

Business Insurance

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Georgia commissioner rejects rate hike for comp insurers

ATLANTA—Workers compensation insurers will not be able to raise rates in Georgia after Insurance Commissioner Tim Ryles rejected proposed rate increases for the second year in a row.

The Boca Raton, Fla.-based National Council on Compensation Insurance, which represents about 300 insurers in Georgia, had asked for a 47.7% rate increase for the assigned risk plan and a 25.1% rate increase for the voluntary market. Combined, the increases would have cost Georgia employers

Continued on next page

Corporate capital gets green light

By ADRIAN LADBURY

Lloyd's members OK proposal

LONDON—Lloyd's of London's doors are now open to the introduction of more than 1 billion pounds (\$1.49 billion) in corporate capital next year after Lloyd's members last week voted overwhelmingly in favor of allowing corporate members for the first time.

Two thirds of the members who voted—roughly 19,000 members voted out of an eligible 32,000 active and inactive members—first defeated a motion by rebel names to adjourn the extraordinary general meeting called by Lloyd's. The rebels argued that it was un-

fair to allow the new capital into the market before existing members are compensated for the massive losses they have incurred, mainly from the late 1980s.

The dissidents also argued that if the new capital is allowed to enter the market unfettered, capacity will grow too fast, force rates down and herald a repeat of the conditions that triggered the huge losses.

But the majority agreed with the Council of Lloyd's that the need to attract new capacity in time to shore up Lloyd's ailing

capital base and take advantage of increasing insurance rates outweighs the rebel members' concerns.

Chairman David Rowland announced a resounding victory on the council's key motion on the introduction of corporate capital, with 12,844 votes cast for the motion and only 591 against.

Lloyd's officials won similarly massive majorities—12,000-vote margins—as members voted in favor of the six bylaws needed to introduce corporate capital.

Continued on page 38

Merrett says it may leave Lloyd's

By GAVIN SOUTER

LONDON—With or without Lloyd's blessing, a consortium of investors led by a U.S. insurance company intends to purchase a majority stake in Merrett Underwriting Agency Management Ltd.

If Lloyd's rejects plans for the consortium to take over the agency, the investors would leave the market and set up operations as a conventional London insurer, said Robert Clements, president of Marsh & McLennan Cos. Inc., the parent company of one of the investors.

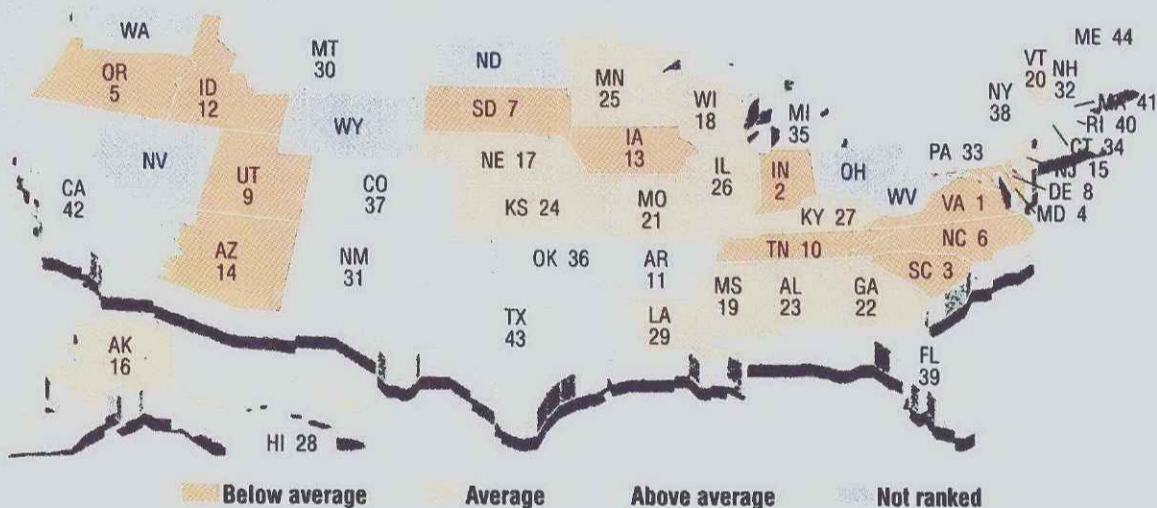
"The business is viable outside of Lloyd's, and there would be no alternative but to do that" if Lloyd's does not approve of the majority stake, said Mr. Clements.

Under Lloyd's regulations, a broker cannot own an underwriting

Continued on page 38

The good, the bad and the costly

States ranked by net workers comp insurance costs as of Jan. 1.



Update

Georgia denies comp rate hike

Continued from previous page
\$311 million.

Mr. Ryles said the NCCI "has not presented sufficient justification for any rate increase" because its claims information was not current, it inflated estimated future expenses and allowed for excessive profits and medical loss-ratio trend factors.

Insurers have until Oct. 30 to appeal.

Shell insured for settlement

NEW ORLEANS—Shell Oil Co. and refinery maintenance contractor Brown & Root Inc. are fully insured for a \$170 million settlement with 17,146 class-action plaintiffs who sued after a 1988 refinery plant explosion in Norco, La.

A federal court judge last week approved the settlement, under which Shell will pay \$160 million and Brown & Root will pay \$10 million. The plaintiffs also will receive about \$2 million of interest earned since March, when the deal was hammered out.

The plant exploded in May 1988 after hydrocarbon gas escaped from a corroded pipe in a catalytic cracker, which breaks down hydrocarbons into lighter products, like gasoline.

Seven workers were killed, the cracker—which cost \$490 million to replace—was destroyed and surrounding homes were damaged. The plaintiffs, who lived as far as 50 miles away from the plant, filed property damage, personal injury and emotional distress claims against the defendants.

Shell would not provide details of its liability insurance. But, it earlier confirmed it was a member of Oil Casualty Ltd., a sister company of Bermuda-based group captive Oil Insurance Ltd. (BI, May 9, 1988). Oil Casualty writes \$100 million of umbrella general liability coverage excess of \$20 million. A spokeswoman did say Shell had additional coverage.

Prior to last week's settlement, Shell had paid about \$46 million to settle claims with other plaintiffs. The latest settlement resolves all but one claim pending against Shell in state court.

Brown & Root's loss is fully insured with underwriters at Lloyd's of London. The coverage is led by syndicate 79, managed by Janson Green Ltd.

Quality congress meets

NASHVILLE, Tenn.—The Quality Insurance Congress is only a few small steps closer to its goal of helping the insurance industry exceed customers' needs by fostering continuous improvement of products and services.

About 30 insurers, agents, brokers and others gathered last week at Willis Corroon Corp. headquarters to elect a board of directors and approve organizational elements of the new industry group (BI, Oct. 4).

But after several hours of discussion and brainstorming, they had learned more about the long road ahead than the structure and organization of the congress. The group finally elected three executives who will draft proposals on how it should be organized. The three are: George Brown, U.S. chairman and former chief executive officer of JIB Group P.L.C.; John McCaffrey, chairman of Belle Meade Group, an agency development firm; and Jim Stark, CEO of Crum & Forster Insurance. Jay T. Deragon, chief quality officer of Willis Corroon Group P.L.C., will also work with the executives.

On Nov. 17, their proposals will be presented to a working group of about 15 people in Nashville. That group will present a final proposal at Willis Corroon's offices Nov. 18.

Wellpoint to acquire UniCARE

WOODLAND HILLS, Calif.—Wellpoint Health Networks Inc. will be a step closer to providing 24-hour coverage with its proposed purchase of UniCARE Insurance Co. for about \$154 million.

Wellpoint, the for-profit managed care spinoff of Blue Cross of California, will pay \$29 per share in cash for UniCARE, an Irvine, Calif.-based underwriter of workers compensation coverage licensed to operate in California and 32 other states. UniCARE reported 1992 revenues of \$146 million.

The company is a "suitable partner" for Wellpoint since its "culture and operating philosophy are very similar to ours," said Leonard D. Schaeffer, Wellpoint's chairman and chief executive.

UniCARE is pleased with the proposed acquisition because its customers have been demanding a program that encompasses both health benefits and workers compensation, said UniCARE Chairman and CEO Russell E. Leatherby. UniCARE will maintain its operations in Irvine.

The transaction is expected to close later this year or early in 1994 and is subject to approval by regulators and UniCARE shareholders.

PBGC takes over firm's plans

WASHINGTON—The Pension Benefit Guaranty Corp. last week formally took over five massively underfunded pension plans sponsored by Sharon Steel Corp.

The five plans, which cover 1,200 employees and 5,000 retirees, have promised \$350 million in benefits but have just \$100 million in

Continued on page 38

Errors & Omissions

• Jim Baldyga and Robin Maley have been named vps of Continental Insurance HealthCare. Their names were misspelled in a Sept. 20 Comings & Goings: Industry column.

Du Pont and X.L. settle Benlate claims dispute

By MICHAEL SCHACHNER

HAMILTON, Bermuda—Hundreds of miles from the nearest U.S. courtroom, E.I. du Pont de Nemours & Co. Inc. and X.L. Insurance Co. Ltd. have quietly agreed to settle a coverage dispute over a portion of the \$500 million Du Pont has paid to settle claims for damage by its Benlate DF fungicide.

After between two and three days of non-binding mediation involving at least a dozen people, X.L. and Du Pont agreed to settle

their dispute over coverage for liability payments in two separate Benlate settlements.

At least one other party was involved in those talks. That party, says a Bermuda source whose company was not directly involved, was Terra International Inc., a U.S. agricultural chemical concern that manufactured Benlate under contract with Du Pont.

Both X.L. and Du Pont confirmed that they struck a deal on Oct. 8. But officials at the two companies, as well as at Terra and Du Pont's broker, Marsh &

McLennan Cos. Inc., refused to provide details, citing a confidentiality agreement.

It was not clear how much coverage was at stake. Du Pont carried less than \$100 million in liability limits from X.L. at the relevant time and X.L. would say only that this was not a full-limits loss. X.L. did say that reserves had already been set aside.

It was X.L. that brought all the parties together in this case and the insurer will be taking a similar approach to large disputed

Continued on page 39

Rethinking the goals of Clinton reform plan

Survey indicates big strides in group health cost control

By JERRY GEISEL

WASHINGTON—Group health care cost increases are slowing—without the heavy hand of government—at the same time the Clinton administration is drafting legislation that would set up a new bureaucratic system to regulate health care premiums.

Consider these recent developments:

- A new survey of more than 1,000 employers found that group health care plan costs rose 8% between the spring of 1992 and this spring.

That's the first time since the mid-1980s that group plan cost increases were in the single digits, according to consultant KPMG Peat Marwick, which conducted the study.

- The medical component of the Consumer Price Index increased just 4.2% in the three-month period ending in September. That's down from 7% in the second quarter and 5.6% in the first quarter of 1993.

In September alone, medical care prices inched up 0.4%.

- Premiums for the nation's largest employer-sponsored health care program, the Federal Employees Health Benefits Program, will increase next year an average of just 3%. The plan covers more than 9 million federal workers, their dependents and retirees.

Continued on page 37

Regional health alliances lack support among NAM directors

By MARK A. HOFMANN

WASHINGTON—U.S. manufacturers remain highly skeptical of President Clinton's proposal to force all companies with fewer than 5,000 employees into regional health alliances, according to a recent survey by the National Assn. of Manufacturers.

Most employers, in fact, think that the minimum number of employees required before employers can set up their own health plans should be no higher than one-tenth of what the White House currently recommends.

A majority of respondents also think that the basic benefits package sought by the president is too generous.

Not that any one of the Republican proposals "demands support" from big business, said Jerry J. Jasinowski, president of the Washington-based group. No such plan exists now, he said during a press conference last week.

At the conference, Mr. Jasinowski released both the results of an Oct. 9 poll of NAM directors and a letter he sent to President Clinton on Oct. 18 regarding NAM's health care concerns.

Among the 62 NAM directors—out of 105 at the Oct. 9 board meeting—who responded, only 3% think

Continued on page 35

Health plan removes AIDS benefits cap

By JOANNE WOJCIK

LOS ANGELES—A multiemployer health care plan is lifting a cap on AIDS benefits to settle one of the first lawsuits brought by the Equal Employment Opportunity Commission charging that such caps violate the Americans with Disabilities Act.

The Allied Services Division Welfare Fund, a Chicago-based plan that provides health care

coverage to union members employed by 20 companies nationwide, agreed in late September to settle a discrimination complaint by removing its \$5,000 cap on payments for AIDS treatment and pay damages of \$10,500 to two Southern California men covered by the plan.

The self-insured fund had slashed the lifetime cap for AIDS coverage to \$5,000 from \$300,000 shortly after the U.S. Supreme

Court declined to review the *McGann vs. H&H Music* case, according to Pamela Thomason, a lawyer in the Los Angeles regional office of the EEOC.

In *McGann*, a federal appeals court ruled that the Employee Retirement Income Security Act did not prohibit a self-insured employer from capping coverage for AIDS (BI, Nov. 16, 1992).

Robert Swetnick, Allied's attorney

Continued on page 4

Inside

- The Clinton administration's proposal to pay most of the health costs for early retirees is ill-conceived, this week's editorial says. **PAGE 8**

- Eastern Europe poses many challenges for risk managers, Robert K. Meyers says in Perspectives. **PAGE 23**

- More Canadian employers are shifting supplemental health costs to workers, a survey shows. **PAGE 31**

- An Australian court rules in favor of a D&O insurer in a coverage dispute. **PAGE 31**

- A GAO report says managed care may not save as much money as employers think. **PAGE 36**

Departments

Advertiser Index29

BI Stock Index.....39
Benefit Beat6
Classifieds34
Global Briefs31
Insurance Services Guide35
International.....31
International Issues.....23
Legal Briefs.....24
Letters8
London31
Opinions.....8
Perspectives23
Ticker.....39

Multinational risk management

European insurer touts approach to cleanups

By ADRIAN LADBURY

MONTE CARLO, Monaco—European insurers believe they can work with industry to avoid a repetition of what they regard as a pollution litigation "nightmare" in the United States.

Europe's dominant cultural, political, economic and legal systems will foster consensus and negotiation in the effort to clean up the industrial landscape, European insurers contend.

But experts from the United States and the United Kingdom disagreed with that confident outlook when environmental issues came up for debate during two sessions at the Risk Management Forum, co-sponsored by the European Assn. of Risk Managers and the Risk & Insurance Management Society Inc. in Monte Carlo earlier this month.

Joachim Schmidt-Salzer, a law professor at the University of Hanover and a member of the managing board of di-

Continued on page 12



New program stabilizes excess liability cover

By JAMES M. BURCKE

MONTE CARLO, Monaco—A new twist on insurance purchasing is helping two commercial policyholders achieve stability and predictability in their excess liability insurance programs.

Under programs dubbed "long-term coinsurance," the companies—one in the United States and one in Switzerland—are buying a layer of their liability insurance from a group of insurers that are writing the coverage on a net-capacity basis.

Among other features of the programs:

- The risk managers of the policyholder companies deal directly with the insurers.

Although brokers can be used as consultants, this principle of direct dealing is an integral part of the programs.

- The coverage is written by the insurers on a net-line basis to avoid the volatility of pricing and capacity that can be

Continued on page 26

The time is ripe for cost control, employers told

By LOUISE KERTESZ

LAS VEGAS—Despite the debate over national health care reform, employers still must pay close attention to rising health care costs and must still add cost control measures to their plans, even if some of these tools are "not pleasant."

It's a topic that is admittedly "not fun," conceded Anthony J. Gajda, managing director of William M. Mercer Inc. in New York.

"I'm going to suggest some things that you, your members and your employees would rather not do," he said during a session at the International Foundation of Employee Benefit Plans recent annual conference here.

Mr. Gajda listed several techniques that can help control soaring health care costs, including: offering group health care coverage exclusively through health maintenance organizations; stricter utilization review; stronger enforcement of coordination of benefits rules; and eliminating

unintentional incentives to seek high-cost care.

Luckily for employers, "there couldn't be a better time" to negotiate terms with HMOs than today, since they are trying to build market share in anticipation of President Clinton's reform plan, Mr. Gajda said.

"From your perspective, you couldn't have a better situation" to talk price with an HMO, he said.

Suggesting to employers that they offer HMOs exclusively is "radical," Mr. Gajda conceded. "I wouldn't have had the nerve to say this at a podium three years ago."

But many employers are going that route. "It's the wave of the future and, in some cases, the present" as some companies phase out fee-for-service plans, he said.

For example, Xerox Corp. has been encouraging the use of HMOs through lower out-of-pocket costs for employees. As a result, less than 15% of its workforce of 55,000 active and 30,000 retired employees are now enrolled in an indemnity plan.

To make this change more palatable to employees, Mr. Gajda

Continued on page 29



AP/Wide World photo

Marino's season-ending injury insured

MIAMI—A season-ending injury to star quarterback Dan Marino has left a glaring hole in the Miami Dolphins lineup, but probably not in the football team's bottom line.

Contract fulfillment coverage will cover Mr. Marino's \$4.3 million guaranteed annual salary, though it is not known whether the coverage had a deductible or whether the Marino claim would exceed it.

Mr. Marino is expected to be out four to six months after rupturing an Achilles tendon in a recent game against the Indianapolis Colts.

Pro-Financial Services Inc. in Schaumburg, Ill., serves as the Dolphins' U.S. broker and Hogg Group

P.L.C. placed the contract fulfillment coverage with London underwriters.

Contract fulfillment policies typically insure 60% to 80% of a team's obligation to a player and carry waiting period deductibles, said Lou Valentio, vp of the sports division of K&K Insurance Group Inc. in Fort Wayne, Ind. Teams, though, only have to pay the salaries of injured players when they have guaranteed contracts. And only about 1% of the players in the National Football League have such deals, said a spokesman for the National Football League Players Assn. in Washington.

—By Sara Marley

Fathers on family leave still an exception

By JERRY GEISEL

Bill and Vicki Dulin were concerned.

Ms. Dulin was expecting the couple's second child. But in the seventh month of her pregnancy, the fetus had stopped gaining weight.

As a precautionary measure, Ms. Dulin's physician advised her to stay as inactive as possible until the baby was born.

Neither Mr. Dulin—a 14-year veteran employee of Allstate Insurance Co., formerly in Southern

California and now in Irving, Texas—nor his wife wanted to take any chances.

"If something came up, I wanted to be there," he recalled.

With the permission of his supervisor, Mr. Dulin took a leave of about six weeks, including five weeks unpaid leave, to be with his wife and to help take care of the couple's 7-year-old, Brad.

Last year on Valentine's Day, Vicki Dulin gave birth to a daughter, Natalie, who was in perfect health.

While the Dulin's story has a happy ending, it is atypical.

Employers that have had unpaid family and medical leave programs in place long before

they were mandated by Congress earlier this year say male employees rarely use the programs: Typically, fewer than 5% of employees tapping family leave programs are men.

"In most situations where men are offered family leave, they just don't take it," said Carol Sladek, a consultant with Hewitt Associates in Lincolnshire, Ill.

Employers say there are two key reasons—financial and cultural—why so few men take advantage of family leave programs.

While family leave programs allow employees to take unpaid leave for a variety of family-related situations, the overwhelming majority of leaves are used for maternity.

Whether both the husband and wife work or only the husband works, the family rarely can lose income at a time when medical expenses are increasing if the husband takes an unpaid leave.

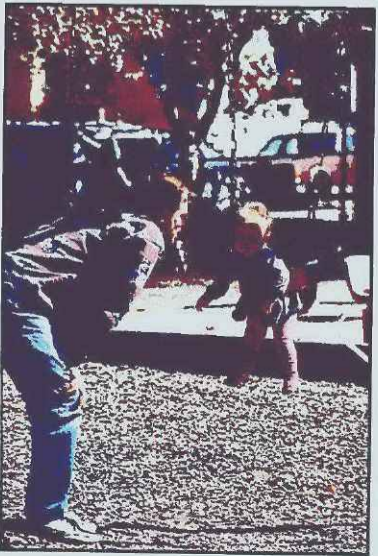
"Maternity is a time when expenses are high. A family will need a source of salary income," said Karol Rose, a principal with Kwasha Lipton in Fort Lee, N.J.

In other situations, such as taking care of a sick child or parent, it may make more economic sense for a woman—in situations where both spouses work—to take leave.

While they are closing the salary gap, women on average still earn about 70% of what men earn.

As a result, a family typically

Continued on page 30



Typically, fewer than 5% of employees taking advantage of family leave programs are men.

Work comp costs

Continued from page 1

an average weekly benefit for each type of injury considered, such as death, permanent total disabilities, temporary total disabilities and non-scheduled permanent partial disability awards, like soft-tissue injuries to backs.

Medical costs were excluded, though, and the study focuses only on prescribed—rather than paid—lost-wage benefits. It also excludes scheduled permanent partial disabilities—like loss of an eye. Such disabilities may be added to next year's study, Mr. Lattanzio said.

The consultants used lost-wage data to determine the expected average lost-time cost per claim for fatalities and the various types of disabilities.

Each state's average claim cost

was then compared to the national statutory average of \$14,466, producing a state ranking from 1 to 50.

At No. 1, with the lowest statutory wage-loss benefit provisions, was Arkansas, followed by California, Oregon, North Dakota and South Carolina.

Other states with below-average wage-loss benefits were: Oklahoma, South Dakota, Utah, Missouri, Tennessee, Wyoming, Nevada, Mississippi, Georgia, Hawaii, Indiana and Kansas.

States requiring average statutory wage-loss benefits were: North Carolina, Nebraska, Alabama, Wisconsin, New Jersey, West Virginia, Alaska, Arizona, New Mexico, Maine, Delaware, Iowa, Kentucky, Ohio, Virginia, Pennsylvania, New York and New Hampshire.

Higher-than-average benefits were required in: Maryland, Col-

orado, Minnesota, Idaho, Florida, Louisiana, Montana, Illinois, Washington, Texas, Massachusetts, Vermont, Connecticut, Rhode Island and Michigan.

"Some states want to have high benefits, others do not," Mr. Lattanzio said. The most common

Two of three manufacturers say they consider workers comp costs when choosing a new location, Towers Perrin reported recently. Only two years ago, that figure was 56%.

Workers comp costs may not be the only relevant factor, though.

'Employers shouldn't just look for a state with the lowest insurance cost and the lowest benefits, though small employers may feel they have to give more weight to workers comp costs,' says Mark Stuart.

cause of higher benefits is a cost-of-living adjustment for one or more benefits, the study noted.

Manufacturers are more concerned than ever with spiraling workers compensation costs.

"Employers shouldn't just look for a state with the lowest insurance cost and the lowest benefits, though small employers may feel they have to give more weight to workers comp costs because they

have less control over workers comp premiums," said Mark Stuart, associate director of risk management for the National Assn. of Manufacturers in Washington.

"For some small companies, workers comp costs are a legitimate factor, but it isn't always a main reason why a company chooses to locate in one state rather than another," Mr. Stuart said. "Workers comp can become a convenient scapegoat."

According to the Bureau of National Affairs, workers comp costs are only 2.3% of payroll, said Edward M. Welch of East Lansing, Mich. Mr. Welch, a former Michigan administrator, is now a newsletter editor, consultant and teacher. "Workers comp costs get to be a significant factor in legislatures because of politics, but the reality is companies don't really base their decisions to locate on workers comp climate," he said.

"Employers should look to their own operations rather than assuming if they moved to a low-cost state their costs will go down," Mr. Welch said.

Recent Michigan research has found "very substantial" differences in comp costs for companies in the same industries within the same states (BI, Aug. 10, 1992).

"Those employers which most frequently engaged in safety and prevention efforts, which tend to have an open managerial style and a corporate climate that shares decision-making and which make the most effort to prevent and manage disability are the employers which most likely will have low workers compensation claims frequency," the Michigan study concluded.

Copies of "State Rankings of Workers Compensation Insurance Rates and Average Benefit Provisions for the Manufacturing Industry," are available for \$30 each from Actuarial & Technical Solutions Inc., 630 Johnson Ave. Suite 104, Bohemia, N.Y., 11716; 516-589-8791.

EEOC settlement

Continued from page 2

ney, said the fund continues to believe such caps are legal and only agreed to drop the AIDS limit to avoid a long legal battle that could have cost more than AIDS claims.

"They may have said that," responded the EEOC's Ms. Thomason, but "we issued a determination that discrimination had occurred."

