

Business Insurance

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**401(k) CASE COULD BOOST
PLAN FIDUCIARIES'
LIABILITY / PAGE 3**



**COMP REFORMS AWAIT
SIGNATURE OF S.C. GOV.
MARK SANFORD / PAGE 3**

**ZURICH, ATTORNEYS ORDERED
TO PAY \$1.25 MILLION IN WTC
COVERAGE CASE / PAGE 4**

In Brief

High court raises bar for securities suits

Shareholders must demonstrate a "strong inference" of corporate wrongdoing during the early stages of a suit alleging securities fraud for the suit to proceed, the Supreme Court ruled last week in *Tellabs Inc. et al vs. Makor Issues & Rights Ltd. et al*. The high court noted that the Private Securities Litigation Reform Act of 1995 includes "exacting pleading requirements" to avoid "abusive litigation" in private securities fraud actions.

Surplus lines reform to get House vote

The full House of Representatives is likely to vote today on the Nonadmitted and Reinsurance Reform Act, according to sponsor Rep. Dennis Moore, D-Kan. The measure

See **IN BRIEF** page 34

BENEFITS MANAGEMENT

WORK/LIFE BENEFITS



EAPs heavy on variety but light on enrollees; large employers more likely to offer group

legal services; funeral planning service extends definition of 'work/life' benefit; phased retirement helps firms cope with shrinking labor pool. **PAGE 11**

TRIREA HIGHLIGHTS

- Extend federal terrorism insurance backstop for 10 years.
- Require insurers to 'make available' coverage for nuclear, chemical, biological and radiological terrorism risks.
- Cover group life insurance in the backstop.
- Cover acts of domestic terrorism.
- Reduce the program's trigger to \$50 million for a terrorism loss from the current \$100 million trigger.

Source: The Terrorism Risk Insurance Revision and Extension Act of 2007



House Financial Services Committee Chairman Barney Frank, D-Mass.

LANDOV

Bill calls for lasting terrorism backstop

White House criticizes 10-year extension plan

By **MARK A. HOFMANN**

WASHINGTON—A House bill that would extend the federal terrorism insurance backstop for 10 years appears to lack the broad bipartisan support enjoyed by its predecessors.

In fact, Republican members of the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises complained on several occasions during a hearing last week that the Democratic majority had ignored their suggestions while drafting the Terrorism Risk Insurance Revision and Extension Act of 2007.

Meanwhile, the measure "does not meet" the Bush administration's objectives, a key Treasury Department official told the subcommittee during the hearing.

The administration's three objec-

tives are: The program must be both temporary and short-term; private-sector retentions must be increased before coverage can be triggered; and the program should not be expanded, said David G. Nason, assistant treasury secretary for financial institutions.

Mr. Nason did not, however, call for the program to end Dec. 31, its scheduled expiration date. He indicated that the White House might accept a two- or three-year extension under certain circumstances.

But extending the program without meeting the administration's three objectives "would be moving in the wrong direction," Mr. Nason told the panel. He took an even stronger position, one noted by Democratic panel members, in his written testimony, saying, "In Treas-

See **TRIA** page 33

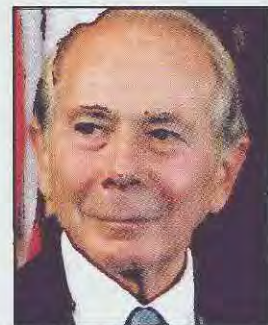
Greenberg launches counterattack on AIG

Ex-chief sues directors, managers and auditor

By **RUPAL PAREKH**

WILMINGTON, Del.—Firing back at a \$1 billion lawsuit filed against him by his former company, Maurice R. Greenberg last week sued 16 current and former American International Group Inc. directors and executives, the insurer's long-time auditor and an outside consultant.

The former AIG chairman and chief executive officer brought the suit just one week after AIG stepped in and took over a shareholder derivative suit that



Mr. Greenberg

seeks more than \$1 billion from Mr. Greenberg and former Chief Financial Officer Howard I. Smith for alleged wrongdoing and resulting losses to the company (*BI*, June 18).

Mr. Greenberg's suit, filed in the form of a third-party complaint in Delaware Chancery Court, states that AIG's amended complaint is without merit and that he intends to fight

the lawsuit.

See **GREENBERG** page 34

CalPERS' care cost hike its lowest in a decade

By **JOANNE WOJCIC**

SACRAMENTO, Calif.—Employers that purchase health care coverage through the California Public Employees' Retirement System will see their rates go up an average of 6.3% in 2008—the smallest increase in a decade.

The increase compares with a 2007 average rate increase of 12.1% and is nearly a quarter of the peak rate hike of 23.3% in 2003.

CalPERS' administration credits the overall moderate increase to a strategy the organization adopted in 2003 aimed at lowering premium increases and improving the stability of its risk pool, while still providing meaningful choice to members and ensuring accessibility to effective high-quality care.

After shaving \$144 million off of initial proposals from its health plans through negotiations, CalPERS plans to spend \$5.3 billion to purchase benefits for more than 1.2 million state and local government employees, retirees and their families next year, up from \$4.9 billion in 2007.

An additional \$30.6 million in

savings came from increased cost-sharing with plan members, with higher copayments beginning in May 2007. The elimination of high-cost hospitals from the CalPERS Blue Shield Provider Network in 2005 is expected to garner another \$57 million in savings, according to a CalPERS spokeswoman.

But CalPERS expects the greatest impact on costs will come from the introduction of two new high-performance networks of physician groups that have demonstrated the ability to provide quality health care more efficiently, according to the board. Overall savings could range from \$2 million to \$17 million, depending on how many CalPERS plan members migrate to the new networks, according to projections Blue Shield representatives presented to CalPERS' Health Benefits Committee on April 17. The Blue Shield High Performance Physician Networks, which will be offered alongside CalPERS' other health plan options, will be available in 17 California counties begin-

See **CALPERS** page 33

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On the Web

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events such as RIMS and AIRMIC in one easy-to-access location. Go to www.BusinessInsurance.com/gallery to view current galleries, or to find out more about submitting your own photos for inclusion in future galleries.

ONLINE EXECUTIVE FORUM™

Registration still open for ERM webinar

There is still time to register for the June 27 *Business Insurance* Online Executive Forum™, "ERM in the Real World: A Practical Approach to Solving Enterprise-wide Problems." Join a panel of enterprise risk management experts at 11 a.m. EDT for a panel discussion about this critical tool for business. Go to www.BusinessInsurance.com/webinars to register today.

BI DIRECTORIES

EAP directory updated for 2007, now online

Business Insurance has updated its directory of Employee Assistance Program providers for 2007, and it is now available online for purchase in either PDF or Excel spreadsheet format. For more information about all BI directories, visit www.BusinessInsurance.com/directories.

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South Carolina passes workers comp changes

Measure would end second-injury fund, boost rate scrutiny

By ROBERTO CENICEROS

COLUMBIA, S.C.—South Carolina lawmakers last week approved a workers compensation reform package that includes changes sought by both employers and insurers.

One key change is the phasing out—by 2013—of the state's second-injury fund, a move South Carolina self-insured employers supported. That fund typically assesses insurers and self-

insurers to pay for treatment of injuries or disabilities that occurred at an employee's previous employer.

Meanwhile, employers and claimant attorneys won greater scrutiny of the loss-cost multipliers insurers use to set rates, which supporters of the change say will ultimately reduce costs in a state that saw workers comp rates rise by more than 18% last year. South Carolina ranks second in the nation since 2000 in terms of how quickly rates have increased, according to a statement from Gov. Sanford, who is

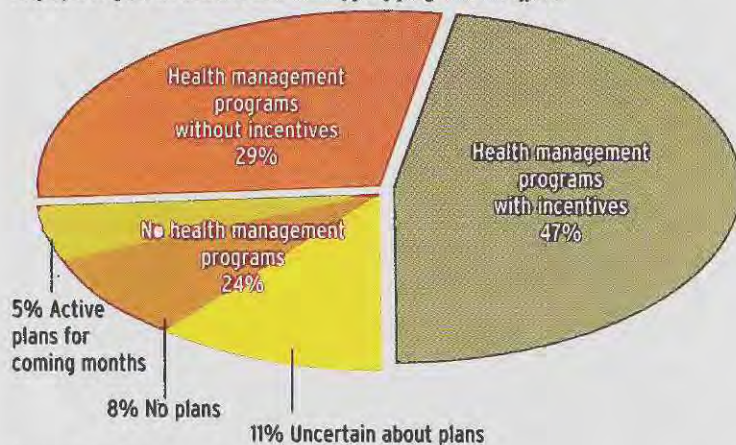
See **REFORM** page 32



South Carolina Gov. Mark Sanford is expected to sign a workers compensation reform bill this week.

STATUS OF HEALTH MANAGEMENT PROGRAMS

Employers report on whether and what type of programs are offered



Source: IncentOne

Most employers using health management

Half of programs offer incentives to employees

By GLORIA GONZALEZ

Nearly half of U.S. employers that offer health management programs to their employees also offer incentives to boost employee participation, a survey shows.

Seventy-six percent of midsize and large U.S. manufacturers and corporations are offering programs to manage or maintain employees' current level of health, according to a survey conducted jointly by the

ERISA Industry Committee and the National Assn. of Manufacturers, both based in Washington, and IncentOne, Lyndhurst, N.J.-based provider of incentive programs to employers.

The Web-based survey, which had responses from 242 employers, found that 47% of respondents offer both health management programs and incentives; of the three-quarters with such health

COMPLETE COVERAGE of the AHIP meeting in the July 2 issue.

See **SURVEY** page 32

401(k) case could boost plan fiduciaries' liability

High court to consider if ERISA allows suits over individual losses

By SALLY ROBERTS

WASHINGTON—Employers with defined contribution plans may face more fiduciary liability depending on how the Supreme Court interprets sections of federal pension law.

The high court agreed last week to hear arguments in *James LaRue vs. Dewolff, Boberg & Associates Inc.*

At issue is whether the Employee Retirement Income Security Act allows an individual participant in a defined contribution plan to sue fiduciaries to recover individual plan account losses caused by an alleged fiduciary breach.

Federal courts have ruled differently.

The 4th U.S. Circuit Court of Appeals in Richmond, Va., which upheld a lower court decision in the *LaRue* case, ruled that while ERISA provides that a lawsuit may be brought by a participant against a fiduciary who is liable to make good any losses to the plan due to a fiduciary breach, the remedy is only for entire plans, not for individual accounts.

Additionally, the appeals court noted, in drafting ERISA, Congress

sought to balance the protection of participants' rights with the encouragement of plan formation.

By making fiduciaries liable where there was no "unjust enrichment" to the fiduciary would seriously discourage plan formation and the service of qualified individuals and institutions as fiduciaries, the appeals court said.

In this case, James LaRue, who has participated in Dewolff, Boberg & Associates' 401(k) plan since 1993, alleges his retirement account is short \$150,000 because the management firm, which administers the plan, failed to carry out his directions to make certain investment changes to his account in 2001 and 2002. He sued the firm in 2004.

In an amicus curiae brief encouraging the Supreme Court to review the 4th Circuit ruling, U.S. Solicitor General Paul D. Clement noted that every other courts of appeals that has addressed the issue have all held that ERISA authorizes suits by participants in such instances not withstanding that the recovery will ultimately be allocated to the plan accounts of a limited number of participants.

As it stands, the 4th Circuit ruling "threatens to leave many plan participants without any effective redress for breaches of ERISA's fidu-

See **ERISA** page 32

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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

MAY 24, 1982 The New York office of Johnson & Higgins made an informal no-drinking policy official when its managing director sent a memo to staff noting that alcoholic drinks at lunch and during the workday reduce productivity. J&H's policy was big news in Manhattan when gossip columnist Liz Smith reported it on television.

JUNE 7, 1982 Borden Inc.'s overhaul of benefits for non-union workers, including higher deductibles and coinsurance, is expected to cut the company's health care costs by one-third. Borden noted that extra benefits such as higher retirement plan contributions mean its overall benefit spending will remain largely the same.

Zurich, attorneys ordered to pay \$1.25M in WTC case

Deleting and failing to disclose electronic insurance policy 'insulted public and judicial expectations': Judge

By RUPAL PAREKH

NEW YORK—Zurich American Insurance Co. and two law firms—Wiley Rein L.L.P. and Coughlin Duffy L.L.P.—must pay a total of \$1.25 million for failing to produce a key document as part of insurance coverage litigation related to the Sept. 11, 2001, terrorist attacks, a New York federal court ruled last week.

The sanctions imposed on Zurich and its attorneys stem from Zurich employees' deletion of a 62-page electronic version of a primary liability insurance policy issued for the World Trade Center properties.

The version of the policy as it existed on Sept. 11, 2001, gave the Port Authority of New

York and New Jersey and Westfield Corp. Inc.—a lessee of retail space in the Twin Towers—status as an "additional insured" under certain endorsements to the WTC policy, Judge Alvin K. Hellerstein said in his opinion.

But when Zurich in November 2001 issued its full, post-binder primary liability insurance policy, it did not include those endorsements, Judge Hellerstein said.

In subsequent coverage disputes, Zurich denied that the Port Authority and Westfield were entitled to insurance coverage under the WTC policy.

"Zurich eliminated the electronic version of the policy as it existed on Sept. 11, 2001, but fortunately, the policy persisted in paper form

THE RULING

A federal judge ordered insurer Zurich American and law firms Wiley Rein and Coughlin Duffy to pay \$1.25 million for:

Deleting an electronic policy naming the Port Authority and a WTC lessee as additional insureds

Failing to disclose the information for nearly two years after a paper copy was found

in Mary Merkel's files," Judge Hellerstein wrote in his ruling. Ms. Merkel was chief underwriter-U.S. for Zurich.

Additionally, according to Judge Hellerstein's opinion, Zurich's attorneys took possession of the document from Ms. Merkel's office in March 2003, but failed to produce it until February 2005, "following pointed inquiries by opposing counsel."

"Zurich's decision to assert and maintain its denial and defenses regarding the Port Authority's status as additional insured multiplied proceedings, caused substantial expenses to the parties, caused substantial waste of

See **ZURICH** page 32

Arch agrees not to use Gen Re's trade secrets pending trial outcome

By RUPAL PAREKH

STAMFORD, Conn.—Arch Capital Group Ltd. and four former managers of General Reinsurance Corp. who joined Arch have agreed not to use Gen Re trade secrets and client information, pending a trial over a Gen Re lawsuit against the parties.

The order, which a Connecticut Superior Court judge approved last week, replaces an earlier restraining order granted in May after Gen Re filed suit against Bermuda-based Arch and employees who had formerly worked in Gen Re's facultative

were responsible," and in April orchestrated an "en masse departure" that included 26 other Gen Re employees (*BI*, May 28).

Arch "aided and abetted their breaches of fiduciary duty in order to enter a business in which they had never competed," the suit said.

Arch meanwhile argued that the individuals who left Gen Re to join Arch did so without removing or retaining any documents or materials related to their work at Gen Re.

