not one penny has been spent to compensate workers injured by exposure to toxic substances during their heroic work at Ground Zero."

New York City officials hold that the captive was formed to provide liability coverage for the city and its contractors and was not intended to act as a victims' compensation fund.

The suit was brought by two former New York City police detectives, Frank Maisano and John Walcott, and Mary Bishop, a former

See **LAWSUIT** page 25

Cash balance pension plans returning to favor

Dow Chemical, other big employers embrace approach after new law, rulings validate plan design

By JERRY GEISEL

Cash balance pension plans are staging a comeback.

Last week, Dow Chemical Co. announced it is adopting a cash balance plan for new employees, making it the largest employer to do so since Congress passed legislation last year that protects new cash balance plans from age discrimination suits.

Under the cash balance plan design, employees will receive annual credits equal to 5% of pay, and their cash balance plan accounts will be credited with interest based on a spread above an index of U.S. Treasury bill rates. The plan will be offered to U.S. salaried employees hired as of Jan. 1, 2008.

Current employees will continue to earn benefits through a final average pay plan design known as a pension equity plan. Dow made other changes to its benefits offerings as well (see story, page 25).

Employees "want to be able to take the funds with them if they choose to leave the company. That's exactly the need our new program satisfies and why we're taking this next step in our benefits evolution," said Janet VanAlsten, global benefits director for Midland, Mich.-based Dow.

In addition, an increasingly mobile workforce appreciates that benefits accrue faster in a cash balance plan—which is based on career average pay—than they do in a traditional defined benefit plan, in which employees have to work many years before accruing signifi-

See **DOW** page 25

crain Entire contents copyright © 2007 by Crain Communications Inc. All rights reserved.

INDEX

Advertiser Index 25
Business Resources 20
Comings & Goings 22
End Page 27
International 21
Letters 8
Opinions 8
Paul Winston.................... 6
Professional MarketPlace 20
Stocks 26

To Subscribe Call
1-888-446-1422 in the U.S. or
1-313-446-0450 outside the U.S. or
go online to www.businessinsurance.com

01

How is globalization reshaping your workforce?

Ask Aon.

As globalization reshapes the workforce, your company is facing a growing demand for talented employees, a heightened focus on healthcare and benefits, and issues surrounding employee retirement strategies. Leading companies are answering these challenges with innovative strategies and solutions in health, talent management and rewards. To learn how to design and implement programs for attracting, developing and enriching the lives of your employees, visit **www.aon.com/ask**.

– **Andrew Appel,**
chief executive officer, Aon Consulting Worldwide

Download our full perspective
at www.aon.com/ask

AON

On the Web

BI PHOTO GALLERIES

Showcase your events in *BI.com*'s galleries

The new *Business Insurance* photo galleries are a place to highlight your group's news and activities. To see the galleries and learn how to submit photos, go to *www.BusinessInsurance.com/gallery.*

BROKER RESOURCES

Video interviews, more on largest brokers

Video interviews with top executives at the world's leading brokers, profiles of the 10 largest companies and more are available online. Hear CEOs discuss their firms' strengths and how they deliver value to clients. Visit *www.BusinessInsurance.com/brokers2007.*

ONLINE EXECUTIVE FORUM™

Wellness, consumerism mix in CDHP webinar

Much of the emphasis in consumer-driven health care has been on encouraging employees to take greater responsibility for their health care through cost-sharing, but there is also a wellness component. Find out more during the Aug. 17 *Business Insurance* Online Executive Forum™ "Wellness and Consumer-Driven Health Care: Contradictory or Complementary?" To register, go to *www.BusinessInsurance.com/webinars.*

QUESTIONS & ANSWERS

Optometry leader details successful vision plans

Business Insurance adds to its series of interviews in a discussion with Mark Hennen, an optometrist and chairman of the Eye Care Benefits Center for the American Optometric Assn. A podcast also is available at *www.BusinessInsurance.com/QandA.*

Business Insurance®

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 41, No. 30, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $5 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2007 by Crain Communications Inc.

Lost business claims expected in N.Y. blast

Several blocks closed after steam pipe bursts, releasing asbestos

By SALLY ROBERTS

NEW YORK—Insurance and legal experts expect property and business interruption claims from the steam pipe explosion in New York last week, which shut down several busy blocks for days.

Whether the asbestos found in the mud and debris that spewed from the pipe results in further liability for Consolidated Edison Co. of New York, which owns the pipe, remains to be seen, industry sources say.

At least one insurance executive said the incident could wind up being a catastrophic loss over time.

City officials continued to clean up Midtown Manhattan late last week following Wednesday's explosion of an 83-year-old underground steam pipe that sent plumes of hot steam and debris into the air from a 20-foot hole created in the street. The eruption lasted for more than two hours and knocked out windows of nearby buildings. One woman died from an apparent heart attack while trying to get away from the blast, and more than 40 others were injured, including one man who remained in a medically induced coma with burns to 80% of his body.

See **BLAST** page 23

LANDOV

Workers examine debris at the site of last week's steam pipe explosion, which forced the city to close down several blocks in Midtown Manhattan.

Assurant execs on leave amid finite investigation

CEO, finance chief may face civil charges in ongoing SEC probe

By RUPAL PAREKH

NEW YORK—Assurant Inc. last week placed five top executives—including the insurer's chief executive officer—on "administrative leave" amid an expanding federal investigation into the company's use of finite reinsurance.

The move by New York-based Assurant's board of directors comes as the U.S. Securities and Exchange Commission is considering bringing civil fraud charges against the executives as part of the agency's ongoing probe of finite risk products.

Assurant announced last week that Robert B. Pollock, president and CEO; Philip Bruce Camacho, executive vp and chief financial officer; and Adam Lamnin, executive vp and CFO of the Assurant Solutions/Assurant Specialty Property unit, received so-called Wells notices from the SEC related to "certain loss-mitigation insurance products." Earlier this month, such notices were issued to two other Assurant executives (see box).

Wells notices indicate the SEC staff plans to recommend that the agency bring a civil enforcement action for violations of federal securities laws. Under the SEC's procedures, Wells notice recipients can

See **ASSURANT** page 26

WELLS NOTICES

In the past month, Assurant has reported that five executives have been served Wells notices by the Securities and Exchange Commission as part of its probe into finite risk insurance products. They are:

- **Robert B. Pollock, president and chief executive officer (right)**
- **Philip Bruce Camacho, executive vp and chief financial officer**
- **Adam Lamnin, executive vp and CFO of the Assurant Solutions/Assurant Specialty Property unit**
- **Michael Steinman, senior vp and chief actuary at Assurant Solutions/Assurant Specialty Property**
- **Dan Folse, vp-risk management for Assurant Solutions/Assurant Specialty Property**

House committee passes mental health parity bill

But battle looming over key differences with Senate measure

By JERRY GEISEL

WASHINGTON—Passage last week of mental health care benefits parity legislation by a House of Representatives panel sets the stage for a showdown with the Senate.

As expected, the Education and Labor Committee approved, on a 33-9 vote, legislation that would force many employers to upgrade their mental health care benefits plans.

The bill—like one cleared in February by the Senate Health, Education, Labor and Pension Committee—would require employers to provide the same financial cost-sharing requirements for mental health coverage as they do for other medical conditions (see box, page 6).

For example, if a group health care plan covered 80% of medical treatments, it would have to do the same for mental health care expenses.

Additionally, under both bills, discriminatory treatment limitations would be banned.

That would mean an end to common plan designs in which, for example, coverage is provided for a maximum of 20 or 30 annual visits to mental health care therapists, with no limits imposed on the number of visits to physicians treating other medical conditions.

Similarly, health care plans could not impose a limit on the number of inpatient days for treatment of mental disorders if they did not impose the same limit for other medical conditions.

Also, under both bills, employers with fewer than 50 employees are exempt from parity requirements.

But the House bill differs in several ways from the bill in the Senate.

For example, the House measure would tie the type of mental health care disorders that group health care plans must offer to coverage offered by health plans available to federal employees.

Typically, plans offered in the federal employees health program cover any diagnosis listed in the psychiatric community's compendium of mental health disorders on the same basis as any other medical condition.

The Senate bill, though, would leave it to employers to decide which mental health care disorders they would cover.

See **PARITY** page 6

ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, *BI* will offer a peek at news we reported during the past four decades.

JULY 23, 1990 American Telephone & Telegraph Co. unveiled a massive managed health care network that is expected to provide access to about 100,000 nonmanagement employees and 225,000 dependents. AT&T's national network is administered by three insurers and offers incentives for enrollees to use network providers.

AUG. 6, 1990 German insurance giant Allianz A.G. Holding agrees to buy Fireman's Fund Insurance Co. from Fund American Cos. in a deal valued at $1.1 billion. The purchase will give Fireman's Fund greater access to global insurance markets while offering Allianz a long-sought foothold in the U.S. property/casualty market.

Prosecutors can't force company to withhold defense costs

Judge in KPMG case says tactic violates due process rights

By DAVE LENCKUS

NEW YORK—A federal prosecution tactic of pressuring organizations not to pay executives' defense costs in white-collar criminal cases has been dealt a major blow—but not a fatal hit—in the closely watched KPMG L.L.P. tax fraud case, legal experts say.

A New York federal district court judge last week dismissed criminal charges against 13 current and former executives of the huge New York-based accounting firm, because the prosecution tactic of interfering with their defense was unconstitutional.

New York federal district Judge Lewis A. Kaplan had ruled last year that federal prosecutors' actions had violated the executives' due process and other rights, but he gave prosecutors an opportunity to save their case.

But on July 16, Judge Kaplan ruled that there was no other remedy but to dismiss the charges with prejudice, which means the government cannot again indict the executives.

The U.S. Department of Justice late last week asked the 2nd U.S. Circuit Court of Appeals to review the decision.

Corporate governance bylaws often allow organizations to cover the defense costs of employees facing civil lawsuits or criminal prosecution.

In the KPMG case, the defendants faced charges of scheming to create illegal tax shelters that would let rich clients avoid billions of dollars of U.S. taxes. In keeping with its longstanding custom, KPMG intended to cover the legal expenses for 13 executives.

But, according to court papers, prosecutors threatened to "destroy" KPMG by filing a criminal corporate indictment against the firm unless it cut off its indemnification of defense fees. KPMG complied, and prosecutors dropped a conspiracy charge against the firm. KPMG settled out of the case in 2005 by agreeing to pay $456 million and admit it engaged in fraudulent conduct.

In a January 2003 memo to U.S. Attorneys, a deputy U.S. attorney general, Larry D. Thompson, endorsed such prosecutor actions and others designed to weaken defense cases.

But under congressional pressure, another deputy U.S. attorney general, Patrick J. McNulty, told U.S. Attorneys last year in a memo that such measurers should be used only in rare circumstances.

While Judge Kaplan's ruling, if upheld, would not set a national precedent, some legal experts predict it would set the tone nationally for federal prosecutors.

"If you have an attorney general who wants to do the right thing...then I suspect he or she would take this decision seriously and consider whether the tactics in this case or others are appropriate and have to be modified," said former Justice Department prosecutor Harry Rimm, now a policyholder attorney with Anderson Kill & Olick P.C. of New York.

If the 2nd Circuit upholds the ruling, "that would be pretty strong guidance for the Justice Department everywhere," said William G. Passannante, a partner with Anderson Kill.

In addition, the McNulty memo has changed federal prosecution guidelines for future cases, said insurer attorney Dan A. Bailey, a partner with Bailey Cavalieri L.L.C. of Columbus, Ohio.

As a result, companies now can comply with their defense indemnification obligations without increasing the risk of a company indictment, he said.

But not all observers agree.

The McNulty memo left several

See **KPMG** page 23

Improper notice dooms sexual harassment claim

Court rules worker didn't go far enough in alerting employer

By JUDY GREENWALD

ATLANTA—A nurse who complained to her supervisor about a doctor's alleged sexual harassment, but asked the supervisor not to report it and to keep it confidential, did not give her employer proper notice of the harassment as a matter of law, a federal appeals court has ruled.

The July 6 decision by the 11th U.S. Circuit Court of Appeals in Atlanta in *Nurse "BE" vs. Columbia Palms West Hospital Ltd. Partnership* reversed a $10,000 jury award against Palms West on a sexually hostile work environment claim by Bobbie Eicke O'Brien, a former nurse at the Loxahatchee, Fla., hospital.

According to the decision, pediatric neurosurgeon Dr. Michael Chaparro, who was under contract but not an employee of the hospital, began calling Ms. O'Brien's cell phone late at night, asking her to meet him for a drink or to go out to dinner. Ms. O'Brien said she always indicated she was not interested.

After receiving several calls, Ms. O'Brien asked supervisor Cindy Stowers to remove her phone number from the staff directory, but also asked that the matter not be reported to the administration for fear of retaliation. Ms. O'Brien refused to identify the caller until Ms. Stowers promised the matter would not be reported.

Ms. O'Brien described the calls as "harassing," which Ms. Stowers took to mean "annoying," the ruling says.

Ms. O'Brien's name was removed from the staff directory, she changed her cell phone number, and the calls stopped. However, there were subsequent incidents, including one in which the doctor followed the nurse into a closet and made sexual advances. Ms. O'Brien then complained to supervisors, who forwarded her complaint to the human resources director at the hospital, which has an anti-sexual harassment policy, and the HR director investigated.

The doctor claimed Ms. O'Brien had also called him and the closet incident was the first time she rebuffed his advances. In her report, the HR director indicated that the doctor's behavior was inappropriate but no action was taken against him, says the decision. Ms. O'Brien subsequently resigned and filed suit against both the hospital and the doctor.

A lower court jury sided with Ms. O'Brien on the hostile work environment claim, but it found no liability on her retaliation claim.

The suit against Dr. Chaparro, in which she accused him of assault, battery and intentional infliction of emotional distress, was settled for an undisclosed amount.

Ms. O'Brien's conversation with

See **HARASS** page 6

NURSE "BE" VS. COLUMBIA PALMS:

- A nurse complained about a doctor's harassing phone calls but asked her supervisor not to report the conduct for fear of retaliation.
- The court ruled this meant she did not put the hospital on proper notice of the harassment.
- After she subsequently complained to supervisors about the doctor's continued actions, the hospital acted promptly in conducting an investigation, the court said, overturning a jury verdict that awarded her damages.

N.Y. county's 'play-or-pay' mandate pre-empted by ERISA, judge rules

By JOANNE WOJCIK

CENTRAL ISLIP, N.Y.—A federal court has invalidated the two-year-old Suffolk County, N.Y., play-or-pay health care mandate that requires certain retailers to provide a prescribed level of health insurance to their nonmanagement workers.

The Suffolk County law is pre-empted by the federal Employee Retirement Income Security Act, which bars states from legislating the content of employee benefit plans, Judge Arthur Spatt of the U.S. District Court in Central Islip, N.Y., ruled last Monday.

The ruling comes in a lawsuit filed in February 2006 by the Arlington, Va.-based Retail Industry Leaders Assn., which also successfully challenged a similar law enacted last year in Maryland.

"This court relied in part on the trial and appellate court decisions concerning Maryland's law, as well as on longstanding Supreme Court precedent to determine that despite some differences from the Maryland law, Suffolk County's law is also pre-empted by ERISA," Stephen Cannon, outside general counsel to RILA, said in a statement issued by the organization.