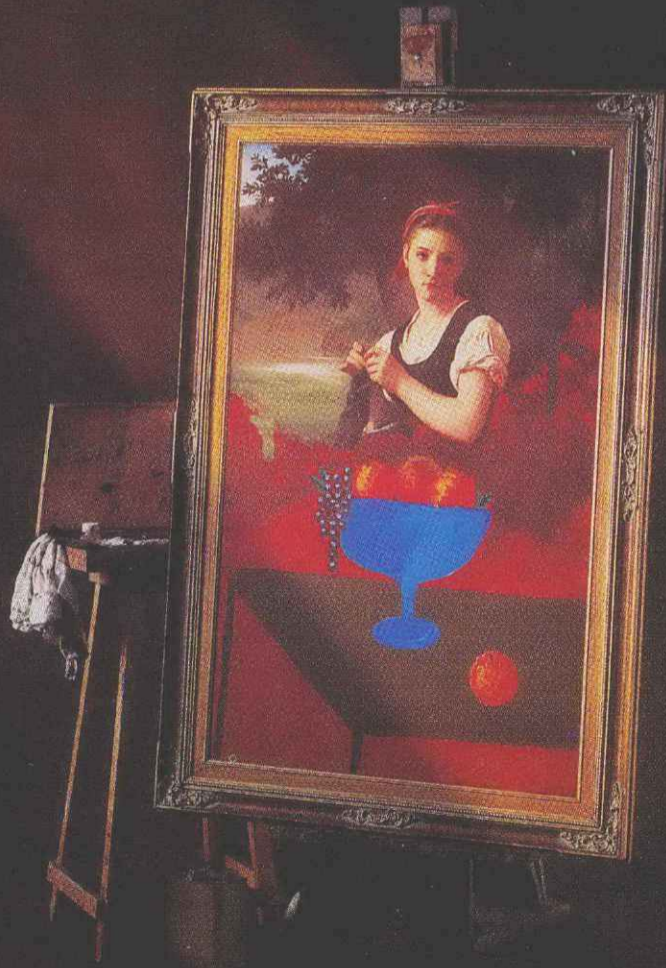
The settlement was reached shortly after the EEOC sought a temporary restraining order.

The Allied case is one of the first two AIDS discrimination suits the EEOC has filed under the ADA, according to Ms. Thomason.

The other case involves the Mason Tenders District Council, a self-insured union health benefits plan in New York that an EEOC official decided had violated the ADA by refusing to pay for HIV or AIDS treatments (BI, Feb. 15). The New York fund has since countersued in federal court, seeking a ruling on whether it has to provide coverage for two people who contracted HIV (BI, March 8).

Some 14,000 AIDS-related disability complaints have been filed under the ADA since it went into effect for most employers last July. Several dozen of them were benefits-related complaints, according to the EEOC. **BI**

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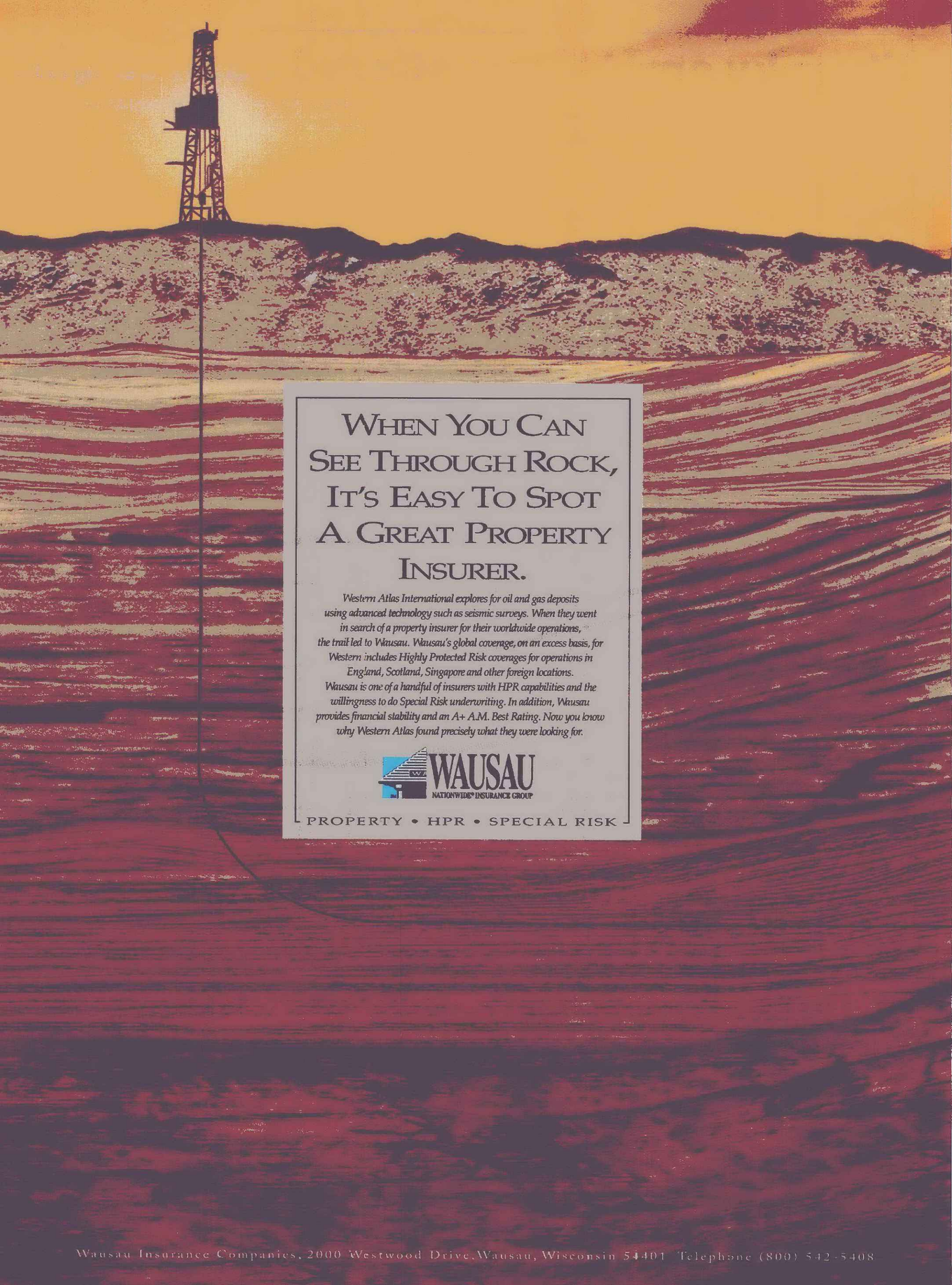
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PROPERTY • HPR • SPECIAL RISK

Sikorsky employees offered cash to quit

STRATFORD, Conn.—About 400 white-collar workers at Sikorsky Aircraft have opted for a cash payment and other incentives to leave their jobs in lieu of possible layoffs.

The United Technologies Corp. division offered about 5,200 white-collar workers a cash payment equal to one week's pay multiplied by the number of years worked at the company. In addition, those workers will also receive medical and dental benefits and life insurance for one year. The health benefits are the same as the workers receive now, a spokesman said.

Only about 400 workers responded to the buyout, but not all who applied will be approved, the spokesman noted.

The helicopter manufacturer has about 11,000 employees.

—By Sally Roberts

Benefit Beat

to a survey.

Employers are taking a new interest in supplemental executive retirement plans, thanks to a tax law change that lowers—to \$150,000 from \$235,000 annually—the maximum amount of compensation on which pension benefits may be calculated.

More than half—55%—of 160 companies without such plans expect to add them, according to a recent survey by William M. Mercer Inc.

On average, the companies expect the number of employees affected by the new compensation limits to triple.

Non-qualified plans lack IRS approval and provide no tax benefits to the company.

Generally, they are used to provide supplemental retirement income for executives whose salaries are higher than the IRS compensation limits.

—By Nancy P. Johnson

Lilly early retirement

INDIANAPOLIS—Eli Lilly & Co. will reduce its workforce by as much as 10% through an early retirement program offered by the Indianapolis-based pharmaceutical company.

The voluntary program will be offered to employees whose age plus years of service equal 76 or greater by Dec. 31. Under the spe-

cial program, the normal 3% per year reduction for early retirement will not be applied.

Employees who opt for early retirement by Dec. 9 will receive four years toward the age-and-service requirement and a lump-sum payment of one-half month of base salary multiplied by years of service, up to a maximum of one year's base salary.

The early retirements will be effective Dec. 31.

Lilly expects about 2,000 of 3,200 eligible employees worldwide to exercise the option.

In addition, the company expects to eliminate an additional 2,000 positions by restricting the use of temporary and contract employees.

—By Sara Marley

Bristol-Myers offer

NEW YORK—As part of an overall cost-saving initiative, Bristol-Myers Squibb Co. is offering about 2,600 domestic employees early retirement with enhanced monthly pension benefits.

Until Nov. 15, employees age 50 or over with at least 10 years of service are eligible to leave Bristol-Myers Squibb voluntarily and have five years of age and five years of service added to their pension benefits calculation formula.

Expenses for the program will be paid for by an \$890 million charge the pharmaceutical company took during the fourth quarter of 1992.

—By Michael Schachner

Orchestra contract

Under a new three-year labor agreement between classical musicians and the Philadelphia Orchestra Assn., the 105 members of Local 77 of the American Federation of Musicians will receive the richest pension benefits of any American orchestra as well as significant wage increases and supplementary earnings for outside ventures.

The agreement, which narrowly averted a strike that would have delayed the start of the orchestra's 94th season, calls for maximum annual pension benefits to increase nearly 27% to \$42,500 from \$33,500 under the expired contract.

In addition, minimum salaries for orchestra members will increase 17.7% by the end of the contract period to \$75,920 from \$64,480.

"We're very pleased to have reached a contract that provides a compensation package for our musicians that is competitive with those of their peers. But like any collective bargaining agreement reached in tough economic times, it required compromises on both sides," said Joseph Kluger, the orchestra's president and chief operating officer.

The deal, which became effective Sept. 20 and runs through Sept. 15, 1996, guarantees each musician significant supplementary income from outside audiovisual activities, including recordings, radio or television. If, for example, the orchestra records an album or appears on TV, each member will receive at least \$5,500 in 1994-1995 and at least \$6,000 in 1995-1996.

The media guarantees could be enhanced to as much as \$7,500 per person if a managed health care agreement that centers on a network-based, point-of-service plan is implemented during the course of the contract.

"We're seeking a mutually acceptable comprehensive medical care program that would basically be a PPO with a primary care physician," said Mr. Kluger.

Currently, the union has separate major medical and hospitalization plans, each carrying deductibles of \$200 for individuals and \$400 for family coverage.

—By Michael Schachner

Non-qualified plans

NEW YORK—A recent change in tax law is making certain non-qualified pension arrangements attractive to employers, according



Were they getting more from the alternative

In 1917, seven coal mining families desperately needed workers' compensation coverage. They pooled their capital to establish American Re-Insurance Company in Huntingdon, Pennsylvania.

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Health care mergers

Continued from page 1

Darby Group Cos., a generic drug distributor in Rockville Centre, N.Y., earlier this month.

- Value Health Inc., a managed care services company in Avon, Conn., agreed to buy Preferred Health Care Ltd., a Wilton, Conn.-based managed mental health services firm, late last month (BI, Sept. 27).

- Qual-Med Inc. of Pueblo, Colo., and Woodland Hills, Calif.-based Health Net—two health maintenance organizations—agreed to combine in August (BI, Sept. 6).

- Pharmaceutical giant Merck & Co. of Whitehouse Station, N.J., agreed to purchase Medco Containment Services Inc., a Montvale, N.J.-based managed prescription drug and managed care firm, in a \$6 billion deal in

July (BI, Aug. 2).

Observing these transactions, consultants and benefit managers say the merger strategy stems from the belief that bigger companies that can offer a variety of health care services over a wide geographic area stand the best chance of survival under health care reform.

"Everybody is scrambling to cover themselves for whatever happens under health reform," said Jim McKnight, corporate personnel director at Kaiser Aluminum & Chemical Corp. in Pleasanton, Calif.

The new, bigger companies will provide one-stop shopping nationwide for a variety of health care services, which will make things easier for benefit managers who are struggling to keep up with paperwork from multiple vendors, according to Eileen Settineri, associate benefit consult-

ant at Buck Consultants Inc. in Secaucus, N.J.

Companies with multiple locations will benefit because it is easier for them to do business with vendors that can deal with multiple health care services as well as serve multiple locations, said John Hickey, a partner at Kwasha Lipton in Fort Lee, N.J.

And, there are other possible advantages to dealing with the consolidated companies, Ms. Settineri pointed out: Benefit managers may see improved integrated management reporting, and they may have more leverage in negotiating cost and performance standards with a single vendor.

But even for multistate employers, the effect of health care company mergers on employers will likely be felt on a localized basis, said Robert Coburn, principal at A. Foster Higgins & Co. Inc. in Washington.

"If you are a benefit manager in Florida or Texas, the Columbia merger will have an effect," because the Columbia and HCA own hospitals in those states, Mr. Coburn said.

Even the Merck merger will not have a major effect on most multi-state employers, he said, because if a company has a prescription drug plan, probably less than 10% of its drug purchases are from any one drug maker.

Corporate mergers must obtain approval from the Federal Trade Commission to ensure that the combination would not violate antitrust law. Still, even with FTC approve, some worry that choice of providers will become increasingly limited. And, these observers say, once certain companies dominate a market they may hike prices in anticipation of price controls dictated by the Clinton health reform plan.

While most consultants agree the mergers won't have an immediate effect on most large employers' health plans, at least one benefit manager believes the mergers could spell trouble.

"In any other part of the economy," mergers and partnerships "would signal great news for consumers because of increased efficiencies," said Robert C. Penzkover, director-employee benefits at Quaker Oats Co. in Chicago. But in the health care sector, bigger companies squeezing smaller firms out of the market may not benefit consumers, he said.

"I think there will be a huge bubble" of companies spending money to become big players in the new health care regime, he added.

On the other hand, another benefit manager sees the mergers as good news.

The mergers "will cut out a layer of cost and paperwork and bureaucracy for us," said Steve Capitanio, director-employee benefits at Hardee's Food Systems Inc. in Rocky Mount, N.C.

And, he scoffs at the suggestion that the mergers will lead to lack of choice. "I think there is still a lot of choice in the field—no doubt about it." For example, he said, "As large as Merck is, it still has lots of competition."

Mr. Capitanio also doesn't believe health care companies will inflate prices in anticipation of price controls.

"There is so much cost-containment pressure out there," he said. "Providers that are raising prices quickly aren't getting business. And, public health care companies are currently under a lot of scrutiny."

But the real question is whether these huge organizations can really work, says Dr. Michael R. McGarvey, managing director-health strategies group at Alexander & Alexander Consulting Inc. in Lyndhurst, N.J.

"If they are too large to manage effectively, everyone could suffer," he said.

"I don't think the most efficient organizations are the biggest. You can almost get too big, and I think some of these companies have gone beyond that," added Kwasha Lipton's Mr. Hickey.

Although the merging companies claim they will gain economies of scale and cost savings, those cost savings are not likely to be passed on to employers, according to some skeptics.

Cost savings to employers "is not going to happen by itself. It depends on an employer's aggressiveness in purchasing negotiations and in the options available when purchasing," said Larry Atkins, coordinator of the Corporate Healthcare Coalition in Washington.

But, "the longer-term impact of managed care will put plenty of pressure on hospitals to keep costs down," said Dr. McGarvey of Alexander Consulting.

And, employers are not likely to lose leverage with health providers as companies merge, said Mr. Hickey.

"Most of the mergers I've seen have not locked up a particular region of the country. As long as there are three or four viable health care options," leverage shouldn't be affected, Mr. Hickey said.

Benefit managers should get used to seeing headlines about health care mergers and acquisitions, observers say.

"I think mergers will continue at a great pace as the move continues toward managed care," said Hardee's Mr. Capitanio. **BI**



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Opinions

No justification for subsidy

DOES THE CLINTON administration believe in magic?

It must, because only through an act of magic could hundreds of billions of dollars in retiree health care obligations be transferred from employers to the federal government for a relative pittance.

The administration is proposing, as part of its health care reform package, that the government pay about 80% of health care expenses for individuals who retire between the age of 55 and 64.

What would this act of government munificence cost? Hillary Rodham Clinton pegs the initial cost at \$4.5 billion a year, while White House Senior Domestic Policy Adviser Ira C. Magaziner says the cost would be about \$6 billion.

Either estimate is absurdly low. The General Accounting Office estimates that employers alone will spend about \$8.6 billion this year on health care for early retirees. The estimate does not include what the retirees themselves spend or the additional costs that would result when more workers—enticed by the promise that government would pay most of their health care costs—decide to retire early.

Many other benefit experts say the real cost to government would be at least double what the administration has suggested.

And whatever the government's initial cost of subsidizing early retirement health benefits would be, it would only be a fraction of what the cost will be 10 to 15 years from now, when a huge pool of workers—the baby boom generation of the late 1940s and early 1950s—will be eligible for these benefits.

We understand that projecting the cost of health care is a difficult business. But if the administration is so obviously off on the costs of the early retiree health care subsidy, it casts doubt on the administration's economic and cost assumptions for many other provisions in the package.

But higher costs aren't the only issue here. What is the justification for this government subsidy, regardless of the actual cost?

Is it because the administration has decided on a new retirement policy, one in which workers will be encouraged to retire at age 55? If that is the case, why then isn't the administration proposing to lower the Social Security retirement age to 55?

In fact, the real reason behind the proposal is no more



"THE REST OF MY LUGGAGE IS ON ITS WAY...."

than an old-fashioned political payoff. Just look at who will benefit from the early retirement subsidy.

The very wealthy won't benefit, because the administration is expected to propose some type of income cap—somewhere in the \$50,000 to \$75,000 range—above which retirees would be ineligible. And low-income workers won't be able to take advantage of the subsidy because most can't afford to retire before age 65.

The workers who will benefit most will be the blue-collar "elite"—those workers, typically in smokestack industries, whose companies provide full pension benefits after 30 years of service, regardless of age, and which often provide supplemental pension benefits until the retiree is eligible for Social Security.

With the government taking on most of the cost of health care benefits for early retirees, smokestack employers will be free of an enormous obligation. Once that happens, it's a sure thing that organized labor, which strongly supported Mr. Clinton during the presidential campaign, will turn to employers and negotiate for higher benefits such as increased wages.

Health care reform, even with presidential leadership, will be very difficult to enact. But the administration is making it that much more difficult with proposals that serve no purpose other than to reward special interests.

Letters

Integrate work comp into health reform

To the editor: Your anti-worker bias continues to shine through articles and editorials like "Workable Work Comp Reform" (BI, Oct. 4).

You are worried and concerned that President Clinton's health care reform proposal will "overturn state laws allowing employers to direct an injured worker to a particular doctor," yet you applaud the very same provision as it will "stop workers from seeking care from physicians who specialize in abusing the workers compensation system" and "eliminates unlimited doctor-shopping by injured workers or eliminate

their attorneys. . . ."

Has it ever occurred to you that employers and insurance companies seek out physicians who specialize in abusing the workers compensation system in their favor?

Decades of experience have taught us to be skeptical of the "objectivity" of doctors chosen by employers or insurance companies.

Control over choice of physician can result in critical influence over vitally important determinations that have nothing to do with restoring an injured worker to good health.

Workers resent directed care and there is substantial evidence that states that mandate such "employer choice" incur significantly higher costs than states with "employee choice."

Your admonition to employers that they should not rest on the issue of "merging" vs. "integrating" workers comp medical care with the health system is misdirected.

It is the insurers that should be nervous.

The administration's proposal would create a "commission on health benefits and integration" to study the appropriateness of transferring the financial responsibility for all medical benefits, including those now covered under workers compensation and automobile insurance, to the new health system.

Employers are beginning to realize that the maintenance of a separate "system" to provide medical benefits for work injuries and illnesses can be duplicative, costly and inefficient.

The continuation of such a system only benefits the "profit from pain" crowd.

The AFL-CIO strongly supports President Clinton's health reform plan and will continue to urge that the medical portion of workers compensation be fully integrated.

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EIL nightmare

Continued from page 3

directors of insurer Haftpflichtverband der Deutschen Industrie VVaG in Hanover, Germany, said Germany's experience proves that it is possible to settle pollution disputes and achieve current political and social goals without spending almost as much on legal fees as on cleanups.

Mr. Schmidt-Salzer is also confident that German insurers can offer corporate buyers full pollution coverage. He said that unlike many other countries, such as the United Kingdom, Germany's insurance market is still able to offer gradual as well as sudden and accidental coverage on a manifestation—or claims-made—basis.

"With EIL insurance in Europe there is a tendency, except in Germany, to reduce (the coverage) to sudden and accidental...but new German coverage is the first not to (restrict the coverage) only to sudden and accidental but to continue to offer gradual (coverage). The London market says it is brave or foolish to do this...but our legal, social and business environment in Germany is very different so we think we can offer the extension into the future," he said.

Statistics presented by Mr. Schmidt-Salzer seem to support his faith in the German approach.

He said that of some 25,000 German pollution claims handled by

HDI annually, only 2% end up in the courts. But of 140 to 150 U.S. claims that his company handles every year, 92% are litigated.

Mr. Schmidt-Salzer also calculates that at least one-third of all costs related to U.S. environmental cleanups has gone to legal fees. Those legal fees have totaled between \$10 billion and \$30 billion over the last 10 years, according to his estimate.

But in Germany, the percentage is much lower, said Mr. Schmidt-Salzer, who estimated that only 2 billion deutsche marks (\$1.22 billion) has been spent on legal costs over the same 10-year period.

It is the much greater propensity of German insurers and claimants to settle out of court that controls excessive pollution-related legal expenses, he said.

"The German style of litigation, which uses special judges, expert witnesses, and the loser-pays-the-winner's costs (approach), all give a strong incentive to pre-court settlement," he said.

"In Germany, we went to industry and explained that if we went to court, we would all lose money and follow the U.S. path exactly. We told them it would be better to deal with (pollution claims) on a case-by-case basis within an ongoing business relationship," said Mr. Schmidt-Salzer. "So far I estimate of all settlements paid in this way, the insurance industry has contributed about 60% and the in-

sured about 40%."

German insurers hope that the ability to maintain a healthy pollution insurance market will stave off the threat of a government-imposed compulsory pollution insurance and compensation system, said Mr. Schmidt-Salzer.

In an earlier session, a U.K. delegate indicated that the prospects for reaching a similar consensus among insurers and industry may not work in the more litigious United Kingdom.

Richard Porter, executive director of Alexander & Alexander (U.K.) Ltd. in London, cited as support for his opinion a recent case involving the Cambridge Water Co.

Mr. Porter said this case could set a precedent in the United Kingdom for holding landowners strictly liable for unintentional gradual pollution that occurred in the past (*BI*, Dec. 14, 1992). The case is being appealed to the House of Lords.

In the case, a tannery was held responsible for paying damages and cleanup costs to the water company for unintentionally polluting a site in 1976 that was more than one mile from the tannery.

"If the decision is upheld, public liability insurance policies written years ago will be responsible for paying pollution and cleanup costs retroactively, as many of these public liability insurance policies were written on an occurrence ba-

sis with no pollution exclusion," and some of them even for unlimited amounts, according to Mr. Porter.

"Whilst generally legislation is not in itself retrospective, environmental laws can in practice have a retrospective effect," he added. "It seems to me that if insurers become responsible for historic pollution, they could well react as they have done in the U.S. and withdraw entirely from providing pollution insurance," Mr. Porter said.

U.K. insurers already have collectively refused to underwrite anything but sudden and accidental coverage. The market for gradual pollution coverage dried up in 1991, after the Assn. of British Insurers introduced a model exclusion clause for gradual pollution in late 1990 (*BI*, Oct. 8, 1990). Currently, only a very small band of specialist underwriters are writing gradual pollution coverage in the United Kingdom.

Dennis R. Connolly, principal and senior vp of Johnson & Higgins in New York, commended aspects of the German pollution insurance market cited by Mr. Schmidt-Salzer: long-term relationships between buyers and insurers and the "towering" of coverages, in which insurers write a piece of each layer, rather than limiting their coverage to a single layer.

However, Mr. Connolly was skeptical that similar practices could work in the United States.

"In the U.S. in 1980, the major U.S. corporations also considered doing this with insurers. It was traditional in the U.S. to have long-standing relationships with insurers for 30-40 years. But we created a liability system which made it imperative to abandon that," Mr. Connolly said, referring to the enactment of Superfund in 1980, which imposed strict and joint and several liability on potential polluters.

Some observers fear that the European Community is preparing to create a similar liability system.

Over the last month, European business, insurers and other interested parties have responded to the European Commission's Green Paper on Remedying Environmental Damage, which was published in April 1993.

The E.C. Green Paper is essentially a first step toward integrating under one directive the various draft directives drawn up by the commission to clean up the European Community's industrial landscape.

The paper attempts to tackle the questions of who should pay for

cleanup costs arising from environmental damage and what sort of system should be set up to establish liability. It also outlines a number of options suggesting how to pay for the liabilities.

Mr. Schmidt-Salzer said he perceives little threat in the E.C. Green Paper. Rather, he sees it as part of the overall evolution of the law in this field.

But others expressed skepticism.

"Europe has a real danger of catching the U.S. disease, but primarily in Brussels. There is a danger that it will go to a large quasi-federal system which would give a bigger role to lawyers and produce more laws...Member states are properly concerned that liability laws will be driven by Brussels. If you keep it local and in the private market, your chances of catching the American disease will be lessened," said Richard B. Stewart, professor of law at New York University and former assistant attorney general for environment and natural resources at the U.S. Justice Department.

Despite the European Commission's centralized power, the theory that Europe has greater immunity from pollution liability problems was supported by David Harari, a director of broker Sedgwick S.A. in Paris who spoke at a separate session.

Mr. Harari identified six key factors that could keep a lid on pollution liability legal fees within Europe:

- Restraint in measuring damages. The size of court awards are rising, but only gradually—as is the case with the level of claims and litigation, he said.

- Punitive and exemplary damages are not recognized in Europe, except to some extent in the United Kingdom.

- European court proceedings are generally less adversarial than U.S. actions.

- Court awards in Europe are less "erratic" than in the United States, because juries are not used in civil cases in Europe.

- The loser pays the winner's court costs, including attorney fees, in most European countries.