"They took no materials that contain, refer to or reflect any purported Gen Re 'trade secrets' or other proprietary information," Arch said in court documents opposing the temporary restraining order. Further, Arch said, the defendants—despite never having been "asked by Gen Re to sign covenants not to

compete, agreements not to solicit its customers or employees, or any other such restrictive covenants"—never reached out to their former colleagues, who "had long been disgruntled with the Gen Re environment."

"We are very pleased with the outcome of yesterday's hearing. The court will continue to prohibit Arch from using Gen Re's confidential information," said Damon Vocke, general counsel for General Re in Stamford.

"We are pleased that the TRO will be lifted shortly and that we have reached an agreement that allows Arch to resume offering a full range of products to all clients," Louis T. Petrillo, president and general counsel of Arch Capital Services Inc., said in a statement.

Errors & Omissions

• A June 18 story, "Missouri Captive Bill Awaits Governor's OK," incorrectly reported that the measure sets a \$1 million minimum capital and

surplus requirement for risk retention groups that are licensed as captives. The bill does not set a specific capital and surplus requirement for RRGs.

Easing return to civilian life a must

Employers urged at PRIMA to consider veterans' special needs

By DAVE LENCKUS

BOSTON—Welcoming a recently deactivated soldier back to work should involve a more elaborate effort than a party and cake to help the veteran reintegrate successfully to civilian life, according to a risk control consultant.

"The military does a great job of turning civilians into soldiers," said Greg Langan, the Mendota Heights, Minn.-based director of risk control services at Arthur J. Gallagher & Co.

But when military personnel return from active duty, "there's no transition" for them into civilian life, he said.

"We, as employers, are going to have to do it" to minimize the risk of problems veterans may face that could disrupt the workplace and lead to workers compensation and third-party liability claims, Mr. Langan said.

PLAN FIRST: Early plans can avoid most school trip risks, experts tell PRIMA attendees. Page 31

Mr. Langan made his remarks during a session at the Public Risk Management Assn.'s 28th Annual Conference, held June 10-13 in Boston.

Citing various government and private reports, Mr. Langan noted that more than 1 million military,

National Guard and reservist personnel have rotated through at least one tour of active duty in Iraq and Afghanistan since hostilities began in the two countries. As of early May, more than 178,000 soldiers were on active duty in the two countries, figures show.

U.S. Department of Defense figures show that between 17,000 and 21,000 active duty personnel are released each month, Mr. Langan noted.

Referring to the number of veterans who have returned or will return to their jobs, Mr. Langan

See **VETERANS** page 31

Outdated policies spell ongoing liability risks for law enforcement

Some high-speed pursuit rules may need to change, expert tells PRIMA

By DAVE LENCKUS

BOSTON—Public entity risk managers could reduce police-related losses significantly by working to improve jail bookings, prisoner oversight and vehicle policies and procedures, according to a panel of risk management experts.

But capturing a police or sheriff's department's attention might first require risk managers to pay attention to their police departments in either some subtle or, when necessary, more overt ways, the experts told attendees at a session during the Public Risk Management Assn.'s 28th annual conference, held in Boston June 10-13.

Old, outdated policies and procedures "could be the biggest problem with police departments for risk managers," said Robert J. Krall, the Chicago-based director-risk control services at consultant Trident Insurance Services L.L.C., a unit of Argonaut Group Inc.

Those old policies and procedures can be the underpinnings of police actions that trigger lawsuits, but

because they have not been reviewed and modified for years, they are passed along to new officers, Mr. Krall said.

How the police and sheriff deputies handle prisoners—from jail bookings through releases—are a source of claims that can be reduced relatively easily, according to Mr. Krall.

For example, he said, prisoners who need medical attention should

not be booked until they are treated.

Mr. Krall noted cases in which prisoners who appeared in obvious need of medical attention before they were booked—including a woman who later suffered a heart attack—were instead placed in holding cells.

"That's a violation of their consti-

See **LAW ENFORCEMENT** page 30



Out-of-date procedures on handling prisoners and when to provide medical attention to people in custody are among major issues faced by risk managers who oversee law enforcement agencies, an expert says.

200,000 REASONS A SPRINKLER HEAD DOES NOT DOUBLE AS A COAT RACK.

WAUSAU PACKAGE AT WORK. Recently, we received some interesting property claims. Hotel guests, trying to expand their closet space, enlisted the help of sidewall sprinkler heads, using them as makeshift coat racks. The weight of the clothing damaged the fusible element of the sprinklers, setting them off and causing more than \$200,000 in water damage. When our loss



prevention experts located the source of the problem, they quickly advised clients to place a warning sign next to sidewall

sprinklers to prevent similar damage. Simple, but effective. That kind of industry knowledge and attention to detail can be found throughout Wausau, in any of our areas of expertise – from hospitality to construction. And with Wausau Package, you can leverage that expertise to get comprehensive coverage tailored to the specific needs of your business. It's all part of Wausau TotalValueSM and our commitment **PRICE ≠ COST.** to lowering your total cost of risk. A commitment backed by the financial strength of Liberty Mutual. To learn more, contact your Wausau Signature Agency representative or your appointed Wausau producer.



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Commentary

Cutting through the CRAP

"We are in danger of having a wholly disproportionate attitude to the risks we should expect to run as a normal part of life."

—Tony Blair, 2005

There's too much CRAP in the risk management field today, according to a theorist on risks and risk compensation.

CRAP, or Compulsive Risk Assessment Psychosis, is the term that John Adams, a professor at University College in London (www.john-adams.co.uk), applies to the increasing demand for an assessment of every possible risk, no matter how slight. This "disorder" causes society to try to analyze all potential hazards, even in the absence of wide agreement what the risk is and how it should be controlled, he said.

Regulators and risk managers are on solid ground when they are asked to devise strategies to control risks for which there is widely agreed upon evidence of likely outcomes. These include risks that are perceived directly, such as the risks of climbing a tree, and risks that are perceived with science, such as the risk of cholera bacteria in a water supply.

Things get on less solid footing, Mr. Adams contends, when risk managers are asked to extend their oversight to what he calls "virtual risks," which are merely "imaginable possibilities" for a given situation but for which there is insufficient evidence to say with certainty what might occur. Management of such risks is often based on emotion or superstition. Examples of this include reactions to global warming, radiation from mobile phones, passive smoking and other situations where science can't agree on the risks.

Without common sense, or reliable evidence, control of virtual risks takes such forms as extreme risk avoidance or blanket warnings to avoid all possible risks, no matter how unlikely. And when this happens, Mr. Adams contends, the result is CRAP.

Speaking at the annual Assn. of Insurance & Risk Managers conference in London earlier this month, Mr. Adams offered several graphic examples of this disorder:

- A playground in Castlehaven, England, with barriers and rubber mats surrounding several swings, which lack swings. When he asked why there were no swings, Mr. Adams was told: "The swings are packed away because kids might climb the fence and use them unsupervised and hurt themselves."

- A mandate by his university to provide a risk assessment to protect all dissertation students conducting field work. The 69-page Web guide starts with a list of hazards, each of which is broken down into ever-smaller categories. Environmental hazards, for example, include an assessment of ter-



PAUL WINSTON

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rain risks, leading to the helpful advice: "ensure you can see where you are putting your feet before walking."

- A photo of several cactus plants in the entrance to the Health and Safety Laboratory in Buxton, England, with signs warning: "CAUTION - These plants are covered in sharp spikes that may puncture the skin if touched. DO NOT HANDLE."

- A warning sign in South Africa placed at the head of a path leading downhill to a river shows the image of a person in a wheelchair

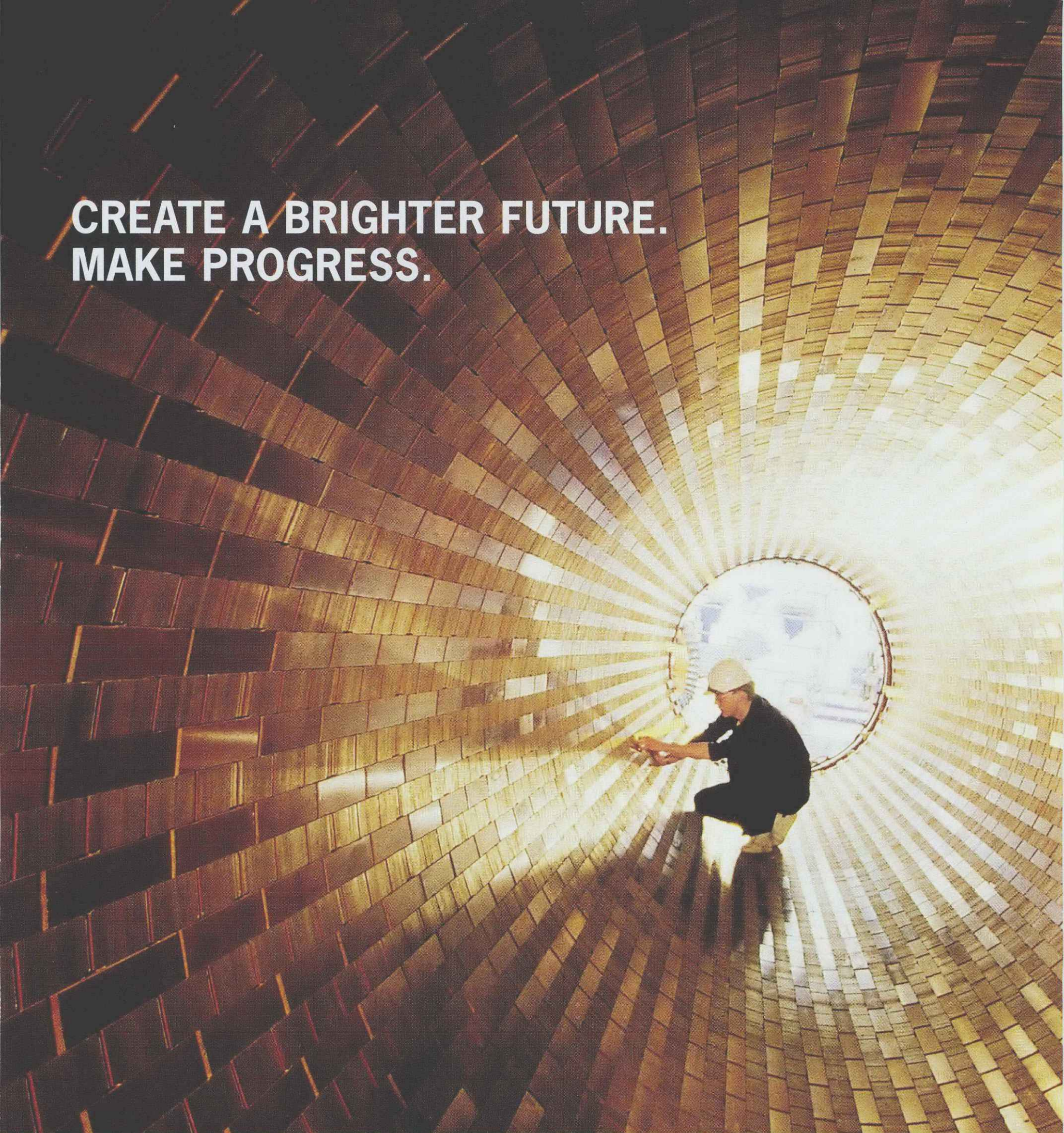
There's too much CRAP in the risk management field today.

hurtling toward the open mouth of a crocodile. That path was empty of people in wheelchairs and on foot, apparently heedful of the message.

Mr. Adams said risk managers often feel compelled to conduct risk assessments to "ward off lawyers." This analysis drew chuckles from many risk managers in attendance. With the benefit of hindsight, Mr. Adams said, a ruthless attorney can transform the adverse outcome of a decision to take a risk into an act of negligence.

I believe this cover-your-backside approach results in another disorder: Dysfunctional Assessment of Flagrant Threats, or DAFT. This disorder manifests thusly: As some risk managers attempt to assess possible risks, and cover all surfaces in their control with warnings, some people become dependent on those warnings and relax their own vigilance. As a result, these people reason that in the absence of flashing lights, barriers and safety cones, a condition of safety must exist, relieving them of the need to make their own evaluation of potential risks and respond accordingly.

Unfortunately, our culture has become too accepting of these disorders and they are likely to spread. Of course, that's just my best guess.



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Business Insurance OPINIONS

TRIA extension bill good, can get better

THERE'S A LOT TO LIKE about the Terrorism Risk Insurance Revision and Extension Act of 2007. And perhaps the best thing about the bill is that it has been introduced more than six months before the existing federal terrorism insurance backstop is set to expire.

As we report on Page 1, the measure would bring long-term certainty to the terrorism insurance marketplace by extending the federal backstop program for 10 years rather than two years, which was the length of the 2005 extension. The bill also would erase the artificial distinction between acts of domestic and foreign-directed terrorism, by bringing the latter under the backstop's protection. It also would add group life insurance to the lines of insurance covered by the program, a change that has been sought by some risk managers.

In all, it's a fine piece of legislative work, but like any newly introduced piece of legislation, it is definitely a work in progress. And as far as we're concerned, that's for the better, as there are some key issues that still must be resolved.

For example, the bill would require insurers to "make available" coverage for nuclear, chemical, biological and radiological terrorism risks. This is an addition that needs to be considered extremely carefully.

We believe that NCBR risks require more study, because they may indeed be uninsurable at any cost and, therefore, may demand a different approach.

We're also concerned that the House bill cannot be called a bipartisan measure. Republicans say that the Democratic majority did not take their concerns into account adequately before introducing the bill. We hope those concerns receive a fair hearing because terrorism insurance is not a partisan issue—it's an issue of national security.

We're more than happy that the House has a good base to build upon in extending the terrorism insurance backstop. We hope they do so quickly, yet carefully, to ensure a stable terrorism insurance market for the long run.

It's a fine piece of legislative work, but it is definitely a work in progress.

Consumer-driven HMO a step in right direction

CAN CONSUMER-DRIVEN HEALTH PLAN features be successfully incorporated into a health maintenance organization to form a new hybrid product?

We think so and are glad to see that California-based Health Net Inc. has done just that.

Enrollees in the Health Net Optimizer HMO, like a traditional HMO, must go to network providers to receive coverage.

Like a consumer-driven health care plan, though, enrollees have financial incentives to use health care services carefully. Among other things, enrollees can tap employer-funded health reimbursement arrangements to pay for out-of-pocket expenses, such as coinsurance for hospitalization. Unused HRA balances can be rolled over to pay for succeeding years expenses.

As Health Net's Chief Commercial Officer Mark Morgan noted, the hybrid plan is designed so that physicians, who are paid on a capitated basis, deliver cost-effective care, while enrollees also have incentives to use services prudently.

Is this an arrangement that will bring down health care costs? It is much too soon to say that. But the new product is a welcome example of the creative thinking going on, and we hope there is much more to come on the part of health plans to keep cost increases at more reasonable levels.



BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

Agents/brokers:
Sally Roberts.

Benefits—health care and ancillary benefits:
Joanne Wojcik.

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Claims management:
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Insurance coverage litigation: Douglas McLeod.