A Suffolk County, N.Y., mandate would have required some retailers to provide benefits to workers.

Maryland's law, enacted in 2006, would have required employers with 10,000 or more employees to spend at least 8% of payroll on health care for their employees or pay an equivalent tax.

Suffolk County's law, enacted in 2005 and amended in 2006, would have required large retail stores selling groceries in the community to make health care expenditures for most nonmanagerial, full-time, part-time and seasonal employees equivalent to a "public health cost rate" to be determined by the county.

Calls to Suffolk County officials were not returned.

Retail Industry Leaders Assn. vs. Suffolk County, et al., U.S. District Court for the Eastern District of New York, Central Islip, N.Y., Case No. 06 CV 00531, July 14, 2007.

Minn. comp organizations sue AIG, say years of premiums misreported

By ROBERTO CENICEROS

ST. PAUL, Minn.—The Minnesota Workers' Compensation Reinsurance Assn. and the Minnesota Workers' Compensation Insurers Assn. last week sued American International Group Inc., seeking damages related to the insurer's alleged underreporting of premiums over a 22-year period.

The two organizations claim that an estimated $1.2 million earmarked for Minnesota—as part of a $1.64 billion settlement agreement AIG reached in 2006 with then-New York Attorney General Eliot Spitzer and other officials—is inadequate. That pact settled allegations of fraud and bid rigging and included about $300 million to compensate states for an alleged misreporting of workers comp premiums and related assessments.

Minnesota's WCRA and MWCIA claim in their lawsuit, filed in U.S. District Court for the District of Minnesota, that they suffered substantially more than $1.2 million in losses since 1985 from underpaid assessments, reinsurance premiums paid, and investment income they would have earned from such premiums.

The suit, which charges fraud and violations of the federal Racketeer Influenced and Corrupt Organizations Act, seeks more than $100 million in damages.

The WCRA provides reinsurance to insurers and self-insured employers, while MWCIA provides the state's workers comp insurers with ratemaking information.

They are not alone in suing AIG over claims related to the alleged underreporting of workers comp premiums. The National Workers Compensation Reinsurance Pool, which represents about 600 insurers, filed suit in May (*BI*, May 28).

While AIG countersued the national reinsurance pool, claiming it is not responsible for any amount in excess of its 2006 settlement, the insurer declined to comment about the Minnesota suit.

LOTS OF HEAT. A LITTLE WATER.

THE PERFECT RECIPE FOR A SAUNA.

OR A DISASTER.

WAUSAU PROPERTY AT WORK. A building material supply customer of ours recently moved into a larger building. Despite the extra space, it still had inventory stacked nearly to the ceiling. This presented a bit of a problem for the existing sprinkler system, which was not designed for high-pile storage. The system didn't have the necessary water and pressure to combat the type of intense fires that could result from the primarily wood materials. Our loss prevention experts estimated the entire $4 million inventory could be lost in a fire. Working together, we found a solution that appealed to both the company and its landlord. The existing system was replaced with one designed for high-pile storage and the building was outfitted with new heaters to prevent the pipes from freezing. In addition to protecting its inventory, the company saved almost $30,000 a year in premiums. It's all part of Wausau TotalValue℠ and our commitment to lowering our customers' total cost of risk. A commitment backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.

PRICE≠COST

COMMERCIAL AUTO GENERAL LIABILITY PROPERTY UMBRELLA WORKERS COMPENSATION

A (Excellent) A.M. Best Rating

BOTTOM LINE, A BETTER VALUE.℠

Wausau Insurance Companies
2000 Westwood Drive, Wausau, WI 54401
www.wausau.com

Harass: Improper notice dooms claim

CONTINUED FROM PAGE 4

her supervisor did not put the hospital on notice as a matter of law, the three-judge panel ruled in its unanimous decision. "At best, the phone calls, as described by O'Brien, amounted to co-worker congeniality. At worst, they described a persistent but nonthreatening suitor, which still does not amount to harassment."

"The substance of O'Brien's complaint, coupled with the fact that she requested Stowers not to report it, was insufficient to place Palms West on notice of sexual harassment," the appeals court panel ruled.

Once the hospital was put on notice of the doctor's behavior, it took "prompt and corrective action," the court said.

Brian Ashe, a defense attorney with Seyfarth Shaw L.L.P. in San Francisco, called the appeals court ruling "extraordinary."

"I'm not sure what more an employee would need to make a complaint," Mr. Ashe said. "I think this is a singular opinion."

"They essentially blamed her for wanting to not be retaliated against" in asking her supervisor to keep her complaint confidential. "In every other case I'm familiar with, that's enough to put the employer on notice, and just because the employee says they don't want to proceed, the employer has a duty" to proceed with an investigation, said Mr. Ashe.

'An employee can't have it both ways. She can't insist upon confidentiality and then later complain that her employer failed to take prompt remedial action.'

Richard D. Tuschman,
Epstein Becker & Green P.C.

However, Richard D. Tuschman, a defense attorney with Epstein Becker & Green P.C. in Miami, said Ms. O'Brien "did not make a specific complaint of sexual harassment. She merely described the phone calls as harassing, which the supervisor took to mean annoying, and that's not sufficient to put the employer on notice of an illegal activity. Basic harassing behavior, in a generic sense, is not illegal."

Furthermore, Ms. O'Brien premised her complaint on the supervisor's promise of confidentiality. "An employee can't have it both ways," said Mr. Tuschman. "She can't insist upon confidentiality and then later complain that her employer failed to take prompt remedial action."

Nurse "BE" vs. Columbia Palms West Hospital Ltd. Partnership, a foreign limited partnership, d.b.a. Palms West Hospital, defendant-appellant, United States Court of Appeals for the Eleventh Circuit, No. 06-12159

Parity: House committee passes bill

CONTINUED FROM PAGE 3

In addition, the Senate bill would pre-empt state parity laws, while the House bill would not interfere with stronger state laws.

Those differences aroused strong passions among Education and Labor Committee members before last week's vote. For example, ranking minority member Rep. Howard P. McKeon, R-Calif., said the House bill goes beyond parity.

"By requiring virtually every mental illness defined by the mental health profession—including caffeine addiction, jetlag and others—to be covered by plans, this mandate would take us in exactly the wrong direction from our shared goal of increasing health coverage and reducing the ranks of the uninsured," according to the lawmaker.

But Rep. George Miller, D-Calif., contends the House bill would ensure that meaningful mental health care benefits are provided to employees and that the cost to employers of so doing would be insignificant.

"There is considerable evidence demonstrating that providing mental health parity is cost effective and could even reduce costs to employers by eliminating the need for medical care and emergency room visits if mental illnesses are left untreated," he said.

Some benefit lobbyists are optimistic that the Senate version will prevail.

They note, among other things, that a wide assortment of business groups as well as provider organizations support the Senate bill, while the House bill lacks such broad support.

"I'm guardedly optimistic about the prospects of the Senate bill," said Neil Trautwein, vp and employee benefits counsel with the National Retail Federation in Washington. "You would think a bill that has the support of all the major stakeholders is the right vehicle," he added.

Other lobbyists are less certain, saying it is too soon to make predictions.

"There is still much to talk about," said Paul Dennett, vp-health policy with the American Benefits Council in Washington.

"There is some tough negotiating ahead," said Frank McArdle, a consultant in the Washington office of Hewitt Associates Inc.

Still, Mr. McArdle predicts, odds favor passage of some type of parity legislation during the current congressional sessions.

"There is strong bipartisan support for doing something, and this would be a popular election year issue," he said.

Whichever version is passed, it would be a big change from the current federal parity law. That 1996 law, which legislators have renewed several times, bans discriminatory annual and lifetime dollar limits for mental health care expenses.

However, the law allows employers to discriminate in other ways. For example, it is legal for a health care plan to limit the number of annual outpatient visits for treatment of mental health disorders it will cover, while not imposing a comparable limitation for other medical conditions.

Such limitations are common. Washington-based Mercer Health & Benefits L.L.C. surveyed more than 600 employers and found that 64% of them imposed benefit limitations, such as capping the number of visits to mental health therapists or inpatient days but did not impose comparable limitations on other medical conditions.

DIFFERENT TAKES ON MENTAL HEALTH PARITY

*How the House and Senate mental health care parity bills differ**

WHERE THEY AGREE:

- Group health care plans can't impose higher cost-sharing requirements for mental health care expenses than for other medical conditions.
- No discriminatory treatment limitations for mental health care services.
- Exempts employers with fewer than 50 employees from parity requirements.
- Exempts employers from parity requirements if upgrading mental health benefits boosts costs by at least 2% the first year after the legislation goes into effect and 1% in succeeding years.

WHERE THEY DIFFER:

- House bill does not pre-empt stronger state parity laws; Senate bill pre-empts such laws.
- House bill requires coverage, if medically necessary, of mental disorders that are covered by the health plan with the greatest enrollment offered to federal employees.

**As passed by the Senate Health, Education, Labor and Pension Committee and House Education and Labor Committee*

Commentary

America not yet ready for running of the bulls

PAUL WINSTON

Associate Publisher and Editorial Director
Paul Winston's commentary appears monthly. E-mail: pwinston@businessinsurance.com

Seven people were gored and several more were trampled during the annual running of the bulls earlier this month in Pamplona, Spain. According to news reports, at least 13 people have been killed during the festival since 1924, with hundreds more injured over the years.

Pictures from this year's event showed a man being tossed in the air by a stampeding bull. A closer look revealed that his lower leg was almost fully impaled on the bull's horn. These horrific images, which quickly made the rounds on the Internet, were later followed by shots of the man giving a gleeful thumb's up from his hospital bed, as if he had just won the lottery.

Also of note at this year's event, a Spanish man lost visitation rights with his son after he brought the 10-year-old boy with him to run with the bulls and was caught on camera. Apparently, the town fathers of Pamplona, not to mention his ex-wife, were quite chagrined that he had put the boy in such an unsafe situation.

I have no desire to run in front of sharp-horned animals, or even dull-horned ones. Even so, this inherently dangerous tradition fascinates me. How is it that this anachronism has not gone the way of bear baiting, chariot racing and knife throwing?

The running of the bulls in the U.S. would be followed by the running of the plaintiffs lawyers, as they clamor to represent injured parties.

Can you imagine if it were held in America, instead of Spain?

I can picture a few uniquely American touches that such an event would bring on our shores:

- Pundits and social scientists would debate the significance of the running of the bulls on prime time cable TV, questioning whether it is evidence of a yearning to return to our frontier heritage, or that Americans have developed a fatalistic attitude in the wake of 9/11 or that the Chinese are putting something in our toothpaste that is turning us into reckless morons.
- The running of the bulls would be followed by the running of the plaintiffs lawyers, as they clamor to represent injured parties who, honest your honor, had no idea that such an event could be hazardous to their health. Surely those hold harmless agreements signed by the participants do not absolve public officials of their responsibility to protect people from putting themselves in harm's way, the class action lawsuit would allege.
- Johnny Knoxville would create a new reality series on MTV, "Running of the Jackasses," about efforts by him and his friends to be gored by raging bulls, rather than avoiding them, during the U.S. event. Ratings among 18-24 year olds would break new records.
- After a few years, the Running of the Bulls would be canceled after a stampede of litigation makes towns shy away from the spectacle. In subsequent years, in an effort to recapture some of the spirit of the original event in a safe and nonthreatening environment, alternative runnings would be organized. These would include the running of the newborn chicks, the running of the baby bunnies and, for the thrill seeker in all of us, the running of the snapping turtles.
- GEICO would sponsor the running of the geckos.
- After a few years of such alternative runnings, animal rights activists would stage a daring rescue of the alternative stampeding creatures, drawing attention to the abusive spectacle and shutting them down for good. Debate would continue for weeks afterward about which creatures were more deserving of our sympathy: the animals or the people running before them.

No, I think Pamplona, Spain, has nothing to fear from Americans when it comes to the running of the bulls. At least until the lawyers arrive.

Only i-aXs allows your data to do unprecedented things.

i-aXs™ is the first online risk management platform to make data more clear and understandable. Winner of the MicroStrategy 2007 Best Practices in Business Intelligence, 2007 MapInfo Meridian and the 2006 Oracle® "Innovator of the Year" Awards and the source of insights for more than 1,800 global users, i-aXs is a giant leap toward changing how the insurance industry uses data. Visit our website at www.i-axs.info to learn more about how i-aXs can make your data more effective for you.

i-aXs

www.i-axs.info

MMC Marsh & McLennan Companies

Capital Ideas. GUY CARPENTER

Business Insurance OPINIONS

Pension plan changes must meet needs of all

WHEN A COMPANY the size of the Dow Chemical Co. bucks a retirement plan trend and decides to remain in the defined benefit plan system, other employers should take note.

As we report on page one, Dow is keeping a final average pay plan design known as a pension equity plan for current employees, while new employees will earn pension benefits through a cash balance plan.

Years ago, that would not have been big news. Indeed, more than 1,000 employers have adopted cash balance plan designs since the first plan was established more than 20 years ago.

But it is news today because the trend of the past few years has been for employers to freeze their defined benefit plans—be they final average pay designs or cash balance—in favor of enhanced 401(k) plans.

> *The trend of the past few years has been for employers to freeze their defined benefit plans.*

Obviously, no one design works for all employers and that is why we doubt whether every employer that has phased out its defined benefit plans in favor an all-defined contribution plan approach has thoroughly considered the ramifications. Many, we have a strong hunch, are just following the herd.

Have employers, for example, considered what happens when defined contribution plans are the only retirement plans they offer and employees invest badly and they have to stay on the job longer than they or their employers wanted? Conversely, what if employees' defined contribution plan investments generate spectacular results and valued employees retire much earlier than employers expected, draining a company of a valuable talent pool?

There are other ramifications to changing retirement plans in which investment risk is shifted from employers to employees.

Employers mulling such significant changes should do so carefully and consider all the implications. A herd mentality is no way to design a retirement savings program that best meets the needs of a company and its employees.

Doctor rankings help health care cost control

THE NEW YORK Attorney General's Office has become famous for promoting transparency for consumers, but its recent efforts to stop a health insurer publishing a ranking of doctors is a step backward.

As we report on page 1, New York's attorney general wrote to a unit of UnitedHealth Group Inc. in New York urging it not to use the rankings, citing concerns over "faulty data and criteria" motivated by profit. It's a classic question of whether businesses can be trusted to protect the consumer's interest.

Insurers and benefit plan sponsors nationwide have embraced consumerism as a way to control health care costs and promote performance-based medicine, but that approach only works when consumers can make informed decisions.

We agree that accurate measures are vital, and in an ideal world, there would be uniform metrics on all health care providers in every state. But the fact remains, there is no such uniformity, and UnitedHealth was attempting to introduce a metric in a major health care market where none existed.

Not surprisingly, employer and physician groups are taking sides. Rather than bickering over such approaches in the face of continually rising costs, and inviting the intervention of regulatory authorities, we think physicians and health care payers ought to collaborate on comprehensive quality measurements, for the good of all.

Letters

Punishment-based plans a slippery slope

TO THE EDITOR: To say that I found Joanne Wojcik's July 9 article, "Employer to Fine Unhealthy Workers," horrifying would not be an overstatement, and I truly hope that Clarian Health's policy does not evidence a trend. Thanks for the editorial in the same issue expressing disapproval of this policy. Fining employees for their personal habits will, I think, lead to massive litigation based on the inherent unfairness of this policy. Neither the article nor your editorial, however, poses the obvious question, "Where will the line be drawn?"

