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Updates

House Judiciary Committee passes McCarran reform bill

WASHINGTON—The full House Judiciary Committee approved a McCarran-Ferguson Act reform bill Friday in a hastily summoned meeting called after Committee Chairman and bill sponsor Jack Brooks, D-Texas, offered an amendment that satisfied insurance agents' concerns.

The amendment affords antitrust law immunity to rating manuals used by agents and provides agent group officials antitrust protection "for preparing, disseminating or discussing a report or comment" about

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11th-hour flurry on the Hill

One benefit manager helps alter Medicare legislation

By JERRY GEISEL

WASHINGTON—It can pay for benefit managers to speak out.

Just ask James Cole, manager of health programs at Franklin Electric Co. Inc. in Bluffton, Ind.

As *Business Insurance* reported last month, Mr. Cole felt blindsided when he recently found out that the 1993 budget law quietly shifted tens of millions of dollars in medical bills to employers' retiree health plans from Medicare (*BI*, June 13).

The budget law changed the rules on whether employer plans or Medicare would be the primary payer of medical bills for employees or retirees who develop end-stage renal disease, or ESRD, a kidney impairment that requires expensive treatment.

As the Health Care Financing Administration interpreted the rules, employers with retiree health care plans would have to be the primary payer for workers who retired years ago, were covered under Medicare after turning 65 and later developed ESRD. Employers are liable for 18 months of treatment, a limit set under another law.

That means that a retiree could bounce from Medicare to the employer's retiree health plan and then back to Medicare after 18 months.

"I just couldn't believe it," Mr. Cole recalled.

He may not have to for much longer. Thanks in part to Mr. Cole's persistence, congressional staffers have inserted language in a House Ways and Means Committee-approved health care reform bill that would amend the kidney disease provision.

Even this version would leave employers with greater liability for the medical bills for employees or retirees with ESRD than they had before the 1993 changes. But it would eliminate the bouncing back and forth that struck Mr. Cole and others as so irrational.

Under the committee bill, Medicare would remain the primary payer for retirees diagnosed with ESRD after turning 65.

"I'm very excited about it," Mr.

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McCarran-Ferguson bill may be tied to health care

By MARK A. HOFMANN

WASHINGTON—Opponents of McCarran-Ferguson Act reform fear that a measure scaling back insurers' antitrust exemptions will find its way into a federal health care reform law and amount to a back-door repeal of the act as it applies to property/casualty insurers.

The measure is the Insurance Competitive Pricing Act of 1993—H.R. 9—which passed the House Judiciary Subcommittee on Economic and Commercial Law last Tuesday on a 9-to-6 party line vote after little more than a half-hour of discussion. And, on Friday, in an unexpected meeting, it was passed by the full Judiciary Committee (see Updates).

The bill, sponsored by Judiciary Chairman Jack Brooks, D-Texas, would remove many of the federal antitrust law exemptions insurers enjoy, but it would not actually repeal McCarran-Ferguson.

Opponents of the bill, including three of the four major property/casualty insurer trade groups, note that while the waning legislative calendar probably won't allow passage of H.R. 9 as a stand-alone bill, it could be inserted into a health care bill. Rep.

Rep. Jack Brooks will be a key player in forming the antitrust provisions of any health reform bill.

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Ways & Means Committee approves PBGC reforms

By JERRY GEISEL

WASHINGTON—At the 11th hour, Congress is acting on legislation to shore up the financial base of the Pension Benefit Guaranty Corp.

The House Ways and Means Committee on Friday approved on a voice vote legislation that would accelerate contributions employers must make to underfunded pension plans as well as boost the premiums they pay to the PBGC.

Other provisions, strongly opposed by business groups, would increase pension plan liabilities by forcing employers to adopt more conservative assumptions in estimating the rate of return that pension funds will earn and the ages at which plan participants will die.

The Ways and Means Committee did, however, adopt a package of amendments proposed by Chairman Sam Gibbons, D-Fla., in response to employer objections. Those amendments restore a pension non-discrimination testing procedure known as cross-testing. The bill originally

Rep. Sam Gibbons' amendments responded to employer concerns by restoring cross-testing.

called for wiping out cross-testing for defined contribution plans.

Cross-testing has caused concern in the Treasury Department.

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Insurers sue star's estate

Contract claims cite drug use by River Phoenix

By SALLY ROBERTS

GAINESVILLE, Fla.—Two units of CNA Insurance Cos. that paid $5.7 million in cast insurance claims following the drug-induced death of actor River Phoenix are seeking recovery from his estate

Entertainment insurance experts cannot recall a similar subrogation action.

In separate suits filed earlier this month in the 8th Judicial Circuit Court in Alachua County, Fla., CNA International Reinsurance Co. Ltd. and American Casualty Co. allege that Mr. Phoenix breached service agreements and misrepresented medical certificates.

One of the movies, "Dark Blood," had to be scrapped after Mr. Phoenix's death last November, costing CNA International an estimated $5.5 million. In the other, "Interview with a Vampire," Mr. Phoenix was replaced by Christian Slater, costing American Casualty an anticipated $185,000.

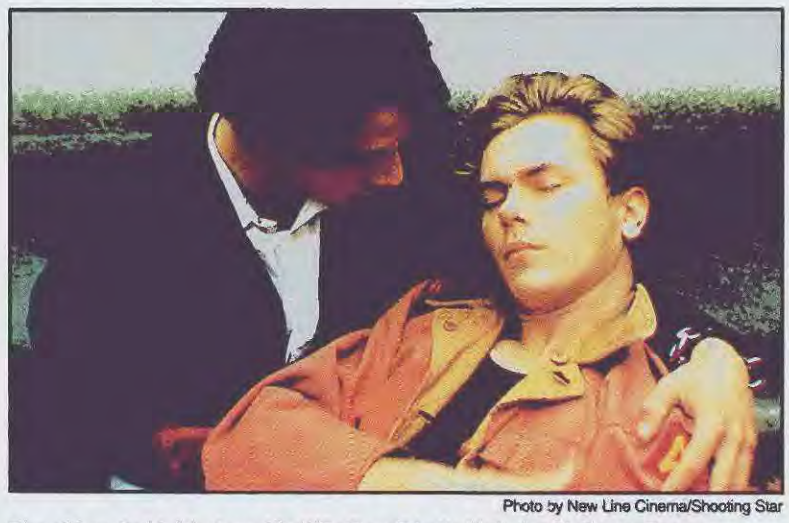

Photo by New Line Cinema/Shooting Star

River Phoenix (right) starred in "My Own Private Idaho" with Keanu Reeves.

CNA International had issued an entertainment package policy to "Dark Blood" producer Scala Productions Ltd. and others for risks associated with production, which was scheduled July 1993 through November 1993.

American Casualty had written an entertainment package policy for "Interview with a Vampire" producer Geffen Pictures and distributor Time-Warner Inc.

Aon Entertainment Ltd. of Universal City, Calif., was the producer on the American Casualty policy while Aon Entertainment Ltd. in London issued the CNA International policy. Both are units of Aon Corp.

Best known for his role in the

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GRAPHIC BY KIM ROME

Updates

McCarran reform bill advances

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many insurer practices "affecting the relationship between insurers and insurance agents." The committee vote was called after the Independent Insurance Agents of America agreed to support H.R. 9 as amended by Rep. Brooks.

Without debate, the committee approved H.R. 9 on a 20-15 vote. The bill that had been approved earlier in the week by the Subcommittee on Economic and Commercial Law (see earlier story, page 1), was further amended by Rep. Dan Glickman, D-Kan., to require the attorney general to study how the measure affects the business of insurance in the first five years after it is enacted and report within one year. Rep. Glickman credited the amendment to Rep. Earl Pomeroy (D-N.D.).

Simpler health bills pledged

WASHINGTON—Amid self-created confusion over whether President Clinton still supports universal health coverage, both House and Senate leaders are pledging to send less burdensome and bureaucratic bills to the floor.

House Speaker Thomas Foley, D-Wash., said the requirement—included in bills passed by two House committees—that employers pay 80% of premiums might be reduced and that the timetable for achieving universal coverage be stretched out.

Senate Majority Leader George Mitchell, D-Maine, said the Senate bill would be more voluntary and less bureaucratic. He did not directly address the employer mandate, but has considered presenting a bill that would require employers to pay 50% of the premium. A bill passed by the Senate Labor and Human Resources Committee would require all but the smallest firms to pay 80%. The Finance Committee bill has no mandate. Debate could begin on the Senate floor as early as this week and in the House early next month.

Those developments came as President Clinton appeared to send conflicting signals on universal health coverage. First he told the National Governors Assn. that he would accept legislation that would cover "somewhere in the ballpark of 95% upwards."

That led some Democratic members of Congress to question his commitment to universal coverage. Then the president "clarified" his stand. While the administration is flexible on how to achieve universal coverage, it remains committed to the goal, he said.

Those verbal gymnastics came amid the ongoing public relations war over health care reform.

The Health Insurance Assn. of America unveiled yet another "Harry and Louise" ad—this one criticizing the a bill passed by the Senate Finance Committee that would tax employers and insurers offering "high-cost" health plans. New ads by the American Assn. of Retired Persons, the AFL-CIO and the American Medical Assn. are advocating reform legislation that achieves universal coverage and allows patients to choose from a wide range of physicians and health plans.

ACE hikes implant reserves

HAMILTON, Bermuda—High-level excess liability insurer ACE Ltd. is adding another $200 million to its reserves to meet future breast implant liability claims.

The increase is in response to the $4.75 billion global settlement on implant liability litigation reached earlier this year (*BI*, March 28; Feb. 21). The increase in reserves comes as the number of women opting out of the settlement escalates.

ACE will take the charge on its earnings for the quarter ended June 30. Five ACE policyholders have agreed to participate in the global settlement, the insurer said in a statement. "As a result of these new developments and additional information supplied by certain of the company's insureds, the company has increased its estimated reserves for unpaid losses and loss experience," ACE said.

A portion of the charge will also be allotted to incurred-but-not-reported reserves to meet the claims of women who have opted out of the global settlement. As of last Friday, 14,742 women had opted out, 8,133 of them U.S. citizens.

ACE now has $1.1 billion in reserves for unpaid losses and loss expenses.

Transplant exclusion judgment

BOISE, Idaho—Lincoln National Health Plan, an HMO unit of TakeCare Inc. of Concord, Calif., will appeal a $26 million jury award for damages stemming from the denial of coverage for a man's liver transplant.

Marcia Warne, the patient's wife, sued Lincoln National in 1993 claiming the HMO's marketing literature led her to believe all organ transplants were covered by the health plan.

Richard Fields, a Boise-based attorney for the HMO, said HMO officials told Ms. Warne and her husband, George Warne, when they sought approval for the procedure that the health plan does cover a few organ transplants, but the contract specifically excludes payment for liver transplants. When Ms. Warne signed up for family coverage under the HMO, offered through her employer, Meridian School District in Boise, she was given a marketing brochure that discussed, in general terms rather than by specific procedure, copayments associated with "organ transplants." "It was not to be construed as a document describing the terms of coverage," Mr. Fields said.

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Errors & omissions

• Aon Corp.'s July 8 stock price of $33.38 reported in the July 18 profile of Rollins Hudig Hall Group was the price after a 3-for-2 stock split and equates to a pre-split price of $50.06. The stock split was payable May 16.

Nuclear exclusion ruling could broaden coverage

By GAVIN SOUTER

PITTSBURGH—The standard nuclear exclusion in commercial general liability policies might not be as far-reaching as some policyholders and insurers think.

Companies that generate nuclear waste outside of nuclear facilities may be better able to tap insurance to pay to clean up such waste after a federal judge in Pennsylvania recently ruled that the nuclear exclusion did not apply to radioactive contamination at a non-nuclear site.

Attorneys say the little-noticed May 25 ruling will help chemical and medical companies and others that generate radioactive waste at non-nuclear sites, though they caution that other cases will be needed to establish a firm precedent.

And some say the case could lead to large claims against the liability insurers of oil companies currently facing suits over nuclear waste generated as a by-product of oil production.

In the Pennsylvania case, Chemetron Investments Inc. made a claim under its comprehensive general liability policy for the cleanup of radioactive material at a manufacturing site in Cleveland.

The contamination had occurred sometime between 1965 and 1972 when Chemetron had used depleted uranium to make a chemical catalyst, said Andrew M. Roman of Cohen & Grigsby in Pittsburgh, who represented Chemetron.

The liability policy contained a standard exclusion for injury, sickness, disease, death or de-

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Redlining bill moves on

Despite turf tiff, House passes weaker measure

By MARK A. HOFMANN

WASHINGTON—The House of Representatives approved an anti-redlining bill last week after defeating a trio of amendments designed to subject insurers to more federal regulation.

But the passage of H.R. 1188, the Anti-Redlining in Insurance Disclosure Act, may have little practical effect this year. The Senate has yet to seriously consider any companion measure, and time is rapidly running out on this legislative session.

In fact, the bill and the proposed amendments appeared more notable for the intra-House turf war they sparked between two powerful lawmakers than for promoting consumer protection. In the duel between Banking, Finance and Urban Affairs Committee Chairman Henry Gonzalez, D-Texas, and Energy and Commerce Chairman John D. Dingell, D-Mich., Rep. Dingell was destined to win—and win handily.

The two lawmakers have been at odds since subcommittees under their respective controls approved very different bills aimed at uncovering instances of insurer redlining. Redlining is the illegal refusal to insure property strictly because of the geographic area in which it is located. The term gen-

Continued on page 28

But plan sponsors not worried about MetLife, Pru

Ratings woes for GIC issuers

By JUDY GREENWALD

Sponsors of 401(k) plans with guaranteed investment contracts from one major issuer that was downgraded and another whose rating was placed under review say they are not particularly worried by the rating agencies' actions.

Standard & Poor's Corp. lowered the claims-paying ability rating of Metropolitan Life Insurance Co. and subsidiary Metropolitan Insurance & Annuity to AA+ from AAA on July 15.

S&P projects MetLife's earnings to be subpar for at least the next few years, with a significant reduction in its new individual life insurance writings amid controversy over sales tactics used by MetLife agents.

A.M. Best Co. put MetLife's A++ rating under review recently, citing similar concerns (*BI*, July 11).

In one case, MetLife recently agreed to pay a $20 million fine after finding that agents in its Tampa, Fla., office deceived thousands of policyholders about the products they sold in the 1980s.

Separately, on July 14, S&P placed its AA+ claims-paying ability ratings of the Prudential Insurance Co. of America and its units on CreditWatch with negative implications. Prudential's AAA rating from S&P had been lowered in 1992.

S&P's move follows Pruden-

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Take back the belts? Maybe

Value of safety gear questioned

By MEG FLETCHER

WASHINGTON—Employers may become more wary of requiring workers who do heavy lifting to wear back belts following release of a new federal report that says the belts may not prevent back injury and could even make matters worse.

"These devices are being marketed as a solution to back injury, and the existing scientific evidence does not support this claim," said Dr. Linda Rosenstock, director of the National Institute of Occupational Safety and Health.

Back belts do not reduce worker exposure to the hazards caused by repeated lifting, pushing, pulling or twisting, said a NIOSH working group that studied 21 recent, peer-reviewed articles on the topic. Its conclusions were released in a report last week.

That report generated praise from a union concerned about companies requiring employees to wear back belts and criticism from a belt manufacturer who cited the study's limitations.

Tasks such as lifting bedridden patients in nursing homes, hauling garbage cans to the street and bending down to lift economy-sized dog food bags onto grocery

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Inside

• Congress should take a cue from U.S. companies' response to changes in their workforces and in society, this week's editorial says. **PAGE 8**

• Years after the Gulf War, a coverage dispute is still raging in British courts over Kuwaiti aircraft and spare parts confiscated during the war. **PAGE 25**

• U.K. employers may face suits following a ruling that they can be liable for negligently preparing references that hurt ex-workers' employment chances. **PAGE 25**

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Work/ Family Benefits

New work options increase flexibility

Squeezed for time, workers prize benefits that help ease the crunch

By DEBORAH SHALOWITZ COWANS

If there is one word that sums up the focus and future of work/family benefits in the '90s, it is flexibility.

More than anything else, workers want flexibility in their work schedules and locations, experts say.

And many employers are now complying with those desires.

"Suddenly, flexibility has just taken off," observed Linda Marks, director of the Flex Group project for New Ways to Work, a San Francisco consultant and think tank.

"A decade ago, there was a focus on support programs," said Marcia Brumit Kropf, vp of research and advisory services for Catalyst, a New York research organization on women and business. "In the '90s there's been a lot of discussion about time."

Unlike some other work/family benefits, such as dependent care, flexibility is a benefit that appeals to and could be used by employees of all ages and in all stages of life.

For those with family responsibilities, even if dependent care is satisfactory, some situations require a person's presence, explained Fran Sussner Rodgers, chief executive officer of Work/ Family Directions Inc., a Boston-based consultant.

For example, a parent may need to attend a child's school play or soccer game, while a son or daughter may need to accompany an elderly parent to the doctor, she said.

Single workers need flexibility to wait for deliveries of furniture or appliance repairs, pointed out Tyler Phillips, president of The Partnership Group Inc., a work/ family consultant in Lansdale, Pa.

And some workers may need flexible schedules to further their education, compete in a sport or to minimize a bad commute.

Employers are trying to meet these needs.

According to a 1993 survey of 480 large employers conducted by Coopers & Lybrand, 71% allow employees to begin and end work at hours other than the traditional 9-to-5 schedule, as long as employees work eight hours in a day.

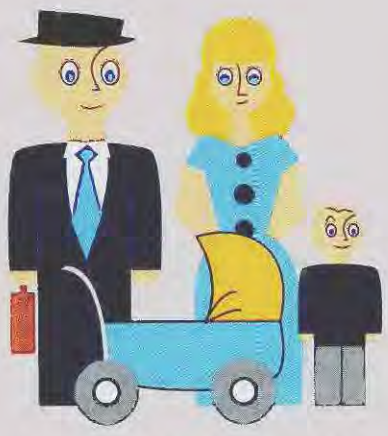
A. Foster Higgins & Co. Inc. found that 46% of the 1,787 large employers responding to its 1993 health benefits survey offered flexible hours.

At Aetna Life & Casualty Co., staggered starting times are "so widely used we don't try to even keep track of it," commented Michelle Carpenter, manager of work/family strategies. Ms. Carpenter noted that in a survey conducted at the end of 1992, the Hartford, Conn.-based insurer

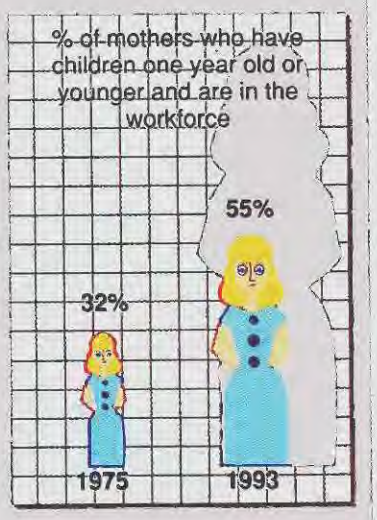
Continued on page 6

Typically work/family programs account for less than 1% of the costs for health and pension benefits.

Work/family facts



Only **4%** of families in 1992 fit the traditional model of a married couple with husband working, wife at home and two children under age 18.



36% of the **126 million** U.S. workforce is single and has no children under age 18.

Source: Bureau of Labor Statistics; Work/Family Directions Inc.

GRAPHIC BY KIM ROME

Helping balance work and life

Employers responding to a changing workforce

By DEBORAH SHALOWITZ COWANS

Fathers, mothers, sons, daughters, siblings, friends, neighbors, volunteers, athletes, students: These are today's workers.

As employers increasingly recognize workers' varied roles, they are broadening work/family programs to help employees balance their work and personal lives.

Other companies without formal programs are packaging existing benefits under a work/family umbrella. And still others are using employee assistance programs to help workers with family-related issues.

"Companies are beginning to look at work/family benefits in a very comprehensive way," said Marcia Brumit Kropf, vp of research and advisory services for Catalyst, a New York research organization on women in business.

Five years ago, companies were focusing on specific programs, such as child care, she explained. Now, they "are looking at employees and quality of life issues."

The work/family area has "evolved from a programmatic response to employee needs. . .to more of a strategic perspective," commented Michael Wheeler, a research associate for the Conference Board in New York.

Work/family "is clearly a much broader agenda than any of us have ever perceived," agreed Tyler Phillips, president of The Partnership Group Inc., a Lansdale, Pa., work/family consultant. Employers are realizing that "they don't own their people—they only rent their intelligence."

Only 4% of families in America in 1992 fit the traditional model of a married couple with the husband working, the wife at home and two children under age 18, according to the federal Bureau of Labor Statistics.

Fifty-five percent of mothers with children 1 year old or younger were in the workforce in 1993, up from 52% in 1990, 48% in 1985, 39% in 1980 and 32% in 1975, according to the BLS.

It's not only women who are concerned with work/family benefits: As more women enter the workforce, men are shouldering more family responsibilities. As a result, both men and women want flexible work arrangements.

Flexible work arrangements can take a variety of forms (see related story).

Workers also need support services beyond just day care for children.

In the past several years, dependent care has grown from a concern primarily with day care for infants and small children to include elder care, before- and after-school and summer care for older children, and care for disabled adults (see related stories, pages 10 and 11).

AT&T Corp., for example, added a program on care for school-age children in 1992 in response to employee requests, said Vicky Banach, manager of work and family issues at its Morristown, N.J., headquarters.

The "School Smart" program, which AT&T offers to employees through Work/Family Directions, addresses child care for school-age children and parental involvement in education, she said.

According to the BLS, three-quarters of all mothers with children between 6 and 17 years old were working in 1993, 20% more

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'Family' perks of no benefit to many employees

By SAMEERA KHAN

Companies are hearing a new voice these days—single and childless employees seeking a balanced distribution of employee benefits.

Many employers have only recently made it a priority to help employees balance their work and family life. Now these same companies are redesigning their work/family programs to make them as friendly to employees without children as to those with them.

Clearly, some single and childless employees feel left out. Twenty percent of the workers recently surveyed by Hewitt Associates said they felt that work/family benefit programs were directed largely toward employees with children.

"The fact is that singles feel that they are receiving less than their co-workers with children—fewer benefits and perks and less consideration—just because their reproductive choices are different," said Leslie Lafayette, a Sacramento, Calif., high school teacher who in 1992 founded a support group for childless people. Today, the Childfree Network has 2,500 members.

That feeling is, of course, not shared by all single or childless workers. In fact, major corporations find that childless workers overwhelmingly support assistance to co-workers with children, said Kathie Lingle, senior consultant on work/family issues at The Wyatt Co. in New York.

Several years ago, for instance, a Johnson & Johnson survey found very strong support among both groups for company efforts to support workers with children. The New Brunswick, N.J.-based consumer products company has onsite child care centers at four of its offices.

But it appears that a growing number of single or childless people think their employers have ignored their needs.

One common concern is subsidized family medical coverage. "Often companies subsidize medical coverage for families, leading to inequitable division of medical dollars between those who have and those who do not have families," said Leslie Schneider, an Atlanta-based managing consultant for A. Foster Higgins & Co. Inc.

Trying to increase fairness, many companies are modifying their benefit plans by, for instance, adding benefits for the domestic partners of employees or adding elder care referral services and more on-

Continued on next page

Childless

Continued from previous page
site conveniences.

Perhaps more symbolically, companies are also dropping the name "work/family" in favor of "work/life."

The term "family" is limiting and many employees don't identify with it, though they do identify with balancing work and life, explained Tyler Phillips, president of Lansdale, Pa., benefit consulting firm The Partnership Group. About 30% to 40% of his clients now use the new term.

At Corning Inc., that realization came in 1990, when a survey found that 18% of its workers were childless. At a large-scale human resources group meeting after the survey, executives realized that single and childless employees felt the work/family program excluded them.

"Our first step was to change the program's name to work/life to make a visible effort before employees. That was very positively received," said Carol Koziatek, work/life balance specialist with the Corning, N.Y., optical fiber and ceramics firm.

Other companies are sure to follow suit to meet the needs of this not-so-invisible group. According to the Bureau of Labor Statistics, 36% of the 126 million-member U.S. workforce are single and have no children under the age of 18.