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Group legal coverage grows in popularity as voluntary benefit

Plans can help employers reduce absences, gain competitive advantage

By KAREN PALLARITO

Group legal plans have never enjoyed the popularity of top-tier employee benefits, such as health insurance, but they have grown in recent years.

Not long ago, many benefit managers didn't even know what they were, said Marcia L. Bowers, group sales director for Hyatt Legal Plans Inc., a Cleveland-based MetLife Inc. company. Ms. Bowers recalled times during the

1990s when "I went to a lot of trade shows and benefits managers would come up to my booth...and they would say, 'Interesting. What is it?'"

In recent years, though, group legal plans have picked up steam.

In 2006, 27% of U.S. human resource professionals said their organizations offered legal services, up from 24% in 2004, according to a survey by the Society for Human Resource Management in Alexandria, Va. The figure rises as companies increase in size, with 34% of businesses with 500 or more employees offering legal services to employees, the survey found.

Such plans can help employers distinguish their benefits from those of their competitors, vendors say.

"It complements an employer's package," said Cathy M. Branigan, Chicago-based area senior vp for client development at Gallagher Benefit Services Inc., an employee benefits consulting firm.

And employers see offering legal services as a means to reduce absenteeism, said Kevin Buske, assistant vp of worksite marketing at Legal Access Plans L.L.C. in Houston. "Somebody facing the possibility of

revocation or suspension of their driver's license due to too many traffic tickets, that's going to take away from their focus on their work; that's going to lend itself to absenteeism," he said.

Not on the short list

Although the popularity of legal plans' is rising, employers often are more concerned about fixing health care and bidding out life insurance than adding a legal benefit, said Ms. Bowers of Hyatt Legal Plans. "We are by no means on the short list for benefits professionals."

Concurring was Patrick O'Brien of GE Money-Benefit Solutions, which sponsors the Signature Legal-Care plan. "We are actually disappointed that more employers aren't offering the plan, but we've seen strong growth over the last several years and anticipate and hope that it will continue to grow at even a faster pace going forward," said the Schaumburg, Ill.-based senior vp of benefit solutions.

Group and prepaid legal services have been around since the 1970s, said Tori Wible, executive director of the American Prepaid Legal Services Institute in Chicago, an affili-

TYPES OF LEGAL BENEFITS

PREPAID LEGAL PLAN. Provides legal services to the group member and, in most cases, their spouse and dependent children, for a prepaid, monthly fee. Typically, there's no limit on the number of times a member may seek legal advice and services. Typical premiums range from \$10 to \$20 a month.

PREPAID ACCESS PLAN. Offers certain basic services, such as telephone advice, brief office consultations and preparation of simple legal documents, at no additional cost plus other legal services at a discount or for a flat fee. Typical premiums range from \$8 to \$14 a month.

Both types of plans connect the member with a participating lawyer or law firm able to provide legal advice and consultation by phone or in-person. Popular services include will preparation and review of legal documents, although the range of legal issues that these plans tackle is broad. These may include living wills, estate planning, powers of attorney, civil litigation defense, adoption, guardianship, name changes, prenuptial agreements, divorce, real estate transactions, traffic matters, consumer protection issues and identity theft.

See **LEGAL** page 18



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ComPsych Corp.	\$162,690,000
Magellan Health Services Inc.	\$128,746,000
United Behavioral Health	\$100,000,000
ValueOptions	\$70,221,830
MHN Inc.	\$59,000,000

Source: BI survey

LARGEST EAP PROVIDER BY EMPLOYER CLIENTS

ComPsych Corp.	7,900
Integrated Behavioral Health	4,500
Ceridian Corp.	1,835
Magellan Health Services Inc.	1,300*
CIGNA Behavioral Health	961

*Estimated

Source: BI survey

Largest employee assistance program providers

Ranked by number of lives covered at year-end 2006

Rank	Company/Address	Phone/Fax/Web site	Lives covered	Employer clients	Total salaried employees	Total contracted professionals	Principal officer
1	ComPsych Corp. NBC Tower, 455 Cityfront Plaza Drive, Chicago, Ill. 60611	800-851-1714 Fax: 312-595-3125 www.compsych.com	25,827,000	7,900	369	28,700	Dr. Richard A. Chaifetz, chairman/CEO
2	Magellan Health Services Inc. 55 Nod Road, Avon, Conn. 06001	860-507-1900 Fax: 860-507-1990 www.magellanhealth.com	13,900,000	1,300 ¹	3,900	63,000	Steven Shulman, chairman/CEO
3	CIGNA Behavioral Health 11095 Viking Drive, Suite 350, Eden Prairie, Minn. 55344	952-996-2426 Fax: 952-996-2519 www.cignabehavioral.com	7,965,306	961	905	43,485	Keith Dixon, president/CEO
4	Ceridian Corp. 3311 E. Old Shakopee Road, Minneapolis, Minn. 55425	925-853-8100 Fax: 925-853-4430 www.myceridian.com	7,082,850	1,835	436	6,099	Kathryn V. Marinello, president/CEO
5	United Behavioral Health 425 Market St., 27th Floor, San Francisco, Calif. 94105	614-410-7358 www.unitedbehavioralhealth.com	7,000,000	900	3,235	379	Gregory A. Bayer, CEO
6	VMC Behavioral Healthcare 100 S. Greenleaf, Gurnee, Ill. 60031	847-625-3500 Fax: 847-249-2772 www.vmceap.com	5,375,000	442	256	18,300	Mary Vasquez, president/CEO
7	ValueOptions 240 Corporate Blvd., Norfolk, Va. 23502	757-459-5200 Fax: 757-459-7568 www.valueoptions.com	5,055,794	259	2,328	49,606	Barbara Hill, CEO
8	Charles Nechtem Associates Inc. 744 Broad St., Newark, N.J. 07102	866-327-2040 Fax: 973-792-0090 www.charlesnechtem.com	4,234,000	317	155	20,000	Charles Nechtem, president
9	Bensinger, DuPont & Associates 20 N. Wacker Drive, Suite 920, Chicago, Ill. 60606	312-726-8620 Fax: 312-726-1061 www.bensingerdupont.com	4,116,578	548	67	18,100	Peter Bensinger, president/CEO
10	MHN Inc. 503 Canal Blvd., Point Richmond, Calif. 94804	800-488-8449 Fax: 510-620-6490 www.mhn.com	3,300,000	647	1,134	44,710	Steven Sell, president/CEO

¹ Estimated.

Source: BI survey

Researched by Karen Tucker

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Funeral planning service extends definition of 'work/life' benefit

By KAREN PALLARITO

As the range of work/life benefits aimed at helping employees balance all their responsibilities grow more diverse, at least one company is seeking to add end-of-life planning to the mix of benefits.

In April, Everest Funeral Package L.L.C. began marketing its "funeral planning and concierge services" as an employee benefit. The company, launched by the former president of one of the nation's largest publicly traded funeral home companies, says it helps people shop for the best prices on funeral-related products and services.

"Most people do not negotiate on price," said Mark Duffey, chief executive officer of the Houston-based company. "They walk into a funeral home, and the funeral home knows there's a 98% chance that whatever they show them, the customer is going to buy."

For up to about \$3 a month, employees or their family members can access Everest's online funeral planning tools, create a custom report comparing funeral homes prices in an area and speak with an Everest adviser who can help walk them through the process.

The package is offered as a paid-in-full, partially subsidized or vol-

untary benefit.

"There are no Wal-Marts in the funeral business," Mr. Duffey said. "We negotiate the best price based upon what it is that client wants, and we find that we can save significant amounts of money." A traditional funeral costs \$6,000 to upwards of \$10,000, according to the Federal Trade Commission.

Mr. Duffey wouldn't share names of the three clients who've signed up with the new service. "They want to get a little bit of history on it before they talk about it," he said.

But Josh Slocum, executive director of the Funeral Consumers Alliance, a national nonprofit based

in South Burlington, Vt., urges buyers to know their options.

"I wish employers would understand that there may be less expensive ways to help their employees," he said. A new FTC publication, "Paying Final Respects: Your Rights When Buying Funeral Goods & Services," for example, offers tips in plain English. It advises consumers, for example, to comparison shop before deciding on a funeral home or casket, "typically the most expensive items in a funeral service." It also notes that "immediate burial," which does not require embalming, and cremation usually are the least expensive options.

Legal: More employers offer benefit

CONTINUED FROM PAGE 14

ate of the American Bar Assn.

Initially, unions negotiated this coverage as part of their benefits package, with employers picking up the cost. Over time, Ms. Wible said, employer subsidization has waned, in large part due to the elimination in 1992 of the tax-preferred status of employer-paid group legal plans under the federal tax code. Today, most employers that offer legal services do so as a voluntary, employee-paid benefit.

Generally, there are two types of group legal plans (see box, page 14).

"We really look to cover...the majority of personal legal needs that an individual may have," including financial planning, identity theft and consumer protection services, said Ann Dieleman, senior vp of sales and marketing for ARAG North America Inc. in Des Moines, Iowa. Family matters, including adoption and divorce, are also commonly used, she noted.

Since the 2005 death of Terri Schiavo, the brain-damaged woman whose husband won court approval to remove her feeding tube, U.S. residents have become more aware of the need for a living will. "We did see an increase in that particular benefit usage and it has remained high," Mr. Buske said.

Likewise, the terrorist attacks of Sept. 11, 2001, have bolstered demand for wills and estate planning, he added.

Limits protect employers

Still, group legal plans don't cover every legal need.

"The programs that you will find in this space...are designed to help people with personal legal matters. So we're not there to help people with their business law or their criminal law," said Dell Kubler, Atlanta-based national sales director for GE Money-Benefit Solutions.

These plans also are designed to protect the employer, so they can't be used to bring suit against the company, he said.

When shopping for a plan, employers should weigh the options carefully, experts said.

"You just want to make sure it's a reputable company offering the benefit," said Cathy Eichenlaub, first vp and manager of health and welfare benefits at Mellon Financial Corp. in Pittsburgh.

More than 400 of Mellon's 14,000 employees are enrolled in Hyatt Legal Plans, which the financial services company has offered for about three years.

Fujitsu America Inc. in Sunnyvale, Calif., began offering Hyatt Legal in 1995. "Initially, we made some errors in how we structured our offerings to our employees," said Joyce Mitome, the company's

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See **LEGAL** page 20

A close-up photograph of a bumblebee on a vibrant pink flower. The bee is positioned on the right side of the frame, facing left, with its head and thorax visible. The flower's petals are numerous and pointed, creating a dense, spiky texture. The background is dark and out of focus.

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Legal: More companies offering benefit

CONTINUED FROM PAGE 18

senior benefit analyst. Instead of offering a single plan, the information technology company created high- and low-end plans. "We found that it confused our employees."

A year later, "we learned our lesson" and offered a single plan, which Ms. Mitome described as "sort of a middle ground" between the two previous options. "Employees seem to really like" the new option, she said.

One key to the plan's success is having a funding system that is administratively workable, said Ms.

Mitome, who supports Fujitsu throughout the United States. Each company arm collects member premiums and directs them to a central location that, in turn, pools the money and writes a single check to the insurer.

Consumer product giant Procter & Gamble Co. has offered a voluntary legal benefits plan through ARAG for more than a decade, said a company spokesman in Cincinnati. "We do monitor the marketplace to be sure we are delivering a competitive product to employees," he said.

Among other things, P&G considers the depth and breadth of cov-

erage and the vendor's efficiency in handling claims and responsiveness in handling customers. Another factor, he said, is the vendor's standing, as measured by years in business, key clients and financial rating.

Still, group legal plans still are far from the most popular employer benefit.

Hyatt Legal and ARAG report average enrollment rates of 8% to 20%. While historical data is unavailable, officials at GE Money's Signature LegalCare program look for 10% to 15% enrollment in the first year, with 20% annual growth in the first few years.

Online gambling ups odds of a problem in workplace

Other Internet misuse more of a concern to many employers

By LEIGH PAGE

The increasing sophistication of Internet gambling has created additional challenges for employers, experts on employee assistance programs say.

Thousands of online gambling

sites offer highly popular poker games, roulette, pachinko, baccarat and other gambling in addition to a great deal of sports betting. Cyber gamblers in the office can bet on real events or on fantasy sports, where they assemble a fantasy team from players in the real world and compete based on players' statistics.

Isabelle Duguay, coordinator of problem gambling at Bensinger, Dupont & Associates, a Chicago EAP provider, said the Internet creates more gambling problems than any bricks-and-mortar casino.

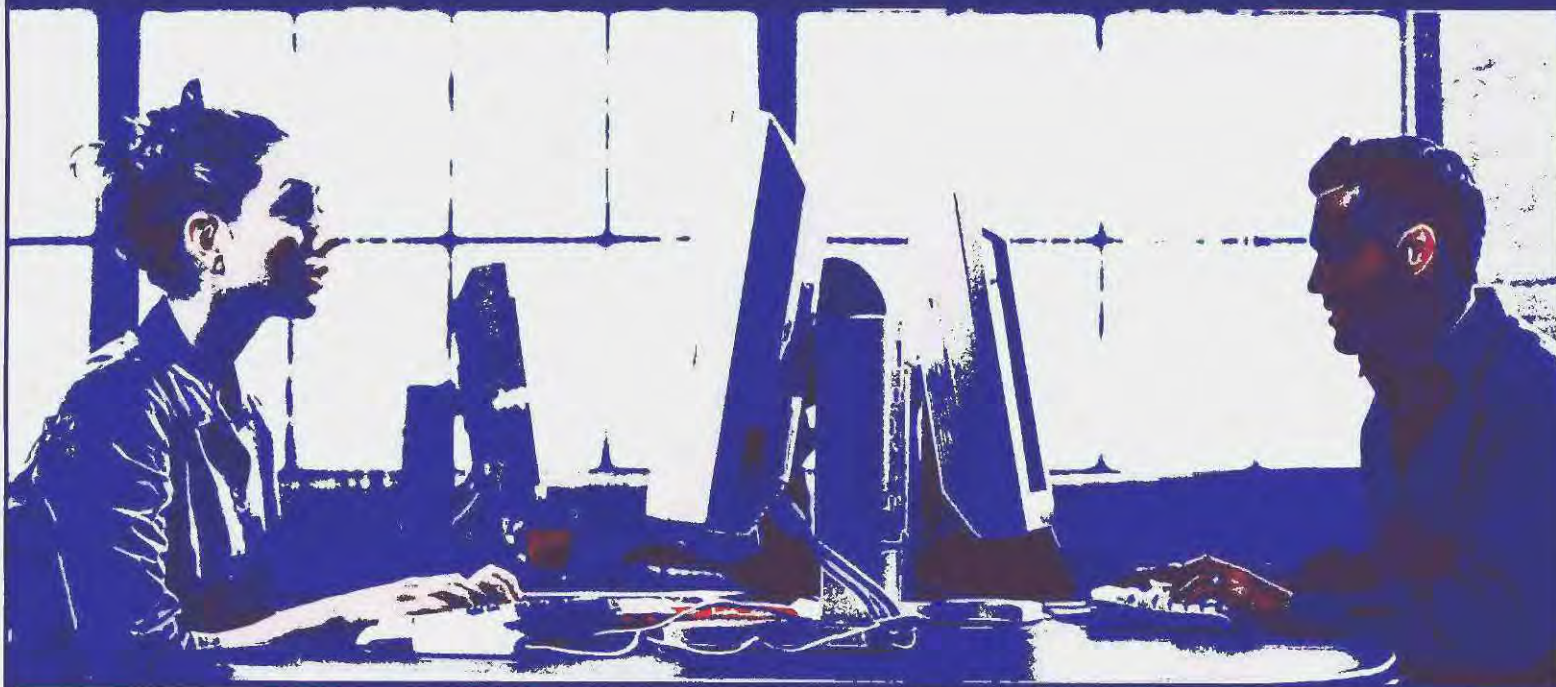
On the Internet, "the play tends to be faster and a player can be in several different games at once," she said. Playing games on several windows simultaneously, "you don't realize how much you are losing until it is too late."