Ultimately, for example, would employees who do not spend hours in gyms be fined? Would employees who consume trans fats be fined? Would employees who don't take prescription medicines be fined (as we discover more and more prescriptions unsafe)? Would employees who cannot eat organic foods (or cannot afford them) be fined? Would employees' sexual habits be scrutinized for "unhealthy habits," bringing on more fines? Would employees who do not get enough sleep be fined? Would employees who watch too much television or play too many video games be fined? Would

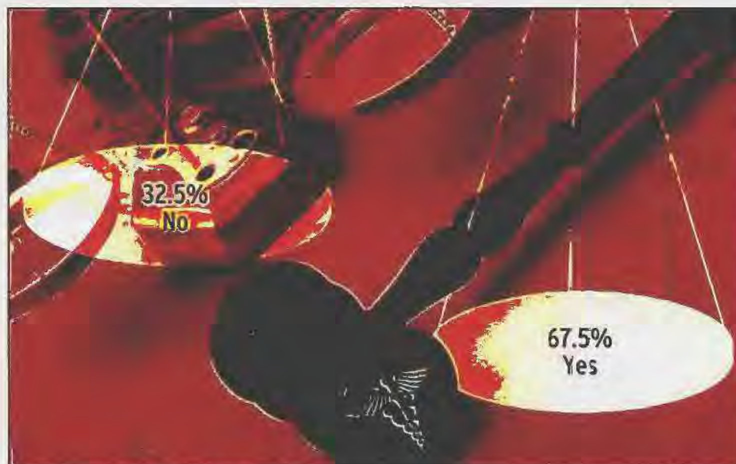
See **LETTERS** page 24

Write us

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: rcoccia@businessinsurance.com

Online Poll at www.businessinsurance.com

Should special health courts be established to deal with medical malpractice claims?



NEXT WEEK'S POLL: *Is it possible to objectively measure the quality of care provided by physicians?*

***BI* Online Poll tool sponsored by Wausau Insurance Cos.**

Vice President/Publisher: Martin J. Ross III (*New York*)

Associate Publisher/Editorial Director: Paul D. Winston (*Chicago*)
Editor: Regis J. Coccia (*Chicago*)
Editor-at-Large: Jerry Geisel (*Washington*)
Managing Editor: Gavin Souter (*Chicago*)
Assistant Managing Editor - Graphics: Kathy L. Barnes (*Chicago*)
News Editor: Matt Scroggins (*Chicago*)
Senior Editors: Roberto Ceniceros (*Los Angeles*); Meg Fletcher, A.R.M. (*Chicago*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Dave Lenckus (*Tucson*); Douglas McLeod (*New York*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*); Rodd Zolkos–*Industry Focus* (*Chicago*)
Associate Editors: Louise Esola (*Chicago*); Gloria Gonzalez (*New York*); Rupal Parekh (*New York*)
Correspondents: Elizabeth Fry (*Australia*)
Deputy Graphics Editor: William Murphy (*Chicago*)
Copy Editors: Charmain Benton (*Chicago*); Joe Walker (*Chicago*)
Assistant Copy Editor: Carrie A. Peinado (*Chicago*)
Research Director: Kevin P. Edison (*Chicago*)
Research Editor: Karen Brown Tucker (*Chicago*)
Online Editor: Katherine Downing (*Chicago*)
Online Producer: Amy R. Curtis (*Olathe*)
Editorial Cartoonist: Roger Schillerstrom (*Chicago*)

Advertising Director: Robert A. Raidt Jr. (*New York*)

Director - Business Development: Robert L. Niesse (*Chicago*)

Regional Sales Managers: Russell J. Carpel (*Chicago*); William J. McGuire (Chicago); Ron Kolgraf (*Boston*); Todd D. Lockwood (*New York*); Robert B. Murray (*New York*)
Classified Advertising Manager: Tina Vasilakis (*Chicago*)
Assistant to the Publisher: Pat Ghazvini (*New York*)
Advertising Traffic: Monique Murray (*New York*)
Production Manager: J. Thomas Janka (*Chicago*)

Circulation Manager: William O'Driscoll (*New York*)
Circulation Coordinator: Craig Bowman (*Detroit*)

Director of Communications: Ronnie I. Drachman (*New York*)
Promotion Manager: Michael Ambrosio (*New York*)
Promotion Coordinator: Barbara O'Brien (*New York*)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Los Angeles 323-370-2405; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations: William A. Morrow
Senior Vice President/Group Publisher: Gloria Scoby
Group Vice President/Technology, Circulation, Manufacturing: Robert C. Adams
Vice President/Production & Manufacturing: Dave Kamis
Crain's Corporate Circulation Director: Patrick Sheposh
Chief Information Officer: Paul Dalpiaz

G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 21 St. Thomas St., London SE1 9RY, U.K. Fax: +44-(0)20-7457-1440; 7300 N. San Anna Drive, Tucson, Ariz. 85704, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Court, Olathe, Kan. 66062, Fax: 312 280-3174, 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. $5 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane; Lancaster, PA 17601; 800-290-5460, ext. 160; *BusinessInsurance@reprintbuyer.com*.

To subscribe, Call 888-446-1422,or 313-446-0450 outside the U.S.
www.businessinsurance.com

BPA WORLDWIDE
AMERICAN BUSINESS MEDIA

IN THEIR OWN WORDS

Wilma Miller, Insurance Administrator, Church of God Florida State Offices, Inc.

"LEXINGTON'S SWIFT RESPONSE DID A GREAT SERVICE TO OUR CHURCH AND OUR COMMUNITY ..."

"Less than 24 hours after a supercell tornado destroyed our Lady Lake Church of God, Lexington had adjusters here assessing our loss. Five days later, at the very site of the devastation, their representative handed me the claim check we needed to begin rebuilding. When we needed Lexington, they were there for us 100 percent."

Last year, Lexington Insurance Company and its affiliates paid $5.1 billion in response to Lexington policyholder claims.

Contact us at **Lexingtonclaims@aig.com** or visit **www.lexingtonclaims.com**

***Lexington** Insurance Company*

An AIG Company

Insurance and services provided by Lexington Insurance Company and its affiliates. Issuance of coverage is subject to underwriting review and approval. Coverage may not be available in all states. As a surplus lines insurer, Lexington Insurance Company does not generally participate in state guaranty funds.

WE'RE SO OBSESSED

ABOUT OUR

BENEFITS MANAGEMENT

COVERAGE,

WE CONSIDER PUBLISHING

IT A FRINGE BENEFIT

OF THE JOB.

Business Insura

NEW YORK REALTY COMPANY FORMS CAPTIVE TO COVER TERRORISM RISKS/PAGE 3

PUBLIC RECREATIONAL SITES LOSE LIABILITY PROTECTION IN NEBRASKA/PAGE 3

CONOCO OVER DE FOR POI

In Brief

ING unit settles kickback charge

A unit of Dutch financial services firm ING Group last week agreed to pay $33 million to settle litigation in New York and New Hampshire for allegedly accepting kickbacks to promote certain funds as part of retirement plans. Under the settlement, New York teachers and former teachers are eligible for $30 million in restitution, while New Hampshire state employees are eligible to receive a total of $3 million. ING did not admit or deny any wrongdoing.

UnitedHealth loses bid to block probe

Minnesota Attorney General Mike Hatch has the right to investigate UnitedHealth Group Inc.'s executive compensation

See **IN BRIEF** page 30

IRS rules create problems for firms launching HSAs

By JERRY GEISEL

WASHINGTON—Employees who start health savings accounts next year could be shortchanged if their employers offer flexible spending accounts with grace periods.

In such situations, the maximum tax-free contribution made to an employee's HSA could be cut by as much as 25% during the first year of HSA enrollment, reducing funds available to pay for current year's health care expenses.

"If you have adopted a grace-period FSA, it can be very damaging for those who want to make maximum contributions to their HSAs," said Jay Savan, health and group welfare leader in the St. Louis office of consultant Towers Perrin.

The problem arises from Internal Revenue Service rules governing HSAs and grace-period FSAs. Those FSAs are so named because, unlike traditional FSAs in which employees forfeit unused account balances at the end of year, employees in

grace-period FSAs can tap balan that remain at the end of a yea pay for uncovered health expenses incurred during the 10 weeks of the next year.

The IRS, under pressure Congress, in 2005 authorized periods for FSAs to reduce impact of the end-of-year FSA ture requirement, which has to be known as "use it or lose IRS rules, though, say that,

See **HSAs** page 6

Drug pricing system nixed by pact

Class settlement may lead to reduced prescription costs

By JOANNE WOJCIK

A proposed settlement of a class action lawsuit against the nation's No. 1 provider of average wholesale prices for pharmaceuticals likely will result in pharmacy benefit managers attempting to renegotiate their contracts to preserve their profit margins, experts say.

Employers, organizations and other PBM users should not pin their hopes on lowering their drug

Benefits Management

Technology & Online Solutions

Benefits managers turn to the Internet to speed up processes; personal health

ADVERTISE IN *BI'S* **BENEFITS MANAGEMENT SECTIONS**
AND GIVE YOUR BRAND THE EXTRA RECOGNITION IT DESERVES.

2007 Benefits Management Sections		Ad Close
Jan 29	Retiree Benefits: Health Care	PUBLISHED
Feb 19	Voluntary Benefits	PUBLISHED
Mar 5	Health Care Cost Control	PUBLISHED
Apr 9	Wellness Programs	PUBLISHED
May 28	Regulatory & Legislative Developments	PUBLISHED
Jun 25	Work & Life Benefits	PUBLISHED
Jul 23	Dental & Vision Benefits	PUBLISHED
Aug 13	Consumer-Driven Health Plans	Aug 1
Sep 17	Benefit Financing Strategies*	Sep 5
Oct 15	Benefits Technology & Communications	Oct 3
Nov 26	Retiree Benefits: Pensions & Savings Plans	Nov 14
Dec 10	Benefit Consulting & Outsourcing	Nov 28

*This issue also features *BI's* annual Benefit Manager of the Year®

New York: 212-210-0133
Chicago: 312-649-5275
Boston: 617-292-4856
Los Angeles: 323-370-2405

Advertising@BusinessInsurance.com

Business Insurance
www.BusinessInsurance.com

DENTAL & VISION BENEFITS

Employers fold vision coverage into wellness programs Page 14

Excessive computer use may lead to vision disorder Page 16

Q&A: Leading optometrist discusses vision benefit issues Page 18

Rollover options take dental plans into consumer-driven arena Page 18

BENEFITS MANAGEMENT

Dental, vision benefit offerings shrink

Due to rising medical insurance costs, employers cut back on other benefit spending

By GLORIA GONZALEZ

Escalating medical costs are forcing employers to restructure their dental and vision benefits, shifting an increasing share or even all of the cost of these benefits to their employees and utilizing innovative benefit designs in an attempt to manage costs.

While dental and vision benefits are not particularly costly, medical benefit trends are rising at rates greater than general inflation, forcing some employers to redeploy their benefit dollars toward medical premiums, benefit consultants say.

According to the fifth annual MetLife Employee Benefits Trends Study, 93% of employers offer medical coverage, while 76% offer dental insurance and 63% offer vision benefits.

Fewer employers offer dental and vision benefits than medical benefits because employees do not place the same emphasis on these benefits, experts say. In fact, vision did not make the list of the most popular benefits in the MetLife survey. Dental was the fifth most popular benefit after medical, vacation, pensions and prescription drug coverage, according to the MetLife study, which was published in the third quarter of 2006.

New benefit programs are offering vision primarily as a voluntary benefit, said Tom Lerche, the Chicago-based health care team leader for Aon Consulting. "Vision is an important benefit, but it's not the most critical benefit in retaining employees," he said.

Small employers—those with fewer than 50 employees—were the most likely to offer dental benefits on a voluntary basis, with 17% making the benefit available to employees at their own cost, according to a survey by the Dallas-based National Assn. of Dental Plans. In contrast, only 5% of large employers—those with 10,000 or more employees—reported offering the benefits on a voluntary basis, the survey found.

About 18% of employers overall that offer dental benefits said they were likely to change dental coverage to a voluntary benefit, according to the NADP survey, and the number will likely keep rising, observers say. "It probably will continue as long as medical continues growing at double digits," said Richard Goren, senior vp, group dental for New York-based Guardian Life Insurance Co. of America.

Changes in dental and vision coverage are being driven by the need to shift benefit dollars to pay for rising medical costs, benefit experts say.

Health insurance premiums are rising so quickly that some small employers have to find places to save, so they are reducing their dental and vision benefit spending, said Vince Ashton, executive director of New York-based HealthPass, a partnership between the New York Business Group on Health, the city of New York and the health insurance industry that helps small businesses secure medical and dental coverage.

Rising health care costs have made dental and vision coverage a secondary benefit even for large employers such as Miami-Dade County Public Schools, which is facing a 10% to 13% increase in health insurance premiums, said Scott Clark, risk and benefits officer. "It's become increasingly difficult for us to make (dental and vision) a core product because we need these dollars to fund the medical insurance program," he said.

The school board offers a flexible benefit plan that allows employees to use the dollars to fund the benefits they want, including two dental plans—a dental maintenance organization and a preferred provider organization plan—and a vision plan, Mr. Clark said.

While medical costs are generally rising at a rate of 7% to 9%, dental benefit costs are increasing by 4% to 6%, while vision costs are rising at 3% or less, said Caty Furco, office practice leader for Watson Wyatt Worldwide in San Francisco. "We're just not seeing the same cost pressures on the dental and vision side as we are on the medical side," she said.

Vision benefits in particular are relatively inexpensive—about $15 per month per employee—so large employers continue to subsidize the benefit because they see the value in offering vision coverage, Ms. Furco said.

Cost control efforts tend to focus on dental benefits rather than vision benefits because dental coverage costs more and is increasing at a higher rate, benefit experts say.

One way to control dental spend is to increase the premium employees pay for their dental benefits. The NADP survey, though, found that 32% of employers were likely to increase the proportion of dental rates that their employees pay, while 44% said they were not likely to increase employees' share.

Another way for employers to reduce their benefit costs is to reduce the amount they pay for dependent dental care, or to stop paying for it at all.

Mr. Clark said he has not consid-

See **COSTS** next page

Dental plan has tiered network

By GLORIA GONZALEZ

When Beth Moore, benefit/human resources information systems manager for Visant Corp., was looking to revamp the company's dental benefits program, she wanted a plan that jelled with the consumer-driven health care approach her company introduced on the medical side in 2005.

In January, the Armonk, N.Y.-based marketing and publishing services company launched a preferred provider organization-type dental plan offered by DeCare Dental that features a unique twist: placing dentists in tiers based on measures such as efficiency and the quality of care they provide.

DeCare Dental developed a set of analytic tools to track provider utilization, examining whether dentists are making treatment decisions based on necessity or on benefit plan design, said Chris Earl, chief sales officer for the Eagan, Minn.-based dental plan provider.

The analytics program, for example, allows the company to differentiate and identify dentists who automatically schedule visits every six months or X-ray exams every 12 months because the benefit plan pays for the services rather than making treatment determinations based on the patient's individual oral health.