Single employees' basic concern seems to be the same as that of those with children and families: a flexible work schedule that gives them more time to attend to their personal life issues, including elder care and better benefits.

"Benefits should be strictly based on performance and level in a company and be equitably distributed to all," said Ms. Lafayette of the Childfree Network.

One approach is offering more convenience benefits, like dry cleaning on the premises, take-out meals in the company cafeteria and onsite automated teller machines, said Carol Sladek, a benefits and compensation consultant for Hewitt Associates in Lincolnshire, Ill.

Sometimes, satisfying the needs of single or childless employees requires a bit of creative thinking.

One Pennsylvania financial firm is currently in the process of redesigning its benefits package based on recommendations made by its single employees who felt left out of the company's work/family program.

A singles committee at the company developed ideas and made suggestions for the new program, which is to be unveiled in September. "This is not a dating service or a social group," said a spokeswoman for the company. "It is a serious group of people who are keen to have their share of work/family benefits, too."

Flex time, especially when coupled with education or other benefits, can permit companies to better accommodate singles and childless people. Long popular with people who need to care for children, flexible work schedules are increasingly being offered to people who use the time for sports, elder care, community activities or hobbies.

Spiegel Inc. realized five years ago that scheduling flexibility was a major concern for many workers. Although Spiegel has no formal program in place, individual departments and managers are encouraged to offer it.

"Irrespective of their marital status or whether they have children or not, we recognize each employee as an individual first," said Mac Harris, director of human resources at the Downers Grove, Ill., retailer.

Similarly, at CIGNA Corp. in Philadelphia, a 1992 survey found that many people who use flex time used it for personal business other than child care, said Susan Thomas, director of employees policies and programs.

Several months ago, CIGNA repackaged its child and elder care program and expanded its focus, renaming it "Lifeworks."

A toll-free hot line on child and elder care has been expanded to give employees information on counseling and advice on caring for themselves, planning a vacation, working non-traditional hours, managing their household and finding personal time.

Other large companies nationwide are taking similar steps.

Eastman Kodak Co., which formerly granted leaves of absence only for a "compelling personal reason," has broadened its policy to allow leaves for "hiking the Appalachian Trail or sailing in the America's Cup" as long as their work is handled, said Kathy Olson, manager of the company's work/life program.

Through a new emergency backup care program, the Rochester, N.Y., manufacturer also arranges and subsidizes in-home care for workers' aging relatives. "Our strategy is to take one path, not separate paths for each employee, but to broaden that one path and make sure it reaches an expanded employee population," she said.

Allstate Insurance Co., which has had a "life cycle" approach since 1992, encourages employees to work out flexible arrangements within departments.

"We've expanded our definition of the work/family benefits program and let employees know that at every stage in their life cycle, from the time they come in as new employees through childraising, elder care and retirement, we are there to help them cope," said Michael Snipes, director of executive compensation for the Northbrook, Ill.-based firm.

Last year, Chicago-based Quaker Oats Co. also introduced a benefits plan redesigned to be more equitable to single and childless employees.

The plan was developed by a team of 15 employees, three of whom were childless, who met for 10 all-day meetings over three months, said Melanie Pheatt, manager of benefits planning at the company.

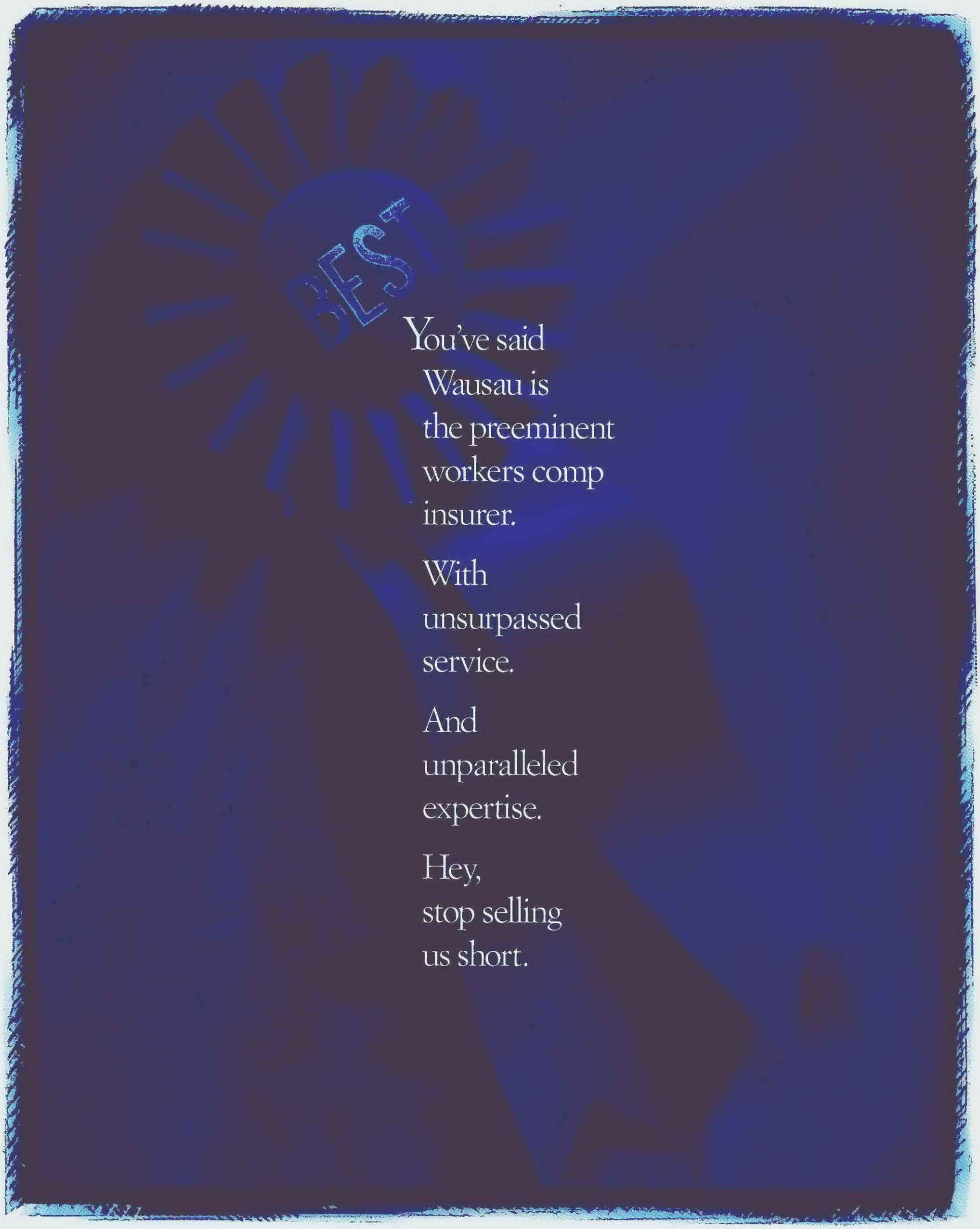
Under this plan, childless workers at Quaker Oats receive an annual credit of $300 because they generate lower medical insurance costs for the employer. They may use it to buy extra vacation days, extra life insurance or disability insurance, or other benefits.

At Corning Inc., besides flexible work options being available for most, four-hour workshops are offered on "work/life balancing for single adults." In January, an adult dependent elder care resource and referral service was also introduced.

Corning reached out to single and childless employees for the same reason many other companies do.

"It made good business sense, that's why we did it. If you are understanding of your employee needs, you can retain the best of them," said Ms. Koziatek, the work/life balance specialist.

For Corning, the decision took into account its location, a small town where most people raise families and where single employees tend to feel left out. BI



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Spotlight report

Flexibility

Continued from page 3

found that about 60% of employees used flex time.

While flexible hours are the most prevalent flexible schedule offered by employers, many employers also allow employees to work at home, telecommute, work 40 hours in fewer than five days, share jobs or work part time.

Coopers & Lybrand found that approximately one-third of its responding employers allowed shorter hours, shorter weeks or job-sharing. And nearly 29% let employees work at home.

New Ways to Work's Ms. Marks noted the popularity of a compressed work week schedule in which employees work nine hours four days in a row, eight hours on the fifth day one week and have the fifth day off every other week.

The Foster Higgins survey found that 27% of employers offer job-sharing but only 19% offer work-at-home arrangements.

While allowing employees to work flexible schedules sounds appealing, employers may be overwhelmed by the prospect of people coming and going at all hours or not showing up in the office for days.

"It's very difficult to convert managers to enthusiastic advocates of flexibility," conceded Charles Rodgers, a principal with Work/Family Directions. Companies need to create open-mindedness among managers—a difficult task, he said.

However, companies that do offer flexible schedules have found many ways to make them really work.

Aetna, which also offers compressed workweeks, telecommuting, job-sharing and part-time work, advises employees who want a flexible work schedule to come up with a written plan to present to management.

"There's a large responsibility on the person coming forward with the proposal as to how the business needs (of the unit) are going to be met," Ms. Carpenter noted. If the business needs of the unit cannot be met within the confines of the proposal, the employee needs to figure out another plan.

Mr. Rodgers agreed: "Be very clear that the initial responsibility is on the employee. . .so managers don't feel that the problem has been dumped in their lap."

Not every proposal is approved, Ms. Carpenter said.

"I don't believe you have to have the same result" from each proposal, she explained. "But you do have to have the same process" for proposals.

"All jobs cannot be shared. . .and there may be positions that cannot be part time," she added.

"We do not have a single set of criteria that everyone uses" to determine who can work part time, Ms. Carpenter said. It is up to managers to decide if their business needs can be met within the confines of part-time work.

However, a manager's decision about accepting an employee's flexible work proposal should not depend on the reason the worker wants the flexibility, she said. "I want managers to be reason-blind."

If managers are making decisions based on the needs of employees, they are making emotional decisions. Managers are trained to make business decisions, not emotional decisions, she explained.

Chicago-based Helene Curtis Inc. likes to offer a two- to-six-month pilot flexible schedule program before introducing it to the whole company, noted Felice Cota-Robles, supervisor of equal employment opportunities and family programs.

A pilot program allows a company to obtain some experience in an area before committing to a program, she explained.

For example, during a pilot program allowing employees to work part time, the company discovered that good communication was the key to making the arrangement work.

"There needs to be communication between (the part-time worker) and that individual's manager and the remainder of the department," Ms. Cota-Robles said. "Co-workers. . .really want to be informed of when that part-time basis is."

Management also realized that training "is a critical piece of the puzzle," she said. Managers, supervisors and employees must all be trained to think more creatively about flexibility.

For example, if a manager objects that a supervisor who works at home sometimes will not be able to supervise employees without physically being at the office, the manager could be reminded that frequently supervisors are out of the office in meetings or on business trips, she explained.

Although job-sharing is not as prevalent as some other flexible schedule options, it can work wonderfully for employees and employers, several experts said.

At American Savings Bank in Stockton, Calif., Colleen Connors and Cindy Ramsey share one position as a human resources staffing coordinator.

The women began sharing the job in September 1993, after a company reorganization redistributed workloads among several people. Ms. Connors had been working part time and Ms. Ramsey had been working full time. Each had worked in the same department for nine years and each has been with American Savings 11 or more years.

Although American Savings does not have a "formal" job-sharing program, management went along with Ms. Connors' suggestion to share the job because "they didn't want to lose either of us," she said.

Ms. Connors works Mondays, Tuesdays and Wednesdays, while Ms. Ramsey works Wednesdays, Thursdays and Fridays.

"We act as one person," sharing a voice mail box and a weekly to-do list, said Ms. Ramsey. Each time either person makes a telephone call about an available position at the bank, the conversation is summarized in a note in the file on the position, Ms. Ramsey explained.

And, both are amenable to a quick phone call on a non-workday to answer questions, if necessary, Ms. Connors said.

Both women attribute their success at job-sharing to their shared attitude toward service.

"You really have to find two people that have the same attitude toward customer service before you put them together," Ms. Connors said.

The best job-sharing arrangements are the ones in which those who share the position find each other, recommended Ms. Marks of New Ways to Work.

Good communication between the job-sharers is crucial, several experts agreed.

Ms. Carpenter said that job-sharers at Aetna communicate with each other via written notes and e-mail. She added that it is better for job-sharers to work consecutive days rather than alternating days because it reduces the amount of time each person spends communicating with the other.

Continued on next page

Continued from previous page

Job-sharing can be advantageous for employers because "you get two people's enthusiasm, energy and ideas," Ms. Marks pointed out.

"Also, there's the possibility of double coverage when you need it," such as to finish a project on deadline, she added. And, if one person is on vacation, the other person can be there part time, so the position is covered more than it would be if one person staffed the job, she said.

Several experts advised employers to think about flexibility, survey employees about their needs and enlist the support of top management before implementing any flexible schedule programs.

Programs also must be communicated to employees and supervisors, and supervisors must be trained. BI

Family

Continued from page 3

than mothers with children younger than 1.

AT&T in 1992 also added an adoption resource and referral component to its existing adoption reimbursement program, Ms. Banach said. And, the company expanded its dependent care resource and referral benefits to include adult disability care.

Companies also are abandoning standardized—so-called "cookie-cutter"—work/family programs.

For example, Marriott Corp. has suspended a child care resource and referral program it implemented nationally in 1991.

For many lower-paid workers, "the kind of care offered through resource and referral is not affordable," explained Donna Klein, director of work/life programs in the company's Bethesda, Md., headquarters. What's more, cultural differences, like a reluctance to seek outside help for family-related problems, kept a number of lower-paid workers from using the program.

Recently, the company abandoned its centralized programs and began customizing them in each region.

Marriott managers in South Florida were spending 50% of their time dealing with employees' family-related problems—in essence, doing social work, Ms. Klein said. So, the company last April instituted a toll-free Family Services Hotline in South Florida staffed by social workers.

And in the Atlanta area, where employees had had trouble finding community child care resources, Marriott is building a family resource center with three other hotel companies.

Scheduled to open early next year, the center will offer child care for up to 280 children for 18 hours per day, sick child care, and child and elder care resource and referral services.

Even as some firms expand and refine work/family programs, the programs are far from universal.

Only 21% of employers with 500 or more employees offered dependent care resource and referral services in 1993, A. Foster Higgins & Co. Inc. found in a recent survey. And 2% of the 1,787 surveyed employers said they planned to offer resource and referral services by 1995, while 6% said they were considering the services.

Excluding flexible work arrangements, other work/family benefits were offered even less often, the survey found. Twelve percent of the employers offer onsite or near-site child care centers and 11% offer financial assistance to employees for dependent care. The study also found that 11% offer paid parental leave for mothers beyond basic maternity leave and 11% offer paid parental leave for fathers.

Work/family consultants say cost should not prevent companies from offering these benefits. Typically, a company spends less than 1% of its costs for health and pension benefits on work/family programs, said Fran Sussner Rodgers, chief executive officer of Work/Family Directions Inc., a Boston consulting firm.

And, work/family benefits can be especially helpful during downsizing, The Partnership Group's Mr. Phillips said. Downsizing puts extra demands on remaining employees, so companies "need productive people that have help balancing work and family needs."

Furthermore, if a company is consolidating several units and relocating many employees, those workers need a lot of help finding support systems in their new communities, he added.

Nonetheless, the cost of providing work/family benefits is a deterrent to many employers.

"There's been a lot of downsizing in human resources departments," which typically handle work/family benefits, commented Denise Fanger, manager of compensation and benefits for KPMG Peat Marwick in Chicago. So, some companies are reluctant to institute work/family programs that will further strain an already overworked staff, she said.

And, direct payback from work/family benefits remains difficult to measure, experts agreed.

"It's hard to measure productivity," Ms. Rodgers acknowledged. "I don't think anyone should (implement work/family programs) unless it meets your business needs."

Even if an employer does not want to institute a formal work/family program, in many cases its existing benefits package includes family-related benefits, pointed out Karol Rose, a principal with Kwasha Lipton in Fort Lee, N.J. "Most companies have something going on that they could put under the work/family umbrella."

For example, in addition to complying with the federal Family and Medical Leave Act, companies can publicize other leave programs and discounts they have arranged with area merchants, she suggested.

Employers that do not want to implement extensive work/family benefit programs also can direct employees to use EAPs as a resource for family-related issues.

Many companies have expanded assistance programs to include such services as legal and financial assistance referrals, Peat Marwick's Ms. Fanger said.

Some companies, in fact, "are now calling their EAPs work/family programs," she said.

An EAP that handles family-related concerns appeals to many employers because of the administrative simplicity, Ms. Rose said.

"Companies want things to be simple, and if it can be one phone line that gets answered, that's good," she explained.

Dow Chemical Co. recently began directing its EAP counselors to suggest elder care resources, said Lynne Mischley, family issues coordinator in the Dow North America division in Midland, Mich.

Dow has developed an elder care resource manual that it is distributing to EAP counselors. While the manual is not as extensive as an outsourced elder care resource and referral program, it should help employees, she said. BI

Opinions

Foster corporate creativity

AS CONGRESS NEARS the final stages of its health care reform debate, it would do well to keep these questions in mind:

Why does Bankers Trust Co. fund vacation camps for the school-age children of its employees?

Why does Bayfront Medical Center in St. Petersburg, Fla., fund after-school programs at local schools for employees' children?

Why does Corning Inc. offer "work/life balancing" workshops for single employees?

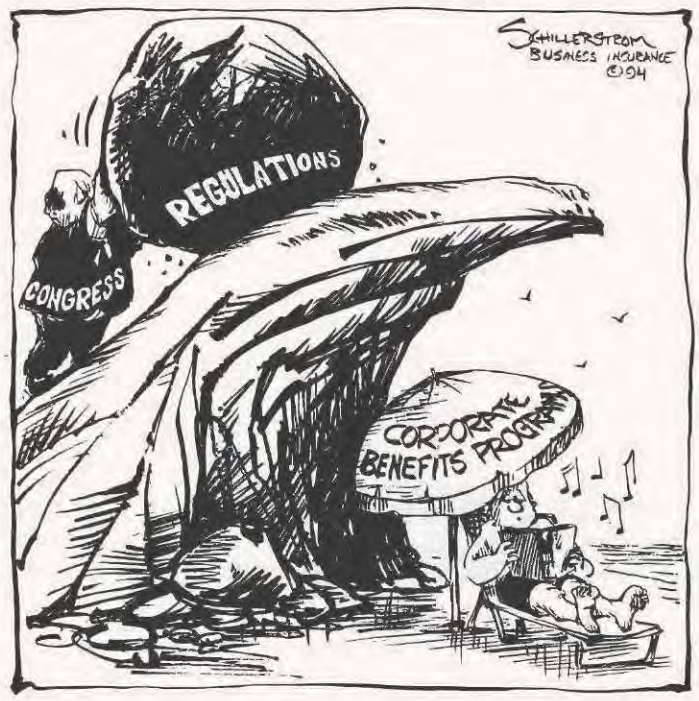
This much is clear: It's not because the law requires them to do so. And it's not because heavy-handed regulations leave them little choice in the matter.

The reasons behind work/family policies are as varied as companies and their workers. Some companies undoubtedly have paternalistic motives; some act in response to what competitors are doing; and others find that creative use of their benefit programs helps workers cope in the big city or in the whistle-stop towns.

What Congress ought to keep in mind—on health care and a range of other issues—is that American companies are showing extraordinary flexibility as the workforce and society as a whole change.

Cases in point: domestic partner benefits and flexible work schedules, two concepts that are catching on with both companies and workers—sometimes in ways neither may have foreseen.

Stifling that sort of creativity and progress is not difficult. Complex Internal Revenue Service regulations can sap plenty of energy and resources that could be better spent on improving benefit plans. And fears of a lumbering new bureaucracy have left many company health plans in limbo for a year or more.



What is difficult in making public policy is fostering the sort of creative thinking and decisive action that can cut costs, expand programs and meet new needs in a range of private-sector activities.

As Rep. Richard Gephardt, Sen. George Mitchell and the other Capitol Hill generals plot their health care strategies this week, they should take care to avoid stifling corporate initiatives while still acting forcefully enough to ensure universal access.

Letters

Reader questions objectivity of broker suit story

To the editor: My office represents various U.S. subsidiaries of Willis Corroon Group P.L.C. I was dismayed by the lack of journalistic balance displayed by your article titled "Willis Corroon Cries Foul" that appeared in the June 27 issue.

The article, which appears to have been written by the public relations department of Rollins Hudig Hall Group Inc., did not, in my opinion, present an unbiased account of the present dispute between Willis Corroon and RHH.

Rather, the article attempted to exonerate RHH from Willis Corroon's claims that RHH, among other things, tortiously encouraged Willis Corroon employees to leave and violate restrictive covenants contained in their employment contracts.

Your article implies that RHH is the unwavering challenger to the enforceability of restrictive covenants (also known as non-competition agreements) in the insurance brokerage industry and portrays Patrick G. Ryan, chairman and chief executive of RHH and its parent corporation, Aon, as the champion of an employee's right to solicit its former employer's clients notwithstanding such covenants.

Even a cursory investigation of the past practices of Mr. Ryan's companies would have revealed the inconsistency of his present position in the Willis Corroon dispute.

Mr. Ryan and RHH are no strangers to the enforcement of non-competition agreements.

Non-competition agreements generally preclude an employee from soliciting clients of its former employer for a period of time following termination of employment.

In the past, companies controlled by Mr. Ryan, such as Rollins Burdick Hunter, predecessor to RHH, have filed actions in numerous jurisdictions seeking to enforce restrictive covenants.

Those actions include: Illinois *Rollins Burdick Hunter Co. vs. John Sullivan et al., Circuit Court of Cook County, Ill., No. 83 CH 10991 (1984)*; California, *Rollins Burdick Hunter of Southern California Inc. vs. Alexander & Alexander Services Inc. et al., 206 Cal.App.3d 1 (1988)*; and Wisconsin, *Rollins Burdick Hunter of Wisconsin Inc. vs. Hamilton, 101 Wis.2d 460 (1981)*.

In 1992, Aon instituted the Aon Voluntary Retirement Program. To participate, Aon and RHH employees were required to sign a document containing the following provision on the solicitation of clients: "I agree to continue to respect the trade secret and other confidential information of my employing company.

"Insofar as I have already signed any written agreement or agreements not to deal with customers or clients or not to hire employees of my employing company for any period of time after cessation of employment, I confirm that I shall fulfill the terms of such agreement or agreements."

From the comments of Mr. Ryan and Raymond Skilling, Aon's chief counsel, one would get the impression that Aon and RHH believe non-competition agreements are the bane of the brokerage industry and totally unnecessary. This position, however, could not be more fictitious.

Indeed, Raymond L. Hayes, an officer of Rollins Burdick Hunter at the time, testified in the above-cited *Sullivan* litigation as to the practice and purpose of non-competition agreements in the insurance industry, as well as Rollins Burdick Hunter's approach in enforcing such agreements.

A transcription of his court testimony shows that Mr. Hayes testified he had personal knowledge that non-competition agreements are widely used by brokerages to protect client information and preclude unfair competition based on insider knowledge.

Mr. Hayes also stated that Rollins Burdick Hunter enforced its own non-competition agreements, through direct contact with the employee involved or in court.

In defense of Willis Corroon's claim that Rollins Hudig Hall induced Willis Corroon employees to breach their Willis Corroon non-competition agreement, Mr. Ryan is quoted in your article as saying, "It's a free world. People leave because they are unhappy." Certainly, Mr. Ryan's statement is suspect in view of his past insistence on the adherence of his own employees to restrictive covenants.

Whether Willis Corroon will ultimately prevail in its allegations against its former employees and Rollins Hudig Hall will be determined in court. Your article unfairly gives the impression that result in RHH's favor is a foregone conclusion.

Clifford G. Kosoff
O'Halloran, Kosoff, Helander, Geitner & Cook P.C
Northbrook, Ill.