"In other words, as far as can be observed there is no perception of a 'liability crisis' as it is sometimes mentioned in the case of the U.S.," said Mr. Harari. "The European legal systems, taking perhaps a cue from the situation observed in the U.S., are proceeding through increments rather than quantum jumps, and even though the public at large and the consumer activists are more aware of their rights, at the end of day, reason appears to prevail." **BI**

European benefit costs to rise

MONTE CARLO, Monaco—Employee benefit programs will cost European employers more and

more as governments cut back state-subsidized benefits, two actuaries warn.

Instead of relying on the state to pay their pensions,

employees will increasingly look to their employers, the actuaries say.

But, government action is not the only force driving up employers' benefit costs. Fraud, theft and mismanagement in pension plans mean that companies will need to replenish pillaged pension funds more often, the two actuaries said at the Risk Management Forum, co-sponsored by the European Assn. of Risk Managers and the Risk & Insurance Management

Society Inc. in Monte Carlo earlier this month.

"Governments are trying to pass their liabilities on to employers and employees," said Paul G. Meins, a partner at Coopers & Lybrand in London.

Employee benefits may already represent 20% to 40% of company payroll costs, and the figure is rising, he said.

One of the reasons behind the transfer of liabilities to employers is the strain on government finances, said Alastair G. McLean, a vp at Towers Perrin in London.

"Budget deficits in industrial nations mean that social security spending has been cut back, and that means that more costs will fall with companies," he said.

Francois Settembrino, risk manager for Tabacofina S.A. in Edegen, Belgium, and president of the AEAI, moderated the session.

—By Gavin Souter

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Risk management challenges growing

By ADRIAN LADBURY

MONTE CARLO, Monaco—It is time for risk managers to climb down from their ivory towers, get tough and shout as loud as everyone else, a corporate executive says.

Risk managers must learn how to "climb back through the window" when booted out of the boss' office and learn how to play boardroom politics if they are to cope with an ever-growing level and range of risks in today's fluid global economy, he contends.

The new world business environment, characterized by rapid and unpredictable change, increasingly intense global competition, voluminous and easily available information, big new markets, changing economic ground rules and shifting public priorities, presents tough new challenges and opportunities for risk managers, says Thomas P. Gasser, deputy chief executive officer of diversified manufacturer ABB Asea Brown Boveri Ltd. in Zurich, Switzerland.

Simply buying more and wider insurance coverage is not the answer, he said. The new breed of risk manager must keep pace and pre-empt the changing risks by reducing loss potential and providing loss control. The key to doing this successfully is to gain the ear and confidence of the executives who matter and sell the concept of risk management to the whole company, according to Mr. Gasser.

This was the challenge Mr. Gasser presented during a keynote address at the Risk Management Forum in Monte Carlo earlier this month.

"Risk management executives cannot operate in isolation or in a vacuum (and) must be involved—and at all operational levels. This is a major challenge as significant hurdles must be overcome. The function is new, it is not appreciated by senior managements (and) the activity still needs to prove its value," said Mr. Gasser.

"It is essential for risk managers to understand the corporate environment of their companies. Sensitivity to and ability to adapt to the work practices and the management style prevalent in the organization is a must," Mr. Gasser said.

Risk managers are frequently attacked by colleagues for not understanding the business they work in, their inability to communicate their ideas to others and their preoccupation with their own "technical" problems, according to Mr. Gasser.

Moreover, insurers, brokers, consultants and loss-control specialists also expect risk managers to have a wide knowledge of the company's products and business philosophy, up-to-the-minute information on corporate affairs and market trends, an understanding not only of the risks themselves but what is driving them and also to be able to communicate in a "convincing and clear manner."

Mr. Gasser said that risk managers who work for decentralized multinational and international operations face particular challenges.

He said that they generally have limited or little authority to make real decisions that affect the group as a whole and must "sell the concept" of a group program to largely self-sufficient units. But, at the same time, the risk manager must try to keep the global programs "flexible, adaptable and up-to-date" and attempt to keep those programs "in line with government regulations worldwide."

"To be effective in a global corporation, risk managers must, like other executives, have the ability to understand and bridge cultural differences," he said.

Global trends that will make the world economy a faster, smaller and more flexible place will force senior management to adopt new methods that, in turn, will force risk managers to adapt and polish up their management as well as technical skills, Mr. Gasser said.

According to Mr. Gasser, companies will be forced to:

- Build up a "global competitive presence" through mergers,

alliances and acquisitions to gain critical mass in research and development.

- Decentralize operations and give local management more re-

sponsibility.

- Restructure business along processes—rather than functions—that increase efficiency of capital plant and resources.
- Invest in total quality management and just-in-time stock control.
- Reallocate resources to respond to "disappearing borders, shrinking demand and escalating margin pressures."
- Cope with increased demand from the different industrial and infrastructure needs of lesser developed countries.

companies, will massively change the risks that face risk managers and force the more active stance he believes is so badly needed.

"Capacity reductions and plant

lower cycle times reduce risk as carrying costs and occupied space diminish but also increase the size of potential loss as a larger amount of products is in the pipeline of a given facility at any given point in time, greatly increasing the cost and loss potential of any business interruption as a given downtime is equal to a higher output," Mr. Gasser said.

And, insurance alone is certainly not the answer, he said.

"While insurance payments will replace lost property and equipment, cover lost profits and replace expenses to get back into a pre-loss condition, even generous insurance proceeds will not make up for lost time, lost customers, lost market share and lost markets," said Mr. Gasser, adding that as the world economy becomes tougher, faster and more competitive it is even harder to win back the advantages.

To avoid such calamities, the risk manager of the future must have the ability, foremost, to sell his or her trade, he said. Mr. Gasser advises risk managers to "adapt to the operational and political realities of your company," "communicate and over-communicate" and be active, not reactive. **BI**

'Capacity reductions and plant closings eliminate sources of risk and loss but also increase risks as production becomes more concentrated as fewer alternatives remain to make up for lost production,' says Thomas P. Gasser.

responsibility.

- Restructure business along processes—rather than functions—that increase efficiency of capital plant and resources.
- Invest in total quality management and just-in-time stock control.
- Reallocate resources to respond to "disappearing borders, shrinking demand and escalating margin pressures."
- Cope with increased demand from the different industrial and infrastructure needs of lesser developed countries.

All these changes, which Mr. Gasser believes are imminent if not already affecting most large

closings eliminate sources of risk and loss but also increase risks as production becomes more concentrated as fewer alternatives remain to make up for lost production.

"Acquisitions and new joint ventures increase risks as the number of production facilities expands, as existing coverages need to be integrated into an overall group program, as operations in countries with different legal frameworks are added but also reduce risks as markets are served from local rather than foreign sources (and) as alternative production units are added.

"Tighter inventory controls and

Global environmental risks must be faced

MONTE CARLO, Monaco—Environmental risks have increased significantly in recent years and



the world will encounter potentially disastrous problems unless it faces up to those risks, says Prince Albert of Monaco.

As recently as the last century, people were in awe of the environment, but the technological advances of recent years have led some people to think they can now dominate the earth's natural elements, he said.

"This is dangerous: there is no pilot in the spaceship Earth, as the global trends in desertification, soil erosion, deforestation, species extinction, air and marine

pollution starkly remind us," Prince Albert said during a dinner hosted by Sedgwick Group P.L.C. during the Risk Management Forum in Monte Carlo earlier this month.

Change in the world continues apace, he said.

The world population will grow to 8 billion from 5.5 billion by the year 2025, and there will be at least 100 cities with a population of more than 5 million, Prince Albert said.

"Who can pretend to manage such complex changes? No one, not even the fastest computer," he said.

But rather than give up in despair, the world should join forces and use innovative methods to reduce the level of environmental risk, Prince Albert said.

An example of the global nature

of environmental problems is a jellyfish-like marine animal called a ctenophore, which was introduced into the Black Sea in the late 1980s through the ballast of North American cargo ships, he said.

Unchecked, the animal thrived and multiplied in its new environment. Unfortunately, the ctenophore is a voracious predator of fish larvae and the fisheries of the Black Sea are producing 80% fewer fish than they were before the animal arrived, the prince said.

"It appears that we are driving the spaceship Earth without a driving license; I am not even mentioning insurance papers. We obviously could do much better in our global management of the environment," he said.

—By Gavin Souter

Buying a U.S. firm includes work comp fees

By JAMES M. BURCKE

MONTE CARLO, Monaco—European companies that acquire U.S. firms can be clobbered with unforeseen

workers compensation costs, a broker warns. These costs, which stem from pre-merger workers comp programs,

"are hidden costs that can't be caught by medical management or loss-control programs," said P. Richard Hackenburg, chairman of Willis Corroon Corp.'s risk management services division in Nashville, Tenn.

An unwary European company could face additional premium charges from past workers comp policies, whether retrospectively rated or not, Mr. Hackenburg told a group of primarily European risk managers at the Risk Management Forum in Monte Carlo earlier this month. "Most workers comp policies can generate addi-

tional premiums."

For example, U.S. workers compensation policies commonly require that payroll and exposure audits be held six months after the end of a policy period—by which time the U.S. company may have been sold to a European buyer. In addition, premium calculations under incurred-loss retro policies can take months to perform.

"A significant portion of the premium could be payable after the policy period ends," he noted. An acquiring company can be faced with a significant liability "if provisions haven't been made for these exposures" during the negotiations leading up to an acquisition.

"Take this into account during the due diligence," Mr. Hackenburg warned. "It's prudent to get an actuary involved to get a true picture."

If the company being acquired self-insures its workers comp exposures or has purchased a large-deductible workers comp policy, the actuary also must make sure

that adequate reserves have been established for accidents that occurred prior to the date of the acquisition, he said.

In addition, the actuary should ascertain whether the company has had to increase its reserves for workers comp claims in the past. If it has, it can be an indication that the reserves established prior to the acquisition may not be adequate, Mr. Hackenburg said.

"If no reserves or inadequate reserves have been set up for future liabilities, you may pay too much for the company," he said.

In addition to premium adjustments and reserve levels, an acquiring company should also be aware that its new U.S. acquisition could be hit with substantial post-policy year residual market loadings—which reflect assessments on insurers to fund assigned risk programs in various states—in retrospectively rated programs, Mr. Hackenburg advised.

"RMLs are increasing and loads can be much higher than originally expected," he said, adding

that companies can negotiate with insurers to fix the amount of residual market loading added to the retro premium.

In addition, debits and credits created by a change in a company's experience modifier—a key ingredient in workers compensation premium calculations—"can be delayed for several years," Mr. Hackenburg said.

"Past loss experience can cause increases in premium costs, even if you have implemented loss control and claims management systems" since experience modifiers commonly are based on five years of loss experience, he explained.

Finally, a European firm acquiring a U.S. company that buys retrospectively rated workers comp insurance or self-insures its workers comp exposures must pay particular attention to the security requirements set by the insurer or by state workers comp administrators, Mr. Hackenburg said.

While these security requirements can commonly be satisfied by posting a letter of credit,

"when ownership changes, security requirements can change," he observed.

For example, an insurance company that is not familiar with a U.S. company's new European parent could require cash as security rather than an LOC, he said. That would effectively raise the cost of the acquisition.

Mr. Hackenburg noted that the U.S. workers compensation system is very complex, with rules differing substantially from state to state. However, "if you do your homework," a European risk manager can make sure that workers compensation problems do not add to the cost of acquiring a U.S. company.

Jack Campbell, chairman of Itasca, Ill.-based risk management consulting firms Gallagher Bassett Services Inc. and Gallagher Bassett International Ltd., also spoke at the session, outlining how European risk managers can apply loss control, medical cost containment and claims management programs to U.S. workers compensation risks. **BI**

Brokers must expand role: Experts

By GAVIN SOUTER

MONTE CARLO, Monaco—To survive today and in the future, brokerages must offer more services to clients than simply placing insurance coverage and should change how they bill for their work, a risk manager and insurance company executive contend.

The survivors will be those firms that offer efficient claims handling and consulting services, charge fees instead of commissions and create capacity for clients, they say.

The globalization of insurance and industrial markets and the increasing complexity of risks require brokers to offer clients better services, according to Paolo Rubini, director of insurance at office equipment maker Ing. C. Olivetti & Co. S.p.A. in Ivrea, Italy.

"With increasing complexity of the environment in which the risk manager operates, the broker has to offer specific management services," he said.

Such individualized services include the management of insurance contracts in a variety of European countries and handling non-admitted insurance contracts outside of Europe, Mr. Rubini said.

The broker's ultimate aim must be to reduce clients' costs, he said during a session at the Risk Management Forum held earlier this month Monte Carlo.

Reduced capacity in insurance and reinsurance markets presents another challenge to brokers—creating capacity for clients, Mr. Rubini said.

"We expect brokers to create capacity to finance new risks or in areas where capacity is short," he said.

Brokers should use their close contacts with the insurance and reinsurance markets to find capacity for clients, Mr. Rubini advised.

Brokers' current method of compensation is also ready for change, he said.

Brokers should more frequently negotiate remuneration with risk managers instead of just charging a commission, according to Mr. Rubini.

"The close link between commissions and premiums should be controlled more, and we should probably move toward fees," he said.

Commissions can lead to a conflict of interest for brokers, agreed Enrico Orlando, assistant general manager at insurer Riunione Adriatica di Sicurtà S.p.A. in Milan, Italy.

By charging commissions based on premiums, "the broker has every reason to make sure that the premium is as high as possible," he said.

This situation may lead the broker to select a policy that costs more but offers the same coverage as a lower-priced policy, Mr. Orlando said.

Brokers would also benefit from charging fees instead of commissions, because their compensation would not be based on the price of insurance, he said.

"The remuneration should reflect the service, not the price of insurance," Mr. Orlando said.

Brokers also must offer better-

quality service to insurance companies, otherwise insurers may be tempted to suggest that clients bypass brokers and deal directly with insurers, he said.

From an insurer's perspective, better-quality service involves providing clearer details on the risks covered. Sometimes, brokers complicate coverages to conceal some aspects of the risk an insurer is being asked to cover, Mr. Orlando said.

"Insurers hope and expect to have full cooperation from a broker when they are dealing with technical risks. The better one describes a risk, the better the premium a broker will obtain," he said.

If a broker does not supply sufficient information about a risk, an insurer may apply a higher premium as a precautionary measure, Mr. Orlando said.

When there are claims on policies, it is part of the broker's job to bring about quick and efficient settlement, he said.

"He acts for both the insurer and customer...if his cooperation is first-class, then he is worth the price," Mr. Orlando said.

The services that brokers are called upon to supply vary with the expectations of insurers and clients, according to Patrick Lucas, president and director general of broker Gras Savoye S.A. in Paris.

"The services people expect vary very much between risk managers and the philosophy of companies as a whole," Mr. Lucas said.

For example, multinational companies and companies that only operate in one country place different demands on brokers, he said.

Insurers, too, have varying business philosophies and prices for products, which affect the demand on brokers, according to Mr. Lucas.

Brokers today are more frequently offering advice and administrative services in addition to their traditional insurance placement services, he said.

The advisory services can be on

risk analysis, insurance or loss prevention, Mr. Lucas said.

"The broker stands at the crossroads between the insurer and the policyholder and is well-placed to analyze risks, identify claims and to suggest plans to prevent losses," he said.

And, on the administrative side, "a broker that does not manage policies is one without a future," Mr. Lucas said.

Policy management includes claims collection and supplying claims information services to clients and insurers, he said.

And, as client and insurer demands change, brokers must be flexible enough to offer whatever services are required, Mr. Lucas said.

The session was moderated by Enrico Gladulich, insurance coordinator for appliance manufacturer Electrolux (AB) in Luxembourg. **B**



Insurance markets to continue evolving

By GAVIN SOUTER

MONTE CARLO, Monaco—Insurance will still be an integral part of risk financing in the year 2000, but the changing composition of the industry and the development of alternative sources of coverage will make it a very different market, insurance experts predict.

"Our concern is not whether insurance will exist but how it will operate," said John T. Sinnott, president of Marsh & McLennan Inc. in New York.

The commercial property/casualty

insurance market is already changing, according to Mr. Sinnott.

Industrial policyholders are demanding more capacity, London is no longer pre-eminent among world insurance markets, underwriters are becoming more specialized, everybody is becoming more efficient, and the global insurance market is expanding, he said.

Also, environmental and third-party liability problems are no longer confined to the United States, large concentrations of value are no longer restricted primarily to offshore oil platforms, and concentrations of people in hurricane-prone areas like Florida increase the potential for catastrophe losses, Mr. Sinnott ob-

served.

Mr. Sinnott spoke at the Risk Management in Monte Carlo earlier this month.

"Clearly, the growth of risk is

be more specialized and efficient demands a global market," according to Mr. Sinnott.

The global market will in effect become a series of markets that

specialized and more efficient to maintain their positions within the market, according to Mr. Sinnott.

There are already global markets in London, Paris, Stockholm, Bermuda and the United States, he noted.

"The nationality of a market is no longer important...Brokers have gone where capacity is and developed it to meet the needs of clients," he said.

In the future, this will include attracting even more capital from companies outside of the insurance industry, Mr. Sinnott explained.

Examples of this include Bermuda catastrophe reinsurers supported by investment banks and by corporate investors entering Lloyd's of London.

In the global insurance marketplace, the producing broker will have more control over the placement of business, Mr. Sinnott predicted.

"The objective is to have a system that makes it as efficient to conduct business with a carrier 3,000 miles away as with one across the street," Mr. Sinnott said.

To achieve this, brokers will have to set up central global production units and make far greater use of technology, he observed.

The entire commercial insurance market will have to change to cope with current and future challenges, agreed Dietmar Nowak, a board member at Gerling-Konzern Allgemeine Versicherungs A.G.

"We must question whether the insurance industry can pay for more and larger losses. Has the limit of insurability been reached or exceeded?" he asked.

Given the current problems of tighter capacity and soaring losses, insurers and policyholders should seek risk management solutions rather than rely on time and higher premiums to heal their wounds, he said.

"A more professional dialogue between risk managers and insurers is unavoidable," Mr. Nowak said.

Through this dialogue, insurers should gain a better understanding of the risks they are taking. This is especially true as risks become more dangerous due to the development of advanced industrial processes, Mr. Nowak suggested.

"Converging markets and the increasing size of companies has led to increasing challenges for industrial insurers. Industrial risks have changed both qualitatively and quantitatively," Mr. Nowak explained.

Insurers cannot afford to wait to learn from loss experience; the potential for large losses is too great, he said.

Proper risk management must be encouraged to limit the chance of a loss occurring, Mr. Nowak observed.

More widespread use of captive insurers will have a salutary effect on risk management standards in industrial companies, he predicted.

Companies that have captives are aware of their own risks and are confident of their ability to manage them, he said.

The session was moderated by Paul F. York, vp-corporate staff, risk management and insurance for Swiss electronics and manufacturing company ABB Asea Brown Boveri in Zurich. **B1**

'Clearly, the growth of risk is straining the marketplace, and there is a long-term challenge to utilize capacity to meet clients' needs,' says John T. Sinnott, president of Marsh & McLennan Inc. in New York.

straining the marketplace, and there is a long-term challenge to utilize capacity to meet clients' needs," he said.

"The need for more capital, to

brokers will have to access efficiently and without prejudice, he explained.

In light of these changes, brokers will have to become more



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D&O liability an international problem

By JAMES M. BURCKE

MONTE CARLO, Monaco—Directors and officers liability exposures are not limited only to U.S. companies, says a risk manager for a multinational financial institution.

"Many, if not most, Europeans may still consider directors and officers liability to be an American problem. This is no longer true," said William J. Kelly, senior vp at J.P. Morgan & Co. in New York.

Actions brought against corporate executives by government officials and private parties are now

cropping up in nations like France, Germany, Belgium and Spain, Mr. Kelly pointed out. And, "in the United Kingdom, the potential liabilities of directors and officers are so well recognized that the market for directors and officers liability coverage is booming."

"The risks associated with serving as a corporate director anywhere in the world will continue to grow," he noted. "Assuming those risks, without any insurance, will increase and more be seen as dangerous speculation."

Mr. Kelly, who is vp-international for the Risk & Insurance Management Society Inc., reviewed the D&O exposures that U.S. companies can face in Europe, particularly in France and the United Kingdom, at a session

during the Risk Management Forum in Monte Carlo earlier this month.

A French law enacted in July 1986 provides that corporate di-

rectors and officers are jointly and severally liable for "infractions of laws and regulations, violations of the company's bylaws, as well as any faults committed during their management," he explained. "Such 'faults' are actions which are alleged not to have served the company's interests" like, for example, imprudent management, negligence, abuse of company funds, presentation of inaccurate financial information and lack of proper supervision.

"There is clearly no absence of opportunity to incur liability and there have been court rulings in France in all these areas," Mr. Kelly said.

For example, in 1986, the officers of NASA Electronique, a French firm that sells electronic equipment through more than 100 retail outlets, were ordered to pay more than 400 million francs (\$72 million) because they allowed "rapid uncontrolled expansion

and questionable banking practices," he noted.

Moreover, in many European countries, directors and officers can face liability not only for traditional "corporate governance issues" like mismanagement or the release of misleading information, but for a variety of other actions, Mr. Kelly said.

In the United Kingdom, for instance, directors and officers can be held liable for their actions under specific laws as diverse as the Fire Protection Act of 1971, the Insolvency Act of 1986, the Company Securities Act, the Data Protection Act and the Financial Services Act. The Company Securities Act alone, Mr. Kelly pointed out, lists more than 200 offenses for which a director or officer can be held liable.

While directors and officers of overseas companies, including subsidiaries of U.S. corporations, face ever-increasing D&O liability exposures, he noted that risk managers can take several loss control steps to reduce this exposure.

First and foremost, directors and officers "must be educated on the nature of their responsibilities. It is essential that the company advise its directors and officers of the specific legal and regulatory standards to which they will be held," Mr. Kelly said.

Complete and accurate records of board and committee meetings also should be kept, he advised. Minutes of meetings should "clearly and concisely" explain what actions were taken and include the results of all votes taken, he said.

The company also should adopt a record retention program "to ensure that no potentially important record is destroyed prematurely," Mr. Kelly advised. And, steps should be taken to make sure that directors and officers avoid conflicts of interest that could lead to shareholder litigation. All directors and officers should be required to periodically complete a questionnaire detailing all of their affiliations, he said.

However, even the best loss prevention program cannot eliminate all D&O exposures, Mr. Kelly stated, stressing the need for adequate D&O coverage for directors and officers of foreign affiliates.

While D&O insurance is now widely available in Europe—with Mr. Kelly specifically pointing out that \$25 million in limits are available in France and Belgium—recent court decisions and laws in various European nations that effectively have turned claims-made policies into occurrence policies could threaten the market for D&O insurance in Europe.

For instance, a Belgian law that went into effect on Jan. 1 essentially has made claims-made forms, on which D&O policies have traditionally been written, illegal, Mr. Kelly said (BI, Dec. 14, 1992).

In addition, the Spanish insurance regulatory agency last year forced an insurer writing a claims-made policy "to cover claims occurring after the policy period," he said. And in France, a court invalidated a claims-made form, noting the form "permits insurers to collect premiums without proper assumption of risk."

Also speaking at the session were Brian M. Kawamoto, executive vp with Rollins Hudig Hall Group Inc. in San Francisco, and Wayne E. Borgeest, a partner with Wilson, Elser, Moskowitz, Edelman & Dicker in New York. **BI**

In Europe, directors and officers can face liability for a variety of actions, says William J. Kelly.

rectors and officers are jointly and severally liable for "infractions of laws and regulations, violations of the company's bylaws, as well as any faults committed during their

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Wave of liability claims may hit Europe

By ADRIAN LADBURY

U.K. employers worrying about rise in claims from repetitive strain injuries

MONTE CARLO, Monaco—Continental insurers and risk managers are confident that Europe will not catch an American litigation "disease" that could develop into an epidemic, but U.K. insurers and buyers are not so certain, according to two brokerage executives.

In fact, British companies and their insurers in the next few years could face a deluge of employers liability and product liability claims, warns Richard Porter, executive director of Alex-

ander & Alexander (U.K.) Ltd. in London.

Mr. Porter and David Harari, a director with Sedgwick S.A. in Paris, spoke during a session on the potential legal issues and resolutions likely to emerge from environmental, product and employers liability in the European Community during the Risk Management Forum in Monte Carlo earlier this month.

U.K. employers and their insurers are particularly worried about liability arising from an increase in the frequency and cost of repetitive strain injuries like carpal tunnel syndrome, said Mr. Porter.

In the United Kingdom, RSI claims are "now thought to be the

next tidal wave to hit the employers liability market," he said. The Health and Safety Executive, a U.K. government-sponsored body, has estimated that some 100,000 people suffer from some form of work-related upper limb disorders, Mr. Porter said.

He said that it is fairly easy to identify which industries or processes give rise to most RSI claims, but it is very difficult to judge what the long-term effects of these conditions will be. It is also difficult to assess the average cost of a claim, said Mr. Porter, adding that the cost of RSI claims can fall anywhere between 5,000 and 25,000 pounds (\$7,435 and \$37,175) per claim.

"I recently read that employers liability insurance is becoming one of the most consistent loss-making classes of business written in the U.K. There are a number of reasons, but again it does seem that there has been increasing publicity about levels of compensation. RSI is an example. . . . As more publicity surrounds RSI injuries, then more sufferers will come forward and pursue claims," Mr. Porter said.