The program looks at a dentist's historical claims data to determine practice patterns and compare them to the dentist's peers, adjusting for variations such as size of the patient population, age and gender. By examining this information, the insurer can tell whether a particular dentist takes a conservative or invasive approach when ordering dental services such as X-Ray exams, said Richard Hastreiger, dental director and vp of oral health analytics. Dentists who take a conservative approach are placed in the higher tier, he said.

The insurer works with employers to drive patients to dentists in the higher tier by offering incentives such as lower deductibles and

See **DESIGN** next page

RANKING: Leading Dental Service Providers / Page 12 Leading Vision Service Providers / Page 14

Costs: Dental, vision coverage squeezed

CONTINUED FROM PAGE 11

age because he does not believe it is the right thing to do and probably would not be allowed during the collective bargaining process. As the cost of medical coverage rises, though, the board must examine the level of its dependent coverage subsidies, he said.

One cost management method that not enough employers are utilizing is to encourage their employees to join dental health maintenance organization plans, which are substantially less costly than dental PPO or indemnity plans, said Kevin Jackson, the San Francisco-based group vp, underwriting and actuarial for Delta Dental of California, New York, Pennsylvania and affiliates.

DHMO plan rates are projected to increase 4.5% in the next 12 months compared to a 6.1% increase in PPO plan rates and a 7.1% increase for indemnity plans, according to Aon Consulting's health care trend survey.

Utilizing innovative plan designs is a good way for employers to try to manage their dental benefits, one that employers are starting to show interest in, insurers say.

Eagan, Minn.-based DeCare Dental created a plan design that places dentists in network tiers based on measures such as efficiency and the quality of care they provide (see story, page 11)

AIG Employee Benefit Solutions, a unit of American International Group Inc., resurrected a type of dental plan known as a schedule reimbursement plan—which were common 20 years ago—in which the dollar amount of the employer's contribution toward each service is fixed. The plans save money for employers because they do not have inflation costs built into them, said John Kohanek, vp, product development for dental and vision at AIG Employee Benefit Solutions, based in Neptune, N.J.

Regardless of these cost management initiatives, though, dental and vision coverage will continue to be squeezed by the need to devote benefit dollars toward medical costs, benefit experts say.

"I think we're going to continue to struggle to identify available dollars," Mr. Clark said. "We're going to continue to struggle to have employer dollars cover dental and vision benefits because it's going to continue to be eaten up by the medical."

Design: Favors cost-sharing

CONTINUED FROM PAGE 11

higher annual maximum limits.

Creating tiered networks that rank dentists based on utilization—a greater driver of dental costs than dentist fees—can reduce costs by 10% to 20%, Mr. Earl said. One large employer that used the DeCare Dental program saved more than $3.5 million over a three-year period.

The concept of placing dentists in tiers based on objective measurements appealed to Visant because the company is asking its employees to manage their benefits efficiently and share the responsibility for health care costs, Ms. Moore said. Highlighting efficient dentists is an extension of the consumerism concept, she said. "It wasn't even as much motivated by an increasing trend so much as it was the right concept," Ms. Moore said.

To make the DeCare Dental plan more attractive to employees, Visant made the plan less expensive on a monthly premium basis compared to its traditional PPO plan, with a lower deductible and higher calendar year maximum benefits, Ms. Moore said. Under 10% of employees chose the plan when it was implemented in January, alongside the traditional PPO plan, she said.

One challenge Visant and DeCare Dental are dealing with is a limited number of dentists in certain rural communities where some of the company's employees are located. Visant is helping the insurer recruit dentists into its network by co-signing letters to dentists encouraging them to join, Ms. Moore said.

Largest dental plan providers

Ranked by total number of participants in plans

Rank	Company/Address	Phone/Fax/Web site	Total participants	Total clients	Total staff	Dentists in network	Dental claims processed	Principal officer
1	Delta Dental Plans Assn. 1515 W. 22nd St., Suite 450, Oak Brook, Ill. 60523	630-574-6001 Fax: 630-574-6999 *www.deltadental.com*	50,000,000	88,000	6,000	121,000	73,000,000	Kim Volk, president/CEO
2	MetLife Inc. 200 Park Ave., New York, N.Y. 10166	877-638-2862 *www.metlife.com*	21,000,000 [1]	34,835	N/A	100,000	33,700,000	Michael H. Schwartz, Alan J. Vogel, Richard J. Sitkus, vps
3	Aetna Inc. 151 Farmington Ave., Hartford, Conn. 06156	877-238-6200 Fax: 859-455-8650 *www.aetna.com*	13,472,000	24,569	N/A	93,672 [2]	21,000,000	Patricia A. Farrell, head-national business, specialty products and Medicaid
4	CIGNA Dental & Vision Care 1571 Sawgrass Corporate Parkway, Suite 140, Sunrise, Fla. 33323	800-257-5800 *www.cigna.com*	10,500,000	3,447	460 [1]	46,800	17,700,000	Karen Rohan, president
5	United Concordia Cos. Inc. 4401 Deer Path Road, Harrisburg, Pa. 17110	888-884-8224 Fax: 717-260-7797 *www.unitedconcordia.com*	7,300,000	28,600	1,100	N/A	12,700,000	Thomas A. Dzuryachko, president/CEO
6	Guardian Life Insurance Co. of America 7 Hanover Square, H-26-E, New York, N.Y. 10004	212-598-8000 *www.glic.com*	6,724,000	68,084	1,068	90,300	10,600,000	Dr. Richard Goren, second vp/national dental director
7	WellPoint Inc. 120 Monument Circle, Indianapolis, Ind. 46204	317-532-6000 Fax: 317-488-6260 *www.wellpoint.com*	5,000,000	N/A	64	60,000	N/A	Derek S. Bridges, president-dental and vision
8	Assurant Employee Benefits 2323 Grand Blvd., Kansas City, Mo. 69108	816-474-2345 Fax: 816-881-8996 *www.assurantemployeebenefits.com*	1,725,418	67,236	700	82,515	2,634,864	Dianna Duvall, senior vp-risk
9	Principal Financial Group 711 High St., Des Moines, Iowa 50392-0001	800-986-3343 Fax: 515-246-5475 *www.principal.com*	1,562,243	40,147	264	69,619	2,448,070	Theresa McConeghey, dental/vision director
10	Group Health Inc. 441 Ninth Ave., New York, N.Y. 10001	212-615-4704 Fax: 212-287-2788 *www.ghi.com*	503,874	193	73	5,992	1,024,160	George Babitsch, senior vp

1 Estimate. 2 PPO plan only. N/A Not available
Source: *BI* survey
Researched by Kevin Edison and Karen Tucker

Visit *www.businessinsurance.com/directories* for more information and to access the full searchable Directory of Dental Plan Providers.
Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.

FIND OUT WHY 97% OF OUR MEMBERS

refuse to give us the boot.

Why are 9 out of 10 members satisfied with their United Concordia plan? Quite simply, we're a great value in group dental insurance. With large national networks. A full range of products. Handy online tools. And 5-star customer service. Loyalty runs deep around here. In fact, for more than 10 years we have been the dental insurer of U.S. military families. And now serve nearly 1.8 million military family members. To learn more, reach us at ucci.com or 1.888.884.UCCI.

UNITED CONCORDIA

Insuring America's Dental Health

1.888.884.UCCI

United Concordia dental fee-for-service products underwritten by United Concordia Insurance Co., United Concordia Dental Corporation of AL, United Concordia Life and Health Insurance Co., & United Concordia Insurance Co. of NY. All products not available in all jurisdictions. Available in OK under policy numbers 9802 (06/01) and 9802L (06/01). United Concordia Insurance Co., CA certificate of authority number 3739-0 domiciled in AZ at 2198 East Camelback Road Suite 260, Phoenix, AZ 85016. UCCI Administrative Office: 4401 Deer Path Road, Harrisburg, PA 17110. Discount vision plans offered with United Concordia products are not administered or underwritten by United Concordia and are delivered under separate contract. Statistics derived from United Concordia internal research and reports, 2006-2007.

EBN0607

Employers incorporate vision benefits into wellness programs

Link between eye problems, overall health spurs coverage

By KAREN PALLARITO

Vision benefits are becoming more than just a low-cost perk. Some health plans and employers are folding vision coverage into wellness and disease management programs to tame the cost of treating chronic disease.

"I do believe managed care companies have embraced the preventative nature of a comprehensive (eye) examination and how that can save them money," said Joseph Carlomusto, president of Davis Vision Inc. in Plainview, N.Y., a subsidiary of health insurer Highmark Inc. His company urges health plan clients, at a minimum, to cover eye exams in their basic coverage.

Everyone can benefit, he said, because "the eyes are the window to the entire body."

Louisville, Ky.-based Humana Inc. announced plans last month to acquire CompBenefits, which provides dental and vision benefits plans to more than 4.8 million members. Vision "is one of those benefits that fits real well into the overall health package," said Mark Matzke, chief operating officer for HumanaDental in De Pere, Wis. Humana will use its disease management programs to encourage high-risk patients to see an optometrist, he said.

Employers are catching on as well. "Several of my employers in the last several years have adopted a very rich vision wellness component by encouraging annual eye exams for everyone—and then trying to promote that," noted Carl Mowery, managing director of compensation and benefits at SMART Business Advisory & Consulting L.L.C. in Chicago.

'There's just so much research and evidence that vision exams can reveal diseases like diabetes and high blood pressure.' It 'just made sense to go ahead and offer that.'

Beth Berg, Illinois School District U-46

One of Mr. Mowery's clients, a large pre-K-12 school district, knew of studies linking children's vision problems to poor performance in the classroom. School officials encouraged parents to have their kids' eyes checked, but the district had no vision benefit of its own until three years ago. "There's just so much research and evidence that vision exams can reveal diseases like diabetes and high blood pressure," said Beth Berg, benefits coordinators for Illinois School District U-46 in Elgin, Ill. It "just made sense to go ahead and offer that," she said.

Spectera, a unit of UnitedHealth Group Inc., has launched programs with a couple of key customers to share vision exam data with employees' health plans. The goal is get people who have indicators of disease to seek further testing and treatment, said Jim Fuhrman, executive vp of sales at Spectera United-Healthcare Dental in Agoura Hills, Calif. He said the company is looking to expand the data-exchange with all of its customers.

Purchasers and payers are acting on a growing body of empirical evidence demonstrating a link between eye problems and chronic disease. Studies show that elevated blood pressure, for example, can

See VISION page 16

Largest vision plan providers

Ranked by the total number of participants in plans

Rank	Company/Address	Phone/Fax/Web site	Total participants	Total clients	Total staff	Network providers*	Major optical chains	Principal officer
1	EyeMed Vision Care 4000 Luxottica Place, Mason, Ohio 45040	888-439-4644 www.eyemedvisioncare.com	130,000,000	3,400	350	40,000	LensCrafters, Pearle Vision, J.C. Penney Optical, Sears Optical, Target Optical	Liz DiGiandomenico, senior vp/general manager
2	Davis Vision Inc. 159 Express St, Plainview, N.Y. 11803	516-932-9500 Fax: 516-932-7551 www.davisvision.com	50,000,000	10,000	1800	30,000	Binyons, Davis Vision, Dr. Bizer's, Doctors ValueVision, Empire Vision Centers, EyeMasters, Hour Eyes, Stein Optical, Visionworks, Vision World	Joseph Carlomusto, president/CEO
3	VSP Vision Care 3333 Quality Drive, Rancho Cordova, Calif. 95670	800-852-7600 www.vsp.com	47,746,474	26,388	2023	23,607	N/A	Rob Lynch, president/CEO
4	Spectera 6220 Old Dobbin Lane, Liberty 6, Suite 200, Columbia, Md. 21045	800-638-3895 Fax: 443-896-0518 www.spectera.com	11,628,716	7,536	633	24,760	Costco Optical, For Eyes Optical, Shopko Optical, Wal-Mart Optical	Paul Gulstrand, CEO
5	Guardian Life Insurance Co. of America 7 Hanover Square, H-26-E, New York, N.Y. 10004	212-598-8000 www.glic.com	1,828,638	13,326	N/A	33,624	J.C. Penney Vision, Pearle Vision, Sears Optical, Target Optical, Wal-Mart Optical	Dr. Richard Goren, second vp/national dental director
6	WellPoint Inc. 120 Monument Circle, Indianapolis, Ind. 46204	317-532-6000 www.wellpoint.com	1,535,000	252,000	N/A	55,000	LensCrafters, Pearle Vision, J.C.Penny Optical, Sears Optical, Target Optical	Derek S. Bridges, president-dental and vision
7	Principal Financial Group 711 High St., Des Moines, Iowa 50392-0001	800-986-3343 Fax: 515-246-5475 www.principal.com	177,645	2,372	264	N/A	N/A	Theresa McConeghey, dental/vision director

*Includes optometrists, ophthalmologists and opticians. N/A Not available
Source: *BI* survey
Researched by Kevin Edison and Karen Tucker

Visit *www.businessinsurance.com/directories* for more information and to access the full searchable Directory of Vision Plan Providers. *Business Insurance* now offers the option to purchase the entire online directory as an Excel file or as a PDF.

property casualty healthcare programs

BE READY FOR WHAT LIES AHEAD.

You don't know when or where the next major loss will strike. But whatever the risk, Lexington has the financial stability, claims expertise and market commitment to manage it. For nearly 40 years, we have led the industry in protecting against big losses, from hurricane to terror risks, from employment practices exposures, to medical professional liabilities. Our superior underwriting flexibility, new product development, and capacity keep our solutions head and shoulders above the rest. And keep our policyholders prepared, for what lies ahead.

Contact Lexington at lexingtonins@aig.com or visit us at www.lexingtoninsurance.com/fs.

Lexington *Insurance Company*

Market Leadership Powered by The Spirit of Innovation℠

High computer use creates health risk for many employees

Some companies buy specialized coverage for vision disorder

By JAY GREENE

A growing computer-related vision disorder may contribute more than many employers think to lost work time or decreased worker productivity, experts say.

Computer vision syndrome is a vision disorder related to excessive computer use. Experts recommend regular eye exams to diagnose common symptoms of CVS: dry eyes, headaches, blurred vision, eye strain and neck, shoulder or back pain, according to the St. Louis-based American Optometric Assn.

Several studies over the past 15 years have shown that a majority of employees who work with computers on a regular basis, three or more hours a day, suffer from CVS and don't know it. People most affected by CVS include computer data entry workers, programmers, telephone operators, graphic artists, architects, insurance underwriters, air traffic controllers, journalists, lawyers, bank tellers and secretaries, according to the AOA.

But few companies have recognized CVS as a health care problem that should be included as a benefit in their vision plan, said James Sheedy, an optometrist and dean of Pacific University College of Optometry in Forest Grove, Ore. Mr. Sheedy's research indicates more than 14% of people who use computers complain about eye strain to their optometrists.

Not only does it affect employee health, Mr. Sheedy says, but it also reduces productivity. On average, productivity drops by 9% and accuracy by 38% among employees with untreated CVS, according to a 2004 University of Alabama at Birmingham study.

Mr. Sheedy says CVS is "more common than carpal tunnel syndrome" with seven of 10 experiencing the symptoms of CVS, he said.