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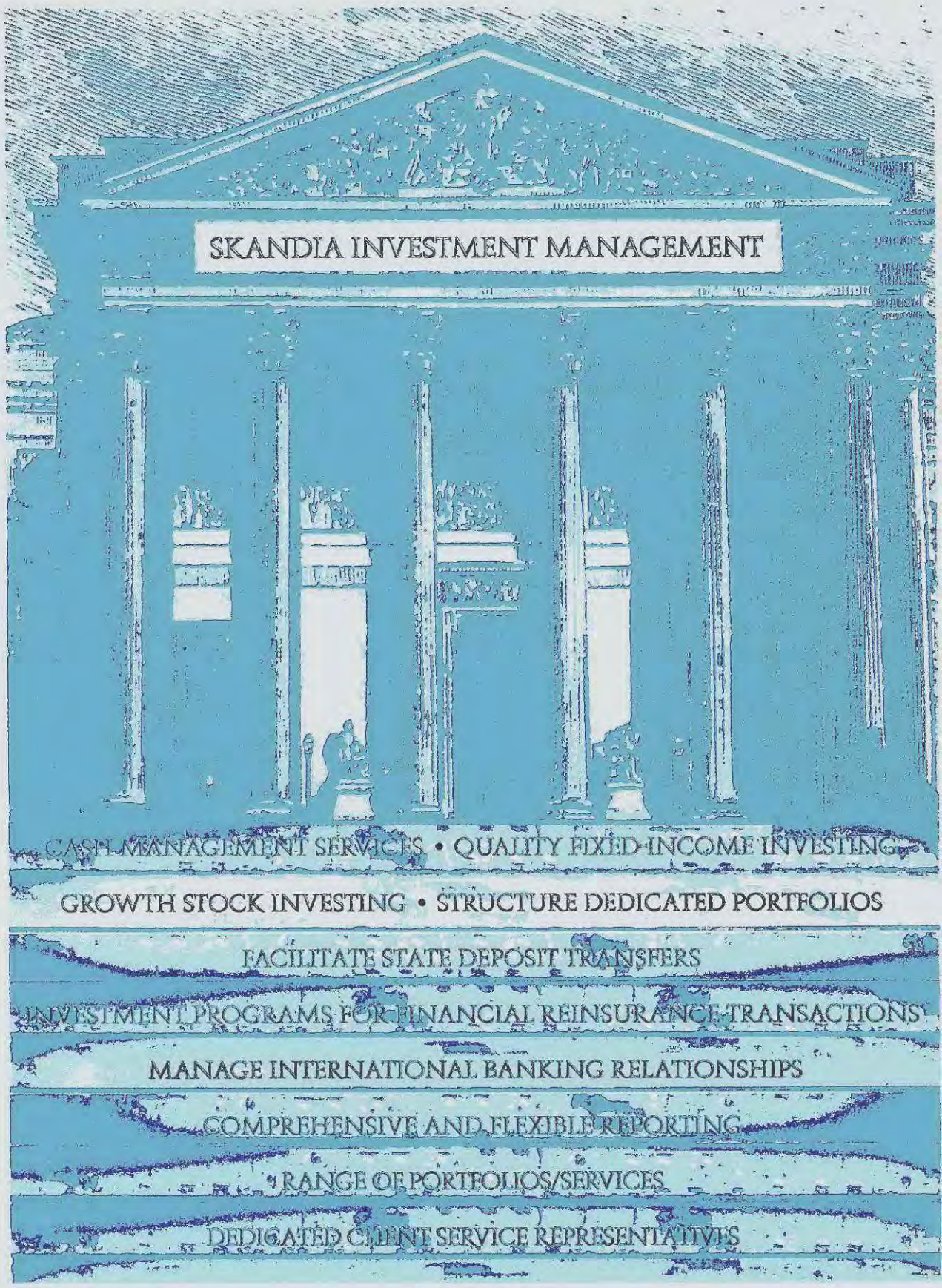

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Going the distance in elder care programs

Referral firms help workers handle faraway concerns

By DEBORAH SHALOWITZ COWANS

Watching a loved one age can be stressful, but not being near an aging loved one can be even more stressful.

That's why most corporate elder care resource and referral programs address long-distance elder care responsibilities.

And even companies that do not offer formal programs have many inexpensive ways to help their employees handle long-distance elder care responsibilities.

"There's a lack of control that goes with long-distance caregiving" that makes it especially stressful, said James McCann, a managing director of CareLinc Corp., a dependent care resource and referral company in Swarthmore, Pa.

Long-distance elder care is "very difficult in most cases," said Gloria Scherma, director of elder care programs for Harris, Rothenberg International, a New York-based employee assistance firm that also provides dependent care resource and referral services. "I won't minimize it."

In such a situation, "usually the (relative) doesn't have as good a handle on what level of functioning" their loved one has, explained Jackie LeMeur, director of counseling services for The Dependent Care Connection Inc., a resource and referral firm in Westport, Conn.

Last year, about one-quarter of DCC's elder care cases involved long-distance care, said President John B. Place. DCC classifies as "long distance" a gap of 50 or more miles between an employee's home and a loved one.

Although the percentage of elder care cases that involve long-distance care has remained fairly constant at 25% for the last several years, usage of elder care services is increasing, so the actual number of long-distance elder care cases the company has encountered has increased as well, he said.

Six years ago, only 10% of DCC's dependent care resource and referral cases involved elder care. Last year, 20% of all cases involved elder care, Mr. Place explained.

Long-distance care is typically part of the services provided by elder care resource and referral firms. The firms keep extensive data bases of elder care resources nationwide and most can inform employees about a variety of resources in a particular area, including nursing homes, retirement homes, hospices and geriatric care managers.

Many resource and referral firms also can provide employees lists of local lawyers who specialize in state Medicaid laws, other areas of law related to the elderly, and fiduciary concerns.

"Basically our job is to empower (employees) with information," Ms. LeMeur said.

In acute cases, such as when a recently hospitalized relative suddenly needs ongoing assistance, workers most often travel to the relative's location to handle the situation. If resource and referral firms have done the legwork, employees can spend less time away from work.

"We can do all the referral research for them, but it's still up to the employee to select one of the providers," Mr. Place noted.

In addition to making the trips shorter, resource and referral firms may be able to make them less traumatic. If a company does not have a formal elder care resource and referral program, it can help employees with elder care responsibilities by assembling a library of brochures and resources.

An initial library of elder care resources that employees can contact could include contacts for the following:

- The federal Administration on Aging, an agency of the Department of Health and Human Services. A nationwide, toll-free hot line provides information about federally funded assistance for older people anywhere in the country. The telephone number is 800-677-1116. The Administration on Aging requests that callers know the older person's address and ZIP code before phoning.

The Administration on Aging also funds 57 state agencies on aging, which are located in each state and U.S. territory. These agencies fund some 660 local area agencies on aging that provide services to the elderly.

These services can include information and referral, case management, transportation, home-delivered meals, home repair, personal care assistance and counseling, among other things. Area agencies on aging usually are listed in the yellow pages of the telephone directory under the city or county government headings.

- The National Assn. of Professional Geriatric Care Managers, a non-profit organization with about 600 elder care professionals in 40 states. Members of the organization work with families or elderly people to help them live independently, including arranging for medical care or financial help. Most members of the organization are gerontologists or social workers or nurses with a specialty in gerontology.

The Tucson, Ariz.-based association will send a list of geriatric care managers in a particular state upon request. For information, write to the National Assn. of Professional Geriatric Care Managers at 1604 N. Country Club Road, Tucson, Ariz. 85716, and include a self-addressed, stamped envelope. BI

On the work/family frontline

By SAMEERA KHAN

What do America's working women want most? More benefits, better wages? What do they think about child and elder care? What changes would they like in the workplace—more flexible work hours and/or health care insurance for all?

Benefit managers may soon have some answers to these intriguing questions, courtesy of the federal government.

A national survey, begun in May by the Women's Bureau, an obscure branch of the U.S. Labor Department, aims to find out what working women think about their jobs, wages, benefits and other related work/family issues. The questionnaire is designed to reach about a third of the 58 million employed women in the nation.

"It is an opportunity for working women to tell us what they want most from their jobs," said Karen Nussbaum, director of the Bureau. Ms. Nussbaum founded 9to5, the National Assn. of Working Women, in Boston in 1973.

The questionnaire is being distributed in different languages through more than 250 corporations, magazines, labor unions, newspapers and women's groups.

Along with the mass survey, a research firm will conduct a separate scientific sampling of 1,200 women and compare the results with those of the larger sampling.

The results of the survey, which will be available in October, will influence public policy over the next few years, Ms. Nussbaum predicted.

"It has the ears of the secretary of labor and the president of the United States, so the information gathered by this survey will find its way to the highest policy level and that's what makes it so valuable," said Judith R. Saidel, executive director of the Center for Women in Government at the State University of New York at Albany.

Participating companies may evaluate data from employees before forwarding on the results.

"We thought it would be a good barometer to judge gains we'd made in those areas," said Jackie Gates, managing director of corporate culture at telecommunications giant NYNEX Corp.

Women make up 47% of the New York firm's 70,000-person workforce.

Employees can rest assured: The kids are all right

Employer-sponsored programs take kids in when school's out

By MICHAEL SCHACHNER

On the heels of child care programs for employees with very young children, many companies are now creating programs for school-age children.

Just as employees over the past few years have raised concerns about the delicate balance between work and caring for their pre-schoolers, workers today are concerned about the supervision of their children both before and after school and during school holidays.

In response, some companies are offering access to programs that provide before and after-school supervision. A few are actually funding the programs in an effort to help employees balance their family responsibilities with work.

For example, Bankers Trust Co. in New York has for the past couple of years sponsored and financed a vacation camp program for employees' children aged 6 to 12.

"The program comes into play mostly during those frantic weeks like Christmas to New Year's or Passover to Easter, and also at the end of summer," said Molly Houghton, vp-corporate human resources.

"Our programs are based on themes to offer the kids a learning experience. Our most recent one was based on Mexico," she said.

Bankers Trust pays for the program, she said, because otherwise employees would be inclined to miss work to stay home and care for their children themselves. "In this sense, the program is cost-effective because people might otherwise miss time or take vacation."

The vacation camps are run by Children First Inc. of Boston, which also operates Bankers Trust's two on-site emergency child care facilities in New York City and Jersey City, N.J. (*BI*, March 21).

Marriott Corp. in Bethesda, Md., also is helping employees care for their school-age children.

Marriott and other suburban Washington employers, in conjunction with Montgomery County, Md., schools, have a school holiday and vacation program.

Children accompany their parents to work on days that school isn't in session and then are picked up by school buses and taken on a day of various activities under the guidance of school district employees.

Unlike at Bankers Trust, parents pay the daily cost of this plan, said Donna Klein, director of work/life programming at Marriott. The participating employers pick up the administrative fees of running the program.

"School-age care is a concern. It's on our agenda, but it hasn't been as acute a concern as has early-age child care and child care programs for low-income employees," she said.

But school-age care is a growing concern at most workplaces, said Nancy Kolben, executive director of Child Care Inc., a New York-based firm that is working with several Manhattan employers to create a school-age child care program.

"The stress level of parents with school-aged children is very high. The word needs to get out that child care isn't just for young children, and employers need to realize this and get involved by providing both money and staff to the local organizations that run school-age programs like the YMCA and the Girls Club of America," Ms. Kolben recommended.

In Florida, employers and public school systems are joining forces to provide before-and after-school care to grade schoolers as well as schools on the sites of employers.

In Osceola County, which borders on the city of Orlando, parents can pay for extended day care for their children at their kids' schools, explained Mary Cantrell, director of technical and adult education with Osceola's public school system.

The cost of the program is $35 per week for both before- and after-school care for one child and $32 per week if a family has more than one child attending public school.

Before- and after-school care began in the late 1980s in many public schools in Florida when the state offered schools seed money to start up extended care. Ms. Cantrell said the programs have taken hold and are now common and well used.

"We help the kids with homework and also offer cultural, educational and recreational activities. Now it's the summer, so we're running camps with themes. Once the school year begins we're looking into 24-hour care because so many people are working at night," Ms. Cantrell said.

At Bayfront Medical Center in St. Petersburg, school-age child care programs are quite advanced, relatively inexpensive and are very popular among employees, said Janan Talafer, Bayfront's public relations manager and a mother of an eight-year-old that attends school onsite and participates in before- and after-school programs as well as Bayfront's summer camp.

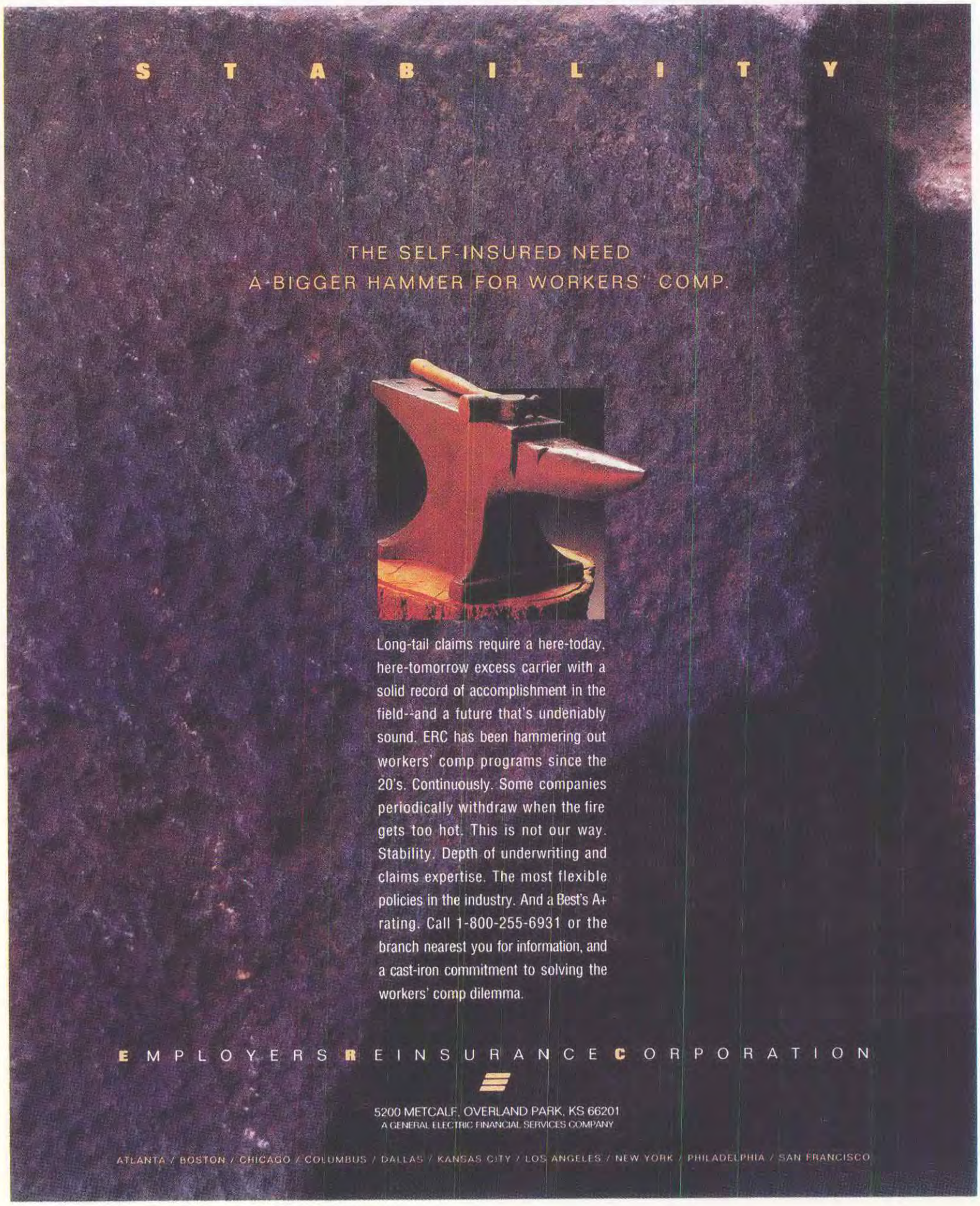
"During the school year I drop him off at the Bay Park school at about 8:20 a.m. He then attends school and takes part in some after-school programs until I pick him up between 5:00 p.m. and 6:00 p.m. And during the summer, he goes to camp, where they have Spanish, karate, gymnastics, swimming and field trips every week. It's great," Ms. Talafer said.

Before- and after-school care costs $35 per week during the school year, while the summer camp runs $67.50 per week including lunch. All payments are made by employees through payroll deductions, according to Ms. Talafer.

"Under these arrangements, parents seem to be much more involved in their child's schooling. And having good, on-site care from six in the morning until six at night is very reassuring," she said. BI

Photos courtesy of Bay Park School

Bay Park School in St. Petersburg, Fla., has portable classrooms connected by a large, covered deck, a design that lets Bayfront Medical Center expand its program for employees' school-age children as needed. A bike rally planned by the before- and after-school staff taught children bike safety and other procedures.



Spotlight report

Directory of firms offering dependent care services

Baby Beginnings

2050 Livernois, Suite B, Troy, Mich. 48083; 810-740-9717

Services began: 1991.
Parent: Miss Lisa Inc.
Child care services: Frequent: Prenatal classes/support, parenting seminars, in-home and phone consultation for child care concerns, newsletters.

Occasional: Pregnancy planning, child care placement, preschool placement, nanny/babysitting referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, focus groups, feasibility studies, start-up and operational budget preparation.
Locations serviced: One office location. Service area nationwide. Subcontracts for resource and referral services with six vendors.
Clients: 20 total clients. Utilization rate averages 1%.
1993 revenues: $35,000.
Compensation: Child care services: Charges flat fee: $29 for parenting workshop; $22 per year for parenting newsletter; $7.50 per quarter-hour for telephone consultation.
Communications/Quality assurance: Provides customized employee communications, vendor references, on-site visits, employee satisfaction follow-ups, management debriefing of problems.
Officers: Lisa De Rubeis, president.

BrownRichards & Associates

1801 Peachtree St. N.E., Suite 202, Atlanta, Ga. 30309; 800-537-2153 or 404-352-8137; fax: 404-351-4279

Services began: 1977.
Parent: Corporate Child Care Consultants Ltd.
Child care services: Adoption services, dependent care centers, parenting seminars, child care placement, preschool placement, grade school placement, nanny/babysitting referral, temporary illness/emergency child care, summer programs, special needs services.
Elder care services: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, hospice care, friendly visitor program, legal/financial assistance service referral.
Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development.
Locations serviced: One office location. Service area includes Alabama, Delaware, Florida, Georgia, North Carolina and South Carolina. Subcontracts for resource and referral services with three vendors.
Clients: Utilization rate averages 11%.
1993 revenues: 75% from dependent care resource and referral services.
Compensation: Child care/elder care services: Charges flat fee, capitated fee, fee for service.
Communications/Quality assurance: Provides management reporting quarterly, semiannually and annually; customized employee communications; vendor references; on-site visits; free test cases; employee satisfaction follow-ups; management debriefing of problems.
Officers: Betsy Richards, president; Mary Brown, vp.
Contact: Betsy Richards.

CareLinc

101 S. Chester Road, Swarthmore, Pa. 19081; 610-328-2200; fax: 610-328-2200

Services began: 1987.
Child care services: Frequent: Pregnancy planning, adoption services, parenting seminars, after-school services, child care placement, preschool placement, grade school placement, high school placement, college and university placement, nanny/babysitting referral, temporary illness/emergency child care, summer programs, special needs services.

Occasional: Prenatal classes/support, dependent care centers.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, adult day care, hospice care, friendly visitor program.

Occasional: Retirement community placement, legal/financial assistance service referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting.
Locations serviced: Three office locations. Service area includes 49 states.
Clients: Lives covered at year-end 1993: 300,000 employees. 30 total clients. Utilization rate averages 10%-12%.
Compensation: Child care/elder care services: Negotiated fee.

Continued on page 14

Gail Nachbaur, R.N., Director of Managed Care Review

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Basic Statistics About Home Care 1992, National Association for Home Care citing the American Association for Respiratory Therapy and Aetna Life and Casualty Co. **Social Security Bulletin Annual Statistical Supplement, 1992.

Spotlight report

Continued from page 12

Communications/Quality assurance: Provides management reporting quarterly, semiannually and annually; customized employee communications; management training; vendor references; on-site visits; free test cases; employee satisfaction follow-ups; management debriefing of problems.

Officers: Jane Porter, James F. McCann, Pam Fyffe, Oliver D. Mann, Susan Greenwood, managing directors.

Contact: James F. McCann.

DCC/The Dependent Care Connection Inc.

P.O. Box 2783, Westport, Conn. 06880; 203-226-2680; fax: 203-226-2852

Services began: 1987.

Child care services: Frequent: Pregnancy planning, adoption services, prenatal classes/support, dependent care centers, parenting seminars, after-school services, child care placement, preschool placement, grade school placement, high school placement, college and university placement, nanny/babysitting referral, temporary illness/emergency child care, summer programs, special needs services, qualification of employees for child care expense subsidy programs.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, hospice care, friendly visitor program, legal/financial assistance service referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development.

Locations serviced: One office location. Service area: Nationwide, Guam and Puerto Rico.

Clients: Lives covered at year-end 1993: 550,000 employees. 75 total clients. Utilization rate averages 4%.

Compensation: Child care/elder care services: Charges capitated fee: $6-$12 per employee per year; fee for service: $500 per case.

Communications/Quality assurance: Provides management reporting quarterly, customized employee communications, management training, vendor ref-

Continued on page 16

Directory methodology explained

The first *Business Insurance* directory of dependent care resource and referral agencies lists organizations that contract directly with employers to provide resource and referral services and offer these services on a stand-alone basis in at least three states. Companies that provide care services only or benefit consulting services only are not included.

Business Insurance defines dependent care resource and referral services as the determination of employee dependent care needs, research on available service providers, child care and elder care referrals, and establishment of community dependent care resources.

Listings begin with the name and address and identify the year resource and referral **services began** and **parent company** (if any). Next is information on **child and elder care resource and referral services** that are provided on a frequent or occasional basis. Following are any **program services** that the company provides, including necessary preparation and research for corporate dependent care programs.

Number of **office locations** includes the number of cities in which the company is located. Service area describes the area covered either directly or through contracted services. If a company subcontracts with dependent care resource and referral agencies to provide services in locations beyond their direct servicing ability, the number of contracted vendors is noted.

Clients includes the total lives covered at year-end 1993 and the total number of employer clients. Average resource and referral service utilization rates are also listed. When reported by the organization, **1993 gross revenues** are included, as well as the percentage of revenues derived from dependent care resource and referral services.

Compensation includes the billing methods used as well as the price range, if provided, for both child care and elder care services. Next is information on **communications and quality assurance** services. Principal **officers** and a **contact** person for those seeking more information complete the listings.

Listings are responses to a *Business Insurance* questionnaire. The directory is published as an editorial service; there is no charge to be included. Although every effort is made to publish complete and accurate listings, *BI* is unable to verify all information.

To be included in next year's directory of dependent care resource and referral agencies, please contact Kathy Welyki at *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5279.

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Spotlight report

Continued from page 14

erences, on-site visits, free test cases, employee satisfaction follow-ups, management debriefing of problems.

Officers: John B. Place, president; Jeffrey A. Burki, Peter G. Burki, executive vps.

Contact: John B. Place.

Dependent Care Management of Indiana Inc.

117 S. First St., Zionsville, Ind. 46077; 317-873-1420; fax: 317-873-6777

Services began: 1987.

Child care services: Frequent: Parenting seminars, after-school services, child care placement, preschool placement, grade school placement, college and university placement, summer programs, special needs services.

Occasional: Adoption services, dependent care centers, temporary illness/emergency child care.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, friendly visitor program, legal/financial assistance service referral.

Occasional: Hospice care.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting.

Locations serviced: Three office locations. Service area includes Illinois, Indiana, Kentucky, Michigan and Ohio. Subcontracts for resource and referral services with three vendors.

Clients: Lives covered at year-end 1993: 20,000 employees. Four total clients.

Compensation: Child care/elder care services: Contracted fee.

Communications/Quality assurance: Provides management reporting quarterly, customized employee communications, management training, vendor references, on-site visits, employee satisfaction follow-ups, management debriefing of problems.

Officers: Cal Olson, executive director.

The Partnership Group

840 W. Main St., Lansdale, Pa. 19446; 215-362-5070; fax: 215-362-5918

Services began: 1983.