Sedgwick's Mr. Harari voiced confidence that Europe will not follow the United States down the path of spiraling litigation over workplace injuries.

"It would seem, but this is only a guess on my part, that since

most of the continental countries of the E.C. have extensive social security systems, work-related injury of any kinds are taken care of within the system and they have not given rise to any well-publicized claims," Mr. Harari said.

"With regard to the situation in France, work-related illnesses or injuries are all handled by the social security system and are not monitored, per se, by the insurance industry," Mr. Harari explained.

Mr. Porter also warned risk managers against complacency in light of tough new product liability laws in the United Kingdom and other European nations.

The E.C. Product Liability Directive of 1985—which the United Kingdom adopted as part of the Consumer Protection Act in 1988, but which has not yet been adopted by France and some other E.C. countries—has changed the face of the European product lia-

Continued on page 20

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Product liability

Continued from page 18
bility regime, Mr. Porter said.

This directive introduced the principle of strict liability for the "producer" of a product that causes any property or bodily injury damage.

It also gave a broad definition of "producer" to include not only the manufacturer of the finished product, but also: the producers of any raw material or component

parts; importers of products into the European Community; and even suppliers if a producer cannot be found.

In addition to this expansion of liability, the French have spotted another potential problem with the new E.C. product liability regulations, which is delaying their adoption of the directive into national legislation, according to Mr. Harari.

"At issue for the French is whether innovation and product

development are to be covered or excluded under the product liability laws. This is a fundamental question, since it has been asserted that to include claims arising from new products and innovation under the product liability laws will stifle innovation and progress, as producers and manufacturers will hesitate to introduce new products on the market if future claims and large awards to plaintiffs may endanger the very existence of their business,"

Mr. Harari said.

Apart from the E.C. Product Liability Directive, Mr. Porter identified two other tough new laws that may fuel additional liability claims.

The Supply of Machinery (Safety) Regulations, 1992—which was introduced last year in the United Kingdom—imposes new duties of care for suppliers of machinery that effectively mean these companies in the future could be held jointly liable with employers for workplace injuries involving their equipment. This is one measure that may please employers liability insurers but not product liability insurers, Mr.

Porter said.

Risk managers must react quickly to these new laws to combat the new exposures, he said, suggesting a number of ways of dealing with them.

"It may be stating the obvious, but the producer's best defense is to ensure that defective products are not made," said Mr. Porter. Producers need, therefore, to establish safety strategies for all stages of product development from design to purchase by the end user, he said.

"The ability to document and monitor (product safety) at all stages is crucial. Nowadays, companies that can demonstrate clear

Risk Management Forum attracts 1,000

MONTE CARLO, Monaco—About 1,000 risk managers, insurers, brokers and exhibitors gathered on the shores of the Mediterranean for the biennial Risk Management Forum co-sponsored by the European Assn. of Risk Managers and the Risk & Insurance Management Society Inc.

The conference, which was first held in 1981, is held every two years to explore topics of concern to risk managers in Europe and North America.

The European Assn. of Risk Managers—better known as AEAI, the acronym for the organization's

French name—is a federation of risk management associations in Belgium, Denmark, France, Germany, Italy, the Netherlands, Spain, Switzerland and the United Kingdom.

At the opening session, a special presentation was made to longtime AEAI President Francois Settembrino, who will retire next year. Mr. Settembrino is risk manager for Tabacofina S.A. in Edegen, Belgium.

The next AEAI/RIMS Risk Management Forum is scheduled for October 1995 in Monte Carlo. For more information, contact the RIMS Conference Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.



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Porter said.

In addition, the E.C. Products Safety Directive, which was finally adopted earlier this year, aims to harmonize the liability of suppliers of unsafe products, Mr. Porter noted. The European Commission has called for this directive to be adopted by member nations by June 1994. The safety directive not only requires producers to place safe products onto the market but also to inform consumers of any "inherent risks" that may arise from use or consumption of the product.

Moreover, this directive will require producers to "monitor safety of products before and after sale," to demand better record keeping of complaints and claims and to institute product recall programs for products later de-

management policies must have a significant advantage in obtaining insurance," he added.

The continued availability of insurance—or reinsurance—cannot be taken for granted in this uncertain environment, Mr. Porter stressed. "One of my biggest concerns is that these exposures—environmental, product liability, RSI—are all probably risks which in the future reinsurers might not wish to cover.

"The risk manager depends on reinsurers for security... In future years, risk managers, brokers and the market generally will need to pursue other alternatives to provide that security," he said.

Beverly Cohen, director of taxes and insurance for Nordson Corp. in Westlake, Ohio, moderated the session. **BI**

October 13, 1993

Acordia, Inc.

has acquired substantially all
of the assets of

American Business Insurance, Inc.

a wholly-owned subsidiary of

American Financial Corporation

The undersigned acted as financial advisor
to Acordia, Inc. in this transaction.

Salomon Brothers Inc

Facts and Figures Summary

On the
Dental Benefits Market

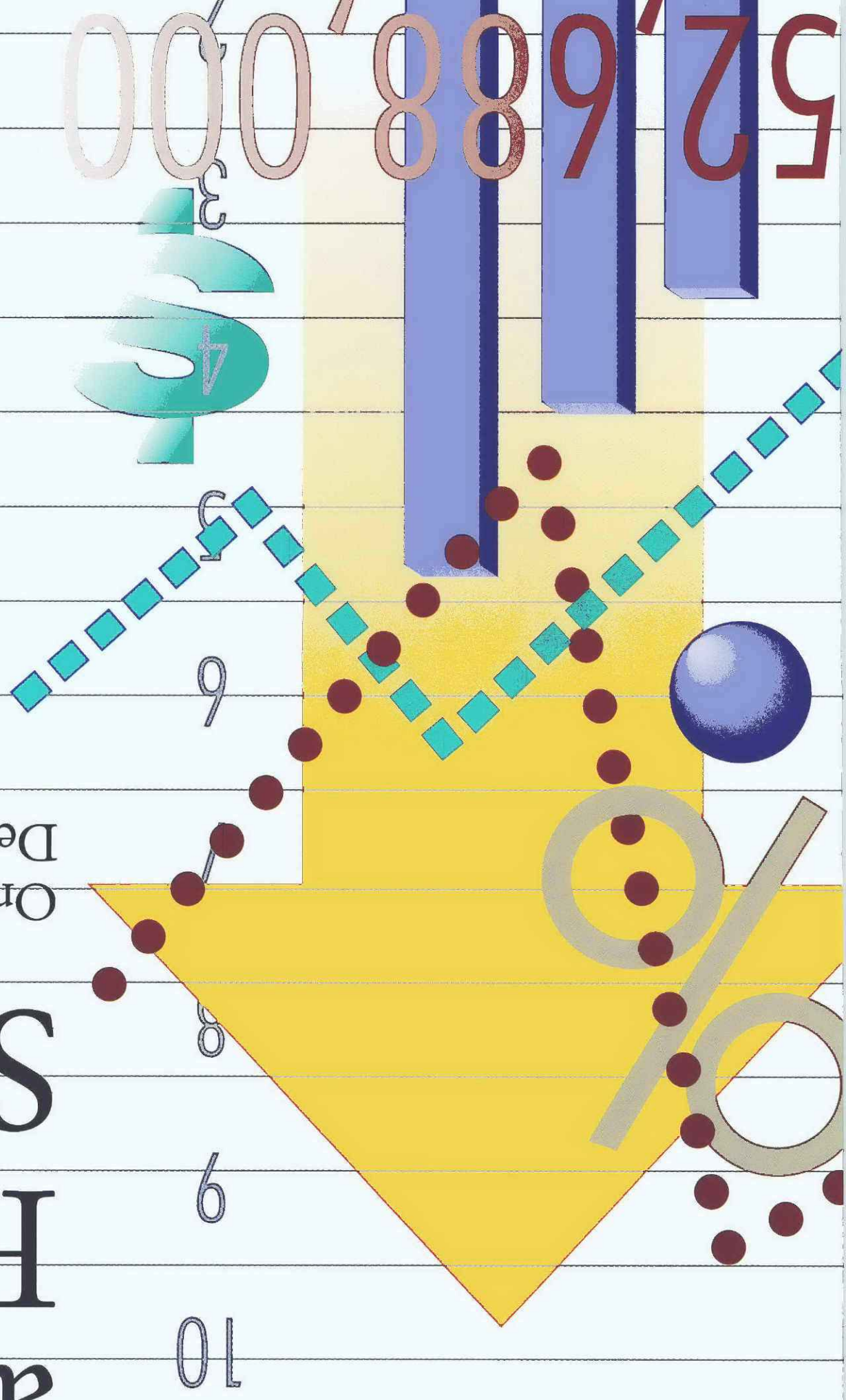
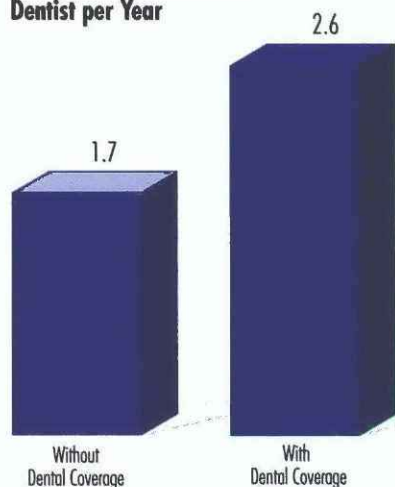


Figure 1

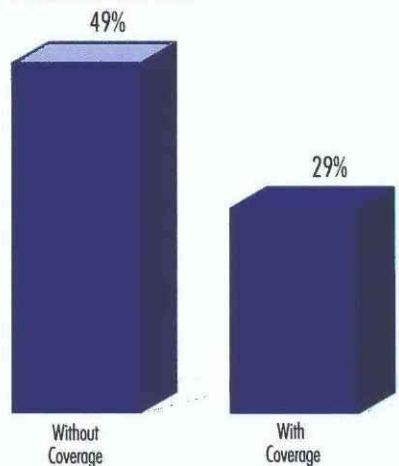
Average Patient Visits to Dentist per Year



National Center for Health Statistics

Figure 2

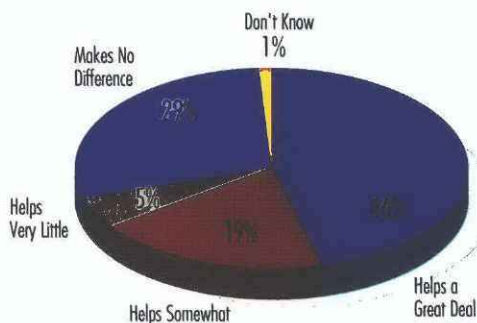
Percent of Population Not Visiting Dentist in Past Year



National Center for Health Statistics

Figure 3

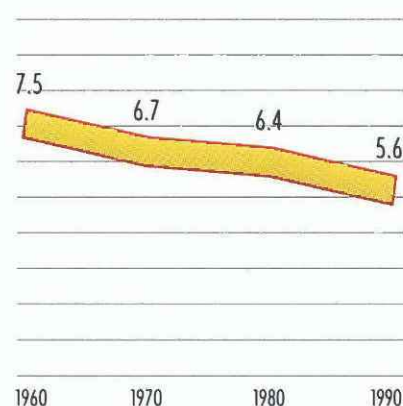
Role of Dental Insurance in Encouraging a Regular Schedule of Dental Visits



Delta Dental Plans Association

Figure 4

Dental Expenditures as a Percentage of Health Care Expenditures



Health Care Financing Administration

The Contribution of Dental Coverage to Public Health

Dental benefits exhibit many of the qualities both the Clinton Administration and American business leaders are looking for in health care reform. Almost 40 years of data indicate that dental benefits:

- increase use of preventive services,
- increase access to dental services,
- hold patients accountable in the purchase of services,
- favor the practice of primary care over specialized care,
- are affordable,
- are in demand by groups and subscribers,
- are available in a variety of managed-care models,
- are offered in a healthy competitive market,
- improve general oral health, and
- contribute to improved general health.

Dental care has become one of the few success stories in the health insurance industry during the past 20 years. In 1970, when only 6 million Americans had dental benefits coverage, most visited the dentist only when they needed major restorative care; perhaps a root canal, a crown, gum planing, or a tooth extraction. Now, many of the 124 million Americans who have dental coverage seldom need treatment more complicated than a simple cleaning or filling because they visit dentists regularly for routine cleanings and exams. And although some people still need more complicated treatments, they need them less often than in the past. Ironically, people now understand the importance of regular, preventive cleanings and check ups and actually want to visit their dentist more often.

Despite the fact that people better understand the importance of prevention, having dental coverage is still the single largest factor in determining whether a person sees a dentist at all — people with dental benefits coverage are almost twice as likely to visit a dentist in any given year

(see Figure 1). More than 70 percent of those covered see their dentist each year, usually for preventive treatment and care. Almost 50 percent of those without coverage failed to visit a dentist last year, most likely delaying treatment until a condition has progressed to an acute stage (see Figure 2).

The percentage of the population who has never visited a dentist has dropped dramatically since 1964. But there is still room for improvement: in recent years as many as four in ten Americans failed to see a dentist in any given year.

And there's more evidence that having dental insurance encourages people to see the dentist. In a 1993 survey, most people said that having dental insurance helps (or would help) them maintain a regular schedule of dental care. Nearly half (46%) said it helps (or would help) a great deal (see Figure 3).

Dental Costs: A Contrast to Medical

Dental coverage is inexpensive relative to overall health care costs. Today, it's about 5 percent of the total, a percentage that has declined steadily since 1960 (see Figure 4).

Part of this decrease is due, in part, to a corresponding decline in the need to perform complex procedures like oral surgery and prosthodontics due to an increased emphasis on and appreciation for preventive care (see Figure 5).

In other words, the need for dental care is not disappearing as much as it has taken a different form.

Average consumer expenditures for dental care between 1984 and 1991 increased at a rate much lower than the consumer price index (CPI) for dental services, suggesting that people are receiving earlier intervention — which is significantly less expensive — than in previous years (see Figure 6).

Dental's Fee Structure Encourages

Preventive Treatment

Another reason the dental industry has success-

fully avoided the cost escalation of medical services is dental coverage's overall fee structure, which emphasizes preventive treatment. By

requiring patients to pay a higher percentage of costs for restorative procedures and often reimbursing patients at 100 percent for preventive treatments, patients are more apt to see the dentist regularly.

Still, costs for dental health services have experienced some growth, and as they have, self-funding their benefits programs.

Where Does the Money Come From?

How Do They Pay?

Even with increases in the number of people

who have dental insurance, more than half of dental expenditures are payments made directly out

of consumers' pockets. Private insurance accounts for nearly all of the remainder. Government assistance programs cover only a small portion of dental expenditures, highlighting the limited access to dental benefits of the elderly and poor, who are often dependent on such programs to meet their oral health needs (see Figure 7).

Nearly all the groups that offer dental cov-

erage have some kind of fee-for-service arrangement, although dental health maintenance and dental preferred provider options are becoming

more popular. The industry shows a gradual shift away from fee-for-service and into managed-care plans through dual- and triple-options. And, as flex programs become more popular with employers, the popularity of all types of dental programs are expected to grow steadily since employers will include multiple options in their benefits packages.

Today, more employers than ever before are

unbundling their dental benefits from their medical packages, a trend that has taken root in the

past three years. As a matter of fact, it is more likely today that groups offering dental coverage have separate dental providers, with the propensity to

unbundle increasing as the size of the organization increases. Some industry sectors have a higher propensity to unbundle. For example, state and local governments are more likely to unbundle than their commercial counterparts. The most recent entrants in the dental benefits markets,

typically service industries, have a relatively lower propensity to unbundle. Today, more employers are opting for self-funded dental programs, a trend that obtained a foothold with medical benefits. On balance, the Mid-Atlantic and Pacific states are less likely to be self-funded.

Future Trends in Dental Benefits Coverage

During the next several years, employers and other groups are expected to continue adding den-

tal coverage to their benefits packages, although growth in the popularity of the benefit will most likely be in the South and in industries like the service sector where the popularity of dental coverage lags behind the rest of the nation. The trend toward a managed-care fee struc-

ture will most likely continue, as employers add

dual- and triple-options to flexible benefits plans. More groups are also expected to self-fund their dental packages and seek out the services of a

third-party administrator, mimicking a trend seen with medical coverage. In many cases, these groups will unbundle their dental coverage from medical coverage and turn to carriers that specialize in dental for their expertise (see Figure 8).

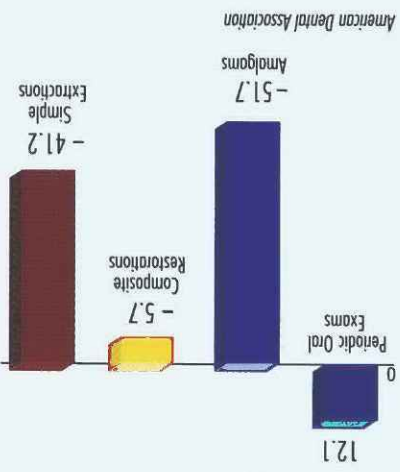
Look for a full report to be mailed to

Business Insurance's broker and consultant

readers later this fall.

Trends in the Use of Dental Services (Percent Change since 1979)

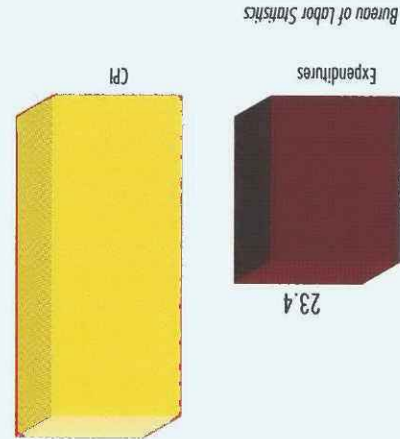
Figure 5



American Dental Association

Percent Increase in Expenditures for Dental Services Compared to the Consumer Price Index for Dental Services (1984-1991)

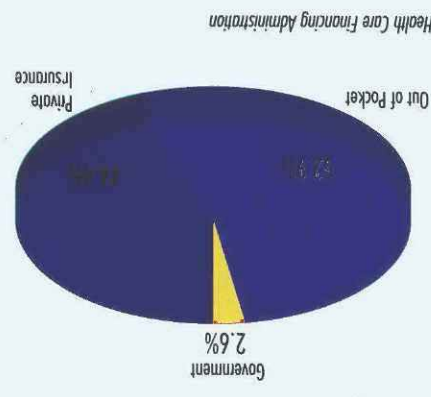
Figure 6



Bureau of Labor Statistics

Who Pays for Dental Services 1990?

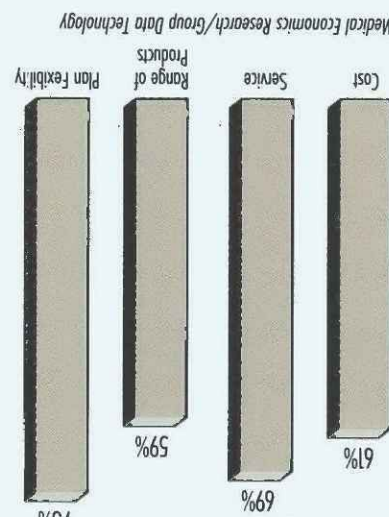
Figure 7



Health Care Financing Administration

Percentage of Benefits Managers Who Say Specialists Excel

Figure 8



Medical Economics Research/Group Data Technology



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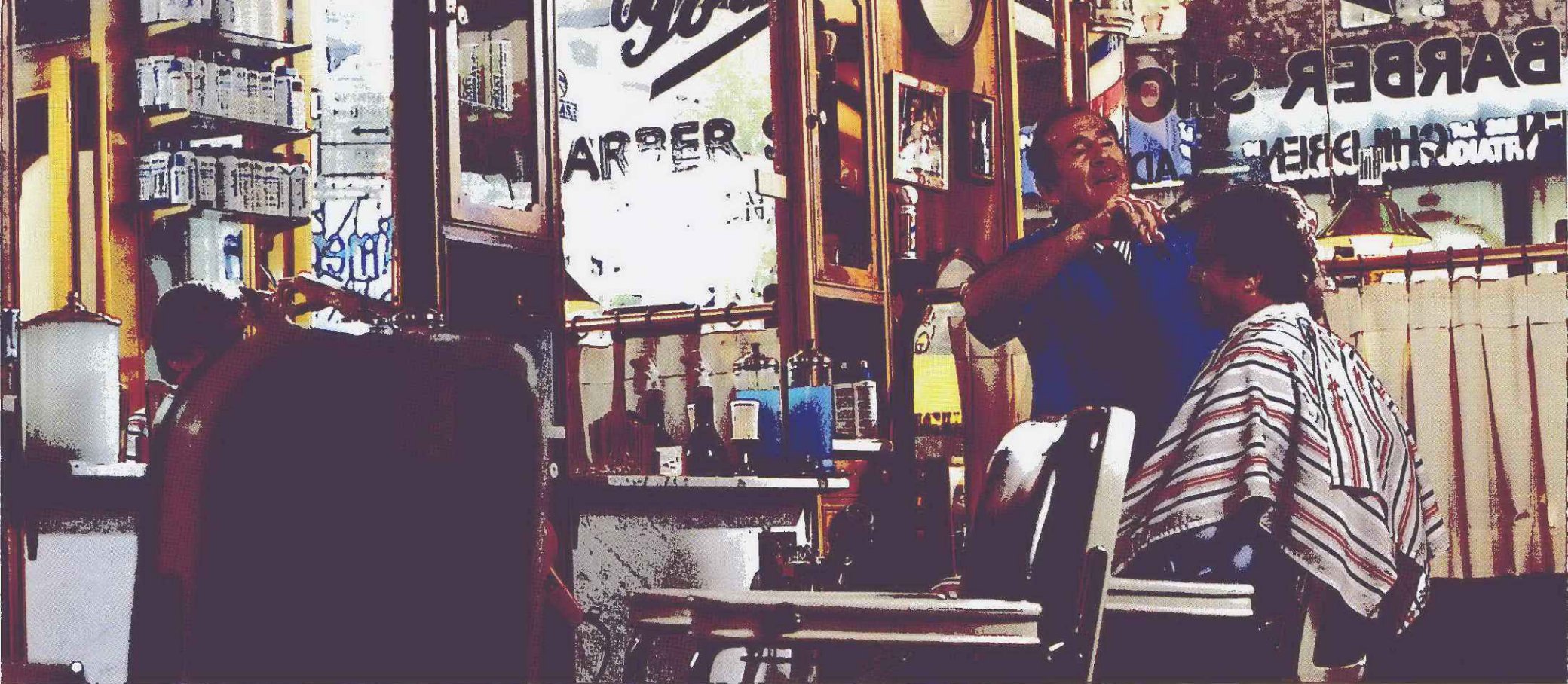


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Europe's insurance frontier

Developing markets offer opportunities and dangers

By Robert K. Meyers

RECENT EVENTS IN RUSSIA—the lock-in of Parliament and its subsequent retaking by troops loyal to President Boris Yeltsin—illuminate a significant problem inherent in the political and economic transition from a centrally planned Communist economy to a pluralistic, capitalistic society. Entrenched forces persist that prefer the traditional management structures of the past to the challenges and/or pitfalls of evolving to an open political and economic society.

With the collapse of the Berlin Wall in 1989, the end of the Cold War and the political and economic opening of Eastern Europe and the former Soviet Union, the region was perceived as a new frontier for both Western European and U.S. business interests. In the past year alone, major U.S. multinational corporations have made significant investments in countries like the Czech Republic, Hungary, Poland and the former Soviet Union with the hope of building market shares before their competitors.

Not only is expansion in the region being carried out by large U.S. corporations, but small or midsize U.S. companies are also pursuing joint ventures and other investment opportunities that, in fact, represent more than 50% of the U.S. deals so far negotiated. These smaller corporations feel that their size will help them adapt and increase market presence.

Whether a company is large or small, however, one area of increasing importance is insurance. The insurance buyer for companies investing in Eastern Europe is confronted by multiple concerns in designing and implementing insurance programs that adequately protect new investments. Buying insurance in Eastern Europe is complicated by the legal and cultural legacy of more than 40 years of communist control. Rules and regulations change daily, and energies are sometimes focused solely on determining what authority to negotiate with. Investing and managing risks in the former Soviet Union and Eastern Europe are akin to those experiences faced by U.S. corporations when they first expanded overseas a century ago.

Following the collapse of the Communist system, the movement to privatize formerly inefficient state enterprises picked up speed; the general perception was that Eastern Europe could best raise standards of living and compete in the international arena through substantial foreign investment supporting a program of modernization and/or privatization of industry. The insurance market has certainly not been excluded from this movement.

Presently, many local insurers are being privatized and joint venture agreements are more common. The primary concern about these new local insurers is their security. Usually, these local entities do not meet U.S. brokers' internal security guidelines nor those of multinational corporations. For example, in Poland, one of the three largest insurers, Westa, was declared bankrupt by the government in March because it was undercapitalized and unable to pay claims.

Regulation of insurers in Eastern Europe is therefore another important issue. Government regulatory agencies have not been quick to adapt to changing market conditions. In Russia alone, it has been estimated that 3,000 insurers have established operations in the past two years—a thousand of which have been licensed. Given the numerous problems confronting these national governments, regulation of the insurance market is often not a priority. An adequate and effective mechanism for reporting on the financial solvency of insurers like ratings guidelines set by brokers or boards like A.M. Best Co. in the United States is still lacking in Eastern Europe.