"It is not so much the employer or benefits manager who asks for vision benefits, it is the employee who either is over 40 and needs some type of corrective glasses or has computer vision syndrome, or has children who need to be examined," says Howard J. Braverman, an optometrist and president of the vision division of CompBenefits, an Atlanta-based vision and dental benefits company.

A 2003 survey by the AOA found that more than 33% of adults have CVS symptoms, 61% are concerned about vision problems caused by prolonged computer use and 64% believe it will worsen in the future.

Companies can suggest simple solutions to employees, including adjusting computer screens, taking frequent breaks, blinking more frequently to reduce dry eyes, using eye drops and even purchasing specially designed computer glasses, said Mr. Braverman, former AOA president from 2000-01.

Vision coverage is one of the fastest-growing health insurance benefits, said Mr. Braverman. But if a company doesn't offer a vision plan, or CVS coverage, employers sometimes offer reimbursement for any computer-related vision expenses, he said.

"Some companies will provide $200 so employees can purchase the special computer glasses," Mr. Braverman said. Computer glasses are multifocal glasses with a wide area for viewing the computer and an area for close viewing like looking at the keyboard.

Awareness

Still, some companies cover CVS as part of their vision benefits, says Melody Healy, director of commercial marketing for Vision Service Plan, a Rancho, Calif.-based vision benefits company. "Typically we are raising awareness in the employer groups we cover that have lots of computer users," Ms. Healy said. "Employers who have ergonomics plans in place are more likely to look at related vision problems."

Despite years of research on CVS, most employers are more concerned about expensive medical conditions that have an immediate, direct cost, such as diabetes or congestive heart failure, Ms. Healy said. "There isn't a lot of awareness of this issue publicly," she said. "Employers have so much on their plate. This is a secondary complaint."

'It is not so much the employer or benefits manager who asks for vision benefits, it is the employee who either is over 40 and needs some type of corrective glasses or has computer vision syndrome, or has children who need to be examined.'

Howard J. Braverman, CompBenefits

MINIMIZING COMPUTER VISION SYNDROME

Tips to reduce effects of CVS

- Take frequent breaks. For every 45 minutes at the computer, take a 15-minute break.
- Adhere to the 20-20-20 rule. Look away from the screen every 20 minutes and focus on something at least 20 feet away for 20 seconds.
- Blink often. Use lubricating eye drops for dry eyes.
- Reduce screen glare by dimming overhead lights, relocating lamps, placing blinds over windows or by purchasing a glare reduction filter.
- Clean screens often. Use a light screen with dark letters.
- Adjust screens to four to nine inches below eye level, or 26 inches from the floor, and sit 20 to 30 inches from screen.
- Take an eye exam every year, noting that you are a computer user.
- Wear specially prescribed glasses.

Source: American Optometric Assn.

Employers may be confused about the nature of worker medical complaints or loss of productivity, Ms. Healy said. "It does not come out at first in your eyes," she said. "When people complain of neck and back pain, a lot of people don't make the connection that it is eye strain."

Not surprisingly, Vision Service Plan offers its 2,100 employees its own vision benefit plan that includes CVS coverage through the company's special Computer VisionCare plan. Overall, 7% of Vision Service Plan employees, or 147, use the CVS benefit for exams or computer glasses. Of Vision Service Plan's 202 clients who have added the CVS benefit to basic vision benefits, 6% of their employees use the benefit, according to the company.

"We do an ergonomic evaluation each year and ask them about eye strain. We tell them about the coverage and when they use it they feel a difference. Their eyes don't feel as tired during the day," said April Bettencourt, Vision Service Plan's manager of benefits and payroll.

Ms. Bettencourt says the types of employees who benefit most from CVS coverage are the ones working at a call center. "It doesn't add a large expense to your plan and if you can avoid a workers comp claim or improve productivity it is a benefit," she said.

Benefits

Some companies are offering computer vision plans to employees as part of their vision benefit program.

"Medtronic developed a vision plan that covers the diagnosis of CVS as well as lenses prescribed for eye-related conditions that may result from working closely on computers," said Roger Chizek, benefits director at Minneapolis-based Medtronic Inc., a medical device company.

New York-based Verizon Communications Inc. offers a comprehensive vision benefit program that includes CVS coverage, according to the company's spokesman.

"Our workplace is designed for optimal work, with lighting designed to reduce glare. If employees have CVS problems that would be covered and accommodated," he said. "We give 15-minute breaks often during the day for computer relief. They are designed to rest your eyes."

Vision: Tests reveal other conditions

CONTINUED FROM PAGE 14

cause a blockage of the arteries and veins supplying blood to the retina. Hypertension is also a risk factor for age-related macular degeneration, a condition that results in the loss of sharp central vision.

Vision testing is also critical for people with diabetes, said Dr. Larry C. Deeb, president of medicine and science for the American Diabetes Assn. and medical director for the diabetes center at Tallahassee Memorial Hospital. Diabetics are prone to retinopathy, a progressive eye disease that can lead to blindness.

"You can help motivate a patient pretty profoundly to control his or her diabetes better if he goes to the eye doctor and (the doctor) says, 'You know, I see some early changes in the back of your eye. You really need to control your diabetes better...so it doesn't progress,'" Dr. Deeb said. "That would seriously get my attention."

Sometimes a simple eye exam can help detect disease in individuals who haven't been diagnosed. VSP Vision Care has "hundreds" of anecdotal examples where doctors found evidence of high blood pressure or diabetes or cancer, said Don Yee, senior vp of marketing and corporate development in Sacramento, Calif. "Yet there was no organized method to collect information... and to coordinate care with primary care physicians, and that's what Eye Health Management is really all about."

In the first year of the pilot program, called Eye Health Management, with the State of California, VSP doctors examined 60,000 state employees, 85 of whom were diabetic and didn't know it or were not being medically managed. On those cases alone, Greg Beatty, chief of benefits with the state's Department of Personnel Management in Sacramento, figures the state avoided $340,000 in costs associated with managing the disease.

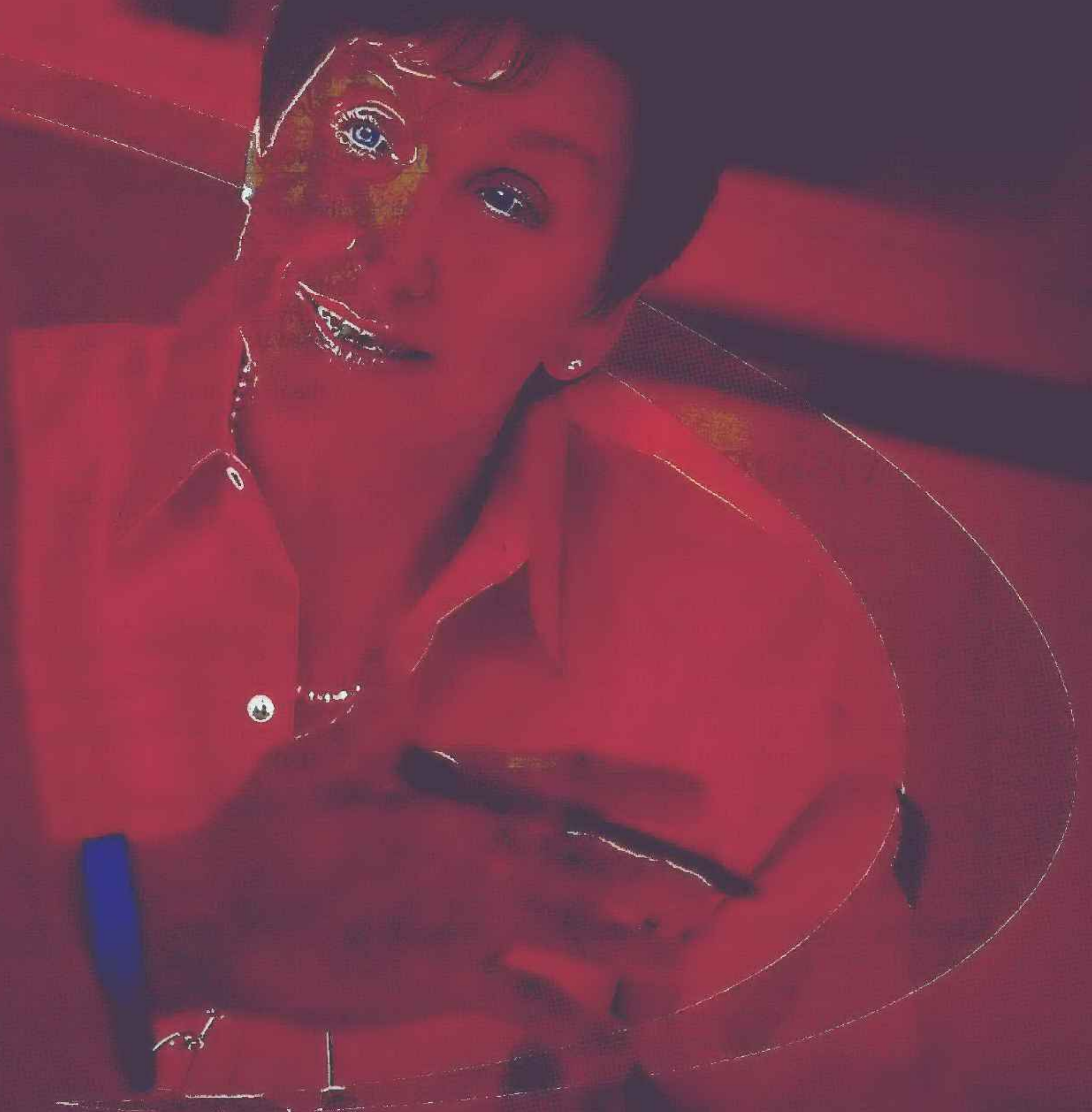
Currently, only state workers who are members of Blue Shield of California participate, but Mr. Beatty hopes to persuade other health plans to join the effort. "If we could engage our other health plan providers and get the whole workforce in, we'd probably be exceeding a million dollars a year (in savings) right now," he said.

Despite the upside, most new vision plans are offered on a voluntary basis, with employers paying only a portion of the premium—or none at all. Benefit managers are pre-occupied with major medical, pharmacy and other health benefits, Mr. Yee said. "Vision benefits are probably 2% or 3%...of the overall health care dollar."

For California, which spends upwards of $3 billion in health premiums for state workers, a $1 million savings, Mr. Beatty admitted, is a drop in the bucket. "But," he added, "every little bit counts."

It's our job

to handle all the paperwork of Part D.



After all, you already have a full-time job.

Are you spending too much time on Medicare Part D for your retirees? For all the times you wished you could hand off the paperwork, questions, complications and confusion to someone else, here's your answer. MemberHealth has the people and systems in place to assist plan sponsors in effectively and efficiently dealing with the complex issues of Part D. We're here to save you the work and worry. And we're here to help save you and your retirees money, too. It's a big job, but we can handle it. After all, we're the Part D People.™ To find out more, contact the MemberHealth Group Sales Division, 1-877-285-8759 or visit us online at **www.mhrx.com.**

MemberHealth™

MemberHealth, Inc. is contracted with the Federal Government to administer Medicare prescription drug coverage under the CCRx brand.

PROFESSIONAL MARKETPLACE

To place your ad, contact **Tina Vasilakis** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: tvasilakis@BusinessInsurance.com

Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Arion Insurance Company Limited Debtor in Foreign Proceeding. — In a Case Under Chapter 15 of the Bankruptcy Code — Case No. 07-12108 (RDD)

NOTICE OF FILING OF PETITION AND OTHER PLEADINGS PURSUANT TO CHAPTER 15 OF BANKRUPTCY CODE SEEKING RECOGNITION OF FOREIGN PROCEEDINGS AND PERMANENT INJUNCTION IN AID OF FOREIGN PROCEEDINGS

PLEASE TAKE NOTICE that on July 9, 2007, Tamsin Victoria Walker, in her capacity as Foreign Representative of Arion Insurance Company Limited (the "Company"), in a proceeding (the "Bermuda Proceeding") under Bermuda's Companies Act 1981 pending before the Bermuda Supreme Court (the "Bermuda Court"), by her United States counsel, Allen & Overy LLP, filed a petition (the "Chapter 15 Petition") under chapter 15 of title 11 of the United States Code (the "Bankruptcy Code") commencing a chapter 15 case ancillary to the Bermuda Proceedings and seeking recognition of such a foreign proceeding as a "foreign main proceeding" and a permanent injunction in aid of the Bermuda Proceedings in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") with respect to the Company.

PLEASE TAKE FURTHER NOTICE that a copy of the Chapter 15 Petition is available on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at http://www.nysd.uscourts.gov (a PACER login and a password are required to retrieve a document) or upon written request to the Foreign Representative's counsel (including by facsimile or email) addressed to:

Allen & Overy LLP
1221 Avenue of the Americas
New York, New York 10020
(212) 610-6399 (Facsimile)
Attention: Tania Ingman
Tania.Ingman@allenovery.com

PLEASE TAKE FURTHER NOTICE that motions or answers, if any, in response to the Chapter 15 Petition must be made in writing describing the basis therefor and shall be filed with the Court electronically in accordance with General Order M-182 by registered users of the Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with hard copy to the Chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court, One Bowling Green, New York, New York 10004 U.S.A., and served upon Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 U.S.A. (Attention: Ken Coleman and Stephen Doody), counsel to the Foreign Representative **so as to be received on or before August 3, 2007 at 5:00 p.m., New York time**. A hearing regarding motions or answers, if any, in response to the Chapter 15 Petition has been scheduled for August 8, 2007, at 10:00 a.m., New York time, or as soon thereafter as counsel shall be heard, in Room 610 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004.

Dated: New York, New York, July 11, 2007

Need to publish a Legal Notice, Anouncement or RFP?
Contact Tina Vasilakis at 312-649-5340.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF JOHN C. GIBBONS, AS LIQUIDATOR OF **NEW CAP REINSURANCE CORPORATION LIMITED**, DEBTOR IN FOREIGN PROCEEDINGS
CASE NO. 99-B-42752 (SMB)

NOTICE IS HEREBY GIVEN THAT ON JULY 12 2007, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON MAY 7, 1999. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON JANUARY 15, 2008 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE STUART M. BERNSTEIN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE STUART M. BERNSTEIN AND SERVED ON COUNSEL FOR THE PETITIONER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONER.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONER
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
No. 1842 of 2006
IN THE MATTER OF

NRG VICTORY REINSURANCE LIMITED (formerly known as VICTORY INSURANCE COMPANY LIMITED and THE VICTORY REINSURANCE COMPANY LIMITED)

AND IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, further to the meeting of Scheme Creditors (as defined in the scheme of arrangement hereinafter mentioned) which was opened on 23 May 2006 and then adjourned, the directors of NRG Victory Reinsurance Limited (the "Company") have decided to withdraw the proposed scheme of arrangement. The Company will, therefore, continue its ordinary course run-off pending the conclusion of a strategic review by the Company and its shareholders.

The purpose of the Creditors' Meeting had been to consider and, if thought fit, to approve (with or without modification) a scheme of arrangement proposed to be made between the Company and the Scheme Creditors pursuant to Section 425 of the Companies Act 1985.