Child care services: Frequent: Pregnancy planning, adoption services, prenatal classes/support, dependent care centers, parenting seminars, after-school services, child care placement, preschool placement, grade school placement, high school placement, college and university placement, nanny/babysitting referral, temporary illness/emergency child care, summer programs, special needs services.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, hospice care, friendly visitor program, legal/financial assistance service referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development.

Locations serviced: Four office locations. Service area: Nationwide, Puerto Rico and Canada. Subcontracts for resource and referral services with 950 vendors.

Clients: Lives covered at year-end 1993: 700,000 employees. 120 total clients. Utilization rate averages 10%-12%.

Compensation: Child care/elder care services: Charges capitated fee: $6-$15 per employee per year.

Communications/Quality assurance: Provides management reporting quarterly, semiannually and annually; customized employee communications; management training; vendor references; on-site visits; free test cases; employee satisfaction follow-ups; management debriefing of problems.

Officers: Tyler Phillips, president; Peter O'Donnell, Nancy McCullar, Lynn Fetterolf, Mike Graham, vps.

Contact: Tyler Phillips, Lynn Fetterolf or Peter O'Donnell.

Schram & Associates

7900 Plaza Blvd. 188, Suite 159, Mentor, Ohio 44060-5517; 216-255-7713; fax: 216-255-0099

Services began: 1990.

Child care services: Frequent: Dependent care centers, parenting seminars, after-school services, child care placement, nanny/babysitting referral, summer programs.

Occasional: Adoption services, temporary illness/emergency child care, special needs services.

Elder care services: Occasional: Nursing home referrals, meals-on-wheels, household chore services, home health care, retirement community placement, adult day care, hospice care, friendly visitor program.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development, work/family community resources expositions.

Locations serviced: One office location. Service area includes Michigan, Ohio and Pennsylvania. Subcontracts for resource and referral services with four vendors.

Clients: Lives covered at year-end 1993: 15,000 employees. 12 total clients. Utilization rate averages 2%-5%.

1993 revenues: 30% from dependent care resource and referral services.

Compensation: Child care/elder care services: Charges flat fee: $3.50 per employee for basic resource and referral services.

Communications/Quality assurance: Provides management reporting quarterly, customized employee communications, management training, vendor references, on-site visits, employee satisfaction follow-ups, management debriefing of problems.

Officers: Bruce Schram, principal; Linda Schram, resource coordinator; Beverly William, family day care director; Shirely El, program manager.

Contact: Bruce or Linda Schram.

The Voucher Corp.

5836 Corporate Ave., Suite 150, Cypress, Calif. 90630; 714-821-4540; fax: 714-827-6114

Services began: 1989.

Parent: Accor.

Child care services: Frequent: Dependent care centers, parenting seminars, after-school services, child care placement, preschool placement, grade school placement, nanny/babysitting referral, temporary illness/emergency child care, summer programs, family day care, relocation.

Occasional: Pregnancy planning, adoption services, prenatal classes/support, high school placement, college and university placement, special needs services.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, friendly visitor program, transportation, senior housing.

Occasional: Hospice care, legal/financial assistance service referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development.

Locations serviced: Five office locations. Service area: Nationwide.

Clients: Lives covered at year-end 1993: 100,000 employees. 68 total clients. Utilization rate averages 3%-9%.

Communications/Quality assurance: Provides management reporting quarterly, customized employee communications, management training, vendor references, on-site visits, free test cases, employee satisfaction follow-ups, management debriefing of problems.

Officers: John Dumonceau, president; Denise Keller, CEO/secretary; Francois Letaconnoux, treasurer; Alain Depuis, Sue Harvey, directors.

Contact: Reggie Gitlin, director-Lend-A-Hand Resource & Referral, 800-628-5437.

Continued on next page

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Work/Family Directions Inc.

930 Commonwealth Ave. W., Boston, Mass. 02215-1274; 617-278-4000; fax: 617-566-2806

Services began: 1984.

Child care services: Frequent: Pregnancy planning, adoption services, prenatal classes/support, dependent care centers, parenting seminars, after-school services, child care placement, preschool selection, grade school selection, high school selection, college and university selection, nanny/babysitting referral, temporary illness/emergency child care, summer programs, special needs services.

Elder care services: Frequent: Nursing home referrals, meals-on-wheels, household chore services, home health care, Medicare/Medicaid assistance, retirement community placement, adult day care, hospice care, friendly visitor program, legal/financial assistance service referral.

Program services: Corporate needs assessment, employee interviews, employee questionnaires, task force formation, cost/benefit analysis, regulatory advisement, focus groups, feasibility studies, start-up and operational budget preparation, employer/employee financing options consulting, community dependent care resource development.

Locations serviced: Three office locations. Service area: Nationwide, Canada, Puerto Rico, Virgin Islands.

Clients: Lives covered at year-end 1993: 2.5 million employees. 115 total clients.

1993 revenues: $45 million.

Communications/Quality assurance: Provides management reporting, customized employee communications, management training, vendor references, on-site visits, free test cases, employee satisfaction follow-ups, management debriefing of problems.

Officers: Francene S. Rodgers, founder/CEO; Phyllis Swersky, president; Charles Rodgers, president-Rodgers & Associates; Rebecca Haag, senior vp; Michael Wyman, CFO.

Contact: Lynne Sarikas. BI

Back belt

Continued from page 2

warehouse shelves have prompted millions of workers in the past decade to fasten thick, flexible bands around their waists to prevent injuries.

But the devices can do more harm than good, the researchers caution.

"Unfortunately, because workers think they are protected, they may attempt to lift even more with the belt than they would have without it, subjecting themselves to even greater risk," Dr. Rosenstock said.

In addition, data from one study of a single, tightly fitted "standard" weight belt "suggest that the use of weight belt can put a strain on the cardiovascular system" by increasing heart rates and blood pressure levels during exercise, the working group said.

"The working group does not recommend the use of back belts to prevent injuries among uninjured workers and does not consider back belts to be personal protective equipment," the study said.

Instead of relying on back belts, "the most effective means of minimizing the risk of back injury is through the development and implementation of a comprehensive ergonomics program."

NIOSH established the Back Belt Working Group in 1992 after a large number of employer and employee inquiries about the belts.

"We were thinking that people wear them because they think they are protective, and the data really doesn't support that they are," said Marie Haring Sweeney, the group's chairwoman.

"The primary purpose of this report was to put more information out there that hadn't been there before for people to consider in deciding whether to purchase or use back belts."

However, the federal report has its own limitations, too.

Many of the studies it reviewed did not evaluate the type of industrial back belt most widely used today.

"Only six of the 21 studies reviewed by the agency for this report even evaluated the effectiveness of flexible back supports versus rigid-style weight lifter belts," said Paula Newman, vp of Ergodyne, a leading developer of flexible back supports based in St. Paul, Minn.

Also, the study focused only on healthy, previously uninjured workers. It did not seriously consider how back belts might help previously injured workers.

Other studies—and companies—have found flexible back belts useful in reducing back injury rates, Ergodyne's Ms. Newman contends.

She contends that the NIOSH report is seriously flawed, and its conclusions premature. It may actually lead to an increase in worker injuries if employers ban belt use because of it, she added.

Currently, company polices on the belts run the gamut. Some firms simply do not allow workers who routinely do heavy lifting to use the belts. Others make belts available if workers want them and still others require belts (*BI*, April 26, 1993).

Most companies fall in the middle category, said Terry Morris, an ergonomist at Advanced Ergonomics Inc. in Dallas.

"Employers are becoming more and more sophisticated about the issues raised by NIOSH, and they are therefore less likely to rely solely on the use of belts," he said.

"Our policy is back belts are available if employees wish to use them," said Megan DeZara, director of human resources for Harris Weber Management Services in Northbrook, Ill.

The company, which employs 250 people at its four Midwest retirement centers, shied away from requiring belt use out of concerns that workers would forget proper lifting techniques, neglect their overall physical condition and rely too much on the back belt as "a security blanket," she said.

The CR Industries plant in Hobart, Okla., switched its belt-wearing program to voluntary from mandatory after a union newsletter highlighted the problems of belt wearing, said Norbert Alsup, personnel manager for the manufacturer of oil and grease seals for the automotive industry.

The NIOSH report will be "very helpful" in shifting employers' focus from the belts themselves to ways to redesign jobs to prevent injuries, said Deborah Berkowitz, director of health and safety at the United Food & Commercial Workers Union in Washington.

All agree more study is needed to eliminate as much excessive lifting as possible. Strategies to do that include using hydraulic pallet turntables and forklifts, reducing the weight of bags and drums and requiring additional workers to help with lifting.

The Occupational Safety and Health Administration also favors a multifaceted approach to reducing the potential for injury from excessive lifting and is expected to recommend it in the proposed rule on ergonomic safety due out this fall.

OSHA does not consider back belts to be personal protective equipment and is not expected to address the topic in the proposed rules, an OSHA spokesman said.

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Copies of "Workplace Use of Back Belts: Review and Recommendations" are available free from NIOSH by calling 800-356-4674.

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ASK A BENEFIT MANAGER

Time to seize the day on drug plan costs

Q **How will the recent changes in the prescription drug industry impact prescription drug plans employers currently offer and should employers consider implementing a prescription drug plan now or wait a while as a result of these changes and health care reform?**

A It has been very interesting observing the prescription drug industry, particularly during 1994. However, observing the prescription drug industry became interesting shortly after President Clinton took office and essentially declared war on the drug companies. President Clinton blamed the drug companies for adding to the health care problems through their pricing policies and threatened price controls. The stock market responded by driving down the stock prices of prescription drug companies. Many of the drug companies responded by committing to moderate price increases and took cost control actions within their organizations. Many companies pledged to hold price increases to the rate of overall inflation.

Market pressure and fear of government price controls resulted in an increase in the cost of prescription drugs of only 3.3% last year. This compares with 5.7% in 1992 and an average of 9% a year during the 1980s.

A transaction that shook the drug industry was Merck & Co. Inc.'s acquisition of Medco Containment Services Inc. (*BI*, Aug. 9, 1993). This acquisition gave Merck a ready market for its drugs since Medco was one of the largest distributors of prescription drugs to employer plans through its retail networks and mail-order operations. Competing drug manufacturers feared this competitive advantage (i.e. a ready source for drug sales) and managed care drug companies feared this gave Medco a competitive advantage (i.e. preferential pricing on Merck drugs).

Activity in the drug industry was relatively quiet until recently, when several acquisitions were announced. These included the following:

- SmithKline Beecham Corp. acquired Diversified Pharmaceutical Services Inc. from United Health Care Corp. for $2.3 billion. DPS manages prescription drug benefits for about 11 million people.
- Roche Holdings A.G. acquired Syntex Corp. for $5.3 billion.
- Revco D.S. Inc. acquired Hook-SupeRx. Inc.
- Elf Sanofi, a French pharmaceutical maker, acquired the prescription drug business of Sterling Winthrop Inc., a unit of Eastman Kodak Co., for $1.68 billion.
- Eli Lilly & Co. agreed to pay $4 billion for PCS Health Systems Inc., the largest pharmacy benefit manager in the United States, which services 50 million members (*BI*, July 18).

In addition to acquisitions within the industry, alliances have been formed. Caremark International Inc. has formed alliances with Pfizer Inc., Bristol-Myers Squibb Co. and Rhone-Poulenc Rorer. It is rumored that Caremark collected $4 million from each drug maker to join the alliance. In return, it appears that each drug company will get its products on the preferred list of drugs Caremark provides to its customers. Pfizer has also allied itself with Value Health Inc., another managed care drug company. These companies have agreed to a $100 million joint venture. As part of their deal, Pfizer products will be assured positions on Value Health's formulary lists.

This activity in the drug industry was the basis for the prediction that a handful of managed care drug companies will control 80% of the market within five years. These companies include PCS, Medco, DPS, Caremark and Value Health.

Another development in the industry is the formation of a company called Pharmacy Direct Network by the Assn. of Chain Drug Stores. This company was formed to compete with the other managed care drug companies. Each of the 24 drug store chains represented on the association's board contributed more than $200,000 to start the network. The companies included Rite Aid, Revco, Payless and Walgreen's. The network hopes to attract between 30,000 and 40,000 of the nation's 60,000 retail pharmacies. Such a large network will add to the competition in the industry.

Other signs of changing times in the drug industry are the pricing of new drugs and the quick introduction of generic drugs. An example of this was the introduction earlier this year of a new cholesterol-reducing drug, Lescol, at half the price of brands of similar drugs on the market. Previously, new branded prescription drugs were marketed at competing or higher prices than older similar drugs, on the grounds that the new version was more effective or safer. This type of pricing of a new drug was virtually unheard of previously. This is a clear indication that competition is heating up and that drug companies are now competing on price.

The popular anti-ulcer drug, Tagamet, lost its patent in May and a generic version was quickly introduced at a price 30% below the price of Tagamet. The lower priced generic will also impact sales of the popular drug Zantac. Both Tagamet and Zantac have been clearly on the "top 10" list of drugs used in our plan at Continental Bank and at many other organizations. It has been estimated that sales of these anti-ulcer drugs will drop by $1 billion this year from $4.1 billion last year. This should equate to lower drug costs for employer plans.

Some employers have taken a wait-and-see attitude regarding health care plan changes due to anticipation of health care reform. Keep in mind that if health care reform legislation is passed by Congress this year, the actual implementation will be spread over a number of years. Benefit managers have a responsibility to manage their plan costs on an ongoing basis. We are missing opportunities for cost savings if we are waiting for health care reform.

What does all of this mean to benefit managers and employer health care plans? You need to seize the opportunity. It is a great time to be in the market for your prescription drug plan. I see today's market as generally comparable to the early days of PPOs. If you did not participate in a PPO, you were paying full price for your medical care while those plans that joined PPOs were enjoying discounts.

In today's prescription drug marketplace, retail pharmacies, mail-order firms and the managed care companies are all seeking your business and they are offering discount prices. In addition, most are offering drug utilization review, which should improve quality of outcomes, which should also equate to savings. If a managed care prescription drug plan is designed properly and the vendor offers reasonable discounts and effective drug utilization review, such a plan will be a plus for both the company and its employees. These plans should result in lower employer costs, improved quality and added convenience for the employee.

In designing a managed prescription drug program, you need to keep in mind the potential for increased utilization. To offset the expense of increased utilization, you should consider separate plan deductibles, an adequate copayment for the employee and incentive for generic usage.

If you currently offer a managed prescription drug plan, I would encourage you to discuss your current discounts and dispensing fees with your vendor. Given the competitive marketplace, there may be room for further discounts and reduced dispensing fees. You should also ensure that your vendor's drug utilization review program is effective.

If you do not currently offer a managed prescription drug program, I would encourage you to do so. However, keep in mind the potential changes in the market. There will most likely be further consolidation in the prescription drug industry. This most likely means further acquisitions of the managed prescription drug firms. Therefore, you do run the risk of commencing a managed prescription drug plan with an organization and have that organization acquired by another. This may result in some transition problems as the companies sort out their operations.

Despite some potential risks, now is the time the manage your prescription drug costs. Don't wait for health care reform. Seize the opportunity. BI

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

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

This month's column on employee benefit management issues is written by Dennis J. Nirtaut, manager of employee benefits at Continental Bank Corp. in Chicago. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers questions on risk management issues. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

Mr. Nirtaut

Mr. Nirtaut's next column will appear in November.

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

Street risks can become job risks

Under the actual street-risk rule, if employment occasions an employee's use of the streets, risks of the streets are risks of employment for purposes of workers compensation law, the Virginia Court of Appeals ruled.

Kelvin L. Hill was director of photography for Marketing Profiles Inc., a portrait photography business in Richmond, Va. As part of his duties, Mr. Hill was required to travel at least once each week to other states to take photographs for church directories. He was reimbursed for his expenses. In July 1990, Mr. Hill traveled in his own car to Delaware to take photographs at a church. While returning to Richmond, he was injured in an automobile accident. He sustained massive head injuries and brain trauma and was unable to remember the period between three and four weeks before and after the accident. Mr. Hill applied for and was awarded compensation.

The appellate court was satisfied that Mr. Hill was injured in a car accident and that travel on the highway directly linking Richmond to Delaware was travel that he was authorized and obligated to perform. Therefore, the court said the hazards of highway travel became necessary elements of his employment. The award of benefits was affirmed.

Marketing Profiles Inc. vs. Hill, Court of Appeals of Virginia, Nov. 30, 1993 (*BI*/03/Jy.-$10). BI

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a $10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

MetLife

Continued from page 2

tial's addition of $305 million to reserves established for potential liabilities from claims related to the sale of limited partnerships in the 1980s.

New York Life Insurance Co., American International Group Inc. and Massachusetts Mutual Life Insurance Co. all have AAA ratings from S&P. Of these, only New York Life—which is also rated AAA by both Moody's Investors Service and Duff & Phelps—is considered a major force in the GIC market.

MetLife retains a AAA rating from Duff & Phelps.

MetLife reported $14.26 billion in GIC assets under management as of Jan. 1. As of that date, MetLife also managed $8.75 billion in separate account GIC assets, which are plan assets that are segregated from the insurer's general account.

According to Pensions & Investments, a sister publication of *Business Insurance*, Prudential Asset Management Group is the largest GIC issuer, with $24.48 billion in GIC assets under management in 1993. The Principal Financial Group had $14.24 billion and New York Life had $11.4 billion, according to P&I. These figures do not include separate-account GIC assets.

MetLife says it expects the downgrade to have only a "negligible" impact. "Our general opinion is that our financial position is stronger than ever, and this situation is basically a short-term one that won't affect our competitive position or financial strength," a spokesman said.

MetLife says it expects to pay $40 million to $50 million to settle charges that its agents used deceptive tactics in marketing life insurance. That settlement was agreed to in March with insurance regulators. But earlier this month Texas Insurance Commissioner J. Robert Hunter fined the insurer $1.2 million and ordered it to contact 75,864 policyholders to determine whether restitution should be made.

In California, MetLife has agreed to extend compensation to include people who believe they were misled but have no evidence.

Others agree the impact on MetLife from the ratings downgrade is likely to be minimal. "I think you'll see a few customers back away slightly," said Richard Cowan, a principal with Brentwood Asset Advisers in Santa Monica, Calif. "They're going to have to take a few steps to kind of reassure people." However, he added, "I don't think this will cause a massive outflow from Met in terms of their pension products. They're still highly-rated."

"No downgrade is a plus, so I'm sure it will, let's say, dampen, if that's the way to put it, the interest that people will have," said Peter Bowles, president of Fiduciary Capital Management in Woodbury, Conn.

"They're high-enough rated by agencies across the board that it's not going to take them out of the business, but it may mean they're a little less competitive, it may mean they may not win some cases they might otherwise would, it may mean they may have to offer a little higher yield in the future than they did in the past."

David Kaiser, vp-retirement benefit administration and investments with Nestle U.S.A. Inc. in Solon, Ohio, which has GIC investments with MetLife, said he anticipates the move will have only a slight impact.

"They're still a good, highly rated carrier," he said. "I think most companies, when they go into the GIC market, they look for high quality but not specifically AAA."

Another plan sponsor with MetLife investments said: "That still leaves them well within the quality parameters of our program."

Meanwhile, a Prudential spokesman said its placement on CreditWatch has had no discernible effect on its GIC business. "They are still sending in bids for GICs and they are still closing business," he said.

James Hiner, principal with William M. Mercer Inc. in Chicago, said, "We don't like to place business with someone that's on CreditWatch for downgrade" because of the uncertainty. It is difficult to evaluate bids in this situation, he said.

Bill Preece, director-employee financial programs for Abbott Laboratories in Chicago, which is a Prudential client, said: "I think when there's more of a pattern of incremental downgrades, there's somewhat more concern, but no one thinks they're going out of business. I don't think it will have a measurable effect." BI

Top 10 GIC issuers

GIC assets under management

Prudential	$24.48 bil
Metropolitan Life	14.28
Principal Financial	14.24
New York Life	11.40
John Hancock	11.30
Aetna	8.98
Provident Life	7.26
Hartford Life	6.21
Continental Assurance	5.12
Allstate	4.75

Source: Pensions & Investments, company reports

GRAPHIC BY MIKE GARVEY

Choice plays only small role in many current health plans

By CHRISTINE WOOLSEY

While Congress continues to argue about how many health plan choices employers must offer their workers under a reformed health care system, a new survey shows that 84% of employers that provide health insurance now offer only one plan.

Smaller employers are the least likely to offer their workers a choice of health plans, the survey found.

Eighty-five percent of companies employing one to nine workers and 82% of firms with 10-49 workers offer only one plan, according to the study financed by the Kaiser Family Foundation and conducted by KPMG Peat Marwick.

Among mid-sized companies, those employing 50 to 999 workers, 64.6% of those employers offer only one plan.

However, although the Kaiser/KPMG survey showed that the majority of employers offer just one health plan, it found that a majority of employees actually do have choice among plans because more workers are employed by larger employers that offer multiple health plan options.

Seventy-three percent of employers with 1,000 or more workers offer their employees a choice of two or more health plans, the study found. Only 27% of those companies offer only one plan.

The survey was based on telephone interviews of 1,100 human resource and employee benefit directors from a random sample of companies that offer coverage.

The findings suggest that the "choice of health insurance plans, doctors and hospitals is disappearing for many Americans," said Drew E. Altman, president of the Kaiser Family Foundation in Menlo Park, Calif. "The question is not whether health reform will take choice away, but whether it will give it back."

Most proposals before Congress would expand, rather than limit, consumers' choice of health plans, Mr. Altman noted.

The study also examined the types of health plans available to employees in 1994. Sixty-four percent of employees in companies of all sizes are covered through managed care plans: 19.8% by health maintenance organizations and 43.9% by preferred provider arrangements.

More than 36% of employees, however, remain enrolled in traditional indemnity plans that give them freedom to choose hospitals and doctors. According to the study, most companies that do offer a choice do not cut back contributions to indemnity plans to encourage enrollment in more restrictive plans.

These findings represent a small sample of the Kaiser/KPMG survey. The organizations polled benefits executives about other health reform issues, including their views on employer and individual mandates and universal coverage vs. universal access. Those findings will be released as Congress' plan for national health care unfolds. BI

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Dialysis

Continued from page 1

Cole said.

Change in the Ways and Means bill is an example of how a few individuals can make a difference.

Mr. Cole learned of the 1993 provision after a retiree was told by his dialysis center that Franklin Electric's health plan—and not Medicare—would pay the bulk of his medical bills for the next 18 months.

Incredulous, Mr. Cole verified that with the company's third-party claims administrator—Aetna Life Insurance Co.—and its benefit consultant, Hewitt Associates.

Frank McArdle, a consultant and manager of Hewitt Associates' Washington office, then discussed with congressional staffers how HCFA officials were interpreting the kidney disease provision and the problems associated with it.

The House Ways and Means Committee health care reform bill already included other ESRD changes, and this was a logical opportunity to make the needed clarification of employer responsibility, Mr. McArdle said.

The clarification—that Medicare and not employer retiree health plans would be the primary payer for retirees who develop ESRD after turning 65 and already receive Medicare—is included in the report accompanying the Ways and Means Committee health care reform bill. The report was published last week.

"It is a good change for all. It prevents employers from unfairly paying claims and it means retirees won't be bounced around from Medicare to employer plans," Mr. McArdle said.

Even with the change—assuming health care reform legislation is enacted and the Ways and Means provision survives—employers still would face a greater exposure to ESRD claims than before the changes mandated by the 1993 law.

For example, in the case of an individual who developed ESRD at age 64, the employer's health plan would be the primary payer for 18 months. Prior to the 1993 change, the employer's health plan would have been primary for 12 months until the individual turned 65. At that point, Medicare would have become the primary payer.

Meanwhile, Mr. Cole is urging other companies to make legislators aware of the need to change the ESRD provision in the 1993 budget.

Referring to the ESRD issue and the role he has played in the drive to amend the requirement, he has some basic advice to benefit managers: "Pay attention to what is going on."

The ESRD change isn't the only example of how speaking out can influence the legislative process.

A health care reform bill passed this month by the Senate Finance Committee would eliminate a requirement—also set by the 1993 budget law and due to be fully implemented next year—that employers compile health plan enrollment and coverage information for a new government data bank. The information is to be used by HCFA to spot claims, like those of older workers who stay on the job after 65, that employer plans—not Medicare—are supposed to pay.