And, it is increasingly apparent that the level of service, though improving rapidly, is often not equal to that of Western insurers. Fluency in multiple foreign languages is considerably more widespread in Europe

than in the United States, but it has proved difficult for insurers and brokers to find staff with both appropriate language skills and insurance expertise.

Some exposure issues that risk managers should be aware of in Eastern Europe include:

- Pollution liability.

For most investors in Eastern Europe, pollution is definitely an issue. An environmental audit by qualified consultants is necessary prior to investment. Pollution liability is potentially a significant exposure and could, as this area of legislation and insurance becomes more sophisticated, prove to be more important for investment. Locally, some "sudden and accidental" coverage is available, but coverage for events occurring prior to acquisition of assets may not be available.

- Casualty loss control.

Unsafe work practices are common. Basic safety techniques are often ignored, and workers need basic training in body protection, fire safety and evacuation procedures. Employers liability insurance is now necessary in some countries because the state can no longer afford social security benefits or benefits afforded to employees are minimal.

In general, litigation in Eastern Europe is not as common as in the United States. However, across Western Europe and in other regions of the world, the tendency to sue a third party for damages has become more prevalent. It is likely to spread to Eastern Europe

International Issues

as well. Corporations with Eastern European operations, particularly in the more developed states like the Czech Republic or Hungary, should provide adequate limits on their general liability policies.

- Property protection.

In the United States and Western Europe and increasingly in other regions of the world, cost advantages and asset protection can be realized by proper fire protection or highly protected risks or equivalent standards. Such concepts are not as common in Eastern Europe.

Sprinkler systems may not exist, and water supplies are often unreliable. As soon as possible, insurance buyers should involve the loss-control services of the insurer or broker to ensure that immediate and effective evaluation or inspection of property assets of newly acquired locations is carried out.

- Property asset protection.

Throughout Eastern Europe, theft of assets and corruption are serious problems. Almost anything can be stolen, but particular attention should be paid to automobiles. Coverage for theft should be considered but, more importantly, loss-control measures such as night security guards and indoor garages for automobiles need to be implemented. Alarms, effective lighting and locks should also be considered for smaller assets.

The two options for insuring foreign assets are: Using locally admitted policies issued in each country by an insurer domiciled or registered in that country; or using non-admitted insurance, coverage coordinated outside the country where the insurable assets are located. Non-admitted insurance is not subject to local regulation. The goal of the insurance buyer when arranging for the protection of assets should be to adhere to local regulations where applicable for admitted or compulsory insurance, while placing master difference-in-conditions contracts, which are supplemental insurance policies covering foreign operations, in the United States.

With the increasing liberalization of Eastern Europe's insurance industry, however, and the entrance of new Western players, non-admitted insurance is no longer the necessarily preferred manner

of placing coverage. These new insurers—which are more financially secure than former state enterprises—can now act in a fronting capacity, holding specific retentions and reinsuring back to the controlling insurer. The insurance buyer satisfies both local regulatory requirements and market security concerns.

A review of some of the major countries in the regions should provide more background on these issues.

Czech Republic

The Czech Republic is considered one of the most advanced countries in the region. The state insurance monopoly was formed in 1948, when the country was still called Czechoslovakia, and lifted in 1991. While a number of new companies have since been founded with private capital, the market is still dominated by the state-owned insurer CESKA, accounting for about 73% of the Czech market. At the end of 1992, about 19 insurers were active in both the Czech and Slovak republics. Foreign investment was hampered by the fact that the maximum foreign ownership was limited to 45% in the Czech republic. Since June 1, 1992, this has changed and should yield increased capital inflows. Allianz and other German insurers recently have started to do business in the Czech Republic.

Some basic points to note:

- Legal/compulsory insurance includes automobile third-party liability and employers liability.
- Non-admitted insurance is not allowed.
- Fronting is possible but normally not 100%. A minimum 5% to 10% local retention is expected.
- Third-party liability coverage is available with a limit up to \$1.2 million. Premiums are calculated based on sales.
- For environmental liability, only accidental pollution is covered, with very low limits. Fronting/reinsurance facilities are required for higher limits.
- Workers comp is part of the social security system.
- Employers liability coverage has been available since Jan. 1, 1993.

Poland

Poland is one of the Eastern European countries most firmly committed to an accelerated conversion of former state enterprises to the private sector. The Polish government sees the privatization process as central to the move to a market economy, though the election of a new communist government may slow this process. The aim has been to move half of the Polish economy to private hands within the next three years and 80% within five years. The privatization strategy encompasses offering shares to foreign investors.

For the insurance industry, however, this goal has not been met. Until 1988, the Panstwowy Zaklad Ubezpieczen, which was responsible for domestic insurance, and Warta Insurance & Reinsurance Co. Ltd., which covered foreign and reinsurance business, operated essentially as a monopoly. With the establishment of two new companies, Westa and Polisa, the monopoly was technically broken. Governmental instability and an economic slowdown have hampered further liberalization of the insurance sector. The PZU still controls nearly 75% of the market, but the impact of two recent events remains to be seen. First, the PZU will receive more than \$150 million from the government to build up its reserves in compliance with new legislation. Secondly, the board of directors recently dismissed PZU President Krzysztof Jarmuszczyk and temporarily replaced him with Ryszard Jacyno, former deputy chairman.

Up to now there have been no significant foreign investments; legislation limiting foreign investment at 49% has been enacted and a complete opening of the market (branch offices of foreign insurers, for

Continued on next page

New frontiers

Continued from previous page

example) will not occur until 1999 to protect the indigenous market from foreign competitors.

Nevertheless, companies such as American International Group Inc., the French insurer AGF International and Commercial Union Insurance Co. have established joint ventures in the country.

Some points to note:

- Compulsory insurance includes automobile third-party liability, farmers third-party liability and buildings and social security insurance.
- Non-admitted insurance is prohibited, but because some coverages are not available in Poland, permission from the supervisory board for non-admitted insurance can be obtained in some cases.
- Fronting is possible, but normally not 100%; a minimum of 10% local retention is required. This requirement is imposed to benefit Polish insurers and to avoid pure fronting deals in which the entire premium is exported.
- Third-party liability according to Commercial Code with limits of the Zloty equivalent of \$100,000 to \$1 million recommended.
- Products/completed operations is written as a separate policy or as an extension to a general liability policy.
- Workers comp is covered by social security.
- Employers liability is not available.

Hungary

A gradual liberalization of the Hungarian economy began as early as 1972. The most important legislation concerning foreign investment was the 1989 enactment of the Economic Assn. Act and the Foreign Investment Act.

Privatization and a market economy are objectives of the Hungarian government, but the process has not gone forward as rapidly as hoped.

With respect to the insurance sector, however, Hungary's experience differs from Poland and the Czech Republic as well as other sectors of its own economy.

In 1986, the 40-year-old state insurance monopoly, Allami Biztosito, was abolished. A second company was founded the same year, Hungary Biztosito, which was initially a monopoly for reinsurance business. Today, Hungary Biztosito primarily handles commercial lines business, while Allami has assumed responsibility for personal lines.

By 1991, more than 60% of the total issued capital for the 13 insurers operating at that time was

controlled by foreign companies. Of these, Austrian, British, Dutch, German and Italian companies were the leading participants.

Hungary is one of the region's leaders in addressing the problem of market security, solvency monitoring and overall financial stability of local insurers through legislation.

In addition, Hungary recently promulgated a new product liability law, effective Jan. 1, 1994. The act will regulate manufacturers' liability for the quality of their products, thus satisfying the growing demand to protect consumers' interests and improve the quality of goods produced in Hungary.

Some features of insurance in Hungary:

- Compulsory insurance includes automobile third-party liability.
- Non-admitted insurance is not allowed. Fronting is allowed, but normally not 100%. Due to rapid product development over the last few years, a byproduct in part of new foreign ownership, most property and liability insurance covers are available, which reduces the need for non-admitted covers.
- Third-party liability is available with a limit of the equivalent of \$1 million. Premium calculation is based on sales.
- Products/completed operations and employers liability is a customary extension to the third-party liability policy.
- Environmental liability coverage for sudden and accidental exposures only. Limits of \$20,000 to \$30,000 unless reinsured.
- Workers compensation is included in the social security system.

Commonwealth of Independent States

Gosstrakh historically had a monopoly of all domestic insurance in the Soviet Union. Under the Soviet regime, the state owned all property. Consequently, Gosstrakh was perceived as much as a tax collection agency as an insurer. Ingosstrakh held the monopoly for all foreign insurance.

With the collapse of the old regime, Ingosstrakh has had to adapt to a new business environment. While there has been some concern about the security of Ingosstrakh, its financial stability is supported by hard-currency reserves outside the former Soviet Union.

The Ingo, as it is known, is certainly financially stronger than the numerous new insurers that have sprouted in the C.I.S.

Another insurer well-known in the West is the Black Sea & Baltic General Insurance Co., which is a London-based insurer owned by Ingosstrakh. The

Black Sea & Baltic has several advantages over its competitors in the former Soviet Union: It offers British terms and conditions, is regulated by U.K. authorities, and is licensed in the C.I.S. and the Baltic States.

At one point, legislation in Russia would have allowed for 100% ownership of insurers by foreign investors, but even before the most recent events there was a move to reduce the equity stake permissible to 49%. The law currently allows for foreign holdings in Russian insurance companies to a maximum of that figure, 49%. However, the Russian government is currently considering a measure that would allow 100% foreign ownership of insurers (see story page 31).

Some comments as respects the C.I.S.:

- Policy language can be in Russian, English (for the Black Sea & Baltic) or German.
- Compulsory insurance may be determined by future legislation.
- Third-party liability is available with limits of \$100,000 to \$1 million recommended and premium is calculated on the basis of sales. Environmental liability is not available.
- Products/completed operations is available.
- Workers comp is covered by social security.
- Employers liability includes unlimited liability.

It is important to note that information concerning Eastern Europe is constantly in flux. The insurance buyer must be aware of changing rules and regulations as well as changing markets and market players.

The countries of Eastern Europe are growing slowly but the process of liberalization and privatization should continue apace, except in the C.I.S., where predictions must be hedged in light of recent events. In countries like the Czech Republic, Hungary and Poland, continued investment by foreign insurers will contribute to further modernization of the industry.

Further investments by U.S. and Western European corporations should strengthen the insurance industries of these countries, and the heightened demand for service and sophisticated products should accelerate the pace of change considerably. ■



Robert K. Meyers is senior vp and manager of the International Department of Johnson & Higgins in New York. His column appears quarterly.

Comp cover for injuries suffered on way to work

A security guard who was mugged while walking in a high crime area between a public bus stop and his place of employment can recover workers compensation for his injuries, according to the Court of Appeal of Louisiana.

Charles Stewart Jr. worked for the Louisiana Plant Service Inc. as a security guard for over 20 years. He was subject to call and was assigned to various locations in the city. For the last two years, Mr. Stewart was regularly assigned to the Holsum Bakery. He traveled to and from the bakery by public transportation. The bus stop was located several blocks from the bakery and required Mr. Stewart to walk through a high crime area. In July 1990, Mr. Stewart was mugged while walking from the bus stop to the bakery and sustained serious trauma to his head and neck. He was never able to return to work. Mr. Stewart applied for and was awarded workers compensation benefits. The employer appealed.

On appeal, the employer argued that the mugging incident did not occur during the course of Mr. Stewart's employment. The appellate court

Legal Briefs

acknowledged that generally an accident that befalls an employee while traveling to and from work does not occur during the course of his employment. However, the court said an exception to the general rule applies under the "threshold doctrine" where a distinct travel risk exists for the employee in going or coming from work and where the risk exists immediately adjacent to the place of work. The court was satisfied that the requirements of the threshold doctrine were met. The award of benefits was affirmed.

Stewart vs. Louisiana Plant Services Inc., Court of Appeal of Louisiana, Dec. 15, 1992 (BI/01/D.-\$10).

Profit sharing dispute

Was the Polaroid Corp. required to recalculate its profits for purposes of its profit sharing plan and employee incentive compensation plan for purposes of its profit sharing plan and employee incentive compensation plan

after it received nearly \$1 billion in a settlement of a patent infringement action? Not according to a decision of the 1st U.S. Circuit Court of Appeals.

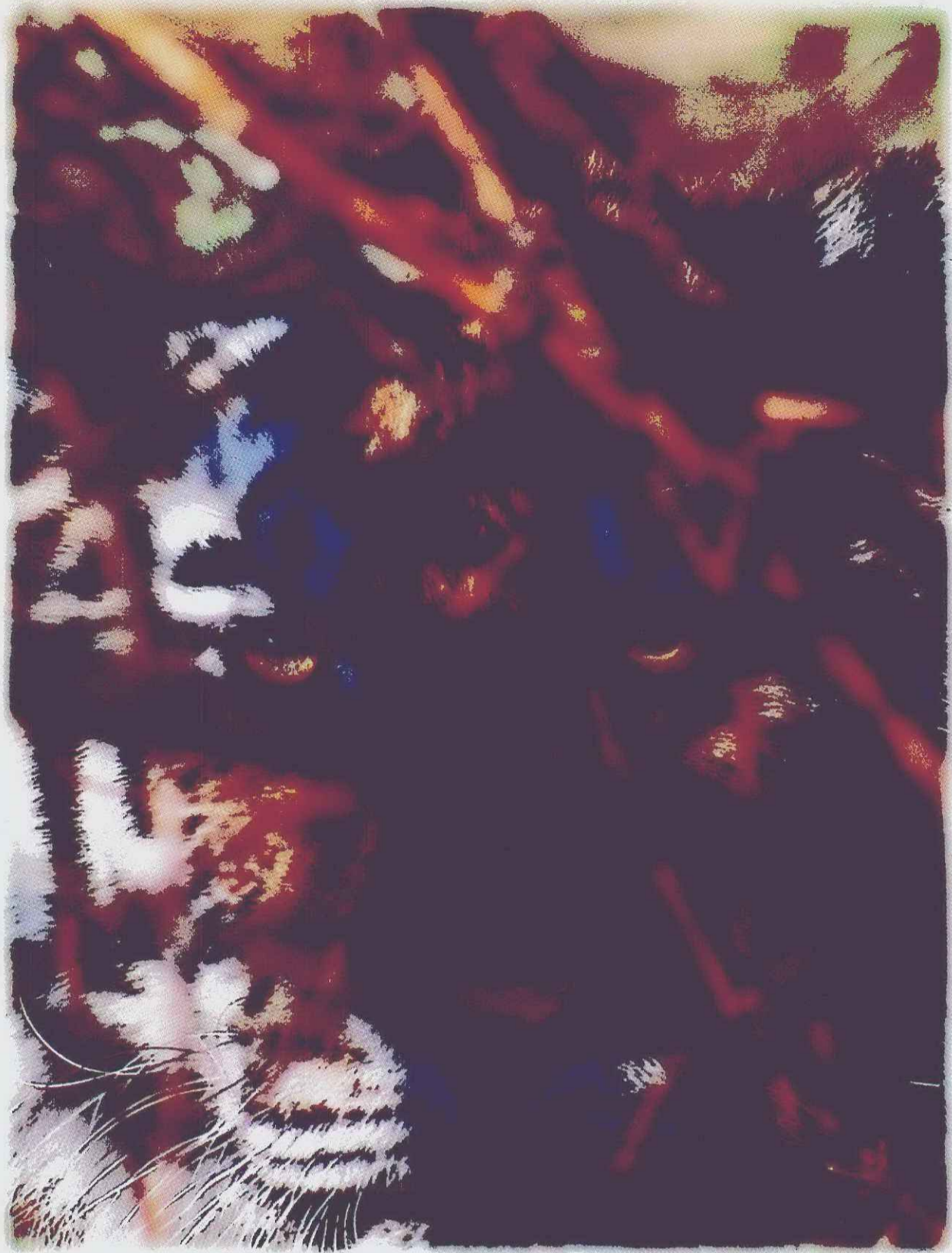
Polaroid won a patent infringement suit brought against Eastman Kodak Co. and received approximately \$925 million in cash and short-term securities from Kodak for infringements occurring from 1976 through 1986. Polaroid had a profit sharing retirement plan as well as an employee incentive compensation plan for its employees. The profit sharing plan was a contribution plan as defined in the Employee Retirement Income Security Act.

Donato F. Pizzuti, a Polaroid employee, brought this breach of action against Polaroid contending that Polaroid's employer contributions from 1976 to 1986 were undersubscribed because of the settlement. According to Mr. Pizzuti, the settlement payments required the restatement of Polaroid's profits for those years and, in turn, the payment of the additional benefits and bonuses that would have been received from these additional receipts. The trial court ruled against Mr. Pizzuti.

The appellate court said that, in construing ERISA-governed plans, the court would apply "common-sense canons of contract interpretation." The court emphasized that the bonus plan provided for calculation of "net profits" on an annual basis and that the company's determination of such net profit should be conclusive for all purposes under the plan. The court said that the language "... requires that net profits be determined annually, on the year in which the income is received, and that the company's determination in this respect is decisive and final as regards the plan." The trial court decision was affirmed.

Pizzuti vs. Polaroid Corp. 1st U.S. Circuit Court of Appeals, Feb. 4, 1993 (BI/02/D.-\$10). ■

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



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Coinsurance plan

Continued from page 3
caused by relying on reinsurers for support.

- The programs require mutual understanding of the risk insured by both the insurers and the risk managers.

- The programs are written for a multiyear period with limited opportunities for either the policyholder or the insurer to cancel and with changes in premiums linked to pre-agreed terms.

- The programs are based on "full and total transparency." The policyholder promises to give the insurers full information about loss history and potential claims, while the insurers give the policyholder access to all underwriting information.

In short, "we think it is a new way of buying insurance," said Paul F. York, vp-corporate staff/risk management and insurance for ABB Asea Brown Boveri Ltd., a diversified manufacturer based in Zurich, Switzerland. That company established what is believed to be the first long-term coinsurance program.

"I think for large industrial accounts, using the long-term coinsurance concept to achieve stability... on a long-term basis is probably the future," he said.

Mr. York and Thomas P. Seuntjens, director of corporate risk management and group insurance for Honeywell Inc. in Minneapolis, explained the principles and practicalities underlying their programs at the Risk Management Forum, co-sponsored by the European Assn. of Risk Managers and the Risk & Insurance Management Society Inc., in Monte Carlo earlier this month.

Honeywell has adopted what is believed to be the only other long-term coinsurance program.

Before it adopted its long-term coinsurance program in April 1992, one excess layer of ABB's liability program was written by 21 "known participants" on a one-year basis, Mr. York said. Some of the insurers provided "questionable security," he noted, adding that "it would have been a claims-payment nightmare to get a claim through this group of insurers."

Furthermore, he said, "there was inconsistency of the wording. It was complex, and of the 21 known participants, we had 15 fronting companies on this one layer."

In addition, ABB was having trouble "finding the capacity for this layer with viable insurance companies," Mr. York said at a press conference following the presentation.

"Our overriding concern was not what was happening in 1991, but rather we thought back to 1986," when liability insurance capacity for heavy manufacturers like ABB dried up overnight. "We wanted to find a way to get stability in limits of liability coverage and the price for those limits."

Using the principles of long-term coinsurance, Mr. York replaced the disjointed layer of coverage—which he referred to as "well above the working layer"—with a more streamlined program:

- The new program is written on a three-year basis, though the program is extended each year "on a rolling basis." Underwriters and insurers can cancel after giving 24 months' notice.
- All of the program's under-

writers use net capacity to underwrite the program.

"You are not affected by (reinsurance) market swings because you have full dependence on net capacity," Mr. York pointed out.

It is important to remember, however, that using net capacity "does not create additional capacity, but does create more reliable capacity," said Hans-Kaspar Zulauf, senior vp at Swiss Reinsurance Co. in Zurich, who also participated on the panel.

- The insurers writing the program are selected in part because of the financial security they provide.

The 21 participants on the ABB program were replaced by eight insurers, with Winterthur Insurance Co. of Switzerland serving as the program's lead underwriter. Other major insurers participating on the ABB program include Swiss Re, Zurich Insurance Co.

'I think that for large industrial accounts, using the long-term coinsurance concept to achieve stability... on a long-term basis is probably the future,' says Paul F. York, of ABB Asea Brown Boveri Ltd. in Zurich, Switzerland.

and General Reinsurance Corp.

- Claims handling procedures are agreed upon in advance with the insurers.

- Pricing is agreed upon in advance, with—in ABB's case—premiums varying each year depending upon the annual increase or decrease in the company's sales.

"You pick a price with the underwriters that is the right price for the risk and that, theoretically anyway, for four or five years is your price," Mr. York commented.

He said that the program should

provide ABB with stable limits of coverage in the layer, which he described as above the working layer but below the company's catastrophe layers.

"Since you are using only net capacity, you are not faced with the capacity crunch of the 1980s," when reinsurers pulled their support from the liability market, he said.

Just as "location, location, location" are the buzzwords in real estate, when you're dealing with a liability program you want "sta-

bility, stability, stability," Mr. York said.

Another advantage of the program is the "full transparency," Mr. York said. There are no hidden fees or charges by the insurers other than the true cost of underwriting the program and a 5% fee covering "policy issuance and the other nuts and bolts," Mr. York said.

"Everyone has to be aware of what the additional costs are," added Mr. Zulauf of Swiss Re.

Transparency goes both ways, the panelists pointed out.

"You have to give them everything they ask for, Mr. Seuntjens noted, adding that the insurers of Honeywell's long-term coinsurance program received very detailed loss information over a five-year period.

But, probably the "No. 1 benefit" of the program, Mr. York said,

Continued on next page



A substance abuse program at work can save employers money on insurance.

Continued from previous page is that the companies that write the coverage "really get to know your risk because you are speaking to them directly."

At both ABB and Honeywell, the risk manager directly negotiates "with the real decision-makers" at the participating insurers, Mr. York noted.

"The risk manager has to take charge. You have to lead the meeting with the underwriters," he said. "It's a good role for the risk manager to take. Too often a broker leads the meeting."

Still, Mr. Seuntjens said, "I would encourage a risk manager to use a broker/consultant... on a fee basis. There is some complexity, and I wouldn't suggest you put a program in without a consultant."

Alexander & Alexander Inc. serves as Honeywell's broker.

"If a broker can show ability for

value-added, I'm going to do it," said Mr. York. He agreed the broker should be compensated on a fee basis.

For example, while Mr. York negotiated major portions of the ABB coverage, brokers worked with insurers on the precise wording of the coverage, "I'm not totally comfortable with doing that," he said. "They have the expertise."

And, Mr. York said he should have used a broker to add more capacity to ABB's long-term coinsurance program. "To add an extra \$5 million to \$10 million in capacity, a broker would have been invaluable."

Mr. York explained that a broker could have identified other insurers that would have been willing to participate on ABB's program.

While Mr. York said that long-term coinsurance presents many

advantages, he acknowledged it is not without its problems.

In fact, one of the benefits with a long-term coinsurance program also is one of its problems: net-line capacity. "Not all insurers want to put out their full capacity on a U.S. liability account for a company like ABB or General Motors," Mr. York explained. "There is a limitation on the amount of capacity."

Other problem areas can include:

- Policy wording. It can be difficult to convince a group of insurers to agree on the same policy wording, including agreeing to write the coverage on an occurrence rather than a claims-made basis, Mr. York said.

He pointed out that one of the goals of a long-term coinsurance program is to achieve continuity of coverage terms between underwriters.

- Responsiveness to change. Since the long-term coinsurance layer is written by a "panel" of different insurers, "you must deal with a panel of insurers. Although there is a lead underwriter, the lead must pass information by the other insurers to get their agreement on everything."

- Limited flexibility. Because the coverage is written on a long-term basis, it is not easy to alter the contract as needs arise.

Honeywell, meanwhile, established a program very similar to ABB's in July because it, too, was worried about the stability of liability insurance capacity and the financial security of its underwriters, according to Mr. Seuntjens.

The Honeywell program supplies \$25 million in capacity excess of \$25 million, with five insurers each providing \$5 million in capacity on a pro rata basis:

CIGNA Corp., which serves as the lead underwriter; Colonia Insurance Co.; General Re; Swiss Re; and Winterthur.

Other advantages reaped by Honeywell through its long-term coinsurance program, according to Mr. Seuntjens:

- The coverage is written on an occurrence basis, while the coverage it replaced was written on a claims-made basis.

- The coverage follows form with lower-level excess layers.

- The coverage includes tail coverage to cover any gaps that were created by switching from claims-made to occurrence coverage.

"Now is a good time as a risk manager to move into this program, because we definitely will see some swings in the future," Mr. Seuntjens predicted.

"If the market were to change, I could take this layer and expand it up or expand it down," he explained.

Mr. Seuntjens originally attempted to place the long-term coinsurance layer at a lower attachment point closer to Honeywell's "working layer," or the layer that is frequently exposed to claims.

But, he said, "You don't want this coverage too close to your working layer" because it is not designed to handle a large volume of claims.

Mr. Seuntjens noted in response to a question that Honeywell only is using long-term coinsurance on one layer of its global liability insurance program, because "it is a new concept."

"This is a starting point," he emphasized.

Mr. York added that it would be difficult to find enough underwriters with the net-line capacity to write ABB's or Honeywell's entire liability programs on a long-term coinsurance basis.

However, he stressed that long-term coinsurance is a good strategy to employ in key layers of a liability insurance program for which the risk manager has problems finding reliable capacity.