A 2002 study by the Gambling Treatment Research Center in Storrs, Conn., found that 75% of

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- What are the pitfalls to avoid in implementing an ERM program in your organization?

SAVE THE DATE:

Wednesday, June 27, 2007

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WHO SHOULD ATTEND:

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- Insurers, Brokers, & Consultants

INTERNET GAMBLING PROBLEM

According to Isabelle Duguay, coordinator of problem gambling at Bensinger, Dupont & Associates, a Chicago EAP provider, employers should take the following steps to deal with Internet gambling in the workplace:

- **Create a workplace gambling policy.** A clear, consistently applied policy defining prohibited and permitted activities will help make sure workplace gambling doesn't spin out of control.
- **Provide awareness training.** Without awareness, problem gambling cannot be detected. Training can help managers and employees recognize the warning signs and be prepared to offer appropriate assistance.
- **Make problem gambling counseling available.** Problem gambling is a mental health disorder that needs immediate and appropriate attention. At-risk employees can get confidential help from a company's EAP.

those who gamble online have a gambling problem, compared with about 5% of the overall gambling population.

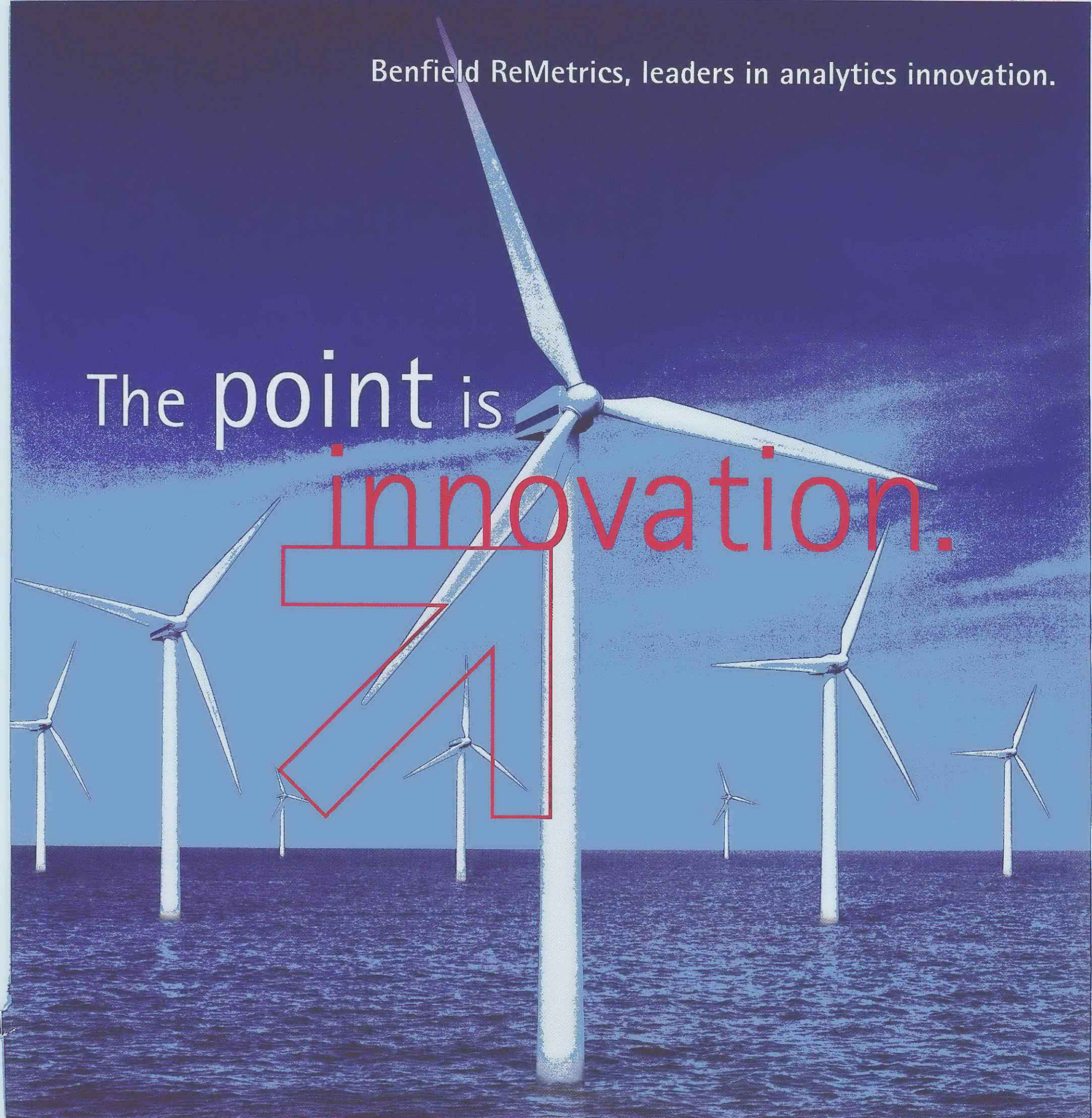
"It is so easy to gamble online," Ms. Duguay added. "You just go over and click on your mouse."

The Washington-based National Coalition Against Legalized Gambling reports that a new casino opening 10 to 50 miles away doubles problem gambling rates in a specific area, but Internet gambling provides "the ultimate proximity," a computer that is a few feet away.

A U.S. law passed last October is cracking down on gambling sites, which have fled to foreign bases such as Anguilla and Costa Rica, but Ms. Duguay reports that Internet gambling continues to be popular among young people, who dominate even the bingo sites.

But how much does Internet

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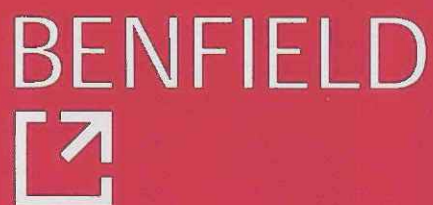


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Gambling: Online gambling ups the odds of employee problems

CONTINUED FROM PAGE 20

gambling harm the employer? The longstanding risks for employees gambling away from work still apply: poor attendance, substance abuse and embezzlement to cover losses, said Judy Whitcomb, director of account services at ComPsych Corp., a Chicago-based EAP. And when gambling is brought to a computer in the office, she adds, it impinges on work time.

For example, a 2004 report by the Chicago-based outplacement consulting firm Challenger, Gray & Christmas calculated that employers lose more than \$1 billion in pro-

ductivity during March Madness, the NCAA men's basketball tournament.

Ruhal Dooley, human resources knowledge administrator at the Society of Human Resource Management in Alexandria, Va., says employers should be mindful of state laws on gambling, especially if they are in the public sector, but the risk is relatively minor. Gambling on the Internet is illegal in eight states—Illinois, Indiana, Louisiana, Montana, Oregon, South Dakota, Washington and Wisconsin—but there are no reported prosecutions against gamblers, much less their employers for allegedly facilitating

gambling through use of their equipment.

'It is so easy to gamble online. You just go over and click on your mouse.'

Isabelle Duguay, Bensinger, Dupont & Associates

Instead, law enforcement has pursued site operators. The sites are in a period of retrenchment follow-

ing passage of the federal legislation that goes into effect in July and prohibits online gambling operators from accepting funds from players.

Reacting to the law, sites such as Gibraltar-based PartyGaming P.L.C. and London-based Sportingbet P.L.C. say they would suspend operations for U.S. customers, while others, like Antigua-based Bodog.com Entertainment Group, have suspended U.S. advertising. And executives of London-based Neteller U.K. Ltd., which processed U.S. players' payments to most of the foreign sites, have been charged under an older federal law with "conspiring

to transfer funds with the intent to promote illegal gambling" by the U.S. Justice Department.

While employers are concerned about Internet pornography and threatening e-mails at work, many see gambling as harmless or even a way to foster camaraderie, Mr. Dooley said.

Kimberly Young, director of the Center for Online Addiction in Bradford, Pa., said obsession with other forms of Internet use is often perceived to be more of a problem, with some polls showing problems related to online shopping and accessing pornography online as a more of a concern than gambling.

In addition to eating up work time, heavy Internet use can tie up a company's bandwidth and risk importing spyware and viruses. Ms. Young recommends buying software that can block access to certain sites or monitor Internet and e-mail use.

EAPs often offer problem gamblers counseling over the phone and referrals to therapists.

Ms. Duguay and Ms. Whitcomb say employers can reduce the incidence of online gambling by creating a policy on gambling and following up with training to help management and workers recognize the warning signs, such as mood swings, asking to borrow money and requesting pay advances (see box, page 20).

"It helps to have employees sign policies and procedures, so that they know what is appropriate and what is not," Ms. Whitcomb said.

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Phased retirement one way to plug the workforce drain

Older workers become more valuable as U.S. pool of labor shrinks

By **PATTY KUJAWA**

Like fine wines, some older employees get better with age. With that in mind, some employers are launching phased retirement programs to try to retain valuable older workers. "As the labor market continues to shrink, employers need to entice older employees to partially retire," said Tonya Manning, chief actuary for Aon Consulting's retirement practice in Winston-Salem, N.C. "Phased retirement is the way to do that."

Indeed, the arrangements—in which an employee moves to a part-time schedule or, after retiring, is rehired part-time or as a consultant—are often described as win-win situations. The arrangements may enable employers to retain highly skilled employees who might otherwise retire, and allow employees to ease into full retirement.

Phased retirement 'is just a win-win for employees and the company.' Older workers 'bring so much knowledge.'

Alan Rhea, Stanley Consultants Inc.

"Employers would like to keep experienced workers on the job," said Christine Faris, senior manager at Smart Business Advisory and Consulting in Devon, Pa. "Older workers often serve as mentors."

One employer pleased with results of its phased retirement program is Stanley Consultants Inc. of Muscatine, Iowa. Of 1,500 employees worldwide, about 1%, or 15 employees, at any one time take advantage of its phased retirement program, which is tied to the engineering company's profit-sharing plan.

Both hourly and salaried employees can participate in the program. Employees that go on a reduced hourly rate have their benefits prorated; for hourly employees, the percentage of their phased retirement benefits equals the percentage of hours worked. Salaried employees' phased retirements are calculated individually. Part-time workers also can start receiving half of their profit-sharing retirement benefit, and new accruals are halved.

Stanley Consultants also offers a 401(k) plan in which employees on phased retirement can still contribute up to 4% of pay while Stanley matches half of enrollees' contributions up to 2%.

Phased retirement "is just a win-win for employees and the company," said Alan Rhea, Stanley's acting human resources director.

Mr. Rhea said Stanley Consulting's workforce is aging and new

engineers entering the workforce are not keeping pace.

The U.S. Bureau of Labor Statistics reported in 2006 that the median age for architecture and engineering jobs was nearly 47.

Phased retirement has definitely helped in terms of retaining clients who have worked long-term with certain Stanley employees, and allowed new engineers to learn the ropes from their more experienced colleagues. "We just don't want to lose (older workers). They just bring so much knowledge to the company," Mr. Rhea said.

Some employers use informal

phased retirement plans like Stanley Consultants'. Many employers call it informal because, until recently, pension law for traditional defined benefit plans had no language defining phased retirement.

The reason employers haven't instituted formal plans is that federal pension law was an obstacle. Specifically, employees younger than a pension plan's normal retirement age, which typically is 65, were not allowed to receive partial distributions from their employer's defined benefit plans while still working.

But Congress, in passing a com-

prehensive pension plan funding reform measure last year, opened the door wider to phased retirement programs. As part of the Pension Protection Act, federal legislators rewrote pension law to permit employees age 62 and older to begin receiving distributions from their defined benefit plans while continuing to work.

The new law is "a step in the right direction" Smart Business' Ms. Faris said.

Prior to last year's law, some employers used creative ways to go around federal restrictions and set up phased retirement programs.

For example, employees would establish a break in service by leaving the company for a set amount of time, and then return to work in a part-time or in a consulting capacity. Some observers noted that employers that did this with their workers risked losing these people to competitors.

Still, the revamped law "doesn't require" employers to offer phased retirement programs, said Bob Walter, a principal and benefit consultant at Buck Consultants L.L.C. in Secaucus, N.J. "How much the

See **RETIREMENT** next page



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Retirement: Pension reform removes obstacle to phased benefits

CONTINUED FROM PREVIOUS PAGE

employee is going to get remains open."

With Congress removing at least one obstacle—the inability of employees nearing normal retirement age to start collecting part of their annuity from their defined benefit plans while still working, albeit on a reduced work schedule—more employers are examining phased retirement programs.

Shortly after the PPA was passed, Hewitt Associates Inc. asked 146 employers what their focus would be in 2007 for their retirement plans in light of the new law and other

regulatory changes. Nearly half said they would evaluate phased retirement alternatives.

The survey results suggest phased retirement programs are a "pretty hot issue out there," said Bob Leone, a Hewitt actuary in Minneapolis.

Mercy Health System in Janesville, Wis., already has an informal program in place, but Kathy Harris, Mercy's vp of human resources, said the new provision was being reviewed by plan administrators. "This is right in line with our Work-to-Retire Program, so you will probably see us adopt it," Ms. Harris said.

For those employers considering phased retirement plans, guidance is still needed from the U.S. Treasury Department, observers said.

Rules have yet to be set

In 2004, the Treasury Department issued proposed regulations, which would have allowed employees to work fewer hours while receiving a partial pension benefit. Those regulations were never adopted because many observers complained that the rules were too complicated and confining.

As recently as May, the Treasury Department finalized the rule defining normal retirement age to a safe

harbor of 62, but this has little bearing on how to administer phased retirement plans, observers agreed.

Employers would like to have flexibility in how phased retirement works, observers said. In the 2004 proposed rules, employees would have needed to be at least age 59½, reduced working hours by at least 20% and accepted an annuity and not a lump-sum payment.

Smart Business' Ms. Faris said many employers would want to work with employees individually to determine the appropriate reduction in working hours. Employers would also like to decide which jobs would be too essential to allow the

employee in that position phased retirement benefits.

Other observers noted that employees might want to take advantage of phased retirement before they reach age 62.

"There are a number of issues that need to be resolved," Ms. Faris said.