Business groups have lobbied Congress hard to repeal the data bank, saying the reporting requirements on employers may be unworkable and that much, if not all, of the coverage information is available from other sources. BI

How to take advantage of Medicare rule

WASHINGTON—Newly published federal guidelines detail the steps employers must follow to take advantage of a 1993 budget law provision that clearly makes Medicare the primary health care provider for disabled employees who are not working.

That provision, included in the Omnibus Budget Reconciliation Act, reversed prior government policy (*BI*, Aug. 23, 1993). Under that policy, employer plans—not Medicare—had primary responsibility to pay health care claims for disabled employees who had stopped working but were receiving certain company benefits, like short-term or long-term disability benefits.

Under the new policy, the primary responsibility for providing health care to disabled employees shifts to Medicare from employer plans 29 months after the individual stops working. Medicare's responsibility now is tied to the disabled employee's work status, not whether the employee is receiving disability or other benefits from the company.

While many employers have been aware of the change mandated by the 1993 law, they weren't sure of the steps they had to follow to take advantage of it, said Linda Laarman, a principal with William M. Mercer Inc. in Washington.

The first step is to contact the administrator of Medicare Part B in the state where the employer's home office is located. Most administrators are insurers under contract with Medicare.

Information the employer must provide to the administrator includes the disabled employee's name, date of birth and health insurance claim number. The employer must provide written certification that the individual is covered under the company's health insurance plan but is not working.

The Medicare administrator then will provide written confirmation of the information and include the effective date on which Medicare becomes the primary payer for the disabled individual.

After that, the employer must provide a written notice to the disabled employee. Among other things, the notice must:

- Indicate that the employer's health plan no longer will be the primary payer as of a certain date.
- Inform the individual that he or she may enroll in Medicare Part B. The current monthly premium for Part B, which covers physician services, is $41.10. No premiums are charged for Medicare Part A, which covers hospital services.
- Include a copy of the notice from the Medicare administrator certifying that Medicare is the primary payer.
- Advise the individual to take both the employer notice and Medicare notice to the local Social Security office when he or she enrolls in Medicare Part B.

—By Jerry Geisel

Datebook

JULY

JULY 25-26. Re-engineering for Insurance Operations conference in New York, sponsored by the International Quality & Productivity Center; $1,195. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 800-882-8684 or 201-783-4403.

JULY 25-27. Compensation and Benefits Certification and Training seminars in Chicago, sponsored by the American Compensation Assn.; $225 for ACA members, $255 for non-members. **Also Aug. 31-Sept. 2, Sept. 8-9** and **Sept. 25-28** in Chicago. American Compensation Assn., P.O. Box 29312, Phoenix, Ariz. 85038-9312; 602-922-2020.

JULY 27. Clinton Administration Proposals for Reforming the Retirement Protection Act of 1993 discussion by Pension Benefit Guaranty Corp. Executive Director Martin Slate in Chicago, sponsored the Midwest Benefits Council; $30. Nora O'Connor, Administrator, Midwest Benefits Council, 1320 Central St., Evanston, Ill. 60201; 708-475-4911.

JULY 28-29. Electronic Pharmacy Benefits Management conference in Chicago, sponsored by International Business Communications; $1,195. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

JULY 31-AUG. 3. Professional Insurance Mass-Marketing Assn. 1994 Summer Conference in Asheville, N.C.; $625 for PIMA members, $775 for non-members. PIMA, 4733 Bethesda Ave., Suite 330, Bethesda, Md. 20814-5228; 301-951-1260.

AUGUST

AUG. 1-3. Dental Managed Care Congress in San Francisco, sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research Inc., 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 1-800-345-8016 or 212-661-8740.

AUG. 4-10. 1994 American Bar Assn. Annual Meeting in New Orleans; $350 for ABA members, $550 for non-members. Deborah Weixl, American Bar Assn., 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6126.

AUG. 8-9. Health Care Capitation & Risk Sharing conference in Boston, sponsored by the Institute for International Research; $1,295. Conference Coordinator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8106 or 212-661-8740.

AUG. 8-12. Fundamentals of Employee Benefits Management course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,125 for IFEBP members; $1,250 for non-members. IFEBP, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008; 414-786-6710, ext. 257.

AUG. 10. The Process of Crisis Management Planning seminar in Itasca, Ill., sponsored by Gallagher Bassett Services Inc. and Logical Management Systems Corp.; $195. The Center for Risk Management Training, ATTN: Dawn Carlson, Registrar, The Gallagher Centre, 2 Pierce Place, Itasca, Ill. 60143-3141; 708-285-3586.

AUG. 13. Advanced Case Management seminar in Rolling Meadows, Ill., sponsored by the Foundation for Rehabilitation Certification; $125. Helen Carpenter, FRC, 1835 Rohlwing Road, Suite E, Rolling Meadows, Ill. 60008; 708-394-2104, ext. 129.

AUG. 14. Life Care Planning and High-Risk Maternity/Infant Care case management seminar in Arlington Heights, Ill., sponsored by the Foundation for Rehabilitation Certification, Education and Research; $125. Helen Carpenter, FRC, 1835 Rohlwing Road, Suite E, Rolling Meadows, Ill. 60008; 708-394-2104.

AUG 15-16. How to Audit Your Insurance Program: Getting Your Money's Worth seminar in Washington, sponsored by the American Management Assn.; $1,050 for AMA members, $1,210 for non-members. **Also Sept. 12-13** in Chicago, **Oct. 6-7** in San Francisco, **Oct. 24-25** in Atlanta, **Nov. 3-4** in Phoenix and **Nov. 14-15** in New York. For more information, contact American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

AUG. 15-17. Eighth Annual Conference for Risk Retention Pools in Dana Point, Calif., sponsored by Advanced Risk Management Techniques Inc.; $425. For more information, contact Sandra Dick, ARM Tech, 23701 Birtcher Drive, Lake Forest, Calif. 92630-1783; 714-472-8324.

AUG. 16-18. Basic Commercial Lines workshop in Wethersfield, Conn., sponsored by the Independent Insurance Agents of Connecticut; $195 for IIAC members, $225 for non-members. Contact the Independent Insurance Agents of Connecticut Inc., 30 Jordan Lane, Wethersfield, Conn. 06109; 203-563-1950.

AUG. 16-19. Vermont Captive Insurance Assn. 9th Annual Conference in Burlington, Vt.; $340 for VCIA members, $540 for non-members. Diane Leach, Executive Director, Vermont Captive Insurance Assn., P.O. Box 763, Stowe, Vt. 05672; 802-253-2263.

AUG. 21-23. Customer Relations & Managed Care: Moving Member Services into a New Age of Health Care Consumerism conference in Snowbird, Utah, sponsored by the Group Health Assn. of America; $685 for GHAA members, $785 for non-members. Add $100 after July 25. GHAA/ Registrar, 1129 20th St., N.W., Suite 600, Washington, D.C. 20036; 202-778-3232.

AUG. 21-23. Creating the Future: 5th Annual National Conference on Treatment Initiatives in Rockville, Md., sponsored by the National Treatment Consortium; $295 for NTC members, $355 for non-members. After Aug. 1: $325 for NTC members; $385 for non-members. NTC, P.O. Box 1294, Washington, D.C. 20013; 202-434-4780.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

Length of stays faulted in state

Health maintenance organizations and hospitals in Florida are not effectively managing lengths of stay for inpatient admissions compared to HMOs nationally, a new study says.

Milliman & Robertson Inc. studied about 600,000 non-Medicare discharges in 1992 from Florida acute care hospitals to determine how many days HMO patients spent in the hospital compared to patients covered by other plans, including self-insured indemnity plans.

The consulting firm concluded that "on the surface, the average length of stay of Florida HMOs is 9% less than the length of stay for other private payers (nationally); HMO stays averaged 4.69 days, while privately insured days averaged 5.15 days."

But, after adjusting for case mix differences, the HMO stay was less than 5% shorter than that of other private payers. And, when compared to Milliman & Robertson's internally developed health care management guidelines, Florida HMOs' length of stay data was actually 46% greater.

Hospital inpatient costs represent more than 40% of dollars paid by private insurance, so the potential savings from shorter stays would be significant, according to the report.

"This analysis implies that on average, more than one-third of the non-Medicare hospital days in Florida could be eliminated through more efficient length-of-stay management," the report suggests. Assuming the elimination of only room and board costs of $425 for each day saved, Florida consumers would have saved $2.3 billion in 1992.

The study indicates that HMOs in Florida are more likely to reap savings from "hospital discounts rather than effective utilization controls," said John Cookson, the Radnor, Pa.-based Milliman & Robertson actuary who conducted the study.

But, bringing Florida's HMOs in line with an optimum standard would require adequate home health services, outpatient surgery sites, infusion therapy and other services to minimize inpatient hospital care, he said.

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Copies of "An Analysis of the Efficiency of HMO Inpatient Length of Stay in Florida" are available for $10 from Jean Davidson, Milliman & Robertson Inc., Suite 300, 259 Radnor-Chester Road, Radnor, Pa. 19087-5260; 215-687-5644.

—By Christine Woolsey

...and then the spaceship destroyed the whole city!

Things happen. We are there when you need us.

HANNOVER RE
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INTERNATIONAL

Fund proposal would squeeze U.S. firms

By STACY SHAPIRO

LONDON—Proposed reforms of a U.K. guaranty fund would exclude North American partnerships from recovering losses from failed U.K. insurers.

British insurers, which may have to pay up to 600 million pounds ($950 million) into the fund following the failure of the so-called KWELM companies underwritten by H.S. Weavers (Underwriting) Agencies Ltd., are pressing for the reforms.

Earlier this month, the U.K. Department of Trade and Industry published a consultative document on proposed changes to the Policyholders Protection Act 1975, which set up a compensation plan to protect policyholders of failed U.K. insurers.

"The main pressure for amending the (act) has come from the insurance industry who wish to limit their financial exposure under the act," the DTI says.

Under the act, the Policyholders Protection Board may raise annual levies—up to 1% of life or non-life net premiums—on all authorized U.K. insurers.

The PPB is required to pay about 90% of all legitimate claims filed by "individual" policyholders with "United Kingdom" policies issued by U.K. insurers in liquidation.

In a test case involving the KWELM companies, the House of Lords ruled last year that the act covers individuals and partnerships overseas who hold policies written by U.K. authorized insurers but not "professional partnerships" that are incorporated (*BI*, Nov. 29, 1993).

That ruling forces the PPB to cover 90% of the professional liability losses of North American doctors, lawyers, accountants and other individual professionals.

Until 1992, the board had levied a total of only 2.5 million pounds ($3.8 million). Since then, levies have totaled 288.4 million pounds ($446.6 million).

Failures of London insurers have put an "increasing financial burden on insurers," the DTI says. "The failure of the insurance subsidiaries of London United Investments Group (the KWELM companies) has thrown up by far the biggest bill."

Among the reforms the government is considering to the Policyholders Protection Act are:

• Geographical scope. Insurers want only U.K. resident policyholders to be covered by the act, but there are alternatives, the DTI document states. One would be no change at all; the other would be to allow coverage only in the European Union. "The government has taken

Continued on page 27

To avoid new risk in U.K.: Mum's the word

By ADRIAN LADBURY

LONDON—U.K. employers may face a rash of liability suits following a recent House of Lords ruling that employers can be liable for negligently preparing references that prevent former employees from finding new work.

Until now, all employer references had been covered by a "qualified privilege," meaning former employees could only use the contents of the reference against companies if they could prove their former employers acted with malice.

In a 4-1 ruling involving a former agent of Guardian Assurance P.L.C., the Law Lords ruled that negligently prepared references are not entitled to that protection.

The ruling probably will hit hardest at life insurers and others required by British law to request and provide references for certain positions and at professional firms like accounting and law firms, which rely heavily on references.

Some British employers say that they will limit their exposure by refraining from giving meaningful references in writing and introducing strict internal controls on references. Others say that issuing factual references is all that is required.

Dismissed by Guardian in 1989, Graham Spring was turned down for agent positions with three other insurers. Those rejections, the Lords ruled, resulted from a negative and poorly investigated reference from Guardian. Mr. Spring's reference was written by his branch office manager and checked and okayed by a regional manager and the Guardian compliance officer before it was sent to the requesting companies. In it, Mr. Spring was accused of repeatedly taking the best sales leads from his inferiors without having done the groundwork himself.

The Law Lords decided there was no proof that Mr. Spring had been guilty of taking business from colleagues. They said that Guardian should have investigated the charge more thoroughly, especially since it was clear that the reference would hurt Mr. Spring's job prospects.

A lower court will now assess the

Continued on next page

Lloyd's may see profits too late for some

By ADRIAN LADBURY

LONDON—Lloyd's of London's increasing struggle to keep its loss-ridden members solvent until expected future profits come to the rescue is intensifying.

Even as a leading securities analyst predicted a return to profitability starting with the 1993 underwriting year, members groups warned that names could soon be forced to withdraw from Lloyd's, shrinking capacity.

Nick Bunker, an analyst with Hoare Govett Securities Ltd. in London, recently predicted pretax profits of 2.72 billion pounds ($4.21 billion at current exchange rates) over the four underwriting years from 1993 to 1996.

Excluding reserves set aside for deterioration on claims from prior years, he estimates pretax profits of 1.02 billion pounds ($1.58 billion) in 1993, 810 million pounds ($1.25 billion) in 1994, 739 million pounds ($1.14 billion) in 1995 and 155 million pounds ($240 million) in 1996.

The key reasons for those profits, Mr. Bunker said, will be "three years of steep premium rate increases in all sectors, a rise in deductibles imposed on shipowners, unusually low shipping hull losses, few large weather catastrophes and a stabilization or slight drop in motor theft claims frequency."

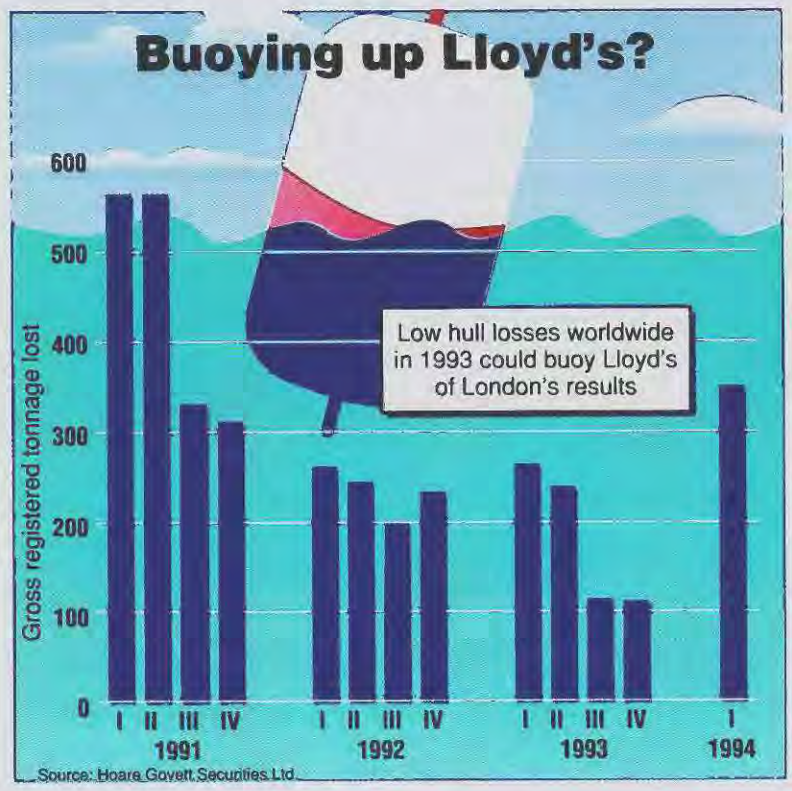
The 1993 profit will help Lloyd's members pay huge reserve requirements for old-year claims, especially related to long-tail U.S. casualty business, the analyst contends.

Mr. Bunker estimates that Lloyd's members will have to pay 500 million pounds ($774 million) to fund the creation of NewCo, Lloyd's planned reinsurer of all pre-1986 liabilities, after an extra 961 million pounds ($1.49 billion) of reserves are set aside for the 1993 deteriorations. Those estimates are much lower than many other observers' predictions.

But, last week the Assn. of Lloyd's Members said if Lloyd's cannot help cash-strapped members now to satisfy the U.K. government's Aug. 31 annual solvency test, many members will be forced to resign against their wishes, slashing next year's capacity.

The ALM contends that without some kind of solvency credit on top of the 3% credit Lloyd's recently granted for 1994 members, forced resignations could drag down the market's capacity.

ALM Chairman Sir David Berriman believes the market would continue to survive if capacity only shrank to 9 billion pounds ($13.94 billion) from 10.9 billion pounds ($16.88 billion) this year. He believes



Lloyd's has too much capacity this year anyway to keep up pressure on rates.

However, Sir David added that if resignations forced capacity to drop to 8 billion pounds ($12.39 billion), the market would have a difficult time surviving.

Lloyd's executives speculate that

Continued on page 27

Fighting over, lawsuits rage on

Gulf War airline cases land in Britain

By STACY SHAPIRO

LONDON—Four years after Iraq invaded Kuwait, lawyers are still fighting in British courts over nearly $1 billion in Kuwait Airways Corp. aircraft and spare parts that were confiscated during the Gulf War.

Three separate actions are pending in various courts in the British judicial system between: Kuwait Airways and its insurers; reinsurers and retrocessionaire Mercantile & General Reinsurance Co. P.L.C. and between the airline and Iraqi Airways Co.

The litigation stems from the Aug. 2, 1990, Iraqi invasion of Kuwait and seizure of Kuwait International Airport.

On the day of the invasion, court papers say, state-owned Iraqi Airways Corp. was told by the Iraqi minister of transport and communications to fly the Kuwait Airways fleet from Kuwait Airport to Iraq (*BI*, Aug. 13, 1990).

Between Aug. 2 and Sept. 10, 1990, Iraqi Airways took possession of 15 of KAC's 23 aircraft, with an insured value of $692 million. And $275 million in spare parts were taken from airport hangars by Iraqi Airways during the Gulf War, Kuwait Airways alleges (*BI*, Sept. 3, 1990).

In addition, a British Airways Boeing 747 on the ground was eventually destroyed by allied fire during the early 1991 United Nations invasion to liberate Kuwait.

Kuwait Airways' fleet was insured by four state-run insurers in the Persian Gulf region: Kuwait Insurance Co. S.A.K.; Warba Insurance Co. S.A.K.; Al Ahleia Insurance Co. S.A.K.; and Gulf Insurance Co. KSC.

The "Aviation Hull and Spares War Risks and Allied Perils Insurance" policy was administered and led by hull war risk reinsurers in London, court papers show. The reinsurance was placed by Kuwait Airways broker Willis Faber & Dumas Ltd. and led by former Lloyd's of London underwriter Stephen Merrett.

About a month after the invasion, hull war risk underwriters paid Kuwait Airways $300 million for the loss of the aircraft and nothing for the spare parts (*BI*, Sept. 24, 1990). The underwriters claimed that the airline was only entitled to $300 million because that was the stated maximum ground limit allowed under the policy.

The underwriters refused to pay anything for the lost spare parts until proof of ownership could be shown. The coverage for spare parts was limited to $10 million per item and $150 million for any one location, the underwriters said.

Kuwait Airways sued its hull war risk insurers in the U.K. High Court in December 1991 for the unpaid $632 million plus costs in recovering some of the aircraft after the war. The trial is set for October.

Recently, the defendants added Willis Faber as a third-party defendant.

The insurance dispute revolves around the wording of the insurance and reinsurance policies, which allegedly are identical. The reinsurance policy states that the "maximum agreed value (of) any one aircraft shall not exceed $80 million—and the maximum sum insured in respect of ground risks is $300 million—any one occurrence, any one location. . . ."

The policy defines occurrence in part as "an accident or a continuous or repeated exposure to conditions occurring during the policy period."

Kuwait Airways maintains that the "seizure" of the aircraft—which is a named peril under the policy—took place during a series of separate "occurrences" in 1990 as the Iraqi forces flew the planes and spare parts out of the country.

For example, five aircraft were flown to Iraq on Aug. 2; between Aug. 3 and Aug. 6, six more were flown out and so on. Each "occurrence" would trigger another $300 million of hull war coverage, Kuwait Airways argues. Kuwait Airways also alleges that it is covered for the spares and equipment for up to $150 million for each "location," namely each of the five warehouses at the airport. Of the $692 million in aircraft and $275 million in spare parts that were allegedly seized, the airline says in court papers that it will give credit to the underwriters for the $300 million that has already been paid, plus $16 million in partial values for aircraft that have been returned to Kuwait Airways since the war. Kuwait Airways will also give credit for any spares that are found in the hangars, plus any that are returned from Iraq.

But, insurers and reinsurers say

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References

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damages, which may run into the tens of thousands of pounds.

The ruling "opens up a whole lot of litigation," said Witold Pawlak, Mr. Spring's barrister. "This gives people who had no right of action a right of action if a reference is inaccurately prepared and wrong. It gives a cause of action without having to prove malice."

Insurance coverage for the exposure is available in Britain, according to insurers and risk managers, but it is rarely bought and is not part of commercial general liability policies written in Britain.

Most insurers and lawyers agree it is unlikely that employers would be covered for such awards under their standard CGL policies. But some may have coverage under other special policies.

"I'm not sure that there wouldn't be any coverage for this kind of risk if the companies (can now be found liable on this basis) and it may well be covered by some policies," said Alan Fleming, chief executive of the Assn. of Insurance & Risk Managers in Industry & Commerce.

"This is another source of potential legal liability which concerns the risk manager."

Phillip Bell, liability manager at Sun Alliance & London Insurance P.L.C., said he does not believe that the risk would be covered under general liability policies "unless special extensions have been taken out."

Some employers may start giving only the barest details on paper and revert increasingly to the telephone when giving a reference. At the very least, employers will have to rapidly improve internal systems and limit their exposure by ensuring that references are not given loosely by local managers unaware of the potential dangers.

Some companies, like tour operator Thomson Holidays P.L.C., already avoid giving bad references.

"If someone has a poor record and a reference is requested, we just give the barest details, such as dates of employment and job title," explained Linda Small, personnel officer. "So if we get a similar response when asking for a reference, we presume the same."

In the past, line managers have given references without checking with the main office, but after the recent ruling all managers will be briefed, she said.

"I think there will be increased litigation brought against employers and they will be much more cautious when giving references and many will only give them over the phone so as to leave no paper trail," said Joanne Pawley, an attorney with Davies Arnold Cooper in London.

"References will be more vague and more employers will simply take no notice of them anymore, as is the case in some other countries of Europe," she said. According to the law firm, which has offices in Madrid, Spanish employers only use references to check basic facts and very rarely use them for character or competence assessment.

Insurance, financial advisers and other firms where strict rules govern character could be affected by the ruling. Hardest hit could be life insurers because they are subject to very tough regulations governing both agents who work directly for the company and those who work for outside agencies.

The Life Assurance & Unit Trust Regulatory Organisation, the regulatory body for U.K. life insurance and pension companies, requires that both character and competence references be requested and provided by prospective employees and employers for both types of sales.

"A body corporate shall not be appointed as a member's appointed representative unless the member (of LAUTRO) is satisfied on reasonable grounds that the controllers, directors and senior management of that body or association are of good character and are competent," according to the LAUTRO rulebook.

And the regulatory agency has recently beefed up its rules with the introduction of fines for companies that fail to carry out sufficient checks on prospective employees and don't provide adequate references to prospective employers.

Since the rules were introduced in May 1992, 21 life insurers have been fined a total of 2.6 million pounds ($3.9 million) for failing to provide a proper reference or failing to check references properly.

The tough fines are designed to protect consumers from unscrupulous salespeople.

The U.K. life and pension industry has been attempting to improve its operations with new rules, training requirements and ever-tougher regulation since a rash of sales abuses became apparent in the early 1990s.

LAUTRO recognizes that its stringent rules on references could place the life insurers in a difficult situation in light of the House of Lords ruling.

"There is no plan to change the rules at the moment, but clearly it is something that will be taken into consideration," a spokesman said.

A Guardian spokesman said, "It's a problem for all employers, not just life offices. Employers of all industries will have to consider how best to tackle this ruling."