Risk managers investigating a long-term coinsurance program also should not base their decision on price alone.

While the program offers price stability over the long term, the quality of the security on the ABB and Honeywell programs means that the coverage may be more costly than could be purchased from other insurers.

In fact, Mr. York noted during the press conference, "I told the panel (of insurers) that they should make a profit on me. They deserve to make a profit."

While Mr. York believes that long-term coinsurance is a workable option for liability insurance, he doubts that the concept could be applicable to property insurance programs.

While long-term coinsurance "theoretically" could work for property insurance, "you have that real catastrophic element—and a loss that has to be paid quickly—that you don't have on liability. It's not as feasible," Mr. York said.

In addition, "for real large accounts with big values, you can't find enough capacity to make it happen" for property coverage, he said.

Mr. Seuntjens agreed: "It would be difficult to find the capacity."

The long-term coinsurance concept was developed in meetings of a group known as M200, an informal discussion group formed by risk managers to explore ways to lend stability to the marketplace, Mr. York noted.



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COBRA coverage

Continued from page 1

underway as legal costs mount.

The scenario is playing out in federal court in Boston, but it could just as easily occur anywhere in the nation with any employer that offers an insured, self-insured or managed health care plan. Most plan documents, in fact, are no clearer than Harvard Cooperative's were, benefit experts say.

The case also has implications for employers that provide subsidized health coverage as part of severance benefits.

"The case serves to warn employers that they may not have now—but they likely will have—legal troubles if they continue to provide coverage to someone after they're terminated" if their plan documents are not clear, said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

The litigation turns on what event triggers the loss of group health coverage and whether the COBRA coverage period begins with that event or when an employee actually loses his or her group coverage.

The Consolidated Omnibus Budget Reconciliation Act of 1985 requires companies with 20 or more employees to extend group health coverage to former employees and qualified beneficiaries for up to 18 months. Employers can charge no more than 102% of their costs for

group coverage.

A qualifying event for coverage includes termination of employment or a reduction in work hours that would, without the COBRA coverage, result in a loss of coverage for the employee.

In this case, David Gaskell went on full disability leave in January 1987 and notified Harvard Cooperative 13 months later that he could not return to work. He resigned effective January 1988.

The store, which is affiliated with Harvard University and the Massachusetts Institute of Technology, notified Mr. Gaskell and his wife in April 1988 that it would provide coverage until June 30, after which they would be eligible for COBRA coverage beginning July 1. The Gaskells then purchased the COBRA coverage in July.

The store was insured at this time by Blue Cross & Blue Shield of Massachusetts.

In July 1989, Mr. Gaskell became eligible for Medicare. Mrs. Gaskell then applied for an additional 18 months of COBRA coverage, as allowed by the law.

But the store had just switched to a self-insured plan and its new plan administrator, Benefit Plans Northeast, denied the request.

BPN argued that the Gaskells' COBRA coverage period began with Mr. Gaskell's disability in January 1987 and that the couple's eligibility period actually ended 18

months later in July 1988.

That eligibility period is not altered by the fact that the store "gratuitously" provided them with coverage through July 1988, the administrator argued.

The Gaskells sued the store, BPN, Blue Cross and various store and BPN officials, seeking 36 months of COBRA coverage for Mrs. Gaskell beginning on July 1, 1988. They also sought up to \$100 a day in fines for alleged improper notice of the couple's COBRA coverage rights.

The Blues plan settled in January 1991. It agreed to cover Mrs. Gaskell, whose medical bills totaled \$180,000 by July of 1991, under its individual plan retroactive to July 1989. The coverage carried a 20% copayment requirement.

The Blues also assigned subrogation rights to the Gaskells.

Citing the COBRA notice the store gave the Gaskells in April 1988, a U.S. District Court ruled in May 1991 that Mrs. Gaskell was eligible for COBRA coverage for the 36-month period from July 1988 to July 1991.

The judge, though, required the store to reimburse Mrs. Gaskell for only the 20% of medical claims that her Blue Cross plan would not cover. Later, he also ruled against the Gaskells on their subrogation claim.

But, in a 3-0 decision written by Judge Conrad K. Cyr on Aug. 25, the 1st U.S. Circuit Court of Ap-

peals ruled that the Gaskells' COBRA coverage period did not begin in July 1988.

Citing legislative history and proposed Internal Revenue Service regulations, the appeals court ruled "that Congress intended an employee's 18-month period of continuation coverage to commence with the event leading, under the terms of the plan, to loss of coverage, rather than upon the loss of coverage itself."

However, the 1st Circuit ruled that a lower court must interpret the store's plan documents to determine what actually triggered the Gaskells' COBRA coverage.

That may not be possible, though, because the Blues' underwriting guidelines conflict with the store's employee handbook, said Martha M. Wishart of Jackman & Roth in Boston, who represents the Gaskells.

If the trial court rules that the documents are ambiguous and that it cannot base a decision on plan language alone, then each side would have to go the more expensive route of lining up extrinsic evidence to prove their cases.

And, the case likely would not end there, says defense attorney Francis J. Lawler of Peabody & Brown in Boston. "The case seems to have taken on a life of its own. It isn't likely to end with whatever the court decides on remand. It likely will go to the 1st Circuit again."

With legal costs mounting, both sides hope to settle. "It's been a very expensive litigation," Mr. Lawler said. He expects to respond soon to a settlement offer that was made by the plaintiffs earlier this month.

The case can serve as an invaluable lesson to employers, many of which are just as susceptible to this type of suit as Harvard Cooperative was, benefit experts say.

"There is not a clear, concise and precise definition by which these things work" in insured plans, said Harvie Raymond, director of insurance products for the Health Insurance Assn. of America in Washington.

The same is true with employers that self-insure or contract with HMOs, consultants say.

While the 1st Circuit's ruling should allay employer concerns created by the lower court's ruling, "employers should be looking at their leave policy to see how they address COBRA," said Judy Bauserman, a William M. Mercer Inc. consultant in Washington.

Those plans should specifically spell out the events that end an employee's coverage, she said.

That explanation also should detail how the employer will integrate the COBRA coverage period and the period during which it provided coverage to an employee who doesn't return to work, said Mary Lynn Eubanks, a legal consultant with Hewitt Associates in Lincolnshire, Ill.

Similar disputes could also arise when companies provide subsidized health care coverage for a stipulated period as part of severance benefits.

"The question is, after the severance period ends, do you start the COBRA coverage then or credit that period to COBRA?" asked Mr. Saveth of Foster Higgins.

The case also raises some questions about when COBRA coverage would begin for employees who do not return to work after taking the 12 weeks of leave allowed by the Family and Medical Leave Act of 1993.

Consultants agree that the act's legislative history appears to prevent employers from beginning the COBRA coverage period at the be-

ginning of the leave. But, they cannot say for certain when the qualifying event occurs.

Consultants were disappointed that the 1st Circuit did not address employers' obligations to provide proper notice about COBRA coverage to eligible employees.

Notice should be issued within two weeks of a qualifying event, consultants say. "You have to send out the notice even if the employer pays for (group health) coverage" for an employee who is on leave or has been terminated, Mr. Saveth said.

But, they question whether one notice will suffice.

Mr. Saveth suggests sending a second notice when the employer-subsidized coverage ends for employees who are on leave or who are receiving severance benefits. That should avert claims that the first notice was sent too soon, he said. **BI**

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Health care costs

Continued from page 3 suggested offering at least one point-of-service HMO in each community that will allow participants an alternative.

And he warned that employers should be careful to make coverage arrangements for out-of-area dependents, such as students, and for retirees. Employers should either maintain "some semblance of an indemnity plan... or enter into reciprocal agreements" with out-of-area HMOs.

Stricter utilization review is another method to control costs, Mr. Gajda said. This involves setting better targets. For example, an employer might believe it did a good job from 1987 to 1992 in reducing its number of hospital admissions to 100 from 125 per 1,000, and its hospital lengths of stay to 375 from 500 days per 1,000.

But it would be better for an employer to compare its performance against the entire book of business of its UR firm, he said. Even then, "you're comparing yourself against an average. Is average good enough?"

Better yet would be to target the performance of "the most efficient system"—a staff or group-model HMO—whose admission rate can be as low as 70 days per 1,000 and length of stay can be as low as 270 days per 1,000.

An employer can't expect those results in a traditional indemnity plan or preferred provider network, Mr. Gajda cautioned. "But it should be a target to strive for."

And an employer's UR firm should be able to show an employer updated rate-of-admission and length-of-stay standards for selected diagnoses.

UR should be targeted at specific problem areas where utilization is highest, he said. But, to do that, an employer needs "data about the problem." Is utilization high across the board, or is it higher in certain geographic areas or for certain jobs or in connection with a particular plan design?

Carving out problem areas such as mental health, substance abuse and high-cost lab work and X-rays can also control costs. Specialty UR vendors in these areas "can be very

effective."

But, Mr. Gajda cautioned about the multitude of firms out there. "Be very careful. It can cost more than you save."

For example, he has seen a few plans where the administrative costs of UR vendors monitoring lab and X-ray procedures were greater than the savings achieved.

Better coordination of benefits can also control health care costs, he said. "To get as much recovery as possible," electronic claim audits should be performed to ensure that benefits are coordinated for each family member and for each service performed.

A "pretty Draconian" method of enforcing coordination of benefits—which could be employed "if your plan doesn't have oodles of money"—is to take into consideration in calculating the benefits paid that the spouse did have access to another health plan. In other words, coordinate with a spouse's plan even if the spouse has elected to be covered by the employee's plan.

Another method is to charge a larger contribution to employees whose spouses are eligible for other coverage but who nevertheless opt for coverage under the employee's plan.

After one firm implemented these measures, it met with "considerable objections" from employees for eight months, he said. But it enjoyed "considerable savings" the following year.

Mr. Gajda also suggested examining a plan to determine if it provides incentives to employees to seek higher-cost care. For example, a plan might provide a better benefit for inpatient as opposed to outpatient psychiatric care and substance abuse treatment.

Plans that do not cover the cost of routine physical exams also encourage employees to obtain that service through devious methods, Mr. Gajda said.

"Come on—you know you're already paying for it," he asserted, since doctors will perform a physical exam and bill under a reimbursable diagnosis.

For every change an employer makes in a plan, providers will react, Mr. Gajda said. "Don't be surprised. Sounds like a game? It's called business." **BI**

Benefit managers beware

Increase in benefit plan audits by Labor Department seen

By LOUISE KERTESZ

LAS VEGAS—Careful preparation now can help employers prevent—or at least mitigate the damage of—a possible Labor Department audit of their benefit plans.

Investigations are triggered by complaints to the Labor Department about ERISA violations, referrals from state agencies such as insurance departments, or by the Labor Department's own computer analysis of Internal Revenue Service forms, explained Charles L. Lerner, director of enforcement of the U.S. Department of Labor's Pension and Welfare Benefits Administration.

Mr. Lerner and Vivian C. Folk, a partner with the law firm of Shumaker, Loop & Kendrick in Toledo, Ohio, spoke at "DOL Enforcement Issues and Findings," a session of the International Foundation of Employee Benefit Plans conference held in Las Vegas recently.

Although the Labor Department seeks voluntary cooperation

from providers, trustees and others, it also has "broad subpoena authority," he said.

In a limited investigation, the employer will receive a Labor Department request to forward materials such as plan documents, service provider contracts and bids to a local government field office for analysis. This request will perhaps be followed by telephone interviews with the company's staff and plan trustees, Mr. Lerner explained.

If the Labor Department believes a violation has occurred, a full investigation will be launched. Department staff will visit the company to examine records and books and may visit providers.

"It may be some time before you hear back from us," said Mr. Lerner, who urged employers to call if they are concerned about the investigation's status.

Violations may be either civil or criminal, although in the past four years the department has "heightened... sensitivity" to potential criminal violations, Mr. Lerner said. And, in the past year, 50 in-

dictments were issued, as opposed to "a dozen or so" four years ago.

In a criminal investigation, the department develops details of the case for the local U.S. attorney's use in prosecuting.

If the violation is a civil infraction, "we try to get the fiduciaries to voluntarily correct it," he said. The Labor Department sends a letter to the trustees outlining the relevant statute and the violation—a prohibited transaction or an imprudent action, for example. Plan trustees then meet with Labor Department staff to discuss the matter. Trustees might dispute the allegation, referring to relevant court cases.

Mr. Lerner strongly urged that parties attempt to negotiate a settlement and correct problems without going to court.

When the matter is settled, the department will send a letter announcing that the investigation is closed. A majority of investigations are closed without going to court, he said.

However, if there is need for a

Continued on next page

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ADVERTISER INDEX

Issue of October 25

Advertiser	Page #	Advertiser	Page #
Aetna Corporate	26-27	Liberty Mutual	19
Am-Re Managers	6-7	Wm. H. McGee & Co., Inc.	33
British Airways	30	Media/Professional Ins.	16
Brownyard Group	32	NAC Reinsurance Corp.	21
Bryson Associates	12	North American Reinsurance	9
Cincinnati Ins. Co.	4	NY Life Insurance Co.	10-11
Cover X	29	Reliance Re	14-15
Delta Dental Plan Assoc.	20A/20D	Safeco Insurance Company	36
Duncanson & Holt	40	Salomon Brothers, Inc.	20
General Rehab	32	Sedgwick James	17
General Reinsurance	25	Swett & Crawford Group	18
Great American Insurance Co.	28	U.S. Risk Underwriters, Inc.	20
ITT/Hartford	22	Wausau Insurance Company	5

Continued from previous page
civil injunction, the Labor Department will file suit in federal district court. The agency may seek to have trustees removed or certain service providers prohibited from servicing the plan. At other times, it may mandate some procedures to be followed. In any case, the department will seek "protective measures so that we don't have to come back again," Mr. Lerner said.

To avoid the hassle of a full investigation or court action, employers should be aware that the Employee Retirement Income Security Act spells out no specific "thou shalt nots" but mandates "prudent" action on the part of plan trustees.

This provision means trustees must educate themselves beyond the knowledge required for their personal financial affairs, Mr. Lerner said. They need to rise to

the "prudent expert level," he said. For example, trustees should ask themselves, "How does one go about selecting health care arrangements for thousands of participants?"

To avoid liability for imprudent action, trustees should ensure that "a reasonable process" has been established and followed for making key decisions regarding a benefit plan, and they should document how they have complied with that process, he said.

If a reasonable process has been established, it is probable that a decision will be considered prudent, Mr. Lerner said.

"If I could make one recommendation, it would be that you make a commitment that upon your return home you will have your plan providers set aside one day between now and year end" to prepare for an audit, Ms. Folk told session attendees.

ERISA spells out no specific 'thou shalt nots' but mandates 'prudent' action, Charles Lerner says.

Subsequently, employers should conduct periodic self-audits for ERISA compliance, she said.

Self-audits should be coordinated by "an independent third party" that is not affiliated with any of the plan's service providers, Ms. Folk emphasized.

The first step to prepare for a self-audit is having the basic plan documentation on hand and up-to-date that would be required to respond to a basic Labor Department "desk audit" or limited investigation. Among the docu-

ments needed would be: the plan's fidelity bond, the most recent actuarial reports for pension and welfare plans, and health maintenance organization and preferred provider organization contracts, she said.

The self-audit also requires preparation in the areas that the Labor Department is currently targeting for investigation: the plan's relation with financial institutions, insurance companies and service providers such as consultants, actuaries and attorneys, Ms. Folk said.

"With more and more insurance companies going under and leaving annuitants without coverage, the DOL views trustees as responsible where they did not check the financial stability of the carriers they were doing business with," Ms. Folk said.

"How do you protect yourself from the bad acts and bad advice

of service providers? The simple answer is, 'Pick them carefully,' " Ms. Folk advised.

Service providers have gotten trustees into trouble when the trustees have failed to ask for resumes and references, failed to ask to see a copy of the providers' malpractice policy or failed to inquire about lawsuits pending, she said.

"In addition to making sure your service providers have adequate employee benefit qualifications and experience, your review coordinator should also make certain that you have a current written contract with each provider," Ms. Folk.

The review coordinator should also ensure there is evidence that the provider's performance is being monitored and that the provider is disclosing direct and indirect sources of compensation, Ms. Folk said. **EB**

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CPCUs plan educational broadcasts

BLOOMINGTON, Ill.—The Society of Chartered Property & Casualty Underwriters will conclude its first half-century by showcasing technology likely to be increasingly critical during the next 50 years.

The society plans two nationwide teleconferences—one of which will deal with a breakthrough in underwriting automation—in 1994, according to J. Wesley Ooms, who assumes the presidency of the Malvern, Pa.-based property/casualty insurance educational and professional organization this week after its annual meeting in Baltimore.

The society's theme for 1994, "Changing Perspectives—Constant Values" stresses the organization's commitment to continuing education and high ethical standards while adapting to the constant changes in the property/casualty insurance industry. The society, which began as an organization of the first six men to achieve the CPCU designation in 1944, now has more than 22,000 active members in 151 local chapters.

The society's first 1994 teleconference, slated for Jan. 26, will discuss the impact of President Clinton's health care proposal on the property/casualty industry, said Mr. Ooms, who is assistant vp at State Farm Fire & Casualty Co. in Bloomington, Ill. A panel of experts will attempt to answer questions like whether private insurers and government-sponsored groups can compete fairly and whether integration of the workers compensation system into a national health system will reduce incentives for workplace safety programs.

The second telecast, scheduled for May 25, will deal with "underwriting the wind hazard of the future." Mr. Ooms said that the broadcast will introduce a new computer model for analyzing and underwriting the windstorm exposure. The model, tentatively called "Wind-Rite," will be available on software by the time of the broadcast. Mr. Ooms said that the program allows an underwriter to evaluate the wind exposure of a particular structure by examining such factors as its structural classification, the nature of local building codes, the potential for debris damage and the local landscape.

The new software program was designed by the Boston-based National Committee on Property Insurance and engineers at Texas Tech University in Lubbock.

—By Mark A. Hofmann

INTERNATIONAL

Canadian employers trim supplemental plans

By JERRY GEISEL

TORONTO—In the wake of new taxes and rising expenses, more Canadian employers are considering shifting health care costs to employees.

Canadian employers typically have paid 100% of the premium and have offered first-dollar coverage under supplementary health plans they provide to fill the gaps in the single-payer plans administered by provincial governments.

Those supplemental plans provide

a range of benefits, including prescription drugs, vision care, full reimbursement of medical expenses incurred outside of Canada and semi-private or private hospital rooms.

But employers in Ontario and Quebec are reassessing their commitments to ultra-rich health plans, according to the recently released results of two surveys conducted by The Wyatt Co. this year.

When Wyatt surveyed Canadian employers—mainly companies in Ontario and Quebec—earlier this

year, only 7% of the respondents said they planned to increase employee premium contributions and only 5% said they planned to reduce supplemental health care benefits.

But that was before Ontario and Quebec imposed new taxes on benefit programs.

In Ontario, the 8% retail sales tax was extended to cover group health insurance plans, while a 2% premium tax that had only applied to plans sold by commercial insurers was extended to self-insured arrangements.

In Quebec, the province changed its budget law to make employer-paid premiums for health care coverage, as well as the first \$25,000 Canadian (\$18,870) of life insurance, taxable income to employees.

With employers and employees facing higher taxes on company-provided health plans, more employers in Ontario and Quebec now say they intend to shift more costs to employees.

In a follow-up survey Wyatt conducted in August with only Ontario and Quebec employers, 18% of com-

panies said they either have increased or intend to increase employee premium contributions for supplemental health coverage, and 15% said they also have increased or intend to increase employee contributions for dental premiums.

In addition, 16% of Ontario and Quebec employers said they have increased or intend to increase deductibles this year, while 18% have increased or expect to increase co-insurance requirements.

The new taxes, coupled with
Continued on next page

D&O decision favors Australian insurers

SYDNEY, Australia—Australian directors and officers liability underwriters are breathing a sigh of relief after an appeals court recently overturned a decision that would have increased their liability.

Risk managers say the appeals court's Oct. 7 ruling puts more responsibilities on corporate directors and officers to ensure that full information is supplied on coverage applications. But, the decision also removes some of the uncertainty in the D&O market about underwriters' liability and may stem escalating D&O premiums.

New South Wales Supreme Court Justice Andrew Rogers ruled earlier this year that Melbourne-based C.E. Heath Casualty & General Insurance Ltd. was liable for a claim by the directors of failed Compass Holdings Ltd., despite the insurer's argument that Compass directors did not disclose its troubled financial position when seeking D&O coverage (*BI*, Feb. 1).

A three-member panel of the New South Wales Supreme Court of Appeal took six months to hand down its decision.

During that time, some D&O insurers altered policy terms to ensure they would not be liable under similar circumstances.

The appeals court found Judge Rogers' decision was "apt to produce injustice."

The directors had argued they were beneficiaries of the coverage, not direct policyholders, and therefore had no duty to disclose. But the appeals judges ruled they were party to the insurance contract and, even if they were not, they still had a duty to act in the utmost good faith and disclose relevant information about their company.

The D&O claim arises from charges brought against the directors of the holding company for Compass Airlines, a domestic airline now in liquidation, by the Australian Securities Commission. The directors had sought coverage under the D&O policy for their legal costs to defend that action.

Ian C. Waters, president of the Australasian Risk & Insurance Managers' Assn. and risk consultant for Queensland's Redland Shire Council, said the appeals decision "might take a bit of pressure off premiums" for D&O coverage. Rate increases at the most recent renewals ranged from 20% to 30% on average (*BI*, Aug. 2).

Greg Brown, professional indemnity underwriter for C.E. Heath, said the judgment was "a good one for the industry," but he warned that directors must take notice of what they sign.

The positive side to the litigation is that it will make directors more aware of their disclosure responsibility, Mr. Brown said.

"The days of blase signing of D&O proposals are gone," he said.

The original decision, if allowed to stand, would have forced insurers out of this class of business, Mr. Brown said, adding "I don't think the initial trial judge realized that."

The appellate court decision means directors who commit fraud cannot hide behind the argument that they were not party to the insurance contract, he said. "It means D&O returns to its role of being a safety net for those who make an honest mistake."

—By Kate McIlwaine

Russia weighs proposal

Decree may draw more foreign insurers into the market

MOSCOW—The Russian government is preparing to issue a decree that will allow 100% foreign ownership of insurance companies for the first time in Russian history.

The government decree, which is expected to be signed by Russian Prime Minister Viktor Chernomyrdin, is the culmination of several months of consultations between the Russian government and national and foreign insurers in the republic.

Moscow insurance sources say the insurance decree is one of a series of measures that were held up by the now-suspended Parliament. The decree would have to be ratified by the parliament, when one is elected and convened. But in the interim, the prime minister's signature would give it the force of law. The Moscow sources say they believe the government is trying to get the measure

signed into law before the December elections.

At the moment, foreign companies are allowed to hold stakes of up to 49% in Russian insurers. The Russian government has consulted with the national and foreign insurers for the past several months to find out how existing insurance regulations may best be improved.

Full foreign ownership of Russian insurers has been given a qualified welcome by Russian companies as long as the regulations are comparable with those of the West.

"I would support the idea where foreign capital is used to its maximum capacity, but we would have to introduce the kind of restrictions and limitation which are in force in Europe and the U.S.A. In practice, it will not be easy, we will have to wait and see," said Mikhail Sa-

fronov, managing director of West Rosso Insurance Co. in Moscow.

The insurance decree, which is still under consideration, is also expected to include new provisions on taxation and solvency regulations for insurers, which the government has been discussing with insurers.

With 100% foreign ownership of companies permitted in the Russian market, good-quality Russian insurers will become targets for foreign takeovers, while poorer-quality companies could go to the wall, said Howard Hill, an insurance consultant in Cheshire, England.

"Russian insurers will be swallowed up. The most attractive deal from the financial point of view for a Russian insurer would be to become a Russian director of a new company," he said.

—By Maria Kielmas

Skandia agrees to sell U.S. life unit

STOCKHOLM—Sweden's Skandia Insurance Co. Ltd. has announced that it will sell its Shelton, Conn.-based life reinsurance subsidiary, American Skandia Life Reinsurance Corp., to IIT Hartford Life Insurance Corp.

The deal, valued at about 170 million Swedish kronor (\$21.5 million), is expected to be completed by mid-December, pending necessary approvals. Skandia's other reinsurance and direct non-life operations in the United States will not be affected by the sale.

American Skandia Life Re had a 1992 gross premium volume of 1.5 billion Swedish kronor (\$189.3 million).

Skandia said the sale will allow the company to focus its U.S. life business on annuities through American Skandia Life Assurance Corp.

In 1992, the annuity business generated premium volume of 2.2 billion Swedish kronor (\$310.9 mil-

GLOBAL BRIEFS

lion), while premium volume in the first nine months of this year was 4.7 billion Swedish kronor (\$593.1 million).

—By Maria Kielmas

Cologne Re Results

COLOGNE, Germany—Reinsurance capacity continues to shrink in most European markets in the wake of underwriting losses, according to Cologne Reinsurance Co. Chairman Peter Luetke-Bornefeld.

"Many reinsurers are making painful adjustments, and others have left the market altogether," Mr. Luetke-Bornefeld observed during a press conference held last week to announce the 1992 results of Cologne Re and its subsidiaries.

"Efforts to harden the market with higher rates and tougher policy

conditions have not been effective enough," said Egbert William, Cologne Re executive board member, responsible for non-life reinsurance. "As a result, companies can expect an even tighter market."