Currently, the Treasury Department is working on rules and has asked for plan sponsor comments. Specifically, it asked whether an in-service distribution should be limited to the benefit that an employee would have received had he or she reached normal retirement age.

Also, the department is asking whether subsidized benefits should be treated as an early retirement benefit even though the employee hasn't left work, or if they should be treated as part of the participant's accrued benefit.



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In Brief

ING unit settles
kickback charge

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

UnitedHealth loses
bid to block probe

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

See IN BRIEF page 30

IRS rules create problems for firms launching HSAs

By JERRY GEISEL

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

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

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

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

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

The IRS, under pressure from Congress, in 2005 authorized grace periods for FSAs to reduce the impact of the end-of-year FSA forfeiture requirement, which has come to be known as "use it or lose it."

IRS rules, though, say that, w

See HSAs page 6

Drug pricing system nixed by pact

Class settlement may
lead to reduced
prescription costs

By JOANNE WOJCIK

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

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



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Market Moves

Hub International acquisition completed

CHICAGO—Apax Partners and Morgan Stanley Principal Investments have completed their \$1.90 billion buyout of Hub International Ltd. and taken the Chicago-based insurance brokerage private.

Hub shareholders approved the \$41.50 per common share private

equity buyout June 5, which was sweetened following competing proposals (*BI*, March 26; March 5).

"We look forward to working with Marty Hughes and the rest of the



management team to grow the business both organically and by supporting Hub's long-established acquisition strategy," said Mitch Truitt, a partner at Apax, in a statement.

Hub Chairman and Chief Executive Officer Martin Hughes said it will be business as usual. "There won't be any changes really in our strategy, our operations," he said. Apax and

Morgan Stanley Principal Investments "bought into our (growth) strategy, which is why we're so comfortable moving forward."

Hub delisted its stock on the New York and Toronto stock exchanges in mid-June, and said the deal was valued at \$1.76 billion plus assumption of \$145 million in debt.

An advantage of going private is more time to focus on building the business, Mr. Hughes said. As a public company, "I spent 65 days a year with the investment community."

Even so, Mr. Hughes said most Sarbanes-Oxley Act provisions will be kept since at some future point "the assumption is we're going to go public again."

Hub was the 12th-largest U.S. insurance brokerage in *BI*'s 2006 ranking.

QBE finalizes purchases of Winterthur U.S., Praetorian

NEW YORK—QBE Holdings Inc., the U.S. holding company of Australia's QBE Insurance Group Ltd., has completed the \$2.51 billion purchases of Winterthur U.S. Holdings Inc. from Paris-based AXA Group and Praetorian Financial Group Inc. from Germany's Hannover Re Group.

The previously announced transactions (*BI*, Dec. 25, 2006, and Jan. 8) were completed May 31 following U.S. regulatory approvals, QBE said in an e-mail.

QBE's purchase of General Casualty Insurance Cos. and Unigard Insurance Group came a year after AXA S.A. bought Winterthur Group in a \$10.9 billion deal with Credit Suisse Group (*BI*, June 16, 2006).

Winterthur U.S. Holdings Inc. has been renamed QBE the Americas and is based in New York. QBE Regional Insurance is the Sun Prairie, Wis., division overseeing General Casualty Insurance Co. of Sun Prairie and Unigard Insurance Group of Bellevue, Wash.

QBE's separate purchase of Praetorian includes New York-based Praetorian Insurance Co., Praetorian Specialty Insurance and Redland Insurance Co. Praetorian will remain in New York, but most staff will move effective today to QBE the Americas offices, QBE said in an e-mail. The office is at 88 Pine St., New York, 10005. The QBE Specialty Insurance division now oversees Praetorian.

"Praetorian, General Casualty and Unigard add substantial scale to QBE's consistently profitable insurance business" and "markedly" expand its specialty and regional offerings, said Tim Kenny, president and CEO of QBE the Americas, in a statement.

Integration of the units is expected to be "seamless," a spokeswoman said.

In an e-mail, QBE said it paid \$2.51 billion for the acquisitions that includes repayment of a \$557 million loan to the Winterthur U.S. parent.

The additions put QBE the Americas among the 20 largest U.S. property/casualty insurers, QBE said.

Watson Wyatt to buy Denver software firm

DENVER—Consulting firm Watson Wyatt Worldwide of Arlington, Va., said it plans to buy WisdomNet Inc., a Denver-based talent management software and consulting firm.

WisdomNet would allow Watson Wyatt to provide clients with "a comprehensive suite of global people management services," said Paul Platten, global practice director of Watson Wyatt's human capital group, in a statement.

All WisdomNet principals will join Watson Wyatt and the deal, the price of which was not disclosed, is expected to close in July, Watson Wyatt said.

Magellan to provide services to more CIGNA markets

AVON, Conn.—Magellan Health Services Inc. said it has entered into a three-year agreement with CIGNA HealthCare to manage radiology benefits for about 900,000 additional members in four more U.S. markets.

In a statement, the Avon, Conn.-based specialty health care management organization said management of the new markets will begin in late 2007 or early 2008, bringing to 15 the number of markets and to about 4 million the number of CIGNA HealthCare members served.

Ironshore to offer E&S cover in Texas

HAMILTON, Bermuda—Ironshore Insurance Ltd. said it has won

Continued on page 28

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Market Moves

CONTINUED FROM PAGE 26

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Texas business owners with property catastrophe and property all-risk insurance coverages," said Les Rock, Ironshore's chief underwriting officer, in a statement.

Based in Hamilton, Bermuda, Ironshore was formed in 2006.

Brokerage BB&T purchases Reese Insurance Associates

RIVERDALE, Ga.—Raleigh, N.C.-based BB&T Insurance Services has acquired Riverdale, Ga.-based Reese Insurance Associates Inc. for an undisclosed amount, BB&T said.

Reese, which provides commercial and personal property, casualty and

group benefits insurance, fills a void in the Georgia market, BB&T said.

The 25 Reese employees will remain with BB&T Insurance Services. They are to move to Fayetteville, Ga., in August, BB&T said in a statement.

Euler Hermes opens office in Dubai

DUBAI, United Arab Emirates—Paris-based Euler Hermes, a unit of Assurances Générales de France and a member of Munich, Germany-based Allianz A.G. Holding, has opened an office in Dubai, United Arab Emirates.

The Dubai city office will offer trade credit insurance to companies

in the Gulf Cooperation Council. Euler Hermes will work with local partners Alliance Insurance Co., Al Buhaira Insurance, Assurance Saudi Fransi and Qatar Insurance Co., Euler Hermes said in a statement.

GCC members include Bahrain, Kuwait, Oman and Saudi Arabia aside from the UAE. The nations have shown "impressive economic development" in recent years, said Clemens von Weichs, chairman of Euler Hermes Group, in a statement.

The new office shares space already used by Alliance Insurance at Warba Centre in Dubai, a spokesman said. The telephone number is 971-4-266-3083.

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BI's new Market Moves column reports on activities by insurance industry companies and related entities. Personnel changes appear in Comings & Goings, while new product offerings appear in Products & Services. Please send Market Moves news to: Charmain Benton, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; cbenton@businessinsurance.com. P&S and C&G items should be mailed to Joe Walker at the above address or e-mailed to jwalker@businessinsurance.com.

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International NEWS



NEWS.COM

Singapore may allow catastrophe bond vehicles

By MICHAEL BRADFORD

SINGAPORE—A regulatory framework is under development in Singapore to allow the creation of special-purpose reinsurance vehicles that will transfer risks to the capital market.

The Monetary Authority of Singapore earlier this month issued a consultation paper that outlines the proposed framework, saying it recognizes the usefulness of such securitization vehicles, particularly for managing risks related to pandemics and natural catastrophes.

Under the proposed regulations, the SPRVs would issue bonds in the capital market, investing the pro-

ceeds and the ceding company reinsurance premiums into a portfolio of highly rated securities. If no claims are filed, investors get back their principal, investment gains and reinsurance premiums less the operating expenses of the SPRV.

In the event of a claim, the principal and interest of the bonds may be at risk of default.

Because the risk of an SPRV being unable to fulfill its obligations is low, the MAS said, minimum capital requirements are set at \$20,000 Singapore (\$13,000).

The consultation paper is open to public comment until July 12. It is available from a link at www.mas.gov.sg.

Supplemental pension minimums proposed

By MICHAEL BRADFORD

BRUSSELS, Belgium—Supplemental pensions paid to workers in the European Union would be subject to the same minimum standards in all member states under a directive proposed by the European Parliament.

The proposed directive would apply to group insurance contracts, pay-as-you-go schemes, funded plans and any other supplemental programs that are becoming increasingly popular in the European Union as a way for workers to secure decent living standards in retirement, the European Parliament said in a statement.

Member states would see significantly different effects if the proposed legislation is implemented, the European Parliament acknowledged. In some states, there are no supplementary pension plans, and in others, few plans exist. In Sweden, however, around 75% of work-

ers between ages 20 and 64 are members of occupational pension schemes, the European Union said.

Among the proposed directive's measures is one that would set vesting periods at a maximum of five years at a job. Some plans in France and most in Portugal only allow vesting at retirement if workers still belong to the company, the European Parliament pointed out.

Member states also would have to ensure that workers receiving benefits from a supplemental pension retained rights similar to those afforded active workers. For example, protection against inflation and return on investment should be similar for both groups.

The European Parliament is calling for gradual improvement in the transferability of vested pension rights among member states.

Tax laws hinder such movement, the Parliament pointed out, but it suggested E.U. states work to change that situation.

IN PROFILE

Geoff Taylor: Risk managers often must sell management on their value

AIRMIC's outgoing chairman explains to Business Insurance Europe's Adrian Ladbury how risk managers can prove their worth to the board.

The concept of upside risk management is gaining in currency among the boards of European corporations. But risk managers still have a lot of selling to do before it becomes mainstream and helps bolster the influence of risk managers, according to Geoff Taylor, immediate past-chairman of the U.K. Assn. of Insurance & Risk Managers.

Mr. Taylor, who is the Hilversum, Netherlands-based Europe, Middle East and Africa region risk manager for U.S. sports goods manufacturer Nike Inc., embraced how to gain competitive advantage from risk management as his theme for his year in charge at London-based AIRMIC.

He is a strong believer in the idea that companies can use the disciplines and processes adopted by risk managers to help identify positive as well as negative influences on their business and

He said that the concept will vary from company to company depending upon its business, but, generally speaking, it can be defined as the practical application of risk management processes to identify and measure risks and opportunities to help with decision-making.

"When you go into any venture (such as an acquisition) as a business, you hope to realize gains. The success of the venture will be based on certain assumptions, some will be based upon fact and research. If you apply risk management principles, you can maximize the upside and avoid the pitfalls or use risk management techniques to decide which bring the most benefit. It is really all about helping companies to make good investments," he explained.

Mr. Taylor said Nike is fairly typical in that it understands the value of downside risk management but less so the upside concept. He said that he and other

risk managers need to continue in their efforts to promote the idea.

"There is a lot more selling to be done. Risk management is more appreciated in more regulated industries such as banking,

because they are managed by directives and risk managers have a mandate. In companies like my own that are more brand-driven it is more difficult. How many companies really do enterprisewide risk management? Most of the banks and utility companies (do), otherwise I can think of probably only one other," he said.

Mr. Taylor also pointed out that risk managers within industries that operate in higher-risk areas, such as pharmaceuticals, and perishable goods, such as food, naturally have a bigger say.

"In foodstuffs, the standards are high because if you produce one bad product, it can be very bad news. People can die as a result. If you are selling athletic shoes, it is difficult to kill someone. In our company, corporate responsibility takes a leading place ahead of risk management because it is what the customers are interested in," he said.

But while risk managers who work within highly regulated industries such as banking and pharmaceuticals may enjoy a higher profile than most, Mr. Taylor does not believe that more



Geoff Taylor is the past chairman of the Assn. of Insurance & Risk Managers

regulation is the answer.

He believes that risk managers in most other industries simply have to work harder to sell the message to top management.

"In the past, the chief executive officer did everything. Over time, the next person to arrive on the C-suite was the chief financial officer, because the chief executive officer realized he or she could not understand everything. Then came the legal officer and then human resources and information technology, which were seen as more important to the business and accepted in the C-suite. CEOs will ask, 'Why do I need risk management when I can do it?' but the same question was asked about HR," he noted.

"Risk management is not at the top table yet, but it is about consistent processes and can help the C-suite decide to do the right thing. We don't control processes. We are here to advise. Just like the legal counsel who does not tell the CEO what to do, they advise what is best on the basis of the law," said Mr. Taylor.

Not surprisingly, therefore, one of Mr. Taylor's main projects while at the helm at AIRMIC has been to initiate a research project into enterprisewide risk management to try and prove that it does add value.

This work is ongoing, but he said that it will remain a central part of his successor's work and that he is looking forward to seeing the results.

"The difficult thing when dealing with risk management is to show the value of it, because things did not happen because risk management was in place. There is certainly evidence out there and the research program is in progress. We believe clearly that enterprisewide risk management does add value and brings competitive advantage and we can show it," said Mr. Taylor.

'How many companies really do enterprisewide risk management? Most of the banks and utility companies (do), otherwise I can think of probably only one other.'

Business Insurance PERSPECTIVE

Plan an insurance strategy in writing a property lease

By Howard C. Alper

Note: This article, originally published in the Feb. 1 and 8, 1982, issues of Business Insurance, has been updated.

It was a spectacular fire; the debris had not been cleared, and the landlord was on the phone with his "former" tenant asking when reconstruction would begin.

The tenant responded that his agent told him that reconstruction couldn't begin until the financing for the uncollectible part of the loss, the depreciation, could be established. The tenant said he wasn't willing to take out a mortgage for the uninsured depreciation and expected the landlord to pay the difference.

The landlord adamantly said, "Why isn't the insurance adequate to pay the full reconstruction cost? The lease requires you to carry an amount of insurance equal to the full insurable value."

The tenant replied, "I did cover the full insurable value, but my insurance agent said full insurable value means 100% of the normal insurable value, and normal insurable value is actual cash value, which means replacement costs less depreciation."

Now you've got the picture; the final decision will be made by a judge.

Most leases favor the building owner—not the tenant. Advance planning in writing insurance clauses in leases can save much time, cost and many headaches in the event of an insurance claim. The landlord and the tenant need not be adversaries. In most cases, landlords will accept clauses proposed by the tenant, if properly explained, as the clauses are good for both parties.

The following are some key lease provisions related to insurance. For brevity, we are reviewing only the most significant areas.

1. The area of property insurance in leases is the one in which the most confusion exists. If the lessor is carrying its own coverage, there is no need to deal with the subject in the lease. However, on a net/net lease, where the tenant is required to provide property insurance for the benefit of the lessor, great care must be exercised. Details must be spelled out for subjects such as insured perils, amount of insurance, valuation basis, ownership of improvements and betterments, and repair or restoration require-

ments.

2. As lessor, you don't want a coinsurance clause in the tenant's policy if you can avoid it. It can only hurt you. It requires the tenant to carry a certain amount of insurance in relation to value, and if he or she doesn't, there's a penalty. You'd like to avoid the possibility of a penalty, so if you can avoid coinsurance, that's advantageous.