"It may involve more time, as references will have to be more thoroughly checked, but any change like this will take a certain amount of time to bed down. Providing the reference is factual, you can write it and fulfill your duty to the new employer and to the public. To give only details like length of service would be doing the public a disservice," he said.

One of the simplest risk management tools of all—tell the truth and back it up with facts—is the answer, according to Standard Life Assurance Co., another leading U.K. life insurer.

"All the references we give are substantiated and we can always back them up. While I am not saying we never make mistakes, we do believe we have the systems in place to cope with this. For some time now we have operated the management-by-fact approach, which means every decision made has to be backed up by facts," a spokeswoman for the insurer said. BI

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Planes

Continued from page 25

the "occurrence" that caused the airline's loss was the Aug. 2, 1990, invasion by Iraqi forces. "The occupation (of the airport) by Iraqi forces on Aug. 2 and/or the taking possession of and annexure of all immovable and movable property there on that day constituted a continuous and repeated exposure of the aircraft, spares and equipment to conditions which resulted in the loss. . .and accordingly constituted 'one occurrence,' " the defendants argue in court papers.

Because the entire war was one occurrence, Kuwait Airways is only entitled to $300 million for the ground claim, the defendants argue.

If, however, the court rules that there was more than one occurrence, underwriters will argue that Kuwait Airways' hull war risk reinsurance was canceled on Aug. 9-10, 1990, when war risk underwriters automatically canceled all war risk policies in the region, court papers show.

Hull war risk underwriters allege the notice of cancellation was given to Willis Faber & Dumas on Aug. 2, effective midnight Aug. 9. They recently named Willis Faber as a third party, stating that the airline's broker should have made their position clear to the airline and the airline's other insurers.

Willis Faber denies that the relevant coverage was canceled Aug. 9 because by that time the airline had notified underwriters that a claim on the existing policy was likely.

Indeed, by Aug. 6 the airline "intimated that they intended to make a total loss claim on the insurers by reason of the event of Aug. 2, 1990, in respect of the aircraft and/or spares and/or equipment then in Kuwait," Willis Faber alleges in court papers.

In the dispute between the reinsurers and retrocessionare, 23 Lloyd's of London syndicates involved in Kuwait Airways' hull war risk reinsurance sued one of their retrocessionaires, Mercantile & General Reinsurance Co. P.L.C., which refused to pay its portion of the already-paid $300 million claim, estimated to be $6.5 million.

M&G was a "following" underwriter on a London market excess-of-loss reinsurance program. The syndicates claim that M&G was obliged to "follow the settlement" and pay the loss after hull war risk reinsurers agreed to pay Kuwait Airways $300 million for the confiscated planes and British Airways $28 million for the destroyed Boeing 747 trapped at Kuwait's airport.

M&G agrees with Kuwait Airways—and disagrees with the reinsurers—that several events created the loss and argues that the issue should be decided in court before it pays any claim.

M&G argued that it would be "unjust and unfair" for it to pay a claim before Kuwait Airways has a chance to argue its case.

However, overturning a lower court decision, the British Court of Appeal ruled July 7 that a following reinsurer does not have the right in common law to argue issues that leading reinsurers have not argued. In effect, the leading reinsurers—and not the following reinsurers—are entitled to argue their cases. Therefore, M&G is tied to the settlement, according to the decision by Lord Justice Hirst.

Reinsurers must "take the rough with the smooth," the lord justice ruled.

And, if the airline wins its case, the LMX claims would be readjusted accordingly, he said.

M&G is the only retrocessionaire in the LMX spiral not to pay its claim, the court said.

The decision may be appealed to the House of Lords.

The decision may be appealed to the House of Lords. BI

Insolvent

Continued from page 25

no firm view on these issues" and welcomes comments from the public before making a decision, the DTI says.

• Restrictions on coverage for partnerships. "The government's view is that smaller partnerships should continue to enjoy protection but that a limit should be imposed on larger claims from partnerships," the DTI says. However, the government has no firm proposal to make on what kind of limit should be set, again welcoming comments.

Among the 18 failed insurers with policyholders that qualify for compensation are: Kingscroft Insurance Co. Ltd.; Walbrook insurance Co. Ltd.; El Paso Insurance Co. Ltd.; Lime Street Insurance Co. Ltd.; Mutual Re Insurance Co. Ltd.; Trinity Insurance Co. Ltd.; Bryanston Insurance Co. Ltd.; Scan Re Insurance Co. Ltd.; and Municipal General Insurance Ltd.

The fund also has potential liabilities to policyholders of: National Employers Mutual General Insurance Assn. Ltd.; Bermuda Fire & Marine Insurance Co. Ltd.; English & American Insurance Co. Ltd.; and Andrew Weir Insurance Co. Ltd.

While payouts for the KWELM companies alone probably will be just under 600 million pounds ($930 million), the PPB may be able to recover two-thirds of that through proposed schemes of arrangement, the DTI states.

The cost of the other failures in recent years is unlikely to exceed 75 million pounds ($116.2 million), the DTI added.

•

Requests for a copy of "A Review of the Policyholders Protection Act 1975" and comments on the proposals should be sent by Oct. 14 to: Stephen Ratcliffe, Insurance Division, Department of Trade and Industry, Room 618, 10-18 Victoria St., London SW1H 0NN; 071-215-3116; fax: 071-215-3380.

Lloyd's

Continued from page 25

about 20% of individual members will cease writing at the end of this year, though it's not certain how this will translate into capacity.

The ALM says the solvency threat comes from Lloyd's inability to unravel its so-called double-counting losses. Double counting arises when one syndicate is notified of a loss that might ultimately be paid by members agents' E&O coverage or members' personal stop-loss coverage with another syndicate. In the global results, the losses will be effectively inflated because syndicates will reserve and make cash calls for the same loss.

Lloyd's estimates that double counting is responsible for 533 million pounds ($790 million) of the 1991 pure loss of 2.58 billion pounds ($3.82 billion) and a further 596 million pounds ($881.2 million) of the 1990 record loss of 2.92 billion pounds ($4.42 billion). This year, Lloyd's subtracted the double counting when it announced its global results.

The ALM, however, says that the market's removal of the double-counting figure is "illusory."

The members will have to pay out the double-counted cash first and only recoup it when the E&O or personal stop-loss claims are paid. In the meantime, cash flow problems will force some members to resign, the ALM says.

'I am very disappointed Lloyd's has failed to find a solution to the serious solvency problem which may well deprive a significant number of names from underwriting in 1995 and reduce capacity excessively,' says Sir David Berriman.

Sir David, chairman of the ALM and former chairman of the Rose Thomson Young Names Assn., the fourth-largest action group, wrote to Lloyd's Chairman David Rowland and requested that Lloyd's give members a credit.

Mr. Rowland wrote back and said that nothing more could be done. Sir David then issued a public statement expressing his concern.

"Many Lloyd's members are being compelled to supply assets to cover not only genuine losses due to policyholders but also losses which will turn out to be illusory and which in aggregate will never have to be paid. Many members are likely to be driven out of underwriting by these wholly fictitious losses," Sir David stated.

"I am very disappointed that Lloyd's has failed to find a solution to the serious solvency problem which may well deprive a significant number of names from underwriting in 1995 and reduce Lloyd's capacity excessively."

A Lloyd's spokesman explained that it will be impossible to accurately calculate the spread of the double-counted losses among individual members until all litigation between the members, their agents and their E&O insurers has been concluded.

The recent 3% solvency credit was intended to cover double counting, he added. BI

Antitrust

Continued from page 1

Brooks will be a key player in dealing with the antitrust provisions of any health reform bill. Several Democratic health bills would remove antitrust exemptions for health insurers.

"The problem with the bill is its politics in respect to the health care bill. I do expect that Rep. Brooks will be able to get this into a health care bill," said Jack Ramirez, executive vp of the National Assn. of Independent Insurers in Washington.

Some proponents of change don't argue that point.

"Chairman Brooks has said that he would put it into a health care bill," said David Pratt, senior vp-federal affairs for the American Insurance Assn. The trade association supports H.R. 9 in its current form, which is a compromise worked out between the AIA and Rep. Brooks with input from consumer groups.

Mr. Pratt said that the AIA is "pleased that this is moving the way that it is" and stressed that the bill "is not a de facto repeal of McCarran-Ferguson."

The compromise has led to bitter divisions within the property/casualty industry, pitting the AIA against the NAII as well as the Alliance of American Insurers and the National Assn. of Mutual Insurance Cos.

The bill approved by the subcommittee is the third version of the measure to be introduced by Rep. Brooks since 1989. No previous bill has gone beyond the Judiciary Committee.

The current bill will go to the full Judiciary Committee after negotiations between Rep. Brooks and the Independent Insurance Agents of America have ended. The agents are seeking, among other things, a "safe harbor" for the use of rating manuals, which allow them to compare the rates of different insurers for the same coverages.

The bill approved by the subcommittee last week is virtually identical to a proposal approved by the AIA board in February. Rep. Brooks gave his OK to the measure in late May (*BI*, May 30; March 7; Feb. 28).

Among other things, H.R. 9 would:

- Allow insurers to develop and use common policy forms, though they would be forbidden to impose common policy form requirements.
- Let insurers continue to collect and disseminate historical loss data.
- Provide a "state action defense" for insurers, under which certain joint activities would be immune from federal antitrust law if such activities were regulated by the states.
- Gradually eliminate McCarran protection for collective trending of data by industry-affiliated organizations like the Insurance Services Office Inc. but "presume" that such activities by non-affiliated bodies do not violate federal law.
- Create certain limited "safe harbors" for existing insurance pools, like those providing nuclear liability insurance, residual market pools, workers compensation insurers, insurers of grain elevators, feed mills and "boilers, machinery and pressure vessels."
- Allow insurers to conduct joint fire-hazard inspections.
- Grant the Federal Trade Commission jurisdiction over insurance to the extent that state law does not apply.

The bill passed the subcommittee with debate confined mostly to opening statements. The panel's ranking minority member, Hamilton Fish, R-N.Y., praised the compromise as an improvement over the original H.R. 9 but said he could not support it. Although Reps. Fish and Brooks later sparred over the relative amount of regulation to which banks and insurers were subjected, the markup lacked the often passionate rhetoric that preceded votes in the past.

But the dispassionate debate did not quell all concerns about reforming McCarran-Ferguson.

"I think if Rep. Brooks should decide to attach it to the health care bill and the bill begins to move," property/casualty insurers could lose the exemptions from antitrust laws, said F. David Rolwing, co-chairman of the Coalition for a Competitive Insurance Market and president and chief executive officer of Montgomery Mutual Insurance Co. of Sandy Spring, Md. The coalition opposes amending McCarran.

The NAII's Mr. Ramirez said that if H.R. 9 is inserted into a health care reform bill, it could be enacted without sufficient debate because it would be such a small part of a complex bill. In fact, inclusion of H.R. 9 could ultimately prove to be a vehicle for repealing McCarran, he said. Rep. Brooks has repeatedly said that he would prefer outright repeal to amending the act, but he now thinks repeal would be too disruptive for insurers that have operated under it since 1945.

"There's a lot of concern about the way this thing is proceeding," said Mr. Ramirez.

But some proponents of McCarran reform hold that inclusion of H.R. 9 in a health reform bill is unlikely.

Democratic congressional leaders are focusing on reducing the scope of health care reform in an effort to come up with a package that can pass, said Barbara Haugen, director-federal affairs for the National Assn. of Insurance Brokers, which supports H.R. 9. Including a sweeping change to property/casualty insurers' McCarran-Ferguson protections in a bill that is sure to stir enough controversy on its own "could make some people nervous," said Ms. Haugen.

Peter Lefkin, vp-federal affairs for Fireman's Fund Insurance Co.—an AIA member that supports H.R. 9—agreed. He said that while it is possible that H.R. 9 will be folded into the health care reform bill, the Clinton administration and its congressional allies are looking for ways to pass legislation and are unlikely to saddle reform with provisions that would antagonize people unnecessarily. BI

Redlining

Continued from page 2

erally refers to the refusal to sell insurance in inner-city areas with large minority populations.

Both H.R. 1188—sponsored by Rep. Cardiss Collins, D-Ill. and chairman of the Energy and Commerce Subcommittee on Commerce, Consumer Protection and Competitiveness—and H.R. 1257, sponsored by Rep. Joseph Kennedy, D-Mass., chairman of the Banking, Finance and Urban Affairs Subcommittee on Consumer Credit and Insurance—had been approved by their respective full committees. But the House Rules Committee eventually approved Rep. Collins' version as the preferred vehicle.

Under her bill, large insurers must submit data annually to the U.S. Department of Commerce regarding their personal lines property/casualty practices in some ZIP codes of the nation's 25 largest Metropolitan Statistical Areas. The information includes the numbers of policies sold and the premiums paid, the number of agents and the number of cancellations and nonrenewals. The provision would be in effect for five years, with the Commerce Department allowed to extend it for two years. The Commerce Department would study the material to determine the availability of insurance. The department would also decide if commercial insurance data should be collected.

Although the Collins bill would burden insurers with new requirements, most insurance groups quickly rallied behind it rather than the competing Kennedy bill. That bill would have required data gathering in the 150 largest urban areas and an additional 50 rural areas and given jurisdiction for the data to the Department of Housing and Urban Development. Despite having lost in the Rules Committee, Rep. Kennedy and his allies prepared amendments that would have put some of his bill's bite in the Collins bill.

Even before the first amendment was offered last week, Rep. Collins warned that her bill "in its current form reflects a broad, pragmatic consensus. Unfortunately, the kinds of changes that some of my colleagues might want to make would produce a bill that would destroy that consensus and could not be enacted." She was joined in support of the bill by such longtime proponents of state insurance regulation as Reps. Earl Pomeroy, D-N.D. and former president of the National Assn. of Insurance Commissioners, and Hamilton Fish, R-N.Y., an opponent of efforts to repeal the McCarran-Ferguson Act (see story, page 1).

The debate, however, degenerated into name-calling as the Kennedy-backed amendments were offered. For example, as discussion began on an amendment to return jurisdiction for data collection to HUD, Rep. Kennedy complained about the Commerce Committee's "further power grab" at the expense of the Banking Committee. "It is time to stop getting bullied around by the Committee on Energy and Commerce," Rep. Kennedy said.

Rep. Cliff Stearns, R-Fla., retorted that the HUD amendment had "really only a single purpose—to change the implementing agency to an agency primarily within the jurisdiction of the Banking Committee." He blasted it as a "cynical amendment based on a petty jurisdictional squabble."

Rep. Gonzalez soon weighed in by alleging "wholesale abasement before this powerful, monstrous lobby known as the insurance industry. No wonder (insurers) have no complaints, because they have kowtowed completely in the Committee on Energy and Commerce to those vested interests that are hellbent in persisting in redlining." He then blasted the "ironfisted tactics" of Rep. Dingell.

Rep. Dingell, who is known for his sharp tongue, initially demanded that his Texas colleague's words be made part of the official record but then withdrew his request "as an act of comity to my dear friend, the gentleman from Texas, who I know gets much overwrought in matters of concern and sometimes speaks in tones that he might not choose to do."

The amendment was defeated on a 343-88 vote, which set the stage for similar lopsided votes on other attempts to change the bill. Another amendment that would have required data from 75 rather than 25 urban areas went down on a 333-97 vote. The third amendment, which would have required insurers to tell would-be policyholders why their applications were rejected, fell on a 305-123 vote. That set the stage for a vote on the bill and H.R. 1188 passed on a voice vote.

Most property/casualty insurance groups hailed the passage of H.R. 1188.

The Independent Insurance Agents of America called it "a carefully balanced proposal" that would not create "significant new financial burdens" for either the federal government or the insurance industry.

David Pratt, senior vp-federal affairs for the American Insurance Assn., called the bill a "practical measure to address the issue of insurance availability in the nation's cities."

But, the National Assn. of Independent Insurers issued a statement calling H.R. 1188 "unnecessary and grossly unfair to insurance customers and the companies that serve" them and said the NAII is "vehemently opposed to the bill." BI

No: 0010855 of 1993

In the High Court of Justice
Chancery Division

In the matter of The Charter Reinsurance Company Limited
and
In the matter of the Insolvency Act 1986

Notice is hereby given that by an Order dated 23rd day of June 1994 made in the above matter Philip John Singer and Ian Douglas Barker Bond of Coopers & Lybrand, St. Andrew's House, 20 St. Andrew Street, LONDON, EC4A3AY were appointed Joint Provisional Liquidators of the above Company.

Dated this 4th day of July 1994

For the Record

St. Paul will appeal damage award

RICHLAND COUNTY, Wis.—St. Paul Fire & Casualty Insurance Co. says it will appeal a Richland County, Wis., Circuit Court jury award of nearly $8.5 million to frozen dessert maker Richland Valley Products Inc.

The jury last month found that St. Paul acted improperly in refusing to cover a business interruption claim stemming from a 1992 equipment breakdown.

Concluding that St. Paul acted in bad faith in denying coverage, the jury awarded Richland Valley $2.4 million in lost earnings, $2.8 million in damages and a $3 million bad faith award on top of $240,000 that a judge had already awarded to cover direct property damage. Richland Valley also was awarded $505,801.01 in pre-verdict interest.

New York Blues may use agents

ALBANY, N.Y.—Empire Blue Cross & Blue Shield will be able to sell its products through agents and brokers under a bill passed by the New York Legislature.

The bill will allow Empire to compete equally with other health insurers and boost the insurer's ailing finances, said Senator Guy J. Velella, who sponsored the bill.

Previously, Empire was only permitted to sell its products directly to customers.

"It's an important piece of legislation that levels the playing field and allows Empire Blue Cross to compete," a spokesman said.

The insurer also must sell more policies to boost its surplus, he said. "Our surplus for May was $250 million but there were indications that it was starting to head south."

Four men indicted in insurer scam

LEXINGTON, Ky.—A federal grand jury has charged four men with using a bogus offshore insurer to sell worthless commercial insurance policies to businesses in nearly a dozen states.

Named in a 69-count conspiracy and fraud indictment are Gary L. White, operator and former shareholder of the defunct Griffin Insurance & Reinsurance Co. Ltd. of Anguilla; Grahame P. Sanders, who allegedly helped form Griffin and produced business for it; and Thomas Reid Methvin and Gene J. Lambert, two Baton Rouge, La.-based Griffin producers.

Mr. White, an officer of the defunct Lexington-based Professional Marketing Group Inc., started issuing policies for Griffin in April 1991, six months before the insurer was actually incorporated in Anguilla, the indictment alleges. He and the other defendants provided potential policyholders and agents with false financial statements purportedly showing that Griffin had more than $2 million in assets, prosecutors allege.

The four men pocketed tens of thousands of dollars in premiums on commercial liability policies, performance bonds and financial guarantees for motor raceways, building contractors and investors in at least 11 states, according to the indictment.

They left none of the premium for Griffin, which maintained no reserves to pay claims, prosecutors charge (*BI*, March 29, 1993).

Mr. White said he would plead not guilty to the charges at an arraignment scheduled for last Friday.

Messrs. Methvin and Lambert earlier this month entered not-guilty pleas and were released on $20,000 bond each.

Mr. Sanders fled to Costa Rica last year after Florida regulators filed criminal charges against him and several others involved in operating Provident Capital Indemnity Ltd., an offshore company allegedly capitalized with bogus certificates of deposit (*BI*, Jan. 31). He could not be reached.

Messrs. White and Sanders are named in all 69 of the indictment's counts, while Mr. Lambert is named in 56 counts and Mr. Methvin in 31 counts. Each count carries a maximum jail term of 10 years and a maximum fine of $250,000. A trial has been scheduled to begin Nov. 7.

Health insurance tops cities' cost concerns

WASHINGTON—For the third year in a row, municipalities cited the cost of health insurance for employees as the most important issue having a negative effect on their budgets in a survey by the National League of Cities.

In constant 1987 dollars, health insurance premiums for municipal employees have increased by nearly 250% between 1980 and 1994, the survey of 551 cities found. "Local government is labor-intensive—it's where the work gets done—and that's what makes this such a big factor in local budgets," commented NLC President Sharpe James, mayor of Newark, N.J.

Over the past three years, cities' health insurance premiums rose about 9.5%, the survey said.

Other causes of fiscal problems, in descending order, include: infrastructure needs, unfunded federal and state mandates, the local economy, and crime and demand for criminal justice.

The survey, "City Fiscal Conditions in 1994," costs $20 for NLC members and $30 for non-members, not including shipping and handling. It is available from The National League of Cities Publications Center, P.O. Box 491, Annapolis Junction, Md. 20701; 301-725-4299.

Ruling favors landlord in negligence case

NEW YORK—A Bronx Supreme Court jury has found that the New York Housing not liable in a $3.5 million lawsuit brought on behalf of a 12-year-old rape victim.

The suit alleged that the Housing Authority was negligent in providing security at the Bronx apartment building where the sexual assault occurred in April 1991. The lawyer for the girl asked the jury for $3.5 million in damages for pain and suffering.

The girl's lawyer argued during the four-week trial that the assailant entered the building via an unlocked and open rear door, contending that the Housing Authority had failed to provide the mandated level of security to protect residents at the site.

The Housing Authority attorney argued that the assailant actually entered the premises through the front door, not the allegedly unsecured rear entrance. After five hours of deliberation, the jury dismissed the case.

The girl's attorney, Jim Wilkens of Fitzgerald & Fitzgerald, said an appeal is being considered.

Single-payer system would cost jobs: Study

SACRAMENTO, Calif.—California would lose 300,000 jobs by 1998 if voters approve the single-payer health initiative on the November ballot, according to a study financed by opponents of the measure.

Although the initiative would bring in $40 billion a year in new tax revenues, the state budget deficit would still balloon by $48 billion if the California state government took responsibility for financing all health care.

"Small and medium-sized businesses would be hit the hardest. Many would shut down or move elsewhere, taking 300,000 jobs with them," warned Kirk West, president of the California Chamber of Commerce and chairman of Taxpayers against the Government Takeover, a coalition of businesses, insurers and hospitals.

The initiative, which qualified for the November ballot last month, would establish a state-run health care system financed by a payroll tax and income tax increases. The payroll tax would range from 4.4% to 8.9%, depending on the size of the employer. Individuals would be assessed a 2.5% state income tax surcharge, with an additional 2.5% on those with high incomes.

The initiative is supported by Californians for Health Security, a coalition of consumer, community, senior citizen and labor organizations.

Insurer issues plan to leave rehabilitation

ALBANY, N.Y.—The chairman of a regional property/casualty insurer that was seized earlier this month by the New York Insurance Department plans to raise money over the next four months to recapitalize the company and take control of it again.

United Community Insurance Co., based in Albany, went into voluntary rehabilitation when it could not raise about $33.2 million to cover its known claims.

The insolvent company needs almost $50 million to be recapitalized, a department spokesman said.

United Community Chairman Albert Lawrence said the amount will be raised either by sale of assets or from investors.

company will be liquidated or sold, the department said.

"Our present position is that we will continue to pay consumer claims without interruption," the spokesman said. These will be paid from the insurer's funds, and, if necessary, by the state's guaranty fund.

United Community, which employs about 140 people, is a unit of the Lawrence Insurance Group, a publicly traded company with four other insurance-related units. The stock is primarily owned by Mr. Lawrence.

Alliance formed for 24-hour coverage

LOS ANGELES—Three insurers and a managed care firm have formed an alliance to develop a "24-hour" health insurance product for California employers that will cover all their workers' illnesses and injuries.

Participants are New York Life Insurance Co. in New York, Massachusetts Mutual Life Insurance Co. in Springfield, Mass., and Fremont Compensation Insurance Co. in Glendale, Calif. The managed care firm is Los Angeles-based BPS HealthCare, which has operations throughout California.

"Our product development effort will deal with the issue of coordinating health care and workers' compensation," said Fremont President and CEO James E. Little. "The challenge is that these are two very different delivery systems with different buyers and different sets of priorities—a fact that is often overlooked in the current rhetoric surrounding health care reform."

"We are exploring a solution to the coordination of traditional health care and industrial medical care from the employer's point of view. Our goal is to craft a product that works, that makes sense and that provides demonstrable cost savings and quality care for all participants," Mr. Little said.