Cologne Re blames higher retrocessional costs and several problem segments, like property catastrophe reinsurance, for its 1992 underwriting loss of 219.6 million deutsche marks (\$135.6 million). In 1991, Cologne Re's underwriting loss was 200.9 million deutsche marks (\$132.6 million). The 1992 underwriting loss includes a 75 million deutsche mark (\$46.3 million) loss from Hurricane Andrew.

Cologne Re's efforts to improve results with higher rates did help the reinsurer achieve a 29.7% increase in net premium volume last year. Net premium volume increased to 3.8 billion deutsche marks (\$2.35 billion) last year from 2.9 billion deutsche marks (\$1.91 billion) in 1991.

Continued on page 33

Lloyd's action group threatens fraud suit

By GAVIN SOUTER and ADRIAN LADBURY

LONDON

LONDON—A members action group that alleges fraudulent actions by Lloyd's of London caused names to incur heavy losses is threatening to sue the corporation to prevent it from drawing down on members' deposits.

The group of 300 members claims to have new evidence from former underwriters at Lloyd's

that civil and criminal fraud took place at Lloyd's in the early 1980s.

The Lloyd's Action Group for Restitution and Deposit Defense says it will issue writs against Lloyd's unless the group is given a guarantee that Lloyd's will not draw down members' deposits until issues raised by their allega-

tions are cleared up.

"The claims are based on manifest fraud, both criminal and civil, and conspiracy to defraud on the part of the Society and Corporation of Lloyd's and others," the group said in a letter to Lloyd's Chairman David Rowland.

The group also contends in the letter that "false accounting and, consequently, a false market has existed within Lloyd's since as long ago as 1981 and perhaps, earlier."

Members of Lloyd's who joined the market after 1985 have unwittingly found themselves liable for huge asbestosis liabilities dating back several decades, said Clive Francis, chairman of the action group.

"Anybody who joined Lloyd's from 1985 on was signing their own petition for bankruptcy," he said.

The group contends that several syndicates that closed their 1982 accounts in 1985 under Lloyd's

three-year accounting system should have left them open to account for significant long-tail liabilities.

Insiders at Lloyd's knew about the asbestosis liability problems before they became public knowledge, Mr. Francis contends.

Mr. Francis' own Lloyd's losses total 2.3 million pounds (\$3.4 million at current exchange rates), he said.

The group will soon issue details
Continued on page 33

Canada

Continued from previous page steadily rising costs, have triggered more employer interest in making employees pay a greater share of the tab for benefits, says a Wyatt consultant.

"The taxes, which really came out of left field, are a significant increase. And that comes on top of rising medical inflation," said Kirsten Johnston, a consultant in Wyatt's Toronto office.

Major sources of rising costs in Canada include prescription drugs, which often account for 70% of supplementary health plan costs, and hospital surcharges for semi-private

or private rooms, Ms. Johnston said.

How Canadian employers are re-evaluating their benefit plans is examined in the 1993 Wyatt survey of 946 firms, of which nearly 75% are based in Ontario or Quebec. The studies cover plans offered by employers offer to their salaried employees.

The survey indicates that like their U.S. counterparts, Canadian employers have been hit with sharply rising health care costs.

Supplementary health care plan costs increased 63.9% between 1990 and 1993, rising to an average of \$523 Canadian (\$395 at current exchange rate) per employee from \$319 Canadian (\$275 at the appro-

priate exchange rate), according to 284 employers that participated in both 1993 and 1990 studies.

At least until recently, Canadian employers have picked up the overwhelming share of supplemental health plan costs.

For example, 71% of employers pay the entire premium for individual coverage, and 63% pay the full premium for family coverage.

Where employees do have to pay a portion of the supplementary health care plan premium, the actual dollar amount is low. Among employers that require employees to pay part of the premium for individual coverage, 58% set the employee premium contribution at less than

\$20 Canadian (\$15) a month, including 12% that charge employees less than \$5 Canadian (\$4) a month for coverage.

Just 5% of employers make workers pay at least \$30 Canadian (\$23) a month for individual coverage.

Employees generally have to pay more for family coverage. Twenty-nine percent require workers to pay at least \$30 Canadian a month for family coverage, while 42% of employers say they require employees to pay less than \$30 Canadian a month for family coverage. The remaining 29% did not respond.

While a \$200 deductible for individual indemnity coverage has become the norm in the United States, 43% of Canadian employers still offer first-dollar coverage, while 46% impose deductibles of \$25 Canadian (\$19) or less. Just 7% of Canadian employers impose deductibles of more than \$25 Canadian for individual coverage.

Canadian employers are almost as generous in picking up costs for family coverage. For example, 42% of firms offer first-dollar coverage for family coverage, while 33% impose deductibles of less than \$50 Canadian (\$38). Sixteen percent of Canadian firms impose family deductibles of \$50 Canadian, and 5% require a family coverage deductible of more than \$50 Canadian.

The costs of dental plans, which the provinces generally do not offer or only provide very limited benefits for children, slightly exceed supplementary health plan expenses. This year, Canadian employers in the core group of 284 firms expect dental plan costs to average \$555 Canadian (\$419) per employee, up from \$461 Canadian (\$397) in 1990, a

20.4% increase over three years.

Just under two-thirds of employers provide first-dollar coverage for individual and family dental coverage. Where deductibles are imposed, they tend to be \$25 Canadian or less for individual coverage and under \$75 Canadian for family coverage.

But Canadian employers do ask employees to pick up a substantial percentage of the bill for big-ticket dental work.

For example, 52% of employers will reimburse only 50% of the cost of bridge work, while 17% pay 80% of the claim. Only 4% of employers pay 100% of a bridge-work claim.

Similarly, 83% of employers limit reimbursement for children's orthodontia to 50% of the claim, while 4% will pay 100% of the claim.

In addition, 17% of firms impose a maximum lifetime orthodontia benefit of between \$1,000 Canadian and \$1,500 Canadian (between \$755 and \$1,132); 29% set a lifetime reimbursement level of between \$1,500 Canadian and \$2,000 Canadian (\$1,510), while 36% have a lifetime limit exceeding \$2,000 Canadian.

The survey also found that although more employers are considering costs, companies are adding new benefits, like vision care and employee assistance plans.

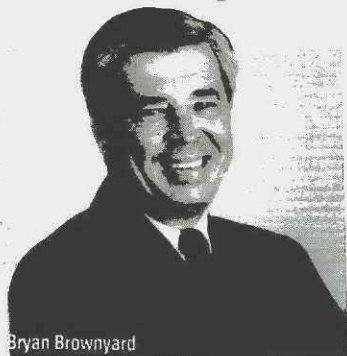
Copies of "Survey of Group Benefits Plans Covering Salaried Employees of Canadian Employers" are available for \$1,000 Canadian from Leona Parkinson, The Wyatt Co., Suite 1210, 1 Queen Street East, Canadian Research & Information Centre, Toronto, Ontario M5C 2Y4; 416-862-0393.

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LONDON

Continued from page 31

of their allegations, called "points of claims," that will contain new evidence proving their allegations, according to Mr. Francis. He would give not further details.

Lloyd's denies that there was any conspiracy to draw in new members during the 1980s to help pay long-tail losses from earlier years.

"Lloyd's repudiates these mischievous and unfounded allegations," a Lloyd's spokesman said.

Report on Lloyd's

Problems will plague Lloyd's of London at least until the end of the century, predicts a new report on the market.

The proposed introduction of corporate capital and the implementation of Lloyd's business plan will sustain the marketplace, but it will not be enough to return Lloyd's to its former stature as a pre-eminent international insurer, according to the report, "Lloyd's Insurance Market: Facing the Financial Challenges of the 1990s," by Moody's Investors Service Ltd. in London.

The losses of recent years and the need to reserve for future liability claims have clearly taken their toll on Lloyd's, says the report.

And the business plan published by Lloyd's in April will not alleviate all of the market's problems. "The plan cannot guarantee, for example, that increased loss reserves will prove sufficient to prevent further cash calls on names, nor does it explain how currently disaffected members will be appeased," the report says.

However, over the long term the market's restructuring plans—including the proposed introduction of corporate capital—should improve the commercial viability of Lloyd's, "transforming it from a global giant into a somewhat less influential insurance market," Moody's says.

Looking to the future, Moody's predicts that: corporate membership will largely replace the traditional membership system by 1996; the issue of inadequate reserving will continue to plague syndicates for the rest of the decade; there will be more cash calls and their legitimacy will be litigated in court; and successful syndicate managers and members will only stay with Lloyd's if they do not have to share the liabilities of unsuccessful syndicates.

The report is available from Moody's Investors Service Ltd., 51 Eastcheap, London EC3M 1LB; 71-772-5454.

New consultant

The two remaining directors of the KWELM group of companies when they were taken over by provisional liquidators have given their stamp of approval to the scheme of arrangement created to mitigate policyholders and creditors losses.

They have also set up a new firm to advise creditors on thorny issues posed by the scheme, which was released last month (BI, Sept. 13).

The two directors are: Roger Borley, underwriter and last director of Walbrook Insurance Co. Ltd.; and Keith Engerran, an accountant and the last director of the so-called KELM companies, which are Kingscroft Insurance

Co. Ltd., El Paso Insurance Co. Ltd., Lime Street Insurance Co. Ltd. and Mutual Reinsurance Co. Ltd.

Messrs. Engerran and Borley have teamed up to form Insolvency Aid Ltd., which will advise policyholders and creditors of the five failed London market insurers on how to deal with the scheme.

"Roger and I believe the scheme is in the general interests of the creditors, but I do believe that they should consider their own individual situations closely. There are no major issues but there are certain matters they should be aware of," said Mr. Engerran.

Mr. Engerran singled out the time value of money, currency conversion issues and the role of brokers in collections and recoveries as areas of the proposed

scheme that may need further consideration.

Mr. Engerran said he recognizes that it is perhaps too late for most policyholders and creditors to benefit from their experience because a vote on whether to accept or reject the proposed scheme will be held Nov. 20 in London. But he believes that through the new consulting operation he and Mr. Borley will be able to pass on their "vast experience and knowledge of the business and the workings of schemes," beyond next month's vote.

The pair have also set up a second company called Lloyd Phillips Ltd., which Mr. Engerran said "will provide underwriting experience to third parties who may be in need of independent investigation of other parties, advice on claims reserving and the like." **BI**

GLOBAL BRIEFS

Continued from page 31
billion) in 1991.

"Major factors were also the expansion of foreign and domestic life/health reinsurance business and alternative reinsurance concepts like financial reinsurance," explained Mr. Luetke-Bornefeld.

Cologne Life Reinsurance Co. of America reported a 29% increase in gross premium volume last year, which helped Cologne Re recoup some of its losses from catastrophe reinsurance, especially from claims resulting from hurricanes Andrew and Iniki.

Mr. Luetke-Bornefeld acknowledged that there are other markets, including Western Europe as a whole, that have been hurt by stiff

competition for rates and policy conditions.

In Eastern Europe, premium growth in countries like Estonia is phenomenal, observed Georg Lorenz, Cologne Re's executive board member responsible for that region.

That growth, is "largely a result of (Estonia's) commercial ties with European countries like Finland," explained Mr. Lorenz.

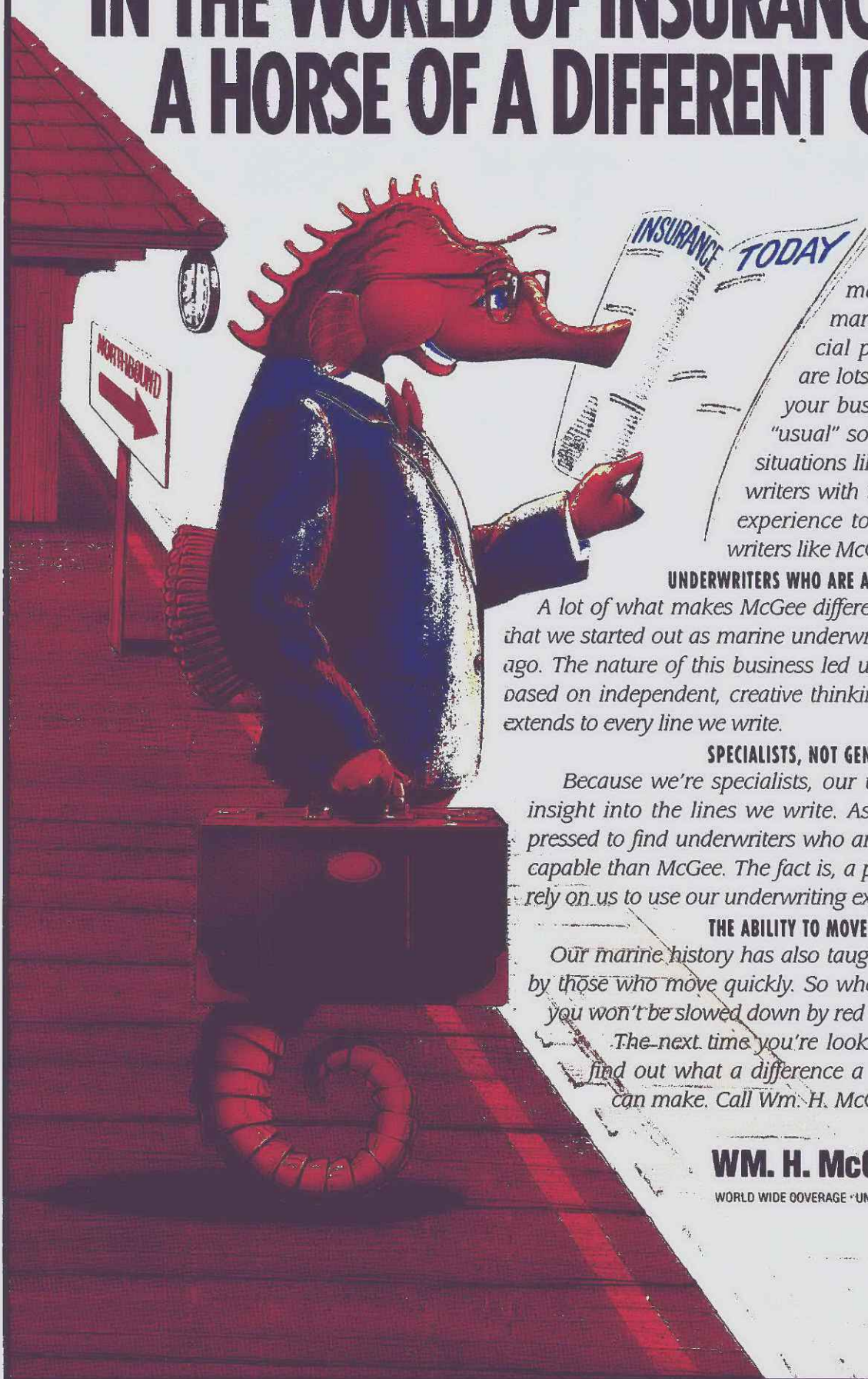
In 1990, Cologne Re opened offices in Riga, Latvia.

This enabled the company to gain influence over the development of the insurance industry in the Baltic region.

In 1992, Cologne Re acquired a 10% share of Russia's largest private insurance group, ASKO Holding, and opened an office in Moscow.

—By Don Lewis Kirk

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Family leave

Continued from page 3
loses less income when a working wife, rather than the husband, takes unpaid leave.
Employee attitudes may be just as important a factor in the paucity of men taking unpaid leave.
While attitudes are changing, most men and women still see women as the ones who will take time off when family situations arise.
"Women still are more likely to carry the traditional role of helping family members," said Nancy Platt, manager of work and family for Time-Warner Inc. in New York.
"In our society, women still are seen as the primary care givers," said a spokesman for Hartford, Conn.-based Aetna Life & Casu-

alty Co., where men constitute only about 4% of employees who take family leave each year.
This isn't to say that men don't take leave for a family-related situation, such as the birth of a child. However, when leave is taken, it often is drawn from accrued vacation so the employee does not lose any income.
"We have a number of fathers who have taken time off after the birth of a child, but they rarely take family leave. They may take a few days' vacation," said Lynn Mischley, family issues coordinator with Dow Chemical Co. in Midland, Mich.
"The likely scenario is that a male employee will take vacation so pay will continue," said Alice Campbell, director of work and family programs at Baxter Healthcare Corp. in Deerfield, Ill.

'The likely scenario is that a male employee will take vacation so pay will continue,' says Ms. Campbell.

In fact, when employers offer paid leave for family-related situations, the number of men taking leave increases sharply.
For example, at Southern Progress Corp., which allows employees to take four weeks' paid leave for births, adoptions or to care for a foster child, more than 40% of employees tapping the program are men.
"The benefit is a good recruiting tool and promotes our corporate

philosophy" of being pro-family, said Ann Moore, manager of employee benefits at Southern Progress, a Birmingham, Ala.-based unit of Time-Warner.
Some employers say they intend to do more to make employees aware that family-leave programs are for all employees—not just women.
Dow Chemical's Ms. Mischley says the company may do more feature stories in company newsletters spotlighting situations in which men have taken family leave.
"Real-life stories could be very helpful" to increase employee awareness, she said.
Although few men are using the programs, benefit managers say family-leave programs make good business sense.
At Aetna, for example, the per-

centage of women staying with the company after giving birth doubled to 24% from 12% after the insurer launched a family-leave program in 1988. The higher retention rate has resulted in considerable savings, because the company does not have to train as many new employees, a spokesman said.
Other employers say family-leave programs have boosted employee productivity because workers know their jobs will be protected if they have to take time off because of family-related situations.
"This takes stress off employees if they know, for example, they can have a child and be able to maintain their jobs," said Mike Snipes, Allstate's director of compensation and benefits in Northbrook, Ill. **BI**

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TAKE FURTHER NOTICE, that on September 23, 1993, the Circuit Court of Cook County, Illinois, entered an Order Fixing the Final Date for the Filing of Claims ("Fixing Order"). Pursuant to the terms of the Fixing Order, all rights and liabilities of North American and Commercial and their creditors, policyholders and stockholders, and all other persons interested in their assets, are fixed as of September 23, 1993, unless otherwise provided in a subsequent Order of the Court.

TAKE FURTHER NOTICE, that all persons and entities, who have, or may have, claims against North American or Commercial or their property or assets, shall have the right to present and file with the Liquidator, proper proofs of claim on or before 4:30 p.m., C.S.T., on March 9, 1994.

TAKE FURTHER NOTICE, that the form of, and required contents of, all proofs of claim are described in 215 ILCS 5/209, as amended by P.A. 88-297, effective August 11, 1993. Proofs of Claims, together with supporting documents, if any, are to be filed with, and may be secured from, the Liquidator of North American and Commercial, in Liquidation, 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. Filing shall occur upon receipt of Proof of Claim by the Liquidator. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to North American or Commercial upon all filed claims. All Proofs of Claim must be duly sworn to before an Officer authorized to take oaths.

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Special Deputy Receiver

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Circulation Breakdown*

Commercial Consumers

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Vice-Presidents, General Managers and Other Administrative Personnel 4,140

Financial:
Chief Financial Officers and Vice-presidents of Finance 2,495
Secretaries, Treasurers, controllers and other Financial Personnel 3,702

Risk/Employee Benefits:
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 15,094

Sub-total **28,112**

Associations 385
Government, unions and Educational Institutions 1,075

Commercial Consumers

Sub-total **29,572**

Insurance Agents and Brokers 8,714
Insurance Companies 7,981
Accountants, Actuaries, Attorneys & Consultants 3,532
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers 1,936
Others Allied to the Field 1,081

TOTAL **52,816**

* Source Business/Occupational breakdown of qualified circulation, May 31, 1993 issue, as submitted to BPA for June 1993 BPA Publisher's Statement.

Manufacturers

Continued from page 2
the proposed 5,000 employee threshold is not too high.

Fifty-five percent said 500 should be the minimum; 26% said it should be 100. Only 19% said that 1,000 employees should be the minimum.

Not surprisingly, Mr. Jasinowski emphasized potential problems with alliances in his letter to the president.

The plan "clearly overreaches" in the "proposed establishment of a sprawling bureaucratic structure of huge regional alliances coupled with a national board and a vast array of special-purpose oversight committees," he wrote.

"This kind of excessive government regulation will strangle the competition that is absolutely essential to containing the cost of health care services and reducing administrative expenses," he wrote. "What's needed is much less bureaucracy and much more emphasis on market-oriented approaches."

Companies with "perhaps around 500" employees should be allowed to set up their own corporate alliances, he said. Such a lower cutoff would enable more large and medium-sized firms to

pursue innovative benefit design and cost-control techniques by self-insuring."

Another element of the Clinton proposal that concerns big business is state flexibility. States would have discretion to their own benefit requirements and financing structures, including Canadian-style single-payer programs. Opposing state flexibility, 95% of the NAM directors said that companies should be allowed to continue operating under a "consistent uniform federal framework." Giving states broad powers would be "unreasonably burdening" companies that operate in several states, Mr. Jasinowski wrote in his letter to President Clinton.

Mr. Jasinowski was not wholly critical of the president's plan. He praised it because:

- "It would establish the principle of shared employer and individual financial responsibility for moving towards universal access within an employment-based health care system."

- "It would assure Americans they will not lose health coverage due to changes in health or employment status and would improve the availability and affordability of health coverage to small businesses."

- "It identifies, and attempts to address, the need both for containment of spiraling health care costs as well as for reductions in the excessive administrative burdens that permeate the entire system."

Nearly half of those polled on Oct. 9 favored some requirement

What's needed is 'much more emphasis on market-oriented approaches,' says Jerry J. Jasinowski.

that employers offer health insurance. Some 42% said employers should be required to provide and "pay for a significant part of the cost" of coverage "at least as good as the standard national benefits package." Another 3% said employers should be required to offer—but not pay for—such coverage.

Nineteen percent said that individuals, regardless of employment status, should be required to buy health insurance just as some states require them to buy automobile liability insurance. Thir-

ty-six percent said there should be no mandates on anybody.

Sharon Canner, assistant vp-industrial relations and director-employee benefits for NAM, said the level of support for an employer mandate was not surprising. Many companies that at least partially fund their workers' health coverage see the mandates as a matter of economic fairness since the costs of caring for the uninsured are shifted to those who are insured, she said.

In fact, 76% of the respondents supported the "concept of defining a standard national benefits package guaranteed to be available to all regardless of income or employment status." However, nearly three-quarters of the respondents thought the basic benefits package recommended by the administration "provides too much coverage," while 21% said the amount of coverage was "just about right," and the remaining 5% thought it was too little.

Ms. Canner said that even though the package suggested by the administration is similar to those already offered by many employers, the employers that thought it was too generous "were thinking about the big picture" rather than their own plans. The administration's benefits package,

which would cost on average \$1,800 annually for individuals and \$4,200 for families" may be "just not affordable" as an immediate, universal mandate, she said.

Most of those surveyed supported government subsidies to reduce costs for firms with 50 or fewer workers.

But there was a significant caveat—58% said they supported subsidies "only if their cost to the government is substantially reduced by making these subsidies smaller and/or by phasing them out after a transition period of several years." Only 15% supported subsidies without qualification; 27% did not support subsidies of any kind.

The respondents split almost evenly on another controversial aspect of the proposed package: a cap on annual premium increases. Fifty-three percent supported the proposal; 47% opposed it.

Ms. Canner said the split might reflect different levels of analysis among respondents, with "real health wonks" opposing caps because they would have only a short-term effect, while others less involved in the debate would consider targeting premiums to be an effective cost-containment strategy, at least during the initial implementation of the plan. **BI**

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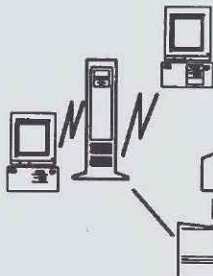
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Managed care offers little savings, if any, GAO study concludes

By MARK A. HOFMANN

WASHINGTON—There is little hard evidence that shows managed care saves employers money, according to a General Accounting Office report released last week.

That contention counters previously published surveys and has drawn fire from a trade group that represents health maintenance organizations.

"Although many employers believe that, in principle, managed care plans save money, little empirical evidence exists on the cost savings of managed care," wrote

the authors of "Managed Health Care: Effect on Employers' Costs Difficult to Measure."

The report, which was released Oct. 19, was requested by Rep. Fortney "Pete" Stark, D-Calif. Rep. Stark is an outspoken proponent of replacing the current health financing system with a single-payer system like that of Canada.

"Most studies comparing firms' health care costs for employees under managed care and indemnity plans do not adequately control for key factors affecting costs, such as employees' age or health status," the GAO report states.

"Consequently, because of the tendency of managed care plans to attract younger and healthier employees, cost savings revealed in many studies may be attributable to employee health status rather than to cost containment."

The study also says employers have done "few rigorous analyses" of the impact of network-based managed care on their health costs.

"Most employers depend on simple premium comparisons that do not account for other important factors, such as enrollee characteristics and benefit differences," according to the GAO study.

"We do not believe the GAO report fully recognizes the sophistication of employers making health benefits purchases today,

Managed care savings may be attributable to employee health status, the GAO says.

nor gives enough credit to the ability of both employers and individuals to choose health plans that work for them," the Washington-based Group Health Assn. of America, an HMO trade group, said in a release issued within hours of the GAO report's release.

"We are confident that consumers and purchasers will continue to choose HMOs for the same reasons they have been choosing them in such large numbers over the past decade: They work," the GHAA said in the statement.