3. If the tenant makes improvements to the building, they usually are considered owned by the lessor at the lease expiration. It is usually best to broaden the policy terms so that the improvements and betterments, when made, become a part of the building. The building owner will collect for the value of the improvements as part of the building. Ownership should also be indicated in the lease. Provisions can be made to protect the lessee.

4. A lessee would like the lease to include a release-of-subrogation clause. In the event of claim, the lessee wants to avoid the lessor's insurance company charging him with the cost of repairing damage paid by the lessor's insurance company. So a waiver of subrogation, if approved by the insurance company, would be in the interest of the lessee, and of no consequence to the lessor. Such a release can be turned to a mutual release of subrogation, benefiting both parties, without objection by insurer, as such a release is usually allowed in the policy.

5. Many leases contain a rent abatement clause. While this is equitable, its relationship to the insurance contract should not be ignored. If rental expense continues, it is covered by business interruption insurance, which most businesses carry. There is no benefit to the tenant by abating rent—merely a benefit to the tenant's insurance company. You could therefore safely delete the rent abatement clause.

All insurance policies required in the lease should contain certain provisions protecting the lessor. It is important that the lessor be included as a named insured or additional named insured in respect to the property, and that the lessor be advised in advance of any policy changes, such as cancellation or reduction in coverage. There are also specific rights that need to be protected in regard to payment of insurance proceeds.

Law enforcement: Outdated policies are liability risks

CONTINUED FROM PAGE 4

tutional rights," he said.

David L. Salmon, president of OSS Law Enforcement Advisors of Spring, Texas, agreed, noting that a booking officer does not have to, and should not, accept an injured or ill prisoner.

Another big liability issue arises from the oversight of prisoners, especially those on suicide watch, Mr. Salmon said. Cases show that suicidal prisoners need only three to four minutes alone to kill themselves, he said.

Mr. Salmon advised risk managers to review the jailhouse log sheets for the past five prisoners on suicide watch. If the policy is to check them every 30 minutes, look for entries showing the prisoners were checked twice an hour exactly on the half hour.

"Does anybody believe that log?" Mr. Salmon asked. He said that such entries indicate that those times were filled in at the end of a watch and that routine prisoner checks were not conducted.

Mr. Krall also warned risk managers against locking up minors in the general jail population. "You've got to protect them," he said.

Outside of the jail, police pursuit cases have generated some significant liabilities for public entities, Mr. Salmon said.

Some jurisdictions have tried to eliminate that risk by prohibiting pursuits, but that policy is risky because there are some circumstances, such as a gunman on a school bus, in which a police officer or sheriff's deputy "has to" pursue, he said.

Then, if anyone is harmed as a result of that pursuit, the public entity is "in trouble," because its pursuit policy was violated, Mr. Salmon said.

Referring to police officers and sheriff's deputies, Mr. Salmon said: "You need to give them discretion and train them to use their discretion" wisely. If police and deputies have the authority to make such decisions—rather than strictly limiting their options—and they act how other officers might have reasonably responded in the same situation, then the odds are much greater that the officer or deputy

and the public entity will be held immune from liability, he said.

The U.S. Supreme Court's recent ruling in *Timothy Scott vs. Victor Harris* is a must-read for risk managers, Mr. Salmon said. In the case, the court ruled that a sheriff's deputy is not liable for the injuries that a fleeing and reckless motorist suffered when the deputy ran the driver's car off the road (BI, May 7).

Risk managers should ask their police departments to consider changing their pursuit policies in light of the decision and at least give a high-ranking official the discretion to abandon the department's no-pursuit policy, he said.

More police fleet losses occur, however, because of bad driving by officers, Mr. Krall said. Those losses can be reduced quickly by putting those officers on foot patrol, he said. Losses from that officer will disappear, the officer will be more careful when his or her driving privileges are reinstated and the rest of the force will be more cautious, he said.

Before implementing those moves, however, a risk manager has to get the police or sheriff's department's attention, the panelists said.

Marilyn L. Rivers, risk and safety manager for the city of Saratoga Springs, N.Y., said she befriended the city's police department and helped with such mundane issues as helping out a police official who was looking for a cleaning service. And, on many occasions, she would invite officers to vent about their stressful shifts.

Mr. Salmon supported Ms. Rivers' approach. "You've got to identify yourself with them or their problems," he said. "Let them explain their business to you."

But Ms. Rivers and Messrs. Krall and Salmon said risk managers might have to take a more direct approach with some departments where losses need to be addressed immediately. They recommended that risk managers work within the accounting process to reflect those losses in their police departments' budgets, which would tie up some funds the departments want to use for other purposes.

"If you use cash management, you can capture their attention pretty well," Mr. Krall said.



Howard C. Alper is president of Chicago-based Alper Services L.L.C., an insurance cost reduction consulting and risk management firm he founded in 1966.

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Planning well in advance can avoid many perils of school trips

Check coverage and backgrounds, set plan to respond to trouble

By DAVE LENCKUS

BOSTON—Many of the problems that can turn student trips from fun learning experiences to risk management headaches—even when the trips are not school-sponsored—can be prevented or minimized with some planning, according to a consultant.

Claims arising from student trips are not a high-frequency problem for schools, but they can be the most severe claims a school district risk manager will see, said Robert Bambino, vp-risk management at Wright Risk Management, the Uniondale, N.Y.-based management company for New York Schools Insurance Reciprocal, a nonprofit insurer.

At a packed session during the Public Risk Management Assn.'s 28th annual conference, held June 10-13 in Boston, Mr. Bambino noted that planned student trips recently have become more adven-

turous, raising loss exposures for schools. Trips had become far more conservative after the Sept. 11, 2001, terrorist attacks, he said.

In approving trips, Mr. Bambino suggested a policy under which a school board or superintendent must sign off on excursions that involve serious risks, such as a canoeing trip. The policy could give school principals the authority to approve less risky outings, such as museum visits.

While a school may not have officially sponsored a trip, certain actions could convince the school's insurer and a court otherwise if a claim arose, he said.

The school board's policy and who approved the trip will be some of the factors in determining whether the trip was school-sponsored, he said. The deciding factors, though, will be whether there is a formal approval process, the school's historical practices if there is no formal process, who organized the trip, and the organizer's use of school property and supplies.

If a school is not sponsoring a trip but is allowing an organizer to use its facilities and supplies, it should consider sponsoring the outing so it

can manage the trip and its associated risks, Mr. Bambino said.

He added that without formal school approval, a teacher who organizes the trip will not be covered by the school's insurance if a claim arises.

Mr. Bambino also advised risk managers to check whether their schools' general liability and student activities policies cover student trips.

He noted that general liability policies typically do not cover losses arising from chaperones' actions. Coverage for that exposure has to be added through an endorsement, he said.

In risk managers' efforts to reduce risk for approved trips, they should look at the district's exposure in two ways, Mr. Bambino said.

First, prior to the trip, risk managers should ensure that students, parents and chaperones understand the nature of the trip, including its hazards and the rules that will govern the trip, Mr. Bambino said. This is also the time to ensure there are an adequate number of trained chaperones, he said.

For example, Mr. Bambino said, "you get as detailed as you can with



GETTY IMAGES

Student field trips, such as a visit last October to the J. Paul Getty Museum in Los Angeles by a group of school children, have been rebounding since dropping sharply following the Sept. 11, 2001, terror attacks, experts say.

the permission form" that is sent to a student's home for parents to sign.

That gives parents an opportunity to question why their child who cannot swim is signing up for a rafting trip or the student who requires numerous medications because of allergies to plants would go on a hiking trip.

"In the most basic way, it might prevent someone from getting injured," Mr. Bambino said.

Schools also should conduct background checks on chaperones and ensure they are under the direction of a school employee during the trip, Mr. Bambino said.

After informing volunteers they must submit to an investigation, "you may have more people who don't want to volunteer anymore," he said.

The second piece of reducing a school's exposure is planning how to respond to problems that could occur during the trip, Mr. Bambino said.

The emergency management

plan need not be "anywhere near as sophisticated" as the district's emergency management plan for schools, he said. But the trip plan should cover how chaperones and school employees ought to respond to student illnesses and accidents, auto accidents or breakdowns, hotel fires, civil unrest in foreign countries and weather emergencies.

The plan also should spell out how the district would establish a communication center if an emergency occurred during a student trip, Mr. Bambino said.

"If there is an accident, or worse, while the kids are away, you know what's going to happen," said Mr. Bambino, referring to the deluge of calls a school district would have to handle.

The center would give families one place to call for information and be the contact point for staff in the field, he said. In addition, the school would be able to manage the news media through the center, where reporters could obtain updates at predetermined times.

Veterans: Workplace sensitivity urged

CONTINUED FROM PAGE 4

said: "That's a lot of thousands per state" on average.

Under the Uniformed Services Employment and Reemployment Rights Act of 1994, employers are required to offer returning soldiers their previous jobs and the pay upgrades they would have received had they not been called to active duty.

But one-third of returning veterans have emotional and psychological problems triggered by their deployment, and only 27% of those reporting problems are getting help from a mental health professional, Mr. Langan said.

In addition, he said, veterans will be suffering from physical injuries, including amputations; impaired mobility; and undetected permanent brain damage caused by multiple concussions, which can result in diminished reaction time, headaches and depression.

"This is what they bring home with them, and this is the kind of stuff we need to understand when we're dealing with them in the workplace," Mr. Langan said.

"You can't cure it with a slap of the glove in the face," he said, referring to a scene from the movie "Patton." In the scene, World War II Army Gen. George S. Patton slaps a soldier's face with a glove in an attempt to snap him out of shell shock.

Employers, however, can help a veteran's transition into civilian work in various ways, Mr. Langan said.

He recommended taking the time to learn what returning veterans have experienced by allowing them to talk about it at their own pace.

Employers also should be patient and allow veterans some time to adjust to changes in the workplace, Mr. Langan said.

Some sensitivity training for employees on how to engage veter-

'You can't cure (combat injuries and psychological problems) with a slap of the glove in the face.'

Greg Langan, Arthur J. Gallagher

ans would be helpful, Mr. Langan said. For example, both supervisors and employees should refrain from asking veterans whether they killed any enemy soldiers, offering political opinions on the war and approaching them quietly from behind. In addition, any actions that a supervisor or co-worker takes that involve a veteran should be discussed with the veteran beforehand, he said.

And while a welcome back celebration is encouraged, some veterans will want to keep "a low profile" afterward, Mr. Langan said.

While employers should be sensitive to the difficulty some veterans may have in transitioning back to civilian life, they should not create a unique set of workplace rules for veterans, he said.

For example, employers should spell out their work performance expectations. In addition, employers should be watchful for slow responses and a lack of concentration, which might signal that the

veteran has untreated injuries resulting from concussions, he said.

And employers cannot excuse a veteran's behavioral problems—such as workplace violence and substance abuse—that would be unacceptable if displayed by other workers, Mr. Langan said.

Mr. Langan said he is "a fan of zero tolerance policies" on behavioral problems but suggested also showing veterans "some understanding." For example, suspending them and directing them to seek treatment would be preferable to termination, he said.

One session attendee, noting that exceptions to policies would be difficult to defend, suggested modifying strict zero tolerance policies so that they apply uniformly to all employees as they would to a troubled veteran.

Another session attendee noted that collective bargaining agreements with labor might prevent employers from taking such unilateral action.

Employers eventually may get some federal help in transitioning some veterans into civilian life. U.S. Senate Bill 1272—the Yellow Ribbon Reintegration Program Act of 2007—would establish a nationwide program to assist National Guard personnel in returning to civilian life. The bill, introduced May 2 by Sen. Saxby Chambliss, R-Ga., would be modeled after the Minnesota National Guard's Beyond the Yellow Ribbon reintegration program.

Mr. Langan also suggested that employers search for reintegration ideas as well as information on their legal responsibilities to returning veterans at www.esgr.org, a U.S. Defense Department Web site.

1,300 attend PRIMA in Boston; 2008 moves to Calif.

BOSTON—The Public Risk Management Assn.'s 28th annual conference earlier this month in Boston featured dozens of educational sessions, including the organization's first benefits track.

Other sessions focused on, among other things, accounting issues, enterprise risk management, police liability, professional development, returning veterans, school safety, terrorism and workplace safety.

The conference drew 1,300 attendees, about 100 more than last year, according to a PRIMA spokeswoman. There were 116 exhibitors, about the same as last year, she said.

Risk managers can purchase

a multimedia CD-ROM containing recordings of and hand-out materials for all or selected sessions by calling 888-609-8273. Prices for the CDs vary, depending on the number of sessions purchased. A CD covering all of the sessions costs \$205, including shipping.

Next year's annual conference is scheduled for June 1-4, 2008, in Anaheim, Calif. Educational sessions will be held at the Hilton Anaheim hotel, and the conference's exhibition hall will be at the adjacent Anaheim Convention Center.

Further information about PRIMA is available at the organization's Web site, www.primacentral.org.

—By Dave Lenckus

South Carolina: Comp reforms passed

CONTINUED FROM PAGE 3

expected to sign the bill today.

South Carolina self-insured employers lobbied to dissolve the second-injury fund because their recoveries from it failed to keep up with the increasing assessments paid into the fund, said Hugh McAngus, president of the South Carolina Self-Insurers Assn. Inc. Mr. McAngus is also a workers comp attorney at McAngus, Goudelock & Courie L.L.C. in Columbia, S.C.

The South Carolina Second Injury Fund's 2005-2006 annual report shows that assessments rose to \$188.5 million in 2006, up from \$177 million the prior year. Total reimbursements, however, dropped to \$147.6 million from \$166.9 million.

But dissolving the state's fund will not reduce insured employer costs, said Frank Knapp, president of the South Carolina Small Business Chamber of Commerce in Columbia. Instead, insurers will absorb costs currently paid by the second-injury fund and then shift those expenses onto employers, Mr. Knapp said.

"All it's going to do is get pushed onto your loss costs," Mr. Knapp said.

Boca Raton Fla.-based NCCI Holdings Inc. estimates that with the second-injury fund's elimination, insurer loss costs will rise about 3% to 4%, Mr. Knapp said, noting that his organization opposed dissolution of the fund for that reason.

But a portion of that 3% to 4% increase in loss costs would be offset by efficiencies insurers will bring to the new process, said Amy Quinn, state relations executive for the NCCI in Columbia, S.C.

WORKERS COMP REFORMS

Among other changes, the law also will:

- Allow insurers and employers to challenge a legal presumption of total and permanent disability when a worker suffers the loss of at least 50% of use of his or her back.
- Reverse a court decision that prevented claims adjusters from speaking to claimants' doctors.
- Require workers to prove with a preponderance of evidence that mental injury and stress is caused by their jobs when physical trauma is absent.
- Shift appeals of Workers' Compensation Commission decisions from trial courts to South Carolina's Court of Appeals.
- Set a time limit for filing repetitive trauma claims and require medical proof of a relationship to work duties.

Other savings expected to result from the reforms could further offset the increase in loss costs, Ms. Quinn added. The NCCI is currently evaluating the legislation to

determine the extent of potential savings.