Accordingly, the Company has withdrawn the Scheme proceedings in England and the Order Recognizing English Proceeding as Foreign Main Proceeding and Scheduling Permanent Injunction Hearing, entered by the United States Bankruptcy Court in the Company's case commenced under chapter 15 of the United States Bankruptcy Code (the "Chapter 15 Case"), was terminated by an order approved by the United States Bankruptcy Court on 12 July 2007. The Chapter 15 case has now been closed. In addition, the Company will shortly be withdrawing the related recognition proceedings which it had initiated in the Canadian Courts.

Any policyholder who has any questions should contact the Company c/o NRG Victory Management Services Limited (Attention: Alan Boyce), Charter House, Park Street, Ashford, Kent TN24 8EQ, United Kingdom, Tel: +44 (0) 1233 722 600; Fax: +44 (0) 1233 722 602; email: alan.boyce@nrgv.co.uk

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (ENGLAND & WALES)
CHANCERY DIVISION
COMPANIES COURT
Claim No. 1773 of 2007
IN THE MATTER OF

GREAT LAKES REINSURANCE (UK) PLC

and IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an Order dated 23 April 2007 made in the High Court of Justice of England and Wales (the "English Court") in the matter of Great Lakes Reinsurance (UK) PLC (the "Company") and in the matter of the Companies Act 1985 of Great Britain (the "Order"), the English Court sanctioned the scheme of arrangement proposed to be made between the Company and its Scheme Creditors (as referred to below and as more particularly defined in the Scheme) pursuant to s425 Companies Act 1985 of Great Britain (the "Scheme"), which was approved by Scheme Creditors at the respective Scheme Creditors' Meeting (as more particularly defined in the Scheme) held on 18 June 2007. An office copy of the Order of the English Court was lodged with the Registrar of Companies in England and Wales on 5 July 2007, the Scheme became effective on that date (the "Effective Date").

Scheme Creditors are creditors of the Company. Scheme Business which, broadly, comprises those liabilities of the Company under contracts and policies of reinsurance and retrocession entered into by the Company on a treaty basis, both excess of loss and proportional between 1 January 1988 and midnight on 1 October 2004 and excludes the Excluded Business. A full description of the Scheme Business and Excluded Business can be found in the Scheme Document.

Scheme Creditors (or persons claiming to be Scheme Creditors) MUST complete and submit Claim Forms (together with Supporting Information) so as to be received by the Company on or before the Bar Date in accordance with sub-clause 18 of the Scheme. The Bar Date will be 5.00 p.m. London time on 7 January 2008. If a Claim Form is not received by the Company by the Bar Date then, except in relation to any Company Agreed claims of that Scheme Creditor, that Scheme Creditor's claim will be valued at nil and that Scheme Creditor will not be entitled to any payment from the Company under the Scheme.

Copies of the full text of the Scheme and of the full text of the Explanatory Statement (prepared in connection with the Scheme under s426 of the Companies Act 1985) and of this notice can be downloaded from the Company's website at www.gluksolventscheme.co.uk (the "Website") free of charge. Alternatively hard copies of these documents can be obtained, free of charge, by contacting the Company by telephone, email, fax or post at the contact details set out below.

Any person believing himself to be a Scheme Creditor and who has not received any of these documents should contact the Company as soon as possible at the contact detail set out below.

The Company: Great Lakes Reinsurance (UK) PLC, Plantation Place, 30 Fenchurch Street, London EC3M 3AJ, United Kingdom

Contact: Peter Greenwood or John Thilthorpe

Email: gluksolventscheme@greatlakes.co.uk

Tel No: +44 (0)20 3003 7229 or +44 (0)20 7718 1290

Fax No: +44 (0)20 3003 7015 (after 6 August 2007)

DATED 19 July 2007

Searching for the missing link?
Use *BI's* PROFESSIONAL MARKETPLACE to find who you're looking for.
Call 312-649-5340 for details.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK

In re: Petition of PHILIP HEITLINGER, as foreign representative of AXA INSURANCE UK PLC, ECCLESIASTICAL INSURANCE OFFICE PLC, GLOBAL GENERAL AND REINSURANCE COMPANY LIMITED, and MMA IARD ASSURANCES MUTUELLES,
Debtors in a Foreign Proceeding.

In a Case Under Chapter 15 of the Bankruptcy Code
Case No. 07-B-12110 (REG) to 07-B-12113 (REG)
(Jointly Administered)

NOTICE OF FILING AND HEARING ON PETITIONS UNDER CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE

PLEASE TAKE NOTICE that on July 9, 2007, Philip Heitlinger (the "Petitioner"), in his capacity as the duly authorized foreign representative of AXA Insurance UK PLC ("AXA"), Ecclesiastical Insurance Office plc ("Ecclesiastical"), GLOBAL General and Reinsurance Company Limited ("GLOBAL" and together with AXA and Ecclesiastical, the "UK Scheme Companies"), and MMA IARD Assurances Mutuelles (the "Non-UK Scheme Company"), commenced cases (the "Chapter 15 Cases") under Chapter 15 with respect to the UK and Non-UK Scheme Company by filing Petitions (the "Petitions") under Chapter 15 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of New York (the "Court");

PLEASE TAKE FURTHER NOTICE that the Petitioner seeks, among other things, entry of an order giving full force and effect in the United States to the Schemes of Arrangement, pursuant to section 425 of the Companies Act 1985 of Great Britain, of each of the Scheme Companies (collectively, the "Schemes"), a permanent injunction, and related relief;

PLEASE TAKE FURTHER NOTICE that with respect to each of the UK Scheme Companies, the Petitioner is requesting recognition of a foreign main proceeding, as defined in section 1502(4) of the Bankruptcy Code, as well as a permanent injunction and related relief. With respect to the Non-UK Scheme Company, the Petitioner is requesting recognition of a foreign nonmain proceeding, as defined in section 1502(5) of the Bankruptcy Code, as well as a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE by order dated July 10, 2007, the Chapter 15 Cases are being jointly administered for procedural purposes only and all pleadings filed in the Chapter 15 Cases should bear the above referenced caption.

PLEASE TAKE FURTHER NOTICE that in addition to the Petitions, the Petitioner filed (i) the lists required to be filed pursuant to Bankruptcy Rule 1007(a)(4); (ii) the Statements of Foreign Representative as Required by 11 U.S.C. 1515(c); (iii) the Verified Petitions Under Chapter 15 of the Bankruptcy Code for Recognition of Foreign Proceedings, for a Permanent Injunction, and Related Relief (the "Verified Petitions"), and (iv) the Declarations of Mervyn Donald Couve, UK counsel (collectively, the "Supporting Documents");

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Scheduling Hearing and Specifying the Form and Manner of Service of Notice, dated July 11, 2007 (the "Scheduling Order"), the Court has scheduled a hearing for August 15, 2007 at 9:45 a.m. (Eastern time), or as soon thereafter as counsel may be heard (the "Hearing") before the Honorable Robert E. Gerber in Room 621 of the Bankruptcy Court, One Bowling Green, New York, New York, to consider the Petitions and the relief requested by the Petitioner;

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Petitions or the relief requested by the Petitioner must do so pursuant to the Bankruptcy Code and the Local and Federal Rules of Bankruptcy Procedure, including, without limitation, Federal Rules of Bankruptcy Procedure Interim Rule 1011, in writing and setting forth the bases therefore, which response or objection must be filed with the Office of the Clerk of the Court, Room 534, One Bowling Green, New York, New York 10004-1408, and served on the attorneys for the Petitioner (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Howard Seife, Esq.), so as to be received by them all no later than 4:00 p.m. Eastern Time, August 8, 2007;

PLEASE TAKE FURTHER NOTICE that the response or objection to be filed with the Office of the Clerk of the Court must be filed; (i) electronically by registered users of the Court's electronic case filing system in accordance with General Order M-242 of the Bankruptcy Court for the Southern District of New York, a copy of which may be viewed on the Court's website, www.nysb.uscourts.gov; and (ii) by all other parties in interest on a 3.5 inch disc, with hard copy provided to the Chambers of the Honorable Robert E. Gerber, at the address specified above;

PLEASE TAKE FURTHER NOTICE that all parties-in-interest opposed to the Petitions or the Petitioner's request for relief must appear at the Hearing at the time and place set forth above;

PLEASE TAKE FURTHER NOTICE that the Hearing may be adjourned from time to time without further notice other than an announcement in open court at the Hearing or the adjourned date or dates or any further adjourned hearing;

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely filed and served as provided above, the Court may grant the recognition and relief requested by the Petitioner without further notice. Copies of the Schemes, the Petitions and the Supporting Documents will be made available upon request at the office of the Petitioner's United States counsel at the address below:

Chadbourne & Parke LLP • Attorneys for the Petitioner • 30 Rockefeller Plaza • New York, New York 10112
(212) 408-5100 • Attn: Howard Seife, Esq. and Francisco Vazquez, Esq.

NOTICE

NOTICE OF FALSE ADVERTISEMENT

"Lloyd's Property Protection Limited" / Lock-in Value Equity

Lloyd's of London has discovered an advertisement that falsely describes "Lloyds Property Protection Limited" as an affiliate of Lloyd's of London. The product being offered by Lloyd's Property Protection Limited is referred to as "Lock-in Value Equity" a/k/a "LIVE." It is described as protecting homeowners from downward fluctuations in the value of their homes. Neither Lloyd's of London or any underwriters in the Lloyd's market have any relationship, financial or otherwise, with Lloyd's Property Protection Limited, Lock in Value Equity Limited or the product itself. Neither Lloyd's of London nor any underwriters at Lloyd's have directly or indirectly committed any assets to guarantee the product. If you have purchased this product or any similar home equity guaranty product believing that it is in any way guaranteed by or insured at Lloyd's of London, please fax a copy of your purchase agreement with any related correspondence to:

Wayne Wertzer
Lloyd's America, Inc.
25 West 53rd Street
14th Floor
New York, NY 10019
Phone: (212) 382-4092
Fax: (212) 482-4070

BUSINESS RESOURCES

CONSULTING SERVICES

CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates
Executive Summaries so good, you'll pass the first time, every time or your money back!
Call 1-888-BURNHAM Now!
www.BurnhamSystem.com

To advertise your products or services in *BI's* BUSINESS RESOURCES, contact Tina Vasilakis at (312) 649-5340 or tvasilakis@BusinessInsurance.com

Some things just work better in color.
Like your BUSINESS RESOURCES ad in *Business Insurance*
Contact Tina Vasilakis at 312-649-5340.

International NEWS

German insurers update environmental coverage

Policies aim to fill gap created by E.U. law on cleanup liability

By RICHARD MILLER

COLOGNE, Germany—In the wake of an industry model developed to cover exposures under a European Union directive, several German insurers have rolled out environmental polices to protect companies for liabilities under the country's environmental protection law, passed earlier this year.

"I believe it's really urgent because the risk is there, so companies should think about the insurance as well," said Jörg Sons, environmental insurance specialist at AXA Versicherung A.G. in Cologne, which launched its policy for the German market last month. The insurer is part of AXA Konzern A.G., the German unit of Paris-based AXA S.A.

Besides AXA, Hanover, Germany-based HDI Industrie Versicherungen and R+V Versicherung A.G. in Wiesbaden are among the other companies that have come out with new policies.

Germany's environmental law, or Umweltschadensgesetz, was passed in May in order to transpose the European Union's Environmental Liability Directive (2004/35/EC) into national law.

But the German buyers' association, Deutscher Versicherungs-Schutzverband e.V., points out that the new policies apparently do not go beyond an industry nonbinding insurance model developed by the Berlin-based Gesamtverband der Deutschen Versicherungswirtschaft e.V.—Germany's insurance association.

DVS previously called the cover under the GDV model "not sufficient."

The model, unveiled in April, was designed to help German insurers create insurance products to cover liabilities under the E.U. directive.

The directive created a framework for the prevention and remediation of environmental damage to natural habitats and resources. It imposed requirements on cleanup,

See **POLLUTION** next page

Firemen carry a body of a victim from the TAM passenger jet crash site. The jet crashed while landing in rainy conditions at Congonhas Airport in Sao Paulo, Brazil last week, killing at least 188 people. American International Group Inc. leads its hull and liability insurance program.

REUTERS

Brazil jet crash won't affect rates

Airline losses in 2007 remain below historical averages despite tragedy

By DAVE LENCKUS

SAO PAULO, Brazil—Commercial airline risk managers still can expect a soft—though somewhat busier—renewal season later this year despite the crash of a Brazilian passenger jet last week, according to brokers.

The TAM Linhas Aereas S.A. jet crashed July 17 while landing in rainy conditions at Congonhas Airport in Sao Paulo, Brazil. After skidding off its runway, the jet slammed into a TAM cargo building and exploded.

The crash killed 186 passengers and crew and two airline personnel on the ground. In addition, five TAM ground employees and three workers for other companies were missing late last week, said a spokeswoman for Sao Paulo-based TAM, Brazil's largest airline. Seven more TAM employees remained hospitalized, she said.

TAM has $1.5 billion of coverage under its insurance program to respond to third-party losses, sources said. New York-based American International Group Inc. leads the hull and liability program, which was placed in December by a brokerage unit of New York-based Marsh & McLennan Cos. Inc.

The destroyed jet, an Airbus 320, was valued at $41 million, a source said.

Under an international airline liability treaty signed by numerous governments, TAM is strictly liable for the crash, sources said. But because of concerns over runway lengths and resurfacing at Congonhas Airport, the airline's insurers likely will try to work out an arrangement under which the airport's liability insurers would contribute to the damages, a source said.

Since about a dozen insurers underwrite 80% of all airline and airport risks worldwide, many underwriters likely have a piece of both TAM's and the airport's programs, which should facilitate an agreement, the source said.

The airport has $500 million of liability coverage, which is led by Global Aerospace Underwriting Managers Ltd. of London, according to sources. Aon Corp. placed the coverage, sources said.

Before the TAM crash, losses this year were slightly higher compared with the same period a year ago but still were far below losses over the past several years on average, according to brokers.

Even factoring in the TAM crash, losses have not exceeded underwriters' expectations this year, said Wayne Wignes, the Chicago-based

See **CRASH** next page

Consolidation trend increases in Russian insurance market

Buyers to benefit from new products entering market

By RICHARD MILLER

MOSCOW—Russia's insurance industry is going through a busy period of mergers and acquisitions—a trend that experts say can only gain further momentum.

And while local buyers are expected to benefit from new products, particularly with more foreign insurers entering the market, it is unclear what affect the deals will have on insurance prices, which have fallen dramatically in recent years, experts said.

"The question is, do (the foreign insurers) want to keep their underwriting principles and try to keep the rates stable, or are they going to follow the internal approach from the Russian side and let it go down further?" said Andreas Wania, chief executive officer for ACE Insurance Co. CJSC in Moscow, a unit of ACE Ltd., which entered the Russian market in 2005.

'We have seen three major deals so far this year and I believe there are another one or two in the pipeline.'

Andreas Wania, ACE Insurance Co. CJSC

Russian M&A activity and the soft market were major themes at the "Insurance in Russia and CIS" conference, produced by the Marcus Evans Group, held last month in Vienna, Austria.

So far this year, there have been three major insurance deals involving foreign companies.

Swiss insurer Zurich Financial Services bought 66% of Moscow-based insurer NASTA for an estimated €283 million ($390 million) in February; Munich, Germany-based Allianz S.E. increased its majority stake in Moscow-based ROSNO group of companies for €550 million ($758 million) the same month; and in late May, Allianz purchased Moscow-based Progress-Garant Insurance Co. in a deal estimated at €127 million ($175 million).