The 24-hour product will aim to reduce administrative redundancies and improve the exchange of information between the medical and workers comp insurers, according to James Miller, executive vp of Mass Mutual.

Planners are considering a provider payment system based on either negotiated fee for service or capitation, a Mass Mutual spokesman said.

The product will probably be available in 1995, he added. BI

Continental names Adrian Tocklin president

Comings & Goings: Industry

Adrian M. Tocklin, 43, was named president and chief operating officer of Continental Corp.

Formerly the company's senior claims officer and head of its risk management services unit, Ms. Tocklin will be primarily responsible for turning around the company's property insurance units, which sustained $90 million in losses during the first quarter (*BI*, July 4).

Ms. Tocklin, who has been with the New York insurer since 1974, was also named a director.

Continental also announced the promotion of **Wayne H. Fisher**, 49, to senior executive vp from executive vp. Mr. Fisher will be responsible for the company's finance division in addition to his current duties overseeing the company's actuarial division.

Other promotions include: **Timothy P. Mitchell** to senior vp and chief underwriting officer from executive vp of Continental Risk Management Services, and **E. Randall Clouser** to president of CRMS from executive vp in charge of sales and marketing for the unit.

Other insurer changes:

Jacques P. Blondeau was named chief executive officer of SCOR U.S. Corp. succeeding **Patrick Peugeot**, who remains chairman and CEO of parent SCOR S.A. **Jerome Karter** became chief operating officer, succeeding Mr. Blondeau, who will remain vice chairman and president.

W. Francis Brennan executive vp of UNUM Corp. in Portland, Maine, will retire at year end. No replacement has been named.

John Gottbreht promoted to vp responsible for the insurance operations in Michigan and Indiana for EBI Cos., the workers compensation insurance unit of the Orion Capital Cos.

Ed Velasquez named vp in charge of the commercial and non-profit directors and officers liability programs as well as lawyers and accountants professional liability programs at Continental Pro, a division of Continental Insurance Corp. in New York.

Edward R. Palsho named vp of New Jersey Manufacturers Insurance Cos. and **Thomas A. Lynch** named vp of NJM's wholly owned subsidiary, New Jersey Re-Insurance Co.

Richard D'Alfonso named vp-segment development at The PW Group in Providence, R.I.

Mary G. Williams named regional vp responsible for downtown Manhattan and New Jersey areas of American International Group Inc.

Agents/Brokers

Meg Horner and **Peter Jones** named vps of the property/casualty group of Houston-based Adams & Porter.

Robin R. Mancuso joined broker Tanenbaum-Harber Co. Inc. in New York as vp in charge of the employee benefits division.

Larry T. Corcoran named executive vp of Rollins Hudig Hall's Healthcare Risk Inc., a Coral Gables, Fla., division of RHH of Florida that provides insurance and risk management services to the health care industry.

Rodney J. Taylor named senior consultant and senior vp of Willis Corroon's Environmental Risk Management Services in Nashville, Tenn. He previously was with Sedgwick James as U.S. director for environmental services.

Elizabeth O. Simer named vp in the property/casualty department of Near North Insurance Brokerage Inc. in Chicago. Previously, Ms. Simer was with Marsh & McLennan Cos. Inc. in Chicago.

Thomas Guy named senior vp-financial services at Rollins Hudig Hall of Michigan Inc. in Detroit.

Mark A. Todorovich joined Huntleigh/McGehee Inc. in St. Louis as senior vp. Previously, he was with Rollins Hudig Hall.

Terrance E. Adams joined Frank F. Haack & Associates as a data and communications consultant in the employee benefits group in Milwaukee.

Other suppliers

James E. Branigan named executive vp at Alpha Risk Management Inc., a Great Neck, N.Y.-based risk management consulting firm.

Joseph Brusco named vp-reinsurance accounting at Integrated Runoff Insurance Services Corp., the joint venture runoff administrating firm of Aon Corp. and Centre Reinsurance Cos.

Michael M. Melody named executive vp and chief operating officer of PayPower Benefits, a national group health benefits company that is based in Westbrook, Maine.

Dr. Henri A. Cuddihy named medical director of COMPREMIER, PacifiCare Health Systems' workers compensation health maintenance organization in Cypress, Calif. BI

Phoenix

Continued from page 1

1986 coming-of-age film "Stand By Me," Mr. Phoenix, 23, overdosed on cocaine and morphine outside a West Hollywood, Calif., nightclub. His other credits include "Sneakers," "The Mosquito Coast" and "My Own Private Idaho."

A lawyer for the actor's estate said she had only briefly read the complaints. "But, at this point, we think they are groundless," said Cynthia Pyles of Tatich, Downing, Shirley, Pyles & Looney in Maitland, Fla.

Both insurers allege that Mr. Phoenix misrepresented his medical history by stating he had never used alcohol in excess or illicit drugs.

"River J. Phoenix had used LSD, heroin, cocaine, alcohol in excess or other narcotics, depressants, stimulants or psychedelics," the insurers allege, "contrary to the information provided for completion of the cast insurance medical certificate."

Both insurers require medical exams of actors covered by cast insurance, which covers production losses stemming from the death, injury or sickness of a contract worker.

There is evidence that Mr. Phoenix had a drug habit, said Alan Cannon, a lawyer for the insurers with Fertig & Gramling in Fort Lauderdale, Fla. The evidence "is not in the palm of my hand, but there are people out there that are willing to testify to that effect."

Both complaints allege that the late actor breached agreements to perform services while producing the films. He signed similar, though not identical, agreements for each movie.

Both CNA International and American Casualty allege that by taking drugs, Mr. Phoenix did not provide the services and also breached his obligation to "generally not do anything which would deprive the parties to the contract of the benefits of the contract."

The suits caught some entertainment insurance specialists by surprise.

"With respect to negative film, faulty stock, camera and processing losses, there has always been a history that when an insurer has to pay a claim, it doesn't subrogate," explained Scott Taylor of entertainment broker Taylor & Taylor Associates Inc. in New York.

He added, though, that if Mr. Phoenix did lie on his medical certificate, the insurers have grounds for recourse.

Underwriters have no opportunity to exclude certain losses if information is withheld, added Carolyn Norton, vp-entertainment, media and communications for Hogg Robinson Inc. of New York. In its complaint, CNA International said that if it had "been made aware of the drug and alcohol abuse history of (Mr.) Phoenix, it would have elected to exclude any losses occurring as a result of the misuse of drugs. . .or would have otherwise elected not to write the policy in question."

Ms. Norton also said that if an actor does something deliberately to inhibit his or her performance under contract, it could be considered a breach of contract.

Drug overdoses are not beyond an actor's control, she said. "If he walked out on to the street and was hit by a bus, that's out of his control. But using recreational drugs is an intentional act."

Under the entertainment package policy issued to Scala, Mr. Phoenix was deemed "an essential element" of the movie, for which Scala paid an additional $3,800 premium in the $51,191 premium it paid for the entertainment policy.

The package included cast coverage up to $7.5 million after a $10,000 deductible as well as $7.5 million in limits covering the negative film and video tape and other coverages.

Time-Warner had $50 million in cast coverage after a $35,000 deductible. It paid American Casualty $259,809 for the entertainment package policy covering "Interview with a Vampire," which also included $50 million in limits covering the negative film and videotape and other coverages. Mr. Phoenix died about a month before he was to begin production on that film. Filling the role with Mr. Slater added an estimated $185,000 to the costs.

Mr. Phoenix is one of a string of well-known actors including John Candy and Brandon Lee to die recently during production.

Cast insurers have been hit with about $25 million in claims during the past year, said Mr. Taylor of Taylor & Taylor. "It's a lot for the industry to absorb." BI

Nuclear

Continued from page 2

struction from "nuclear material" that was located at or dispersed from any "nuclear facility" owned or operated by or on behalf of an insured.

"Nuclear material" was defined to comprise several types of material specified in the Atomic Energy Act of 1954, including "source material."

"Nuclear facility" was defined to include nuclear reactors, equipment used to process spent fuel and equipment for handling, packaging or processing waste.

Chemetron conceded that the uranium used at the site was "nuclear material," but argued that its plant was not a "nuclear facility."

Authorities have not determined how the waste material was released, though several years later the Nuclear Regulatory Commission required Chemetron to clean it up.

The two main insurers, Allstate Insurance Co., which is the successor company to Northbrook Excess & Supply Insurance Co., and Home Insurance Co., denied the claim, citing, among other things, the nuclear exclusion that has been in most CGL policies since the late 1950s.

Following the coverage trial in May, District Judge Alan Bloch in Pittsburgh ruled that the nuclear exclusion did not apply to the Chemetron claim.

The insurers were set to appeal when the parties agreed to settle the case for an undisclosed amount at the end of June. Cleanup costs at the site have been estimated at $20 million. Home would say only that its portion of the settlement represented a small portion of its coverage for Chemetron. Allstate would not comment.

Despite the settlement, the district court ruling remains as a precedent for future cases, Mr. Roman said.

In the ruling, the judge ruled that liability for the cleanup costs is not affected by the nuclear exclusion, because the contamination did not occur at a "nuclear facility."

"The undisputed evidence demonstrates that the nuclear material at the McGean site was source material, but that the site was not a nuclear facility," the judge ruled.

His ruling, however, gives little detail about the plant or the contamination there.

The case involves largely unexplored legal territory. There are no previous cases in which insurers have been forced to pay for the remediation of radioactive contamination of non-nuclear sites, several experts agreed.

"If you look at the nuclear exclusion clause it might suggest that if there is a nuclear contamination problem, then the exclusion applies," said Mr. Roman, the lawyer for Chemetron.

He contends, though, that closer examination shows that liability related to non-nuclear facilities is not excluded and was never intended to be excluded. "The significance of the case is that it shed some long overdue light on the meaning of the exclusion, which has been misunderstood for many years by policyholders and insurance companies," Mr. Roman said.

But because Judge Bloch focuses on the wording of the exclusion, giving few facts about the contamination, the opinion may be of limited utility, said James M. Fischer, law professor at Southwestern University School of Law in Los Angeles.

"The case is covering a virgin area, but the opinion does not really give any detail about what was happening at the facility, and that is a critical point," Mr. Fisher said.

Still, the case does provide a "hopeful opinion" for companies that have low-level nuclear waste, Mr. Fischer said.

"Across the country we have low-level nuclear waste building up which will become more and more expensive to dispose of, so any manufacturer or handler of the waste will look for someone else to pay for the disposal. If they can get an insurance company to pay for the cost, then that becomes very attractive," he said.

Though the case is encouraging for policyholders, many may find coverage for nuclear contamination excluded by the pollution exclusion anyway, said Mark Rosenberg of Sullivan & Cromwell in New York.

"In most cases the pollution exclusion takes precedent and the argument doesn't get as far as the nuclear exclusion," said Mr. Rosenberg, who is chairman of the American Bar Assn's Toxic and Hazardous Substances and Environmental Law Committee.

Often the contamination is excluded from coverage because it is found to be gradual rather than sudden and accidental, he said.

In the long term, the Pennsylvania case could have wide significance for oil companies and their insurers, said Eugene R. Anderson, a policyholder lawyer at Anderson Kill Olick & Oshinsky in New York.

Suits now pending in Jackson, Miss., and New Orleans seek to hold oil companies liable for damages allegedly caused by creating concentrations of naturally occurring radioactive material in the oil production process, said James Cox, an attorney at Law Offices of Bernard Sacks in New Orleans who represents the plaintiffs in Louisiana.

"I think there's a lot of other dangerous pollution by the oil companies," said Mr. Cox. "But the public is scared of radioactivity and I think the number of NORM cases will expand considerably,"

If such suits succeed, the Chemetron ruling will have added significance for oil companies that want to tap their liability coverage, said Mr. Anderson. "While there have not been any insurance coverage law suits filed by oil companies yet, I think that is going to happen."

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Chemetron Investments Inc. vs. Fidelity & Casualty Company of New York, et al, in the United States District Court for the Western District of Pennsylvania, Civil Action No. 90-1064.

Updates

Transplant exclusion judgment

Continued from page 2

However, Idaho courts have ruled that policyholders typically rely on marketing brochures and summary plan documents, not contracts, to explain coverage terms, said James Risch, Ms. Warne's attorney. "The Idaho Supreme Court has said (those documents) prevail" in such cases, he said.

On July 20, a 4th Judicial District Court jury awarded Ms. Warne $320,000 for the cost of the transplant, $1.5 million for pain and suffering and $25 million in punitive damages.

FHP International bought TakeCare this year (*BI*, Jan. 17).

Mobil to appeal unusual ruling

FAIRFAX, Va.—Mobil Corp. will appeal a New Jersey judge's unconventional decision to vacate a $3.5 million wrongful termination verdict against the company while leaving in place a separate $3.5 million punitive damage award.

Claiming that without compensatory damages there are no legal grounds for punitive damages, Mobil said it would contest New Jersey Superior Court Judge Douglas Hague's ruling that let stand a punitive award to Myron Mehlman, who sued the company for firing him in 1989 after he made statements in Japan about benzene in Mobil gasoline sold there.

But on July 14 the judge vacated that verdict for wrongful termination, saying New Jersey law did not apply to Mobil's actions in Japan.

Mobil says the firing was unrelated to whistle-blowing over benzene in Japanese gas but was prompted by abuse of his position as manager of toxicology for a subsidiary.

Legionnaires' scare on ship

NEW YORK—Celebrity Cruises is promising to cover passenger medical expenses and refund tickets after concern about possible Legionnaires' disease bacteria caused the line to take its Horizon ship out of service.

Separately, some previous Horizon passengers are seeking $150 million in damages against the cruise line. In a suit filed last week in U.S. District Court in Manhattan, they allege the line knew of the dangers and failed to warn them. The suit seeks class action status.

An investigation began after three recent Horizon passengers turned up at a hospital with symptoms of the rare acute respiratory ailment, which causes fever, headaches, chills and coughs. The Centers for Disease Control found some biological traces of the bacteria that cause the disease in the ship's water supply but no live bacteria.

Celebrity Cruises says it will pay for return flights for 1,200 passengers who were stranded in Bermuda midway through a cruise.

Al Wallach, senior vp-passenger services, would not say how much the problems cost the cruise line or what sort of insurance arrangements it had. "It is not an economic issue for us now."

$14 million award against BIC

OKLAHOMA CITY—BIC Corp.'s product liability insurance will cover $14 million in damages it must pay the guardian of three children seriously burned in an accident involving BIC cigarette lighters.

The Oklahoma Supreme Court on July 13 denied BIC's request for an appeal of a lower court ruling ordering it to pay $11 million in compensatory and $3 million in punitive damages. A state court rendered a $22 million verdict against BIC in November 1992. Earlier this year, the State Court of Appeals upheld the verdict but reduced the punitive damages by $8 million. The courts found the lighters to be faulty and therefore the cause of the 1988 accident.

The Milford, Conn.-based manufacturer argued that the accident resulted from the failure of the children's parents and grandparents to keep lighters and matches away from the children. The children, parents and grandparents all lived together.

"We are very disappointed by the Oklahoma Supreme Court's surprising refusal to hear the important issues raised on this appeal," BIC said. A spokeswoman would not identify BIC's insurers.

Briefly noted

Sen. Richard Lugar, R-Ind., said Friday that he would oppose the **Supreme Court nomination of Stephen G. Breyer,** who had earlier won the approval of the Senate Judiciary Committee. Sen. Lugar said his opposition was based on the judge's Lloyd's of London investments (*BI*, July 4). . . .Flooding and wind caused by **Tropical Storm Alberto** caused $95 million in insured damage in Georgia, Alabama and Florida, estimates the Property Claim Services division (*BI*, July 18). . . .New York regulators last week implemented a 1.7% **workers compensation rate decrease**, effective Oct. 1. The rate decrease marks the first time since 1986 that the New York Insurance Department has approved an overall rate decrease. . . .A Texas appeals court has upheld a 1992 **bad faith ruling** won by Monsanto Co. against Crum & Forster Inc., though the court reduced the original $71 million award to $60 million. A jury had found that Crum & Forster manipulated pollution litigation involving Monsanto and inappropriately denied defense cost coverage (*BI*, May 4, 1992). . . .Beginning Tuesday, more employers will be subject to the **Americans with Disabilities Act** because the required minimum number of employees drops to 15 from 25. . . .Senate Environment and Public Works Committee Chairman Max Baucus, D-Mont., is expected to announce this week when his committee will begin debating S. 1834, **the Superfund Reform Act**. Sen. Baucus released his Superfund reform proposal last week, which makes minor changes to a reform bill approved last month by the committee's Superfund, Recycling and Solid Waste Management Subcommittee (*BI*, June 20).

PBGC

Continued from page 1

Treasury officials say some employers, principally smaller firms, use cross-testing on their age-weighted profit-sharing plans to provide huge benefits to top executives and small benefits to younger, rank-and-file workers without violating non-discrimination rules.

Business groups agree that Treasury officials have a valid concern. But they say that eliminating cross-testing entirely would have disrupted pension plans that provide equitable benefits to all employees. They also said the provision did not belong in legislation whose purpose is to shore up the PBGC.

Under the Gibbons amendment, the Treasury Department would study cross-testing.

Under other amendments in the Ways and Means package:

• Pension plans that are between 90% and 100% funded would not be subject to a special rule requiring additional pension contributions known as deficit reduction contributions.

• Pension plans that are at least 60% funded would be allowed to fund new liabilities over a five- to 14-year period rather than the five to 10 years originally proposed in the legislation. Some employers thought the original amortization schedule was too fast.

Employer groups welcome the changes.

"The amendments are a step in the right direction," said Lynn Dudley, director of retirement policy at the Assn. of Private Pension & Welfare Plans in Washington.

Business groups say more change is needed.

"We are very much in favor of rules requiring faster funding," said Mark Ugoretz, president of the ERISA Industry Committee in Washington."But this is an unfair and irrational way of doing it."

Actuarial assumptions that firms would be required to adopt under the bill could result in fully or overfunded plans being considered underfunded, business groups and others say. That could result in employers paying higher PBGC premiums because those premiums are based on how well plans are funded.

"The legislation casts too wide a net. It includes in the net plans that really are fully funded," said Jerry Carnegie, a consultant with Hewitt Associates in Rowayton, Conn.

PBGC officials welcomed the panel's action.

"The legislation meets the central purpose of the administration: to provide security for participants' retirement benefits," said Executive Director Martin Slate.

Before the Ways and Means Committee vote on H.R. 3396, the House Education and Labor Management Relations Subcommittee held a hearing on the proposal. That panel may vote later this month.

Congressional interest in PBGC legislation comes nine months after the Clinton administration presented a reform package intended to speed up pension funding and thus make the PBGC less vulnerable to the collapse of underfunded plans.

This late congressional interest appears driven by very different reasons. Rep. Pat Williams, D-Mont., chairman of the Labor-Management Relations Subcommittee, seems more interested in using the legislation to extend PBGC protection to annuity benefits paid to members of terminated retirement plans.

"We in the Congress must take steps to protect the blameless who live with this tragedy—those retirees whose pension plans were terminated and turned over to insurance companies without the retirees' knowledge or consent," Rep. Williams said last week.

Benefit lobbyists say the Ways and Means Committee's new interest in the legislation is more complex, however.

Members of the committee are concerned about plugging loopholes that have made it relatively easy for some firms to deliberately underfund pension plans. They also are concerned about shoring up the financial base of the PBGC, which has a deficit of $2.6 billion, before the agency's financial problems worsen.

"We can all agree that we are facing an inevitable crisis" unless we act now, said Rep. J.J. Pickle, D-Texas.

But the rather late Ways and Means Committee interest may also have something to do with a new source of revenue. The legislation would raise close to $500 million over five years.

Revenues would be raised by several provisions, including one that would apply a new indexing formula to the so-called 415 limits, which limit employer contributions to defined contribution plans and cap the benefit that can be funded through a defined benefit plan.

The defined benefit limit, which is now $118,800, increases with the annual rise in the Consumer Price Index. The $30,000 per participant limit for defined contribution plans has been frozen for several years. But it will rise in tandem with the CPI once the 415 limit for defined benefit plans hits $120,000, which is expected next year.

Under the legislation, the 415 limits would be increased in $5,000 increments, rounding down to the nearest multiple of $5,000.

For example, if the cost-of-living increase produced a $12,000 increase in the 415 limit before rounding, the actual increase permitted would be $10,000.

Through such a rounding technique, employers would contribute less to pension plans and thus have larger taxable incomes.

Rumors were rampant last week that the new revenues—whatever the exact amount—would be cited in support of a proposed treaty that would lower tariffs on imported goods.

In fact, Rep. Don Sundquist, R-Tenn., said if the PBGC bill is used to help fund the General Agreement on Tariffs and Trade Treaty, he would have to withdraw his support for the bill.

Business groups also have a number of objections to the bill. Most center on arcane but important actuarial issues.

In general, the bill would give employers much less flexibility in assumptions they use to tell how well-funded plans are.

For example, employers now can use reasonable assumptions in estimating the ages at which pension plan participants will die. If employers assume that they will die at relatively young ages, plan liabilities decrease.

The legislation would require the adoption of a standard table prescribed by the National Assn. of Insurance Commissioners to determine the reserves of group annuity contracts.

Forcing all employers to use a uniform mortality table isn't appropriate, since demographics vary from firm to firm, said James Durfee, director of actuarial practice at Towers Perrin in Valhalla, N.Y.

If there are abuses, as PBGC officials maintain, then action should be taken against individual firms rather than mandating a uniform table, Mr. Durfee said.

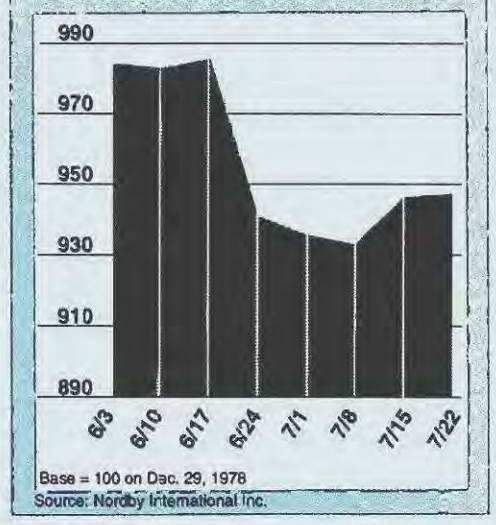
Other provisions in the legislation have created less controversy. They include:

• Speeding up contributions by employers with underfunded plans. Plans that are less than 60% funded would be subject to a special rule that requires benefit increases to be funded over five years. That five-year funding rule now only applies to plans that are less than 35% funded.

• Requiring pension plans to maintain liquid assets equal to at least three years of benefit payments.

• Boosting the annual premiums that employers with grossly underfunded plans pay the PBGC to an average of $140 per plan participant from the current maximum of $72 per participant. BI

BI Insurance Index



Insurance rose fell last week, as the *Business Insurance* Index gained 0.8 points to 947.1 July 22 from 946.3 on July 15. Advancing issues for the week were led by: Argonaut Group, up 9.95%; Mutual Risk Management Ltd., up 8.7%; and EMC Insurance Group, up 8.6%. Declining issues for the week followed: Phoenix Re Corp., down 8.7%; American Heritage Life Insurance, down 6.2%; and RLI Corp., down 5.2%. The most active issue was U.S. Healthcare, 9.7 million shares traded. The *BI* Index gained 0.1%; the Dow Jones 30 Industrials lost 0.5%; the NYSE Composite fell 0.3%; and the Standard & Poor's 500 fell 0.2%.