While the South Carolina Small Business Chamber of Commerce opposed the elimination of the second-injury fund, it was apparent that lawmakers would adopt a bill containing such a measure, Mr. Knapp said. Realizing this, his organization and other opponents sought a compromise with lawmakers to include a provision requiring insurers to submit detailed information about their loss-cost multipliers, leaving it to the Department of Insurance to determine whether they are appropriate.

Insurers apply a loss-cost multiplier—which includes costs such as administrative expenses and profit—to pure premium rates when setting pricing. Pure premium rates include loss expenses such as medical and indemnity costs only.

Requiring the Department of Insurance to scrutinize insurers' loss-cost multipliers "is part of the reason we didn't go down kicking and screaming," said Coretta Bedsole, executive director of the Assn. of South Carolina Claimant Attorneys.

The provision will force insurers to disclose information about their pricing practices and profits, Ms. Bedsole predicted.

S.C. joins states repealing second-injury comp funds

By ROBERTO CENICEROS

Three states have done away with their workers compensation second-injury funds so far this year, leaving about 30 states that still have such a program.

While some of the funds predate World War II, many U.S. states implemented them after the war to help returning veterans. The second-injury funds are designed to encourage hiring of disabled workers and those with injuries from previous employment. By covering costs for the aggravation of a prior condition, the programs are intended to limit employers' liability and expense.

Insurance companies—which lobbied South Carolina lawmakers to dissolve that state's fund and now have their sights on Missouri—say the concept is outdated.

Anti-discrimination laws, such as the Americans with Disabilities Act, make the funds increasingly unnecessary, said Ray Farmer, assistant vp in Atlanta for the American Insurance Assn.

There are no studies showing that the funds significantly increase hiring of the disabled, said Keith Bateman, vp of workers compensation for the Property Casualty Insurers Assn. of

America in Des Plaines, Ill.

But Frank Knapp, president of the South Carolina Small Business Chamber of Commerce, countered that insurers oppose the funds mainly because they don't like paying assessments that they can't control.

The South Carolina Second Injury Fund accepted 1,184 claims during the 2005-2006 fiscal year.

In that fiscal year, the fund initially assessed insurers and self-insured employers \$253 million but then lowered that to \$177 million due to employer objections.

Self-insured employers and insurers have argued that the fund's assessments have been too high relative to the benefits paid out. South Carolina legislators last week agreed to repeal the fund as part of a broad workers comp reform bill.

Arkansas and New York also repealed their funds this year as part of a "slow movement" among states to dissolve their funds, Mr. Bateman said.

In all, 19 funds have been dissolved since 1992, according to the AIA.

Mr. Bateman noted that states generally end the funds either because assessments have grown too large or the funds are underutilized.

Survey: ROI rarely studied in health management plans

CONTINUED FROM PAGE 3

management programs, two-thirds provide employee incentives.

The most common incentive is premium reductions, offered by 40.4% of companies using incentives. Cash or bonuses were the second most-common incentive, offered by 28.9% of companies, according to the survey released last week at America's Health Insurance Plans' annual meeting in Las Vegas.

A "surprising" number of employers offering incentives—62%—had not attempted to measure return on investment, while only 14% indicated they had successfully measured ROI, noted Edwina Rogers, vp-health policy for the ERISA Industry Committee.

Sixteen percent of employers said their ROI analysis was not complete, while 8% tried to measure ROI but were unsuccessful.

About 70% of employers said

health management programs need to have a better-than-even ROI to be acceptable, while only 8% found it acceptable to have a program that did not break even.

About 80% of employers not offering health management programs are uncertain whether such programs will be offered or say they will not be offered in the near future, according to the survey.

The next objective for the health care industry is to target the 25% of major employers that have not offered health management programs, followed by encouraging small businesses and then the government to utilize such incentives, Ms. Rogers said.

"It's just a matter of spreading the good information and then it will be automatic," she said.

The report, which is free of charge following registration, is at http://www.incentone.com/skin.cfm?page=survey_results_form.

ERISA: Plan fiduciary obligations in spotlight

CONTINUED FROM PAGE 3

ciary duties," he said.

If the Supreme Court overturns the 4th Circuit, employers will face more fiduciary liability risks, attorneys say.

"This could have a sweeping impact on employers" and other fiduciaries, said Martha N. Steinman, a partner in the executive compensation and ERISA practice of LeBoeuf, Lamb, Greene & MacRae L.L.P. in New York. "Fiduciaries have just been adding increasingly higher levels of risk in terms of potential liability in recent years, which makes a lot of people reluctant to be fiduciaries," she said. "A

reversal in this case will have a significant impact on that."

"I find it unlikely that employers are just saying 'Well so what? We don't care if we get this right or not because we can't get sued,'" said Stephen Rosenberg, head of the ERISA practice for the McCormack Firm L.L.C. in Boston.

But if the Supreme Court rules in favor of plan participants, fiduciaries will be held liable if they are not being "scrupulous and really detailed oriented" in making sure the plan is directing investment decisions exactly the way the participant wants, Mr. Rosenberg said, noting that he believes the Supreme Court will overturn the 4th Circuit.

Zurich: 'Disappointed' by judge's ruling in WTC case

CONTINUED FROM PAGE 4

court time, and insulted public and judicial expectations of the standard of conduct expected of attorneys and insurance carriers," Judge Hellerstein wrote.

"Counsel's failure to recognize the importance of this document, and to produce it timely, especially when alerted to its possible existence by opposing counsel, also constitutes a violation of discovery obligations," he wrote.

Of the total \$1.25 million in sanctions, the Port Authority will receive at least \$625,000 for attorney's fees and costs unreasonably incurred during discovery proceedings. Westfield will receive at least \$250,000 for the costs of discovery proceedings.

In a statement, a Zurich spokesman said: "Understandably,

we are disappointed by Judge Hellerstein's ruling and are reviewing the legal options available to us. Therefore, we will not comment on the specifics of this case.

"We can say that it is an essential and longstanding business principle at Zurich to act lawfully and seek to do what is right," the insurer's statement said.

"The Sept. 11 liability insurance coverage cases, over which Judge Hellerstein presided, were complex and hotly contested cases. Decisions made in that context are invariably subject to varying interpretations. We have great respect for the judge and are carefully studying his opinion and the available options," Wiley Rein said in a statement.

Calls to Coughlin Duffy seeking comment on the ruling were not returned.

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TRIA: Bush administration sets conditions for support

CONTINUED FROM PAGE 1

surey's view, from both a market and economic perspective, it would be better to have no TRIA than a bad TRIA."

In addition to extending the backstop for 10 years, the Terrorism Risk Insurance Revision and Extension Act of 2007 would go beyond the current program, though, by requiring insurers to offer policyholders coverage for nuclear, chemical, biological and radiological terrorist attacks. It would require insurers to retain 7.5% of that risk, compared with 20% for conventional terrorism risks. It also would change the program's definition of covered terrorist attacks to include acts of

of the bill with Rep. Michael Capuano, D-Mass., said in a June 18 statement announcing its introduction.

The subcommittee's ranking Republican, Ohio's Deborah Pryce, said she was "disappointed" that the measure contained no significant GOP provisions. But she said she was "confident" that a measure drafted in a bipartisan manner similar to that producing the Terrorism Risk Insurance Extension Act of 2005 would enjoy broad support.

"I believe we're taking a step back with this proposed legislation," said Rep. Ed Royce, R-Calif. He said the program had achieved its original goal of making coverage available, and should now be scaled back.

As of last week, only two Republicans had signed on to co-sponsor the bill.

Policyholders were generally supportive of the measure, albeit with caveats.

The Risk & Insurance Management Society Inc. is "very pleased" with legislation that would extend the federal terrorism insurance backstop for 10 years, said a RIMS official with responsibility for government affairs.

"We think the House has hit a home run with this legislation," said Terry Fleming, a director of New York-based RIMS and director-risk management for Montgomery County in Rockville, Md.

But Mr. Fleming said RIMS is "somewhat concerned" about the requirement that insurers participating in the program also make available coverage for NCBR risks.

"We feel there is not enough capacity for conventional" terrorism risks, Mr. Fleming said. "Lumping the NCBR make-available provision" in with existing mandatory make-available provisions could diminish capacity, he said.

"Much of what policyholders have been asking for is contained within the proposed House bill," said Bradley R. Wood, senior vp-risk management for Marriott International Inc. in Bethesda, Md. "This should not be interpreted, though, that the bill does not have shortcomings," said Mr. Wood, a long-time backstop proponent.

"Probably the biggest one is, though, we appreciate the modification of the \$100 billion cap to be in addition to the insurers' retention and copayment obligations. Maintaining the cap at a \$100 billion level materially increases policyholder risk that the cap will be exceeded" due to the enormous amounts of the new NCBR and life insurance risks that would come into the program, Mr. Wood said.

Insurers have also been generally supportive of the bill, but both the National Assn. of Mutual Insurance Cos. and the Property Casualty Insurers Assn. of America have called for removal of the NCBR provision. The American Insurance Assn., however, accepts the 7.5% retention provision, but urged lawmakers to reconsider the need for any co-sharing above that in an NCBR attack.

LIMITING TRIA EXTENSION

The Bush administration says three elements are needed to create an acceptable extension of the backstop created by the Terrorism Risk Insurance Act. The administration says the program:

- Should remain temporary and short-term
- Retentions by the private sector should be increased
- The backstop should not be expanded

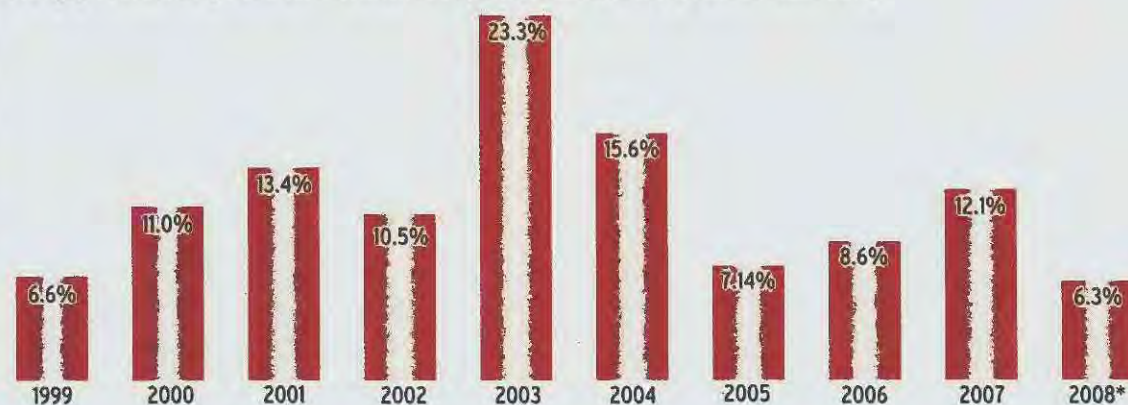
Source: Testimony of David G. Nason, Treasury Department assistant secretary for financial institutions

domestic terrorism and add group life to the lines of insurance covered by the program. The bill would require further study of the development of a private terrorism insurance market.

"We have made significant improvements in this legislation, and we believe we have struck the right balance in providing assurances for business and workers in urban areas and encouraging the creation of a private market," Rep. Barney Frank, D-Mass, chairman of the full committee and a co-sponsor

CALPERS' PREMIUM INCREASES SINCE 1999

Average percent increase for state enrollees in combined plans (Medicare, HMOs, PPOs and associations)



*Assumes migration to new plans
Source: CalPERS

CalPERS: Boosts employers' rates 6.3%

CONTINUED FROM PAGE 1

ning Jan. 1, 2008.

"We recognize that in this tough health care marketplace, a combination of approaches is necessary to keep rate hikes low and quality high," George Diehr, chairman of the Health Benefits Committee, said in a statement.

"We will continue to pursue innovative, aggressive approaches with our health plans to get better value for our dollars and provide our members with opportunities and incentives to obtain the highest quality of care at the most affordable price," Mr. Diehr said.

While they responded positively to CalPERS' good news, health benefits experts were divided as to whether the savings achieved for 2008 can be sustained.

Emma Hoo, director of value-based purchasing at the Pacific Business Group on Health, a large-employer coalition based in San Francisco, predicts CalPERS' use of high-performance networks should help keep future rate increases in check if a sizable proportion of plan members migrate to the new networks.

"One of the key distinctions about the CalPERS strategy is the introduction of high-performance networks, (which) create an opportunity for differentiating some of

the value among medical groups that are being offered in the network HMO," she said.

"In some of the prior board meetings, they did some analysis around

'There's very little that any single employer group ... can do about the overall trend in health care costs.'

Bill Custer,
Center for Health Services Research

what-if scenarios—if they increased the proportion of members in high-performance networks," Ms. Hoo said.

She added that the benefit design changes, including eliminating the copayments for preventive services, "will have some beneficial impact on long-term health status and improving compliance" with treatment regimens.

However, Bill Custer, director of the Center for Health Services Research at Georgia State University in Atlanta, was skeptical that CalPERS' latest actions will have any impact on medical inflation, which is the major factor driving increases in employers' health care costs nationally.

"Rate increases fluctuate quite a bit and there's what's called regression to the mean. That is, you would expect that there is a trend and that individual plans or groups of plans will cycle around that trend. And when you go from 24% to 6%, part of that difference statistically is simply moving back toward the long-term trend," Mr. Custer said.

"The question is: Is the change that CalPERS is seeing moving back toward the trend in health care costs, or is it a function of plan changes that they made? And, to the extent it's the result of plan change that they've made, are they one-time savings or are they real changes to the trend?" he said.

Mr. Custer compared the current situation with the late 1990s, when employers moved rapidly into managed care.

"There were real savings there by moving to managed care, but they really don't seem to have affected the overall trend very much," he said.

"There's very little that any single employer group—even a group as large as CalPERS—can do about the overall trend in health care costs. It takes a systemwide change. Employers as a whole could affect that change, but individually, they all have to move in the same direction," Mr. Custer said.

Survey: Insurer work far from done

NEW YORK—While all insurers ranked by Willis Group Holdings Ltd. associates perform above average, more work can be done to differentiate insurers through service and performance, the London-based brokerage said last week in announcing results of its first global Carrier Evaluation Survey.

More than 2,500 Willis employees worldwide participated in the survey, ranking 80 insurer groups on a scale of 1 to 10—10 being the highest—against four categories: underwriting, policy administration, claims performance and service activities.

Describing the overall results of the survey as "encouraging," Willis said all the insurers ranked above the midpoint. But while nearly half of the 80 carrier groups received a

mean score of 7 or greater, none scored more than 8.

While nearly half of the 80 carrier groups received a mean score of 7 or greater, none scored more than 8.

"There is clearly opportunity for carriers to further differentiate themselves through service and performance," Willis said.

Underwriting was overall the highest rated category, with a mean score of just under 7. Two elements in the underwriting category—coverage and contract certainty—were

the highest-scoring activities across the whole survey, Willis said.