"I do not see any reason why the pace of M&A should slow down," said Mr. Wania. "We have seen three major deals so far this year and I believe there are another one or two in the pipeline."

There has been widespread market speculation concerning a deal between Kapital Insurance Group, one of Russia's main commercial

See **RUSSIA** next page

Complete coverage.

The only newspaper dedicated to corporate risk managers, insurers, reinsurers and brokers in Europe

Subscribe today
visit www.BIEurope.com/subscribe

In Europe we have it covered

Business Insurance EUROPE

Letters

CONTINUED FROM PAGE 8

employees who eat too much salt be fined?

What about carnivores vs. vegetarians? I think eating meat is unhealthy and don't do so—might I complain to an employer that is fining my co-workers for smoking or obesity on the basis that I object to my co-workers eating meat? Perhaps employers would take stock of individual employees' diets to discern nutritive content—one employee pays a fine for insufficient calcium content, while another's lutein deficiency prompts a fine. An employee who doesn't consume enough fiber has to pay a fine because of possible digestive problems. Additionally, if an employee has a family history of diabetes, ALS, certain cancers or other diseases, would an employee be fined for not getting tested for those diseases, as well? Would failure to have enough mammograms and colonoscopies bring more fines? The boundaries of Clarian's policy are endless, and lawyers will find plenty of work (and money) in suing employers based on this policy.

Just what line will be drawn? Therein lies the problem. Just having a "legal right" does not mean a business must exercise it if it's just plain wrong.

Karen Porter
West Chester, Pa.

Wellness incentive should be avoided

TO THE EDITOR: I was interested in the article in the July 16 edition, "Incentive-based Plan Raises Questions." In my role as the practice leader for the Willis Employee Benefits Legal & Research Group, I have been asked by several people whether the plan being promoted by UnitedHealth Group Inc. and BeniComp Group works. Without more experience with wellness plans generally, those discussions, by necessity, will remain theoretical.

Unfortunately, I do not think that the plan design that is being proposed complies with the final Health Insurance Portability and Accountability Act regulations issued last year. The article did discuss that issue, but I wonder if it was critical enough. We have been told that this plan exploits a loophole in those regulations, specifically, Section 2590.732(c)(5)(i)(C). The regulation in question indicates that certain supplemental policies of insurance, as long as they are sold as separate policies, are not subject to HIPAA. Our analysis of that regulation is that the proposal, while it may technically fit the regulatory language, has enough strikes against it that we are advising clients to avoid the plan design and to adopt it only after discussions with their legal counsel.

First, the policy has to be under a separate policy or certificate. While the program might technically be under a separate policy, it is not a stand alone insurance policy. It is packaged together with the underlying group medical plan and they are sold as a single program. While not fatal, perhaps, it certainly has to start raising questions. In addition, if the logic of the designers is followed, we could come up with a plan that circumvents the regulations entirely. An employer could adopt a group medical plan with an extremely large deductible and the "supplemental" plan to fill in the deductible, but that bases its coverage on whatever wellness requirements the employer chooses. The regulations are not all that clear on where that line would be drawn, but you can be sure that the government is not going to interpret the requirements in a way that so blatantly undermines the substance of the rules.

It will be interesting to see what happens now that this plan design is being publicized.

Jay M. Kirschbaum
National Practice Leader
Legal & Research Group
Willis North America Inc.
St. Louis, Mo.

Wellness & Consumer-Driven Health Plans:
Contradictory or Complementary?
A Business Insurance Online Executive Forum™

Join Business Insurance Senior Editor Joanne Wojcik on August 14, 2007, along with our expert panel, for part two of our webinar devoted to wellness and consumer-driven health plans.

Much of the emphasis in consumer-driven health care has been on encouraging employees to take greater responsibility for their health care needs through increased cost-sharing, but there is also a wellness component to encourage employees to take better care of themselves. How can employers ensure that employees enrolled in high-deductible plans are not avoiding preventive treatment to keep their expenses low?

Attend this Online Executive Forum™ for an in-depth discussion about how employers can successfully integrate wellness plans in their CDHP strategies. Hear the viewpoints of expert panelists, and ask questions during this live event.

Panelists Include:
- ***Elizabeth Dudek,*** VP, Practice Leadership, Thomson Healthcare, Ann Arbor, MI
- ***Stephanie Pronk,*** Chief Health Officer, RedBrick Health, Minneapolis, MN
- ***Mark Snyder,*** Director of Benefits, Owens Corning Corp., Toledo, OH

QUESTIONS TO BE ADDRESSED:
- Which is more effective – incentives or penalities – at raising use of wellness programs?
- How can health risk assessment data help employers and employees?
- What are IRS rules that impact wellness initiatives?
- What information technology infrastructure is needed for an optimum CDHP environment?

SAVE THE DATE:
Tuesday, August 14, 2007
TIME: 11:00 a.m. Eastern / 8:00 a.m. Pacific

WHO SHOULD ATTEND:
- Employee Benefit Executives & HR Professionals
- Senior Corporate Management
- Health Insurers & Brokers
- Wellness & Disease Management Providers

BI's Online Executive Forum™ webinars, developed by our editorial staff, are highly informative online events where noted panelists and respected business leaders come together with BI's editors to discuss the most pressing issues in this live interactive format. **Register now for this *free* webinar.**

www.BusinessInsurance.com/Webinars

UnitedHealth: Delays plan to rank docs

CONTINUED FROM PREVIOUS PAGE

the data and show them exactly how the metrics are calculated and give them the opportunity to audit the programs because providers must feel confident that the metrics are fair, current and transparent, Ms. Darling said.

The AMA has specific principles that organizations developing physician profiles should adhere to, including the active involvement of providers in the development of the programs (see box, page 23). "We would hope that the insurance industry would realize that the AMA will be taking aggressive action anytime programs are created that don't meet the principles," Dr. Rohack said.

Despite the concerns, transparency initiatives relating to provider performance are here to stay, employers say. "There's too much at stake not to move on these issues," Ms. Darling said.

ADVERTISER INDEX

Issue of July 23

ADVERTISER	PAGE #
Aon Corporation	2
Burnham System	20
Business Insurance	10, 19, 24, 26
Guy Carpenter & Co.	7
Lexington Insurance	9, 15
Marsh Inc.	28
MemberHealth	17
United Concordia	13
Wausau Insurance Companies	5

Dow revamps several other retirement savings plans

MIDLAND, Mich.—Aside from offering a cash balance pension plan to new employees, Dow Chemical Co. is making several other changes to its retirement plans, effective Jan. 1, 2008. The changes include:

- **Automatic enrollment.** New employees that don't indicate whether they want to enroll in Dow's 401(k) plan will be automatically enrolled and will defer 3% of base pay to the plan with deferrals automatically increasing by one percentage point a year until reaching 6%, unless employees opt out.
- **401(k) plan matching contributions.** Dow will match 100% of employees' deferrals, up to the first 2% of pay, and 50% of deferrals on the next 4% of pay. Currently, Dow makes an automatic contribution equal to 1% of pay and matches 50% of deferrals, up to the first 6% of pay.
- **Roth 401(k) plan.** Employees will be able to make Roth 401(k) plan contributions. Under this feature, contributions are made on an aftertax basis, but, so long as certain conditions are met, investment income earned can be withdrawn tax-free.
- **Defined benefit plan vesting.** Employees will be fully vested after three years of service, down from the current five-year requirement.
- **Retiree health care coverage.** Dow will eliminate retiree health coverage for employees hired on or after Jan. 1, 2008. However, it will continue a program, started in 1993, in which Dow matches contributions employees make to build up funds to pay for future retiree health premiums.

Under this program, Dow employees can contribute, on an aftertax basis, as little as $10 a month or as much as $160 a month to a voluntary employee beneficiary association.

When employees terminate employment, they can withdraw funds to pay retiree health insurance premiums. Dow fully matches what the retiree withdraws so long as the retiree is at least age 50 and has completed at least 10 years of service.

—By Jerry Geisel

ON A ROLL

Big employers that have adopted cash balance pension plans since Congress passed Pension Protection Act last year:

Employer	Employees eligible	Benefit credits provided	Effective date
Dow Chemical Co.	Employees hired on or after Jan. 1, 2008	5% of pay	Jan. 1, 2008
MeadWestvaco Corp.	Initially, new employees and later employees under age 40. Employees age 40 and older given option to shift to cash balance plan.	4% to 8% of pay, with credit based on employee age and service	Jan. 1, 2007, for new employees; Jan. 1, 2008, for others.
SunTrust Banks Inc.	New employees and employees with less than 20 years of service; other employees given option to earn future benefits in plan	2.5% to 5% of pay, with credit based on employee age and service	Jan. 1, 2008

Dow: Employers embrace cash balance pension plans

CONTINUED FROM PAGE 1

cant benefits, Dow executives say.

"We know that prospective employees want benefits that accumulate throughout their career rather than concentrate on the last years of their careers," Ms. VanAlsten said.

Dow, which last year had more than $49 billion in sales and 43,000 worldwide employees, including 21,500 in the United States, and whose pension trust has more than $11 billion in assets, is at least the third major employer—and the first Fortune 50 company—to adopt a cash balance plan since enactment of the Pension Protection Act (see chart).

More employers are certain to follow, say benefit consultants.

"For the first time in years, employers are actively considering and evaluating these plans," said Kevin Wagner, a consultant in the Atlanta office of Watson Wyatt Worldwide, which worked with Dow in evaluating different pension plan options.

"We've seen a resurgence of interest in cash balance plans," said Mike Pollack, a principal with Towers Perrin in Stamford, Conn.

The driving force behind the renewed interest in cash balance plans was the passage of the PPA, which gave employers the go-ahead to set up new plans without the fear of facing litigation. That was a comfort to employers who wanted to set up new plans, as several dozen employers who established plans years ago were later sued for age discrimination.

"A lot of companies were waiting until the PPA passed," Mr. Pollack said.

"The PPA was critical in giving new plans a green light," said Ethan Kra, chief actuary with Mercer Human Resource Consulting in New York.

Indeed, Dow's Ms. VanAlsten said the enactment of the PPA "opened the door for us to consider a cash balance plan."

That employers again are considering forming cash balance plans is a big change from just a few years ago, when the future of the plans, once the fastest growing type of defined benefit plan, seemed dim.

Employer interest in the plans, which appealed to both employers and employees, rapidly chilled following a 2003 decision by a federal judge in Southern Illinois that said IBM Corp.'s cash balance plan violated age discrimination law.

But last year, the tide began to turn. First, Congress passed the PPA. Then, on the legal front, a federal appeals court ruled that cash balance plans in general and IBM's plan in particular do not violate age discrimination laws. A second appeals court, in a case involving PNC Financial Services Group Inc., later also ruled that the plans are not age discriminatory.

"The legal climate has become much friendlier," Mr. Wagner said.

At the same time, more employers have started to question whether it makes sense to phase out their defined benefit plans and switch to an all-defined contribution plan approach, in which employees bear all the investment risk. That could result in employees having inadequate retirement income if they invest poorly, forcing them to work longer than they or their employers anticipated, consultants say.

In fact, Dow's Ms. VanAlsten said a combination of a 401(k) plan and a cash balance plan is a much more balanced approach than one relying solely on the defined contribution model.

Still, while more employers are likely to follow Dow's lead, consultants don't expect a surge of new plan formations until federal regulators issue more guidance for cash balance and other types of pension plans, as required by last year's pension law.

"It really is difficult to move forward when you are not sure what all the rules are," said Larry Sher, a principal and director of research with Buck Consultants L.L.C. in New York.

Lawsuit: Claimants charge captive mishandled funds

CONTINUED FROM PAGE 1

health care worker assigned to the World Trade Center site following the Sept. 11, 2001, terrorist attacks.

Seeking millions of dollars in damages, the suit accuses the New York-domiciled WTC Captive of misusing public funds by spending more than $74 million on legal and other fees to fight injured workers' claims.

Further, the suit alleges the captive violated the federal Freedom of Information Act to hide its misuse of public funds and violated its fiduciary duties to protect and dole out funds for the benefit of injured workers at the Trade Center site.

Attorneys for Ground Zero workers have long argued that the $1 billion in federal funding that was used to create the WTC Captive should be used for medical treatment and compensation of workers injured by their participation in the cleanup efforts at the World Trade Center site.

LANDOV

'We've asked Congress to change the insurance company to a victims compensation fund.'

Mayor Michael R. Bloomberg, New York City

WTC Captive, meanwhile, has maintained that the mandate under which it was created requires the entity to defend its insureds—New York City and a host of contractors—against potentially improper claims.

Founded in December 2004, the captive was created with $1 billion in federal funding to provide the city and contractors at the site otherwise hard to come by liability coverage, including general, environmental, professional and marine liability.

The city was, however, able to buy about $79 million in primary and excess coverage for the debris removal project; Liberty Mutual Insurance Co. is the lead insurer on the primary layer and excess insurance was obtained from the London market under two policies, court documents say.

To date, more than 10,000 lawsuits have been filed against WTC Captive by workers at the site and their families. The number of settlements the captive has reached is unclear, but the captive so far has only paid claims related to orthopedic injuries, as opposed to respiratory illnesses.

Marc J. Bern, an attorney for the workers with Worby Groner & Napoli Bern L.L.P. in New York, said the suit needed to be filed "because the captive insurance company has been acting recklessly and failing to do what was intended of them with the billion plus dollars that was given to them by Congress...we are asking that the board of directors be replaced and the control of the captive be taken away from Mayor Bloomberg."

In addition to the WTC Captive, the suit also names as defendants New York City Mayor Michael R. Bloomberg; WTC Captive President and Chief Executive Officer Christine La Sala; WTC Captive Chief Financial Officer and Treasurer James Schoenbeck; Marsh Management Services Inc., the captive's manager; and GAB Robins North America Inc., its third-party claims administrator.

Individuals named in the suit also include members of the WTC Captive's board: Lewis Finklestein, Jeffrey Friedlander, Meredith Jones, Mark Melson, and Marc Page.

In a statement, WTC Captive called the lawsuit "completely without merit," and said any suggestion that it has departed from its mandate or not faithfully performed its duties is "completely without basis in fact."

Spokesmen for Marsh Inc. and GAB Robins, both based in New York, declined to comment on pending litigation.

"The truth of the matter is Congress didn't set up a victims compensation fund...they set up a captive insurance company and the insurance company can only pay out monies if somebody sues us in court and wins a judgement against us," Mr. Bloomberg said to reporters following the filing of the suit. "But we've asked Congress to change the insurance company to a victims compensation fund," he noted.

In February, Mayor Bloomberg proposed that Congress pass legislation to liquidate WTC Captive and permit its funds to be reallocated to a victim compensation fund. Any such congressional action would also need to eliminate liability for the city and its contractors, Mr. Bloomberg said (*BI*, Feb. 19).

"If such legislation were enacted and were to provide an alternative to litigation, it would presumably call for the $1 billion FEMA grant with which the WTC Captive Insurance Co. was funded to be reallocated to a reinstituted Post 9/11 Victim Compensation Fund, an outcome the captive would expect to support," WTC Captive said in its statement.