British Issues

July 21 Companies	Price pence	P/E*	Div.* pence	Yield %	1 week high—low
Comml Union	553	17.6	31.0	5.6	570—551
Genl Accident	593	11.9	34.4	5.8	593—570
Gdn Royal Exch	189	12.1	9.5	5.0	189—182
Independent	247	8.0	10.4	4.2	247—247
Royal	258	11.2	9.4	3.6	258—246
Sun Alliance	322	14.4	18.4	5.7	333—322
Brokers					
Bradstock	89	10.0	6.9	7.8	100—89
Fenchurch	144	11.2	9.0	6.3	145—144
CE Heath	288	10.3	20.0	6.9	300—288
JIB Group	135	11.8	9.4	7.0	135—129
Lloyd Thmpson	167	11.3	8.4	5.0	169—167
Lowndes Lmbrt	381	12.0	18.8	4.9	383—381
Nelson Hurst	160	15.7	7.0	4.4	160—160
PWS Holdings	42	N/M	2.5	6.0	44—42
Sedgwick Grp	169	18.7	7.5	4.4	170—164
Steel Brl Jones	116	N/M	11.3	9.7	119—115
Willis Corroon	138	12.7	8.3	6.0	141—135

Source: Philip Olsen, London * Actual 1993 figures

BI Industry Stock Report JULY 18, 1994, THROUGH JULY 22, 1994

		Price	Weekly % change	Year to date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
BROKERS												
Acordia Inc.	NYS	26.50	-0.93	7.61	28.75	21.00	10	0.60	2.26	13	10.22	2.59
Alexander & Alexander	NYS	19.38	7.64	-2.52	26.25	14.00	1203	0.10	0.52	646	6.73	2.88
E.W. Blanch Holdings Inc.	NYS	20.50	-1.20	17.99	23.50	15.75	17	0.32	1.56	20	4.10	5.00
Gallagher Arthur J. & Co.	NYS	30.00	0.42	-16.08	37.13	28.13	47	0.88	2.93	14	7.52	3.99
Hilb, Rogal & Hamilton	NYS	12.00	0.00	-8.57	15.13	11.13	51	0.48	4.00	16	4.51	2.66
Marsh & McLennan	NYS	85.50	-2.15	5.07	91.88	77.00	355	2.90	3.39	18	16.76	5.10
Poe & Brown	OTC	21.50	4.88	19.44	21.50	16.88	69	0.40	1.86	16	3.02	7.12
BROKERS	AVERAGE		1.2	3.3					2.4	106		
INSURERS/REINSURERS												
ACE Ltd.	NYS	23.63	0.00	-22.54	36.00	22.75	758	0.44	1.86	5	28.74	0.82
Acceptance Insurance Cos.	NYS	13.50	0.93	16.13	15.63	11.13	23	0.00	0.00	16	9.65	1.40
AEGON N.V.	NYS	54.50	-0.23	-0.46	58.50	44.00	14	2.95	5.40	10	34.71	1.57
Aetna Life & Casualty	NYS	56.88	-1.09	-5.60	66.25	49.75	657	2.76	4.85	-9	71.84	0.79
Allied Group Inc.	OTC	27.13	4.33	8.50	32.75	22.75	164	0.60	2.21	7	10.45	2.60
Allmerica Prop. & Casualty	NYS	16.50	5.60	-23.40	22.16	14.25	83	0.16	0.97	8	56.97	0.29
Allstate Corp.	NYS	25.88	6.15	-13.03	34.25	22.63	2101	0.72	2.78	16	18.43	1.40
American General	NYS	29.13	2.64	2.19	36.50	24.88	1258	1.16	3.98	23	22.09	1.32
American Heritage Life Ins.	NYS	17.00	-6.21	-8.72	25.13	16.75	42	0.60	3.53	10	12.42	1.37
American Indemnity/Fin'l	OTC	10.75	-2.27	-17.31	16.25	10.00	6	0.24	2.23	4	16.18	0.66
American International	NYS	90.75	1.11	2.98	100.25	81.75	1936	0.46	0.51	15	45.25	2.01
American Re Corp.	NYS	30.13	-1.63	6.64	37.50	23.50	13	0.00	0.00	16	14.80	2.04
Aon Corp.	NYS	33.50	-0.74	4.15	39.00	30.00	275	1.28	3.82	12	33.10	1.01
Argonaut Group	OTC	30.38	9.95	-0.41	35.50	26.25	70	1.16	3.82	9	27.65	1.10
AVEMCO Corp.	NYS	14.88	4.39	-20.67	21.25	13.75	64	0.44	2.96	11	8.13	1.83
Baldwin & Lyons Inc.	OTC	14.75	0.00	-0.84	16.25	13.34	0	0.24	1.63	9	12.59	1.17
Berkley W.R. Corp.	OTC	36.75	-2.65	12.21	48.00	32.00	283	0.44	1.20	16	28.12	1.31
Berkshire Hathaway Inc.	NYS	18275.00	5.64	11.94	18275.00	15150.00	1	0.00	0.00	-	8115.28	2.25
Capital Re Corporation	NYS	22.75	0.00	-11.65	28.50	18.50	12	0.20	0.88	9	21.66	1.05
Capsure Holdings Corp.	NYS	14.13	-1.74	4.63	19.38	12.75	15	0.00	0.00	13	13.08	1.08
Chubb Corp.	NYS	74.00	-3.58	-5.88	93.25	70.75	1395	1.84	2.49	24	46.59	1.59
CIGNA Corp.	NYS	73.63	1.73	16.40	74.00	57.00	1555	3.04	4.13	18	78.23	0.94
CNA Financial Corp.	NYS	62.00	0.81	-21.27	91.00	61.00	149	0.00	0.00	-30	77.92	0.80
Continental Corp.	NYS	15.63	-0.79	-43.44	34.63	14.13	424	1.00	6.40	18	38.99	0.40
EMC Insurance Group Inc.	OTC	9.50	8.57	0.00	10.25	8.50	2	0.52	5.47	13	N.A.	N.A.
Emphesys Financial Gr. Inc.	NYS	31.50	-1.56	NA	32.75	21.25	270	0.60	1.90	9	N.A.	N.A.
EXEL Ltd.	NYS	38.13	1.67	-15.28	49.38	36.00	335	1.20	3.15	7	33.81	1.13
Fremont General Corp.	NYS	23.63	2.72	-2.07	28.38	21.50	114	0.76	3.22	7	23.40	1.01
Frontier Insurance Group	NYS	34.50	3.37	-21.37	34.50	25.41	79	0.48	1.39	17	16.33	2.11
Gainsco Inc.	ASE	8.63	-2.82	-4.17	12.16	7.84	67	0.04	0.46	12	3.49	2.47
General Re Corp.	NYS	110.50	-0.11	4.00	133.38	101.75	641	1.92	1.74	15	55.54	1.99
Guaranty National Corp.	NYS	15.38	1.65	-12.14	24.75	13.75	18	0.50	3.25	10	11.81	1.30
Harleysville Group	OTC	20.75	0.00	-27.19	30.25	19.75	13	0.64	3.08	12	18.35	1.13
Hartford Steam Boiler	NYS	43.00	-0.58	-3.37	53.38	42.63	86	2.12	4.93	123	15.80	2.72
HCC Insurance Holdings	OTC	20.63	-4.07	2.27	23.84	15.00	20	0.00	0.00	17	14.94	1.38
Home Holdings Inc.	NYS	13.63	-2.68	-21.01	18.50	10.63	28	0.00	0.00	-5	19.96	0.68
ITT (Hartford Group)	NYS	84.13	1.97	-8.31	95.97	78.63	1314	1.98	2.35	11	57.11	1.47
Kemper Corp.	NYS	60.63	1.89	68.99	65.00	32.88	710	0.92	1.52	-76	38.98	1.56
Lawrence Insurance Group	ASE	2.50	0.00	-31.03	6.50	1.50	0	0.00	0.00	-6	4.26	0.59
Lincoln National	NYS	43.00	-0.58	0.00	48.25	36.75	445	1.64	3.81	9	32.53	1.32
Markel Corp.	OTC	42.00	0.00	9.09	44.50	36.50	12	0.00	0.00	10	24.68	1.70
Mid Ocean Ltd.	OTC	26.50	2.42	-6.19	34.75	25.00	142	0.00	0.00	14	20.24	1.31
Mutual Risk Mgmt. Ltd.	NYS	23.38	8.72	-22.08	32.75	21.13	104	0.38	1.20	14	5.71	4.09
NAC Re Corp.	OTC	27.25	-4.39	-6.44	38.25	24.00	182	0.16	0.59	12	19.24	1.42
National Re Corp.	NYS	26.88	1.90	-12.24	37.13	24.25	78	0.16	0.60	10	17.51	1.53
Navigators Group	OTC	16.75	-4.29	-52.14	39.00	16.00	19	0.00	0.00	-10	16.99	0.99
Nobel Insurance Ltd.	OTC	7.88	1.61	3.28	8.50	6.63	55	0.20	2.54	5	6.84	1.15
NWNL Companies	NYS	33.75	-0.74	3.85	38.75	27.00	147	0.90	2.67	12	23.97	1.41
Ohio Casualty Corp.	OTC	29.00	-3.33	-9.02	36.00	26.50	282	1.46	5.03	14	23.84	1.22
Old Republic Int'l	NYS	22.63	-0.55	0.56	27.63	21.50	144	0.48	2.12	8	23.57	0.96
Orion Capital Corp.	NYS	34.38	1.85	11.34	37.50	28.63	26	0.72	2.09	9	27.43	1.25
Penn-America Group Inc.	OTC	7.50	0.00	-2.44	9.50	6.50	47	0.00	0.00	9	6.21	1.21
Phoenix Re Corp.	OTC	25.00	-8.68	-9.09	38.25	18.50	254	0.30	1.20	8	19.99	1.25
Provident Life	NYS	27.38	0.00	-13.44	31.88	24.38	66	1.04	3.80	-14	26.38	1.04
Re Capital Corp.	OTC	12.63	1.00	-7.34	15.50	12.25	32	0.32	2.53	11	16.88	0.75
Reliance Group Holdings	NYS	5.00	-2.44	-35.48	10.38	4.88	826	0.32	6.40	7	4.22	1.18
RLI Corp.	NYS	20.63	-5.17	-22.90	27.75	20.63	16	0.56	2.72	-34	22.91	0.90
St. Paul Companies	NYS	40.25	-1.53	-10.31	49.00	37.69	310	1.50	3.73	9	57.84	0.70
SAFECO Corp.	OTC	58.50	-0.64	7.09	65.75	48.50	541	1.96	3.35	11	41.59	1.41
SCOR U.S. Corp.	NYS	11.75	4.44	-6.93	16.88	10.13	6	0.36	3.06	45	16.08	0.73
Seibels Bruce Group	OTC	2.00	0.00	14.29	2.19	0.31	191	0.00	0.00	-2	1.90	1.05
Selective Ins. Group	OTC	25.25	1.00	-16.53	31.00	23.00	47	1.12	4.44	13	23.11	1.09
Sphere Drake Holdings	NYS	16.00	1.59	-3.03	21.63	14.63	12	0.12	0.75	7	12.17	1.31
Statesman Group Inc.	NYS	14.88	0.85	19.00	15.25	10.25	476	0.10	0.67	6	8.65	1.72
TIG Holdings	NYS	20.38	0.62	-9.94	28.00	17.25	309	0.20	0.98	-15	18.49	1.10
Titan Holdings Inc.	NYS	9.38	5.63	-13.79	13.38	7.75	46	0.25	2.67	8	8.93	1.05
Tokio Marine & Fire	OTC	64.50	0.58	19.44	67.00	49.25	8	0.41	0.63	-	57.72	1.12
Torchmark Corp.	NYS	38.50	-0.32	-13.97	59.75	36.75	530	1.12	2.91	10	17.35	2.22
Transatlantic Holdings	NYS	55.13	2.08	3.28	61.50	45.38	13	0.36	0.65	15	29.60	1.86
Travelers Corp.	NYS	33.63	7.60	-13.50	49.50	31.00	3732	0.60	1.78	8	33.35	1.01
Trenwick Group Inc.	OTC	38.00	0.66	-1.94	47.75	33.25	48	1.00	2.63	14	26.00	1.46
United Fire & Casualty	OTC	40.00	-2.44	11.11	44.00	36.00	0	1.08	2.70	10	28.96	1.38
Unitrin	OTC	38.75	0.65	-8.82	46.25	38.50	265	1.40	3.61	27	38.90	1.00
UNUM Corp.	NYS	45.00	2.56	-14.29	60.13	43.00	1072	0.96	2.13	11	27.55	1.63
US Facilities Corp.	OTC	12.94	-0.96	8.95	14.63	8.25	98	0.00	0.00	14	10.48	1.23
USF&G Corp.	NYS	12.75	0.00	-15.70	18.88	11.69	1029	0.20	1.57	14	10.60	1.20
USLICO Corp.	NYS	18.13	2.11	9.85	20.50	15.75	22	0.24	1.32	8	25.22	0.72
USLIFE Corp.	NYS	36.75	-2.33	-5.16	45.75	34.88	52	1.24	3.37	8	41.73	0.88
Washington National	NYS	21.25	0.00	-12.37	26.13	20.63	41	1.08	5.08	8	28.40	0.75
Zenith National Ins.	NYS	23.25	2.76	5.08	29.13	20.63	14	1.00	4.30	9	17.71	1.31
Zurich Reinsurance Centr.	NYS	27.50	0.46	-2.65	34.00	24.25	39	0.00	0.00	-275	24.41	1.13
INSURERS/REINSURERS	AVERAGE		0.6	-5.0					2.4	5.8		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	25.38	4.64	-2.40	29.75	18.25	2793	0.00	0.00	15	11.43	2.22
PacifiCare Health Sys.	OTC	52.50	0.96	39.07	60.25	30.50	581	0.00	0.00	20	11.15	4.71
Safeguard Health Enter.	OTC	13.00	-3.70	4.00	15.50	9.25	51	0.00	0.00	15	5.71	2.28
Sierra Health Services	NYS	24.38	-3.94	9.55	30.75	15.13	131	0.00	0.00	76	4.60	5.30
TakeCare Inc.	OTC	77.75	0.00	42.66	78.25	38.00	0	0.00	0.00	24	18.69	4.16
United Healthcare Corp.	NYS	45.50	-1.62	21.74	50.75	26.00	5869	0.03	0.07	30	10.64	4.28
U.S. Healthcare	OTC	37.13	-1.00	-3.15	47.50	26.66	9730	0.68	1.83	19	6.21	5.98
Wellpoint Health Networks	NYS	30.38	-4.33	-1.62	37.00	24.00	527	0.00	0.00	15	10.94	2.78
HMOs	AVERAGE		-1.1	13.7					0.2	17		
ALL COMPANIES	AVERAGE		0.2	4.0					2.5	17		

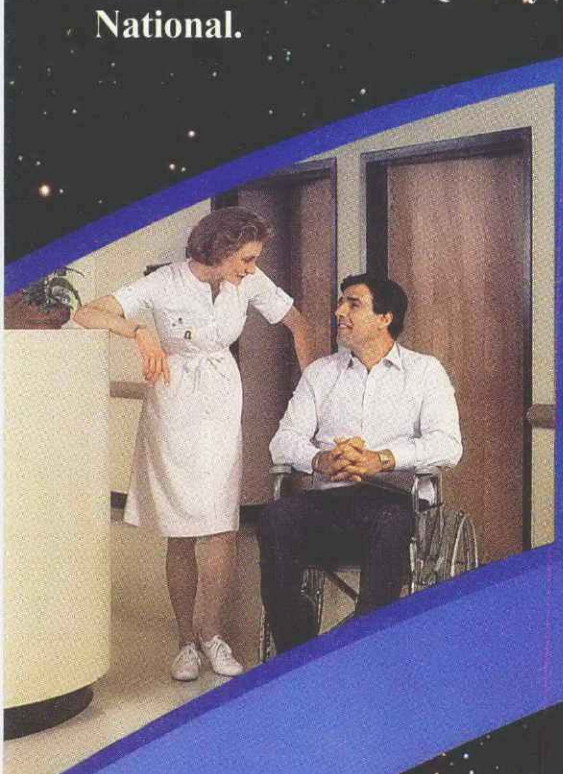
System design: Nordby International Inc.

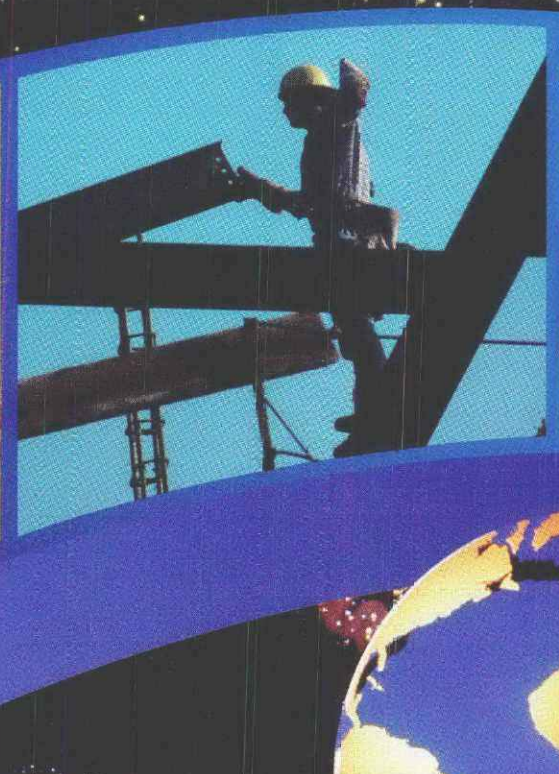
Managed Care by Reliance National

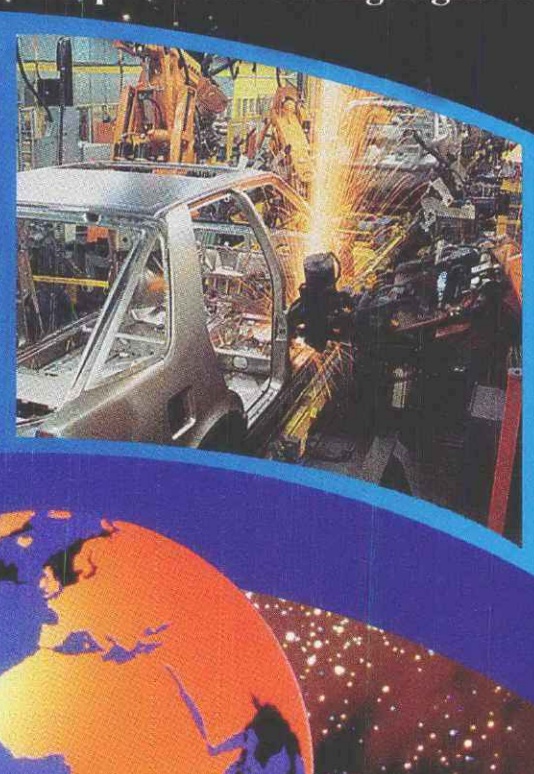
The success of every industry is sustained by maximum performance from its employees. Unlike the technical difficulty that causes a temporary setback, the breakdown of an employee impacts the strength of the entire operation. A lengthy recovery can involve costly medical care and slower productivity. In today's rapidly changing health care environment, employers are reaching out for new standards in Workers' Compensation claims management.

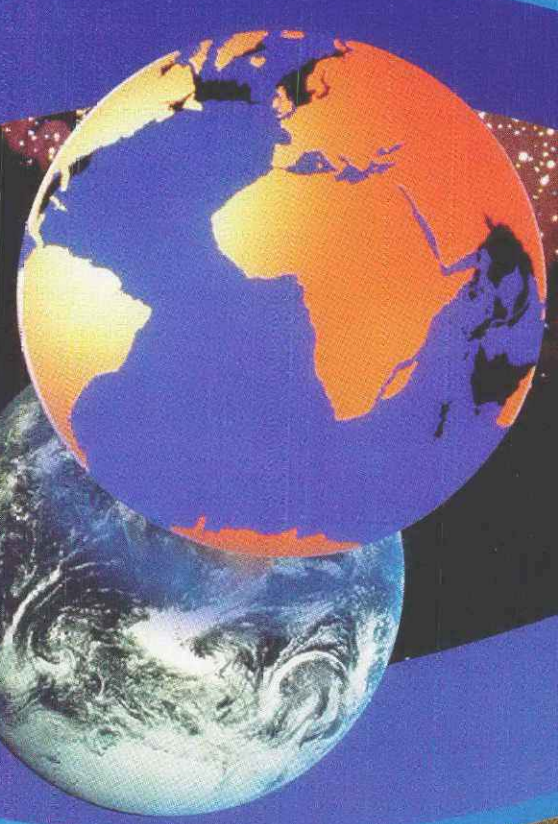
Managed Care by Reliance National offers comprehensive medical case management services that focus on expediting recovery and minimizing costs. Our team of health care and claims professionals carefully analyze each case at the onset of injury to determine proper treatment. By designing a program with options including preferred provider organization, precertification, early intervention, and medical bill review, we quickly restore productivity and morale by getting each employee back in the lineup. Our rehabilitation techniques control bottom line compensation costs for employers, while employees are assisted in returning to work.

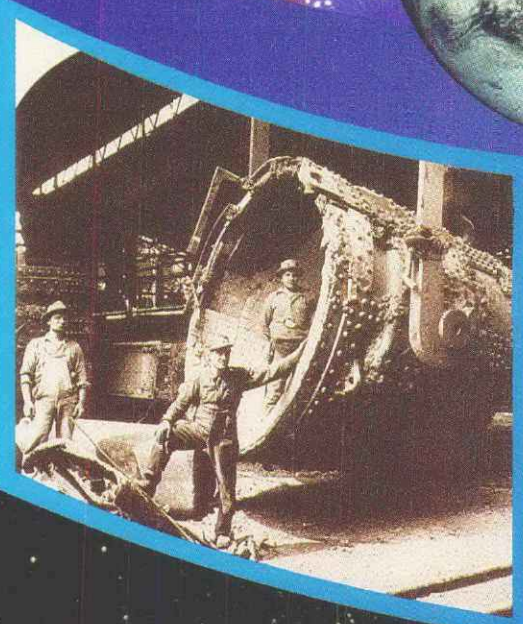
Our Claims professionals will tailor these services to optimize your particular medical case management and cost containment needs. Quality medical and rehabilitation services that provide a winning edge...*The Choice,* Reliance National.

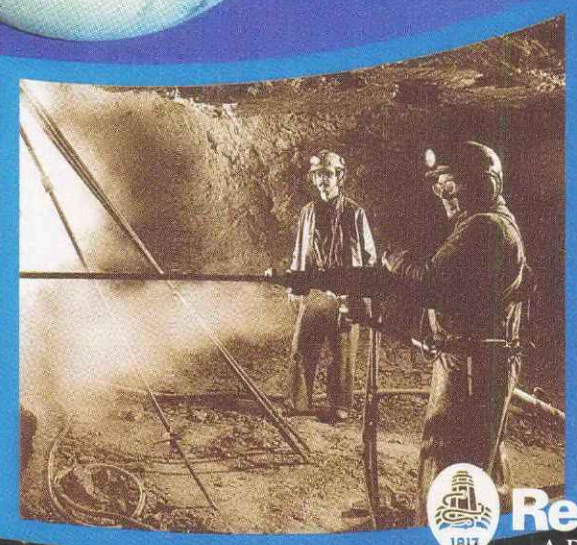


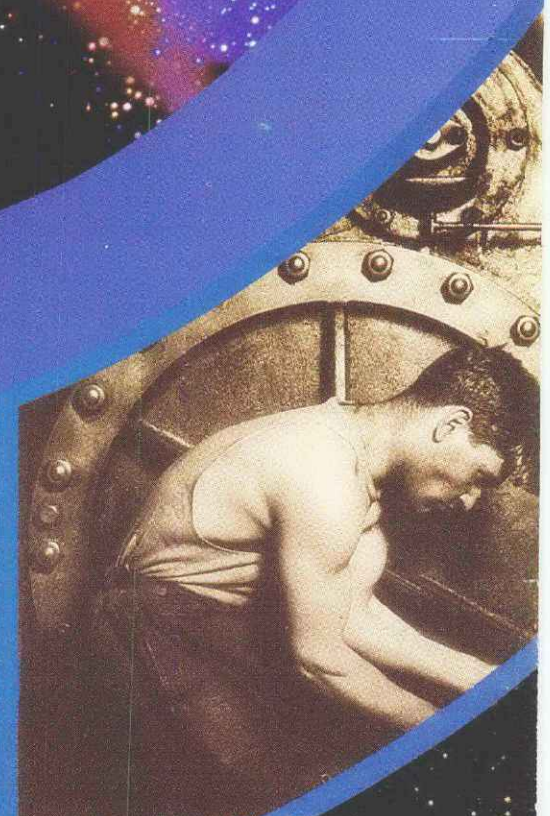












THE CHOICE

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