Willis associates in its employee benefits business unit rated the performance of their insurers the highest, with a mean score of 7.23, while associates in its Asia Pacific unit had the least positive view of their insurers, with a mean score of 6.44.

Willis' Carrier Evaluation Survey is part of its wider initiative, the Willis Quality Index, which seeks to measure a wide range of service and performance criteria among underwriters and is set to launch later this year.

Willis said it hopes to use the findings of its survey to raise the standard of performance in the industry and to help clients make more informed decisions.

—By Sally Roberts

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would streamline regulation of nonadmitted insurers and allow easier access to nonadmitted insurance markets by qualified risk managers. It also would ease reinsurers' regulatory burden by generally subjecting them only to the solvency laws of their state of domicile.

Judge tosses suit over 401(k) fees

A federal judge last week dismissed a lawsuit filed by employees of farm equipment manufacturer Deere & Co. against Deere and units of mutual fund provider and 401(k) plan administrator Fidelity Investments, charging that 401(k)-plan related fees were excessive and that Fidelity failed to disclose certain revenue sharing agreements among the units. Judge John Shabaz of the U.S. District Court for the Western District of Wisconsin said it was "untenable" to suggest that fees in all the investment options available to participants had excessive expense ratios. Additionally, Judge Shabaz wrote, nothing in federal pension law requires the disclosure of revenue sharing arrangements among administrators' units.

Brit securitizes cat covers

Brit Insurance Holdings P.L.C. has secured a multiterritory, multievent catastrophe bond that will pay principal subsidiary Brit Insurance Ltd. in aggregate up to \$200 million in the event of a series of predefined severe natural catastrophes including U.S. hurricanes, California earthquakes, U.K. windstorms and Japanese typhoons and earthquakes. The program was developed in conjunction with MMC Securities Ltd. and Risk Management Solutions Inc., Brit said.

Montpelier Re gets OK for Lloyd's syndicate

Montpelier Re Holdings Ltd. has received approval from Lloyd's of London for its new syndicate, 5151, to begin trading on July 1. The syndicate will underwrite nonmarine

property, engineering and some casualty business, Bermuda-based Montpelier said. The syndicate initially will have stamp capacity of £47 million (\$93.6 million) for 2007. This will rise to £143 million (\$284.7 million) in 2008, subject to market conditions, the company said in a statement.

U.K. may reform Lloyd's governance

The U.K. Treasury is to make a series of proposals regarding the governance of Lloyd's of London. The proposals, which would amend the Lloyd's Act 1982, will seek to "update the governance arrangements of the market to reduce costs and unnecessary bureaucracy," Ed Balls, the economic secretary to the Treasury, said in a statement. Following a consultation period, the proposals will be published early in 2008.

Humana to acquire dental/vision company

Humana Inc. has agreed to buy CompBenefits Corp. for \$360 million. Atlanta-based CompBenefits, which provides dental and vision benefit plans to 4.8 million members, had revenues of about \$345 million in 2006, Humana said in a statement. CompBenefits serves more than 14,000 employer groups in 22 states, primarily in the South and Midwest, Humana noted.

Max Bermuda names president/CEO

Angelo M. Guagliano has been promoted to president and chief executive officer of Max Bermuda Ltd. Mr. Guagliano, formerly executive vp and chief underwriting officer of Max Bermuda, succeeds W. Marston Becker, chairman and CEO of parent company Max Capital Group Ltd. Mr. Becker will continue to serve as chairman of Max Bermuda and chairman and CEO of Max Capital.

ACE Tempest Re sets up at Lloyd's in China

ACE Tempest Re Group has established an underwriting presence at Lloyd's Reinsurance Co. (China) Ltd. in Shanghai to offer all lines of property/casualty reinsurance. ACE Tempest Re also said that it will offer facultative and treaty reinsurance in the Chinese market. Bo "Boris" Zheng, director of underwriting, will represent ACE Tempest Re at Lloyd's in China, the company said.

Greenberg: Sues AIG board, management and others

CONTINUED FROM PAGE 1

Messrs. Greenberg and Smith—now top executives at New York-based C.V. Starr & Co.—left AIG in March 2005.

Starr produced business for AIG for many years, but the companies' relationship has been contentious since Mr. Greenberg's departure from AIG.

In his suit, Mr. Greenberg denies allegations by the insurer that he was responsible for damage to AIG's reputation and financial standing, and argues that any harm to the company and shareholders was instead the result of decisions made by AIG's board and management—including the decision to restate company earnings and reach a \$1.64 billion settlement in February 2006 with then-New York Attorney General Eliot Spitzer and other officials.

"The restatements were an extreme overreaction to governmental investigations and were designed to cast predecessor management in a negative light, and to set an artificially low threshold for evaluating the future performance of AIG under the new management," Mr. Greenberg's lawsuit states.

"The third-party defendants were motivated to issue the restatements by their own self-interest, not the interests of the shareholders of AIG, including Mr. Greenberg." The 2006 settlement was a similarly "self-interested act," the suit states.

Mr. Greenberg seeks contributions from the third-party defendants for any damages for which he may be held liable in the derivative suit, plus attorney's fees and other costs.

Mr. Greenberg's suit names as defendants AIG President and CEO Martin J. Sullivan and Executive Vp

and CFO Steven J. Bensinger, among others (see box).

"In order to begin the process of holding AIG's current board and management accountable for their conduct, with his answer, Mr. Greenberg is also filing claims against them," David Boies, an attorney for Mr. Greenberg with the New York firm of Boies, Schiller & Flexner L.L.P., said in a statement.

In a statement, AIG said: "AIG's complaint was the product of a thorough investigation by a committee of independent directors. Mr. Greenberg's claims are inconsistent with the judgment of that independent committee and are without merit."

"PricewaterhouseCoopers is disappointed that Mr. Greenberg has included the firm among the 18 parties he has named in his

third-party complaint. This complaint is apparently part of Mr. Greenberg's defense to the lawsuit brought against him...by AIG. PricewaterhouseCoopers continues to stand behind its professional judgments regarding AIG and believes Mr. Greenberg's claims lack merit," said a spokesman for PwC.

Calls to INS Regulatory were not returned.

Mr. Smith also plans to respond to AIG's complaint in the Delaware derivative litigation.

Vincent A. Sama, an attorney for Mr. Smith with the law firm of Winston & Strawn L.L.P. in New York, in a statement said that his client "will assert appropriate claims against those individuals and entities involved in the transactions at issue."

"AIG's action against Mr. Smith is particularly inappropriate as Mr. Smith was a primary advocate and champion of strong internal controls at AIG," Mr. Sama said in the statement.

HANK VS. AIG

Maurice R. Greenberg's lawsuit names:

CURRENT BOARD MEMBERS:

Marshall A. Cohen
Martin S. Feldstein
Ellen V. Futter
Steven L. Hammerman
Richard C. Holbrooke
George L. Miles
Edmund S.W. Tse
Frank G. Zarb

OTHERS NAMED:

AIG EXECUTIVES:
Steven J. Bensinger
Kristian P. Moor
Martin J. Sullivan
Jay S. Wintrob

RETIRED EXECUTIVE:
Thomas R. Tizzio

FORMER AIG BOARD MEMBERS:

M. Bernard Aidinoff
Frank S. Hoenemeyer
Pei-Yuan Chia

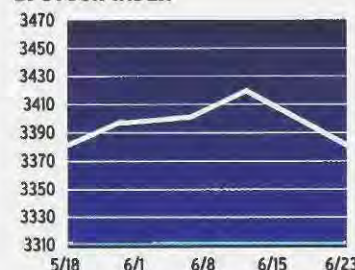
Source: Court filings

Stock Index

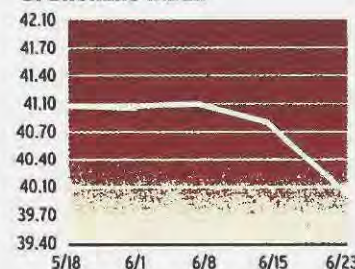
[6/18 - 6/22]

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

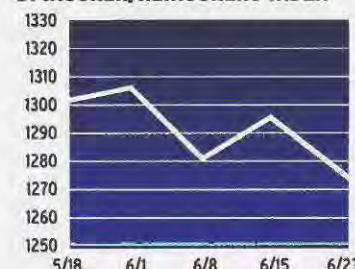
BI STOCK INDEX



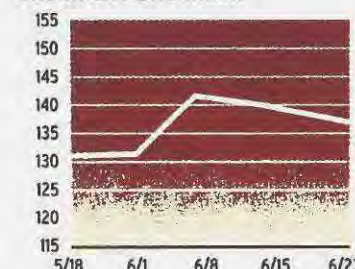
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI/STOCK INDEX

3385.32 -1.26%

DOW JONES

13360.26 -2.05

S&P 500

1502.56 -1.98%

LARGEST GAINS

Alleghany Corp. 9.68%
SCPIE Holdings Inc. 6.87%
American Safety Insurance .. 5.23%
Navigators Group Inc. 4.39%
Aspen Insurance 3.52%

LARGEST LOSSES

NYMAGIC Inc. -7.03%
PMA Capital Corp. -5.41%
Meadowbrook Insurance -5.20%
MetLife Inc. -4.48%
CNA Surety Corp. -3.74%

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

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Glass-eating couple cited with health care fraud

The wife of an insurance scam suspect who is scheduled to appear in Boston federal court today has remained on the lam for more than a year despite being sought by the FBI.

From August 1997 through June 2005, a Massachusetts couple with a long list of aliases repeatedly ate glass and withstood internal bleeding to further insurance scams, the FBI charges.

Ronald Evano and Mary Evano filed claims against restaurants, hotel bars, and supermarkets in Massachusetts, Rhode Island, Maryland and the District of Columbia, the FBI said.

The couple claimed, under a variety of identities, that the waffles, Chinese food and frozen daiquiris they consumed contained glass particles. They even visited hospital emergency rooms to prove that they indeed suffered internal bleeding from glass particles.

The problem is that the glass they ingested didn't come from the businesses from which they sought insurance money, the FBI said. The scams netted them more \$200,000 from insurers, according to the FBI and the couple allegedly skipped out on more than \$100,000 in medical bills.

The FBI arrested Mr. Evano in April 2006 and is still searching for Ms. Evano. The couple has been indicted for various crimes including conspiracy, mail fraud, wire fraud, identity fraud, Social Security and health care fraud.

Business Insurance END PAGE

Motley Crue sues manager over image

Reality television shows have been known to make instant millionaires out of ordinary people, but heavy metal band Motley Crue says two such shows featuring drummer Tommy Lee have cost the band millions in lost earnings and diminished brand value.

In a lawsuit filed last week in Los Angeles Superior Court, the '80s rockers sued Carl Stubner, one of the band's three managers, and companies associated with Mr. Stubner that include Sanctuary Group P.L.C.

The suit alleges Mr. Stubner breached his fiduciary duties by "causing" Mr. Lee, whom Mr. Stubner also manages, to engage in reality TV projects that "were bad career moves" that ultimately harmed the band, its brand and Mr. Lee's own image to the tune of at least \$20 million.

Specifically, the complaint says the August 2005 "Tommy Lee Goes to College," in which Mr. Lee attended the University of Nebraska as a college freshman, was a "critical disappointment and a ratings disaster." The show, the suit says, "disparaged Motley Crue and Lee's reputation, painting Lee as incoherent, lazy and incompetent."

In addition, the 2006 "Rock Star: Supernova," in which aspiring singers competed to become the lead vocalist of rock group Supernova, also had "lackluster"



Motley Crue claims the band lost millions in earnings because drummer Tommy Lee starred in two reality TV shows that "were bad career moves," which his manager advised.

ratings and "tarnished" the image of Mr. Lee and the Motley Crue brand, the complaint says. "The show diminished the public's interest in Lee and their overall perception of his musical talents."

These shows, the suit says, were part of a "self-serving scheme" by Mr. Stubner to promote Mr. Lee's solo activities to the detriment of the band because Mr. Stubner earns more commissions from Mr. Lee than the band.

The suit alleges Mr. Stubner refused to make Mr. Lee available on an exclusive basis for Motley Crue's 2005 reunion tour, causing the band to do fewer shows than it could have performed.

In 2006, the band had to cancel about 40 concerts due to Mr. Lee's unavailability while filming "Rock Star: Supernova." Mr. Stubner has refused to commit Mr. Lee to 2007 tour dates and has not made him available to record a new album, the suit says.

'Sicko' rally proposes prescription for change

Health insurers accustomed to hearing their industry disparaged and their profits questioned can add luminary author Studs Terkel and muckraking filmmaker Michael Moore to the list of characters taking their shots.

"The insurance industry, when it comes to health insurance, is a racket," Mr. Moore last week told a cheering Chicago crowd, which he said included nurses and doctors. "There is no room for profit when we're talking about people's lives."

Mr. Moore's comments came during a nationwide tour to promote "Sicko," his new film that takes issue with the health care industry. Mr. Terkel, 95 years old and noted for radio performances and penning American oral history books, introduced Mr. Moore before the crowd marched to the Blue-Cross BlueShield Assn.'s headquarters in Chicago.



SAM WILSON/WENN

Legendary broadcaster and author Studs Terkel speaks at a rally promoting Michael Moore's new movie, "Sicko," in Chicago last week.

The filmmaker, whose credits include "Bowling for Columbine" and "Fahrenheit 9/11," said everyone should have lifelong health care coverage. He also said pharmaceutical company profits should be regulated like utility companies, and for-profit

health insurers should be abolished.

Many critics have proposed similar ideas over the decades. But like Mr. Moore, few have actually tried overhauling an entire health care system.

It's got to be little harder than making a film.

Record mix-up a pain in neck

A case of mistaken identity nearly cost one injured worker her benefits.

The Arkansas Workers' Compensation Commission consulted the wrong patient's medical record when it denied an injured bakery employee disability benefits, the state's Court of Appeals ruled last week.

The error left "this court to speculate concerning what evidence the commission intended to rely on when making its decision," Judge Josephine Linker Hart wrote for the three-judge panel, which reversed the workers comp board decision and remanded the case for reconsideration.

Diana Vaughan reported pain in her neck, right shoulder and right arm after ending a shift at a Pine Bluff, Ark., bakery on Sept. 17, 1997. The workers comp board ruled she was not eligible for temporary total disability compensation past June 15, 2005.

But the decision was based on another person's medical information, the appeals court said. The court said a letter from Ms. Vaughan's lawyer, which was included with medical documentation, informed the defendants that the additional medical information was about a different client treated by the same doctor as Ms. Vaughan.

It was the other client's record, which stated that the patient's healing period ended June 15, 2005, that the workers comp board relied on in making its decision, the court ruled.



NAVIGATING CHINA: WHAT'S YOUR UPSIDE?



China offers dynamic and unprecedented opportunity, but not without risk. With 25 years of experience in this emerging market, Marsh has the know-how to help you remove uncertainty by fortifying supply chains, protecting intellectual property, and retaining key talent. So much so that we were recently awarded China's first and only Wholly Owned Foreign Enterprise insurance broking license. The upside? Confidence that your investment in China is secure. To learn more, visit findtheupside.com

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