News In Brief

CONTINUED FROM PAGE 1

Act of 2007. The bill would extend the federal terrorism insurance backstop, currently slated to expire on Dec. 31, for 10 years. Among other things, the measure would extend the backstop's coverage to group life insurance and would permit the program to respond to acts of domestic- as well as foreign-initiated terrorism.

Japan quake losses less than $200 million

Insured property losses from the July 16 earthquake in Japan are expected to be around $188.0 million, according to catastrophe modeler Risk Management Solutions Inc. That estimate does not include business interruption losses and is based on expectations that insured losses will be about one-third of the 61 billion yen ($564.1) in losses caused by a 2004 temblor that struck the same region, RMS said. Last week's 6.8 magnitude earthquake was centered offshore, limiting the impacted area to coastal settlements, RMS noted. Other cat modelers did not provide estimates.

R.I. governor vetoes infertility cover bill

Rhode Island Gov. Donald L. Carcieri has vetoed a bill requiring health insurers in the state to extend coverage for infertility treatments to unmarried women. In blocking the bill, introduced earlier this year by state Rep. Edith H. Ajello, D-Providence, the Republican governor said, "As a matter of public policy, the state should be encouraging the birth of children to two-parent families, not the reverse."

Pa. docs not required to up med mal limits

Because of inadequate commercial insurance capacity, Pennsylvania health care providers will not have to boost their commercial medical malpractice insurance limits and reduce their dependence on a state fund for coverage, the state's insurance department said. Providers in the state currently must maintain $1 million of coverage, with the first $500,000 of limits purchased from a commercial insurer and an excess layer of $500,000 obtained from a state fund. Under state law, as commercial market capacity increases, providers would have to purchase $750,000 of commercial limits and $250,000 of state fund limits. A study determined that capacity is not yet adequate for that change, the department said.

Chubb agrees to refund comp premiums in Fla.

Chubb Corp. has agreed to refund its Florida workers compensation policyholders more than $13 million in "excess profits," the Florida Office of Insurance Regulation said. The refund stems from premiums paid from 2002 through 2004. The Office of Insurance Regulation said in a statement that it discovered the "excess profits" during an exam of annual financial data submitted by Chubb companies. Florida law caps workers comp insurer profits and insurers are required to return any excess or credit their policyholders.

Commerce official named PCI chief

U.S. Deputy Secretary of Commerce David A. Sampson will become the new president and chief executive officer of the Property Casualty Insurers Assn. of America. Mr. Sampson, who has served as the deputy secretary of commerce since July 2005, also is a member of the president's management council. He previously served as assistant secretary of commerce for economic development. June Holmes will continue to serve as PCI's interim CEO, a post she has held since September 2006, until Mr. Sampson assumes his duties. At that time, she will return to her previous position of PCI chief operating officer.

Noted

Risk managers continue to enjoy lower premiums on many of their commercial insurance policies, according to the Risk & Insurance Management Society Inc.'s latest **benchmark survey** produced by New York-based Advisen Ltd. Directors and officers liability premiums fell an average of 7.3% in the second quarter compared with last year, while workers compensation premiums fell nearly 2% and general liability premiums fell 1.2%....The Bush administration opposes legislation that would expand the **National Flood Insurance Program** to offer windstorm as well as flood coverage, a Treasury official said last week in an appearance before a subcommittee of the the House Financial Services Committee.

Assurant: Execs on leave

CONTINUED FROM PAGE 3

respond to the SEC staff before staff members make a formal recommendation to pursue civil charges.

A spokesman for Assurant said he could not speculate on how the individuals will respond to the SEC.

"After careful consideration, the board has decided to place all five employees who have received Wells notices on administrative leave, pending further review of the matter," Assurant said in a statement. The insurer continues to pay the executives, a spokesman said.

The Wells notices against the group of executives come more than two years after Assurant, like several other industry companies, was subpoenaed by the SEC as part of its investigation into finite risk products. Federal officials have been looking into whether companies have improperly used finite coverage to smooth earnings and conceal their true financial position.

According to a company spokesman, the SEC is centering on a catastrophe reinsurance contract that expired in 2004 and was not renewed. He declined to provide the reinsurer's name. In a 2005 SEC filing, Assurant said the company "has concluded that there was a verbal side agreement with respect to one of the company's reinsurers under its catastrophic reinsurance program."

Assurant said it is cooperating with regulators' finite probe. "Over the past two years, Assurant has cooperated fully with the SEC's industrywide investigation and will continue to do so," said John Palms, Assurant's chairman, in the statement.

The insurer will work with federal officials "to try to conclude the investigation in a timely manner," a spokesman said.

Following the announcement, rating agencies Standard & Poor's Corp. in New York, Chicago-based Fitch Ratings and Oldwick, N.J.-based A.M. Best Co. Inc. placed Assurant and its subsidiaries under review.

"The uncertainty surrounding the aftermath of the recent announcement and the distraction of management highlight serious corporate governance concerns," said S&P credit analyst Shellie Stoddard in a statement. "Furthermore, it remains uncertain whether growing reputational issues could impair large credit-partner/client relationships, which could affect Assurant's competitive position and cut future revenue and earnings," she said.

Last week, Assurant Inc.'s board of directors chose J. Kerry Clayton and Michael J. Peninger to step in as the company's interim president and CEO, and interim CFO, respectively.

Mr. Clayton previously served in various senior management roles at Assurant, including CEO of the company from 2000 till his retirement in 2006. Mr. Peninger has been the president and CEO of Assurant Employee Benefits since 1999. Mr. Peninger will be succeeded as head of Assurant Employee Benefits by John S. Roberts on an interim basis.

Meanwhile, law firm Kahn Gauthier Swick L.L.C. in New Orleans said in a statement last week that it has "initiated an investigation" into Assurant "to determine whether it has violated federal securities laws," noting that shares of Assurant dropped 12.7% to $51.35 after the Wells notices were announced.

A representative for the firm declined to comment on whether it plans to file a lawsuit against the company.

Premiums ceded offshore decrease

Total U.S. premium ceded to offshore reinsurers was $54.7 billion in 2006, an 11.9% decrease from 2005, the Washington-based Reinsurance Assn. of America said in a report. According to an RAA statement, there was also a 7.8% decline in ceded recoverables between 2005 and 2006, to $114.2 billion.

Offshore companies' share of U.S. unaffiliated reinsurance premium, though, increased to 53.1% in 2006 from 51.8% in 2005, while offshore companies' and U.S. subsidiaries of offshore companies' market share decreased to 84.5% of U.S. unaffiliated reinsurance premium in 2006 from 85.4% in 2005.

The report, based on ceded reinsurance as reported in data filed with the National Assn. of Insurance Commissioners, presents data from more than 4,200 reinsurers from 95 jurisdictions in the U.S. market. Copies are available for $250 at *www.reinsurance.org*.

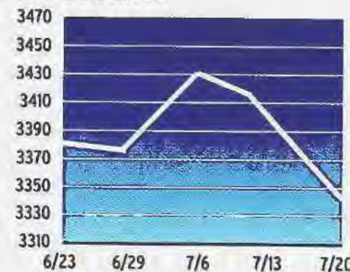
By Judy Greenwald

Stock Index

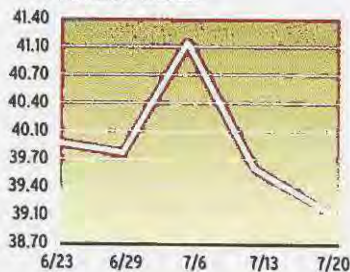
[7/6 - 7/13]

Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

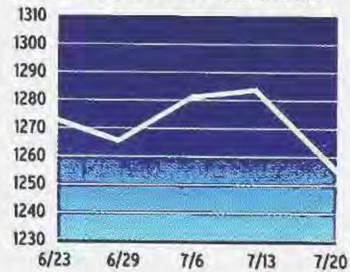
***BI* STOCK INDEX**



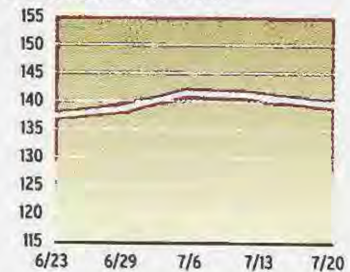
***BI* BROKERS INDEX**



***BI* INSURER/REINSURERS INDEX**



***BI* MANAGED CARE ORGANIZATIONS INDEX**



Percentage change of BI Stock Index vs. key indicators

Index	Value	Change
***BI* STOCK INDEX**	3339.31	-2.14%
DOW JONES	13851.08	-0.40%
S&P 500	1534.10	-1.19%

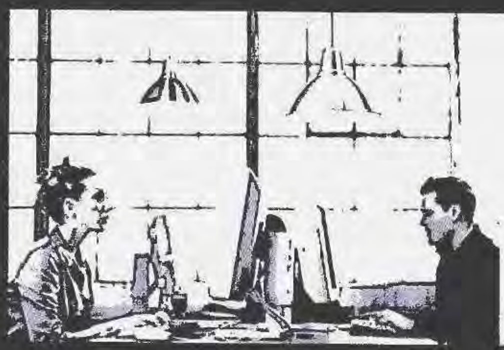
LARGEST GAINS

Company	Change
EMC Insurance Group Inc.	10.49%
Humana Inc.	9.48%
Meadowbrook Insurance	5.42%
SCPIE Holdings Inc.	3.85%
RLI Corp.	3.51%

LARGEST LOSSES

Company	Change
Gainsco Inc.	-10.52%
IPC Holdings Ltd.	-9.21%
American Safety	-7.35%
Odyssey Re Holdings	-6.42%
Ambac Financial	-6.32%

Source: Financial Content Inc. http://financialcontent.com



Sponsor a BI Online Executive Forum™

You'll be in front of an influential and engaged audience of top-level decision-makers.

You'll have the ability to co-brand with the industry leader in providing information and insight for executives in the commercial insurance marketplace.

You'll be associated with a highly informative online event bringing together noted panelists and BI's editors to discuss the most pressing issues.

For branding and lead generation opportunities, e-mail:
Advertising@BusinessInsurance.com

www.BusinessInsurance.com/Webinars

Business Insurance END PAGE

Contributing: Mark A. Hofmann, Sally Roberts, Joanne Wojcik

Keep ur mind on ur drivin in New York

Even the shortest text message could cost you some long green in the Empire State if a New York state senator finds enough support for a measure that would ban texting while driving.

Under legislation proposed by Sen. Carl Marcellino, R-Syosset, typing, sending or reading a text message while driving would be illegal. Sen. Marcellino introduced his bill earlier this year, but last week called on his colleagues to enact it swiftly after texting was cited as the cause of an accident that killed five young women in upstate New York.

"Text messaging is like second nature to young people," he said in a statement issued last week. "They do it all the time. However, there are times when the consequences of texting can be deadly."

Sen. Marcellino's bill would levy a $100 fine on anyone caught texting on a cell phone behind the wheel. His efforts to better police the edges of the automotive information highway don't end with texting—he's also introduced legislation to ban the installation of television sets—other than global position satellite screens—in dashboards.

PHOTOLAB/ALPHA/LANDOV

Rock star Sting and his wife, Trudy Styler, were ordered by an employment tribunal to pay $51,741 in a sex discrimination case brought by the couple's former chef.

Rock star can't stand losing, plans appeal

Rock star Sting has a reputation as being a progressive kind of guy, devoting a considerable amount of time and energy to human rights causes across the globe.

So it must have been somewhat embarrassing for the Police front man when an employment tribunal in Southampton, England, last week ordered him and his wife Trudy Styler to pay a £24,944 ($51,741) judgment in sex discrimination case.

Jane Martin, who worked for the couple as a chef for eight years, brought the complaint against her former employers. Ms. Martin claimed that Ms. Styler had become unhappy with her when she became pregnant and made her work long hours. Ms. Martin left her employers under what reports called "disputed circumstances" in 2006. Ms. Martin accused the celebrity couple of practicing sexual discrimination.

The employment tribunal agreed with Ms. Martin in May, and announced the judgment last week. Given his rock star wealth, Sting probably could stand losing the decision, nevertheless, he and Ms. Styler have already indicated they will appeal.

Convicted politician blames her lawyers

The former town president of Cicero, Ill., whose role in a municipal insurance scam helped land her in jail, has hired a new lawyer and is trying to get her 2002 corruption conviction dismissed, arguing that she wasn't properly defended.

Betty Loren-Maltese was sentenced to eight years in a federal prison for corruption in connection with a scheme to steal several million dollars from the town's self-insured health plan. A 2001 federal indictment charged Ms. Loren-Maltese and her cohorts with using money withheld from employee paychecks to pay health insurance premiums to buy a Wisconsin golf course and a horse farm.

According to a 93-page petition filed July 17 in U.S. District Court in Chicago, Ms. Loren-Maltese's lawyers failed to call available witnesses to establish the authenticity of the minutes of meetings of the Cicero Board of trustees during 1996 and 1997. The minutes show that she "actively sought an independent investigation of Specialty Risk Consultants, the firm handling town insurance," the court document states.

Chicago attorney Leonard Goodman acknowledged taking over Ms. Loren-Maltese's case.

Terry Gillespie, one of Ms. Loren-Maltese's previous attorneys, confirmed that he is no longer representing her but declined to comment further.

AP

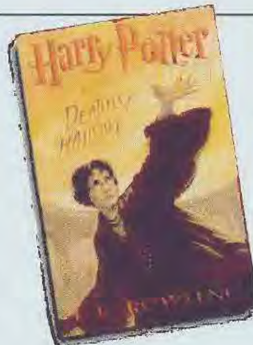
Former Cicero, Ill. town president, Betty Loren-Maltese, is seeking to overturn a conviction for corruption in office in connection with a scheme to steal several million dollars from town coffers.

Potter publisher pleads for no plot publicity

The fate of Harry Potter and his archenemy Voldemort may now be well known by all speed-readers, but last week the publisher of the seventh and final installment of the Harry Potter series was pleading with fans who might have received an early copy of the book to keep it literally under wraps.

Copies of "Harry Potter and the Deathly Hallows" surfaced on the Internet last week after Melrose Park, Ill.-based distributor Levy Home Entertainment and its customer Itasca, Ill.-based retailer DeepDiscount.com allegedly shipped the book up to a week before the permitted July 21 release date.

In a suit reportedly filed in Cook County Circuit Court, New York-based Scholastic said that retailers and distributors signed special contracts embargoing the book until July 21 and the alleged breach endangers its efforts to maintain the surprise of the book's content for all fans at the same time.



Although Scholastic said in a statement that the number of books that were shipped early is small—about one-hundredth of 1% of all U.S. copies—it asked fans who might have received an early copy to keep quiet.

"We are also making a direct appeal to Harry Potter fans who bought their books from DeepDiscount.com and may receive copies early, requesting that they keep the packages hidden until midnight on July 21st," Scholastic said.

Hope springs eternal.

BREADTH AND DEPTH: THE UPSIDE OF WORKING WITH MARSH.

We're proud to be ranked as the world's largest insurance broker for the 36th consecutive year by *Business Insurance* magazine. In truth, our revenues measure the quality of our colleagues – their industry and product expertise, and their passion for finding the upside for our clients every day. Learn more at findtheupside.com

FIND THE UPSIDE℠ MARSH

MMC MARSH MERCER KROLL GUY CARPENTER OLIVER WYMAN