The GAO conclusions contradict data cited in such surveys as one released by A. Foster Higgins & Co. Inc., earlier this year. The Foster Higgins survey, which is cited in two footnotes in the GAO report, found that cost per employee and the annual rate of cost increase for indemnity plans were considerably higher than that of HMOs (BI, March 1).

The Foster Higgins survey found that the cost per employee in a traditional indemnity plan rose 14.2% to \$4,080 in 1992 from \$3,573 in 1991. During the same period, the survey found, the cost per employee in an HMO rose 8.8% to \$3,313 in 1992 from \$3,046 a year earlier.

Copies of "Managed Health Care: Effect on Employers' Costs Difficult to Measure" are available free of charge from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Md. 20884-6015; 202-512-6000.

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Health inflation

Continued from page 2

The California Public Employees Retirement System has told 18 health maintenance organizations, which cover 900,000 California public employees and their dependents, that it expects the HMOs to lower their premiums by 5% next year.

This year, CalPERS held indemnity plan premium increases to an average of just 1.5%, while HMO premiums fell 0.2% (BI, Feb. 15).

This slowdown in health care inflation and health insurance premium increases is a radical change from just a few years ago, when premium hikes of between 15% and 25% annually were the norm.

"All these developments are good news. Employers are beginning to get costs under control," said Richard Smith, director of health care policy at the Assn. of Private Pension & Welfare Plans in Washington.

Benefit experts say several factors are behind this trend.

Insurers and other managed care network vendors are expanding their networks and are encouraging more providers to join those networks. Those providers, to join the networks, must discount their fees or agree to treat patients for a set, capitated fee.

"Increasingly, if physicians want to maintain their practices, they have to play ball with the network vendors," said Tom Billet, a principal with A. Foster Higgins & Co. Inc. in Stamford, Conn.

As the size of managed care networks has grown, the vendors increasingly can force providers to meet their terms and conditions.

"There has been a change in the balance of power between buyers and sellers," said Anna Rappaport, a managing director with

William M. Mercer Inc. in Chicago.

At the same time, the growing power and sophistication of various health care claims data-collection programs have given buyers a greater ability to identify cost-efficient providers and negotiate purchasing arrangements with those providers, consultants say.

In addition, employers have been making a greater effort, through plan design, to push employees into managed care programs, which—contrary to a new General Accounting Office report (see story, page 36)—are the most successful in holding down costs, consultants say.

"Employers have been much more aggressive in implementing managed care programs and channeling employees into those programs through incentives," said Foster Higgins' Mr. Billet.

Employers, for example, are widening the reimbursement differential for services performed outside of a managed care network. In other cases, employers are sharply increasing premium contributions for employees who enroll in traditional indemnity plans, while holding the line on employee contributions toward managed care options.

The good news on health care inflation isn't likely to turn sour anytime soon. Health insurers and HMOs generally have been profitable, reducing the need for premium hikes.

"For the next few years, premium increases, compared to recent trends, should be more mod-

est," said Jon Gabel, director of employee benefits research in Peat Marwick's Washington office.

This slowdown in health insurance cost increases comes at a time when the administration is readying legislation that would set up a complex new regulatory structure to control increases in health insurance premiums.

While employers are divided on the issue, insurers particularly op-

veyed said health care plan premiums—or claims costs in the case of self-funded plans—increased an average of 8% between spring 1992 and spring of this year. Employers were not asked to provide actual dollar costs for the prior year.

While point-of-service plans were the most expensive type of program, they also showed the smallest cost increase over the last year: 4.9%. The surveyed employers said premiums for individual coverage in a POS plan averaged \$186 a month as of spring 1993, while family coverage averaged \$530 a month.

The relatively small increase in POS plan costs may be the result of employers making it more costly for employees to use services outside a network of providers, Mr. Gabel said. A POS plan is essentially an open-ended HMO in which employees can decide, on a service-by-service basis, whether to use network providers or go outside the network, albeit with much stiffer cost-sharing requirements.

HMO premiums, which employers said rose an average of 8.3%, were the lowest-cost programs of the four types of health plans studied by Peat Marwick. Monthly premiums for individual coverage averaged \$158, while premiums for family coverage averaged \$422 a month.

Premiums charged by preferred provider organizations, which rose an average of 8.2%, averaged \$181 a month for individual coverage and \$454 a month for family coverage.

Indemnity plan premiums,

which rose an average of 8.5% averaged \$170 for individual coverage and \$441 for family coverage.

The likelihood that employees were enrolled in managed care plans was generally related to company size. For example, 29% of employees at companies with at least 5,000 workers were enrolled in HMOs, compared with 22% of workers at firms with between 200 and 999 workers. In addition, 13% of workers at companies with more than 5,000 employees were enrolled in POS plans compared with just 5% of workers at companies with between 200 and 999 employees.

On the other hand, 28% of workers at companies with between 200 and 999 employees were covered by a PPO, compared with just 20% at companies with at least 5,000 employees.

Other survey findings include:

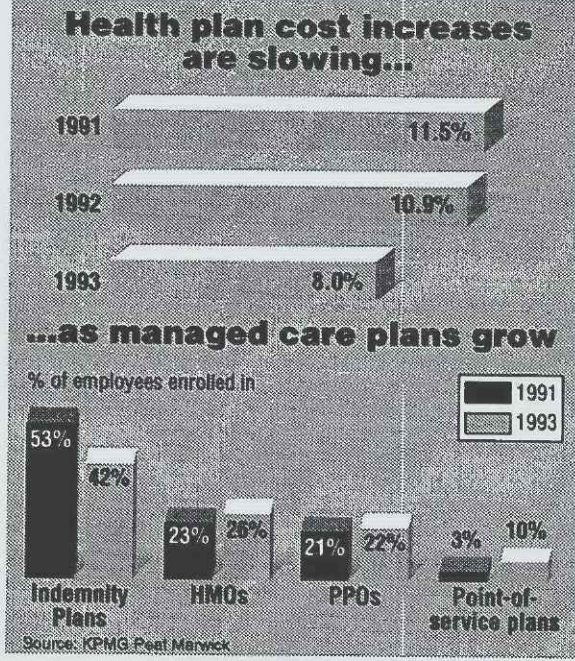
- Fifty-eight percent of employees were enrolled in managed care plans in 1993, up from 56% a year earlier.

- Sixty-five percent of employers offer a traditional indemnity plan, down from 71% in 1992. On the other hand, 44% of employers offer a PPO, up from 24% in 1992.

- Deductibles increased modestly during the year. For indemnity plans, the average deductible for individual coverage rose to \$224 from \$212, while the deductible for family coverage increased to \$545 from \$531.

- These increases of 5.7% and 2.6%, respectively, are substantially less than the increase in the cost of insurance, the Peat Marwick study noted.

Copies of "Health Benefits in 1993" are available from Janis Perlitch, KPMG Peat Marwick, P.O. Box 23331, Newark, N.J. 07189; 201-307-7781. The cost is \$100, plus local sales tax.



GRAPHIC BY KIM ROME

pose federal price controls or, as the Clinton administration puts it, "premium caps."

"Price controls have never worked and we don't expect them to work in a health reform bill," said Alan Spielman, vp with the Blue Cross & Blue Shield Assn.'s federal employee program in Washington.

The Peat Marwick survey is the latest to report slowing premium increases. The 1,003 firms sur-

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OCTOBER

OCT. 31-NOV. 3. National Assn. of Independent Insurers 48th annual meeting in Toronto; \$350 for NAI members, \$450 for non-members. National Assn. of Independent Insurers, 2101 S. Arlington Heights Road, Suite 150, Arlington Heights, Ill. 60005; 708-290-6336.

NOVEMBER

NOV. 1-3. Risk Management seminar in Las Vegas, sponsored by Federal Publications Inc.; \$925. Also **Nov. 8-10** in Washington. Risk Management Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4330 or 202-337-7000.

NOV. 2-4. Fire protection for safety personnel seminar in Itasca, Ill., co-sponsored by the National Safety Council and Rolf Jensen & Associates; \$525 for NSC members; \$645 for non-members. Safety Training Institute, National Safety Council, 1121 Spring Lake Drive, Itasca, Ill. 60143-3201.

NOV. 3. All Industry Day in San Antonio, Texas, sponsored by the Alamo Chapter of the Society of Chartered Property & Casualty Underwriters; \$105, \$90 in advance. Kathy M. Conyers, Alamo Chapter of CPCU, P.O. Box 5159, San Antonio, Texas 78201; 210-498-1972.

NOV. 4-5. The Seminar for Non-Insurance Professionals (Property/Casualty) in New York, sponsored by The College of Insurance; \$495. The Center for Professional Education, The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-815-9201.

NOV. 7-9. Alternative Markets—What Does Your Future Hold? seminar in Las Vegas, Nev., sponsored by the Mass Marketing Insurance Institute; \$375 for MMII members, \$475 for non-members. Mass Marketing Insur-

ance Institute, 3101 Broadway, Suite 585, Kansas City, Mo. 64111; 816-561-1920.

NOV. 8-10. Bonds, Liens and Insurance seminar in Boston, sponsored by Federal Publications Inc.; \$925. Also **Dec. 6-8** in Santa Fe, N.M. Bonds, Liens and Insurance Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4330 or 202-337-7000.

NOV. 8-10. Eighth annual Information Systems and Claims Conference in Miami Beach, Fla., sponsored by the Group Health Assn. of America; \$705 for GHAA members, \$805 for non-members. Group Health Assn. of America Inc., 1129 20th St. N.W., Apt. 600, Washington, D.C. 20036; 202-778-3230.

NOV. 9-10. Property and Casualty Loss Reserves seminar in Chicago, sponsored by Deloitte & Touche; \$650. Also **Dec. 7-8** in New York. Deloitte & Touche, Seminar Coordinator, City Place I, 31st Floor, 185 Asylum St., Hartford, Conn. 06103-3402; 203-543-7342.

NOV. 10. Reviewing Additional Insured Endorsements workshop in Dania, Fla., sponsored by the Society of Chartered Property & Casualty Underwriters; \$70 for Society of CPCU members, \$80 for non-members. Also **Nov. 17** in Pittsburgh. Bonnie Kinsley, The Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 215-251-2735.

NOV. 10. Taking Charge of Your Insurance Program: A Guided Tour through the Business Insurance Maze seminar in New Rochelle, N.Y., sponsored by Trupin Insurance Services; \$179. Also **Nov. 17** in Caldwell, N.J., and **Nov. 18** in New York. Jerome Trupin, Trupin Insurance Services, 245 Main St., White Plains, N.Y. 10601; 914-949-4810.

NOV. 11. Coverage Aspects and Marketing Strategy: D&O, Fiduciary Liability and Employment Practices Liability seminar in Oak Brook, Ill., sponsored by the Society of Chartered Property & Casualty Underwriters; \$115 for Society of CPCU members, \$125 for non-members. Also **Nov. 18** in South Bend, Ind. Bonnie Kinsley, The Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 215-251-2735.

NOV. 13-17. 22nd Employee Assistance Professionals Assn. Annual Conference in Anaheim, Calif.; \$395 for EAPA members, \$495 for non-members. Employee Assistance Professionals Assn., 4601 N. Fairfax Drive, Suite 1001, Arlington, Va. 22203; 703-522-6272.

NOV. 15-16. Sources, Strategies and Techniques for Raising Capital in the Insurance Industry forum in New York, sponsored by Executive Enterprises; \$995. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6990; 1-800-831-8333.

NOV. 15-16. Environmental Insurance seminar in Washington, sponsored by Federal Publications Inc.; \$900. Environmental Insurance Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4300 or 202-337-7000.

NOV. 15-17. Fundamentals of Risk Financing course in Nashville, Tenn., sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

NOV. 16. Office Ergonomics seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$300. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

NOV. 17-19. 1993 Health Insurance Forum in Orlando, Fla., sponsored by the Life Insurance Marketing & Re-

search Assn.; \$495 for LIMRA members, \$695 for non-members. Patricia A. Kavalski, Meetings Registration Manager, LIMRA, 8 Farm Springs Road, Farmington, Conn. 06032; 203-674-4248.

NOV. 17-20. 24th annual Educational Conference in Sea Island, Ga., sponsored by the Southern Employee Benefits Conference; \$500 for SEBC members, \$650 for non-members. Southern Employee Benefits Conference, P.O. Drawer 47309, Atlanta, Ga. 30362; 404-458-6233.

NOV. 28-DEC. 1. 17th Annual Conference of the Assn. of Australian Risk & Insurance Managers in Adelaide, South Australia. Full registration: \$670 Australian (\$450) for ARIMA members; \$745 Australian (\$500) for non-members. Daily registration: \$225 Australian (\$151) for ARIMA members; \$250 Australian (\$168) for non-members. ARIMA 1993 Conference, Elliservice Convention Management, P.O. Box 753, Kent Town, South Australia; 5071; 08-332-4068; fax 08-364-1968.

DECEMBER

DEC. 1. Directors and Officers Liability workshop in Woodbridge, N.J., sponsored by the Society of Chartered Property & Casualty Underwriters; \$85 for Society of CPCU members, \$95 for non-members. Bonnie Kinsley, The Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 215-251-2735.

DEC. 1-3. Second annual National Quality Management Conference: Building Cost-Effective Partnerships in Managed Care in Rosemont, Ill., sponsored by the Midwest Business Group on Health; \$895. Conference Development Inc., 1000 Winter St., Suite 4000, Waltham, Mass. 02154; 617-487-6700.

DEC. 2. Risk & Insurance Management Society Christmas Party in Chicago; \$15 for members and non-members. Pansy Heger, RIMS, 708-562-

1000, ext. 3350.

DEC. 8. Fundamentals of Insurance course in San Diego, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

DEC. 8-10. 20-22. Techniques of Risk Management course in San Diego, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

DEC. 13-14. Outcomes Measurement and Management in Managed Care conference in San Francisco, sponsored by Conference Development Inc.; \$895 before Nov. 29; \$995 after Nov. 29. CDI, 1000 Winter Street, Suite 4000, Waltham, Mass. 02154; 800-872-0094.

DEC. 13-14. Capture, Navigate and Use Data to Build a Health Information Strategy conference in Fort Lauderdale, Fla., sponsored by the Institute for International Research; \$1295. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8016 or 212-661-8740.

DEC. 13-14. The Environmental Law Course in Washington, D.C., sponsored by Executive Enterprises; \$995. Also **Jan. 27-28, 1994**, in Chicago. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6990; 1-800-831-8333.

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

Lloyd's vote

Continued from page 1

But while Mr. Rowland and Chief Executive Officer Peter Middleton were celebrating this historic victory, action groups representing members facing huge losses already were preparing for the next big challenge facing Lloyd's: negotiating a settlement between members planning to sue their members and managing agents and the agents' errors and omissions underwriters.

"You may have won the battle but you haven't won the war," one disgruntled member shouted from the gallery as Mr. Rowland announced the results of the vote.

"I'd like to say that it is neither a battle nor a war. This is in the best interests of the society as a whole," responded Mr. Rowland.

The following day, Mr. Rowland conceded that the previous night's victory was only the beginning.

"While Peter and I see this as an important and fundamental step for Lloyd's, it is just one step. There is no sense in saying, 'This is it, Lloyd's has recovered,' then sit on our backsides. The dispute resolution on which we are all working very hard is next, and we are more optimistic about the chances of making a settlement offer. It is a different issue altogether whether it will be acceptable," said Mr. Rowland.

Last week's victory, however, was not as simple as it appears.

Christopher Stockwell, chairman of the Lloyd's Names Assn. Working Party, the umbrella group that represents the major members action groups, took more than 6,000 dissenting proxy votes to the meeting. He used those votes to call for an adjournment of the vote until after the E&O settlement offer could be made and an agreement reached.

The adjournment was defeated largely by the 12,000 votes that Mr. Rowland held in proxy. Thereafter, Mr. Stockwell abstained from using his proxy votes, so the main issues to be voted on did not include almost a third of the votes available.

During the extraordinary general meeting, which was held at Lloyd's and attended by almost 1,200 members, Mr. Stockwell was given the chance, along with other dissidents, to air his views and explain his attempt to adjourn the meeting.

"I do this on behalf of several thousand names who feel passionately that it is wrong to be holding this meeting at this time. Most, but by no means all, of these names believe the society should have reached a settlement of the disputes before it attempted to decide whether or not the terms for the admission of corporate capital are fair. In short, Mr. Chairman, we believe

the council has got the cart before the horse," he said.

Mr. Stockwell went on to explain that the action groups are not against the principle of corporate capital, but remain opposed to the "tactics, terms and timing" of the council.

The LNAWP chairman said that Lloyd's had missed an opportunity to use the arrival of corporate capital to raise a levy to help compensate the members facing huge losses.

"It remains our belief that the amount of corporate capital being allowed into the market in 1994 should be limited. But this is not because we believe there is insufficient business to go around—on balance we accept the market could use all the capacity it is likely to get in 1994 to make serious profits. It is because we think it shows a lack of self-confidence for the society to give away this year what it could have charged for next year.

"I am advised the investment trusts now being launched are likely to go to a premium. Its size will be the measure of the council's lost opportunity to raise money for the central fund as envisaged in the business plan. We believe the society would gain in image, confidence and respect by limiting the amount of corporate capital allowed in 1994 at both the market and the syndicate level," said Mr. Stockwell.

Mr. Rowland Wednesday night again refused to accept there could be a link between the new capital and the E&O settlement.

"Some have sought to relate our ability to fund a fair settlement of the disputes in the market with the timing of these decisions about the introduction of corporate capital. Our commitment to do everything we can do to achieve settlement of the disputes is unchanged. We will be better able to reach a solution with this confidence-building step behind us," said Mr. Rowland during his introductory address.

Michael Deeney, chairman of the Gooda Walker Action Group, voiced different concerns about the impact of the new capacity on Lloyd's.

"This year for the first time in years the market has written business close to its capacity, and it should be pleased about that, especially with the hard rates. Is it wise to accept perhaps a 40% increase in capacity in one year?" Mr. Deeney asked. "Everyone here knows that of all the businesses, insurance is the most cyclical and affected by the laws of supply and demand. I fear a repetition of what happened in the 1980s when the overcapacity enabled a handful of incompetent underwriters to write the business they did.

But Mr. Rowland and Mr. Middleton refuse to place a cap on the

amount of new capital they will allow into the market for 1994 and are determined that the rising tide of interest that institutional investors are showing in the market should not be jeopardized by delay.

"We need more capital, but we also do not want a foolish explosion. We don't feel we need a control system at the moment, because we feel the new capital will roughly match what we need (right now). Also, it must be remembered that not all the trusts announced will reach their targets, and (they) will experience their own form of double counting as they are attempting to raise the money among similar investors. Also, do not forget that the new capital does not want an explosion either, and so we have a community of interests," Mr. Rowland said Thursday.

"The action groups wish we could cap the corporate capital for 1994," echoed Mr. Middleton. "But there is still considerable uncertainty about how much capacity individuals will provide for next year. If we end up with 6.5 billion pounds (\$9.69 billion) instead of the 7.5 billion pounds (\$11.18 billion) individual capital which is widely expected, we would certainly have been dumb to limit the corporate capital in a market enjoying rates in many classes higher than anyone can remember."

Within hours of the vote, two additional limited liability investment vehicles for Lloyd's were announced.

The London Market Investment Trust P.L.C. has been set up by merchant bank Samuel Montagu & Co. Ltd. and stockbroker James Capel & Co. Ltd.

LIMIT will be listed on the London stock market and the minimum investment will be 1,000 pounds (\$1,490). Binding commitments have come from 98 syndicates to set aside a total of 480 million pounds (\$717.46 million) of aggregate capacity to LIMIT investors for 1994.

Noble & Co., an investment management company in Edinburgh, has set up a split structure to invest in Lloyd's. Two companies, Premium Trust P.L.C. and Premium Underwriting P.L.C., will be listed separately on the stock exchange but will be linked for 10 years.

The two companies will raise 30 million pounds (\$44.84 million) allowing an underwriting line of 56 million pounds (\$83.7 million) which Wellington Members Agency will place with a spread of 40 Lloyd's syndicates.

The investment portfolio will be managed by Martin Currie Investment Management Ltd. in Edinburgh.

Gavin Souter contributed to this report.

Capacity at syndicate 418, MUAM's largest syndicate, last month was expected to fall to about 50 million pounds (\$74.5 million) for 1994, from its 1993 level of 150 million pounds (\$227.3 million) (BI, Sept. 13).

In a letter sent to members agents earlier this month, Stephen Cane, managing director of MUAM, said: "We are already faced with considerable uncertainty with regard to individual names' capacity, and corporate names' capacity is also uncertain. Therefore, we have decided that the best option is to establish a consortium arrangement with an insurance company."

Some observers doubt, though, that this will cause Merrett and Lloyd's to part company.

"There's some posturing going on" in the investors' threat to pull Merrett out of Lloyd's, said Michael Smith, an analyst with Lehman Bros. in New York. But he predicted Lloyd's will ultimately approve the deal.

"Lloyd's does not want to lose (an organization) as high-profile as Merrett, and the Merrett organization really doesn't want to go it alone," he said.

Mr. Smith pointed to another reason Lloyd's may want to reach an accommodation: MUAM has been the lead underwriter for Lloyd's underwriters' own errors and omissions coverage, and the market may not want to risk upsetting this arrangement. **BI**

Update

PBGC takes over firm's plans

Continued from page 2

assets. The PBGC will guarantee \$206 million of the \$250 million benefit shortfall.

The PBGC said it had anticipated most of the Sharon loss, and the cost is included in the agency's \$2.7 billion deficit for its single-employer insurance program. Sharon has been operating under Chapter 11 bankruptcy protection since last year.

Florida drug law challenged

TALLAHASSEE, Fla.—Florida's managed competition health care reform law gives small pharmacies an unfair advantage, large retailers charge.

In a suit filed in state court in Tallahassee earlier this month, 11 drugstore and supermarket chains claim that provisions intended to protect chains with fewer than 13 outlets actually give them a competitive edge.

The Florida law, which took effect July 1, requires large employers to contract with statewide providers for pharmaceuticals (BI, April 12). Under the law, large chains can sell drugs only to employees of companies with which they contract. Small chains and independent pharmacies can sell to anyone, including employees of companies that contract with the large chains, but they must match the price of the contracted provider.

Drug store giants Eckerd Corp., Kmart Corp., Rite-Aid Corp., Walgreen Co. and Wal-Mart Stores Inc., as well as supermarket chains Publix Super Markets Inc. and Winn-Dixie Stores Inc., are among the retailers filing the suit.

Kmart to appeal award

WEST PALM BEACH, Fla.—Kmart Corp. will appeal an \$11.5 million award by a Florida state court jury to a woman whose boyfriend shot her with a gun he had purchased from one of the retailer's stores while he was drunk.

Kmart said it has liability insurance above a \$2 million self-insured retention to cover the negligence award announced earlier this month but did not disclose the name of its insurer.

A Kmart employee in Tampa, Fla., allegedly helped Thomas W. Knapp fill out federal Bureau of Alcohol, Tobacco and Firearms forms when he was too drunk to complete them himself.

Mr. Knapp, who is serving a 40-year prison sentence, was ordered to pay about \$1 million for the 1987 shooting that left Deborah Kitchen paralyzed.

Briefly noted

Tom Case resigned as president, CEO and chairman of Employers Reinsurance Co. on Sept. 14. He has been replaced by Kaj Ahlmann, who had been chief operating officer of the company's international operations. . . . **War risk underwriters** in London have increased their rates for sailings and flights to Haiti following the international blockade of the island. The joint War Risks Rating Committee of Lloyd's of London and the Institute of London Underwriters issued new ratings last week. . . . **Neil A. Burger** has been named chairman and chief executive officer of Alexander & Alexander Consulting Group Inc., the U.S. consulting arm of Alexander Consulting Group Inc. in Lyndhurst, N.J. . . . **Global Capital Reinsurance** began writing business this month after closing an over-subscribed private placement that raised \$450 million for the property catastrophe reinsurer. The Bermuda-based company said it expects to write \$175 million of worldwide business in its first year. . . . **Zurich Reinsurance Centre Holdings Inc.** has sold \$200 million of 7.125% senior notes due 2023 in a public offering. . . . The spun-off **property/casualty division of Transamerica Corp.**, has selected Irving, Texas, as its new home. The insurer's move is scheduled to begin in the spring of 1994, with completion anticipated by summer 1994. The insurer, a unit of New York-based TIG Holdings Inc., also is in the process of formally changing its name to TIG Insurance Co., which will be completed by early 1994. . . . **Duff & Phelps Credit Rating Co.** has assigned a preliminary BBB- rating to insurance holding company **Markel Corp.**'s shelf registration for \$100 million in debt securities, according to the rating agency. . . . **Sens. David Durenberger, R-Minn., and John Breaux, D-La.,** last week introduced legislation along the lines of a **managed competition** bill earlier proposed in the House by Rep. Jim Cooper, D-Tenn. The measure would create purchasing alliances for smaller employers; restrict certain health insurance underwriting practices, such as pre-existing medical condition exclusions; and deny employers tax deductions for health insurance premiums and costs exceeding certain levels. . . . **New Hampshire Insurance Commissioner Louis E. Bergeron** will become executive vp of the New England Alliance, formerly the Professional Insurance Agents of New England, beginning next year. No replacement has been named. . . . **Lynn Boyd Stites**, the central figure in the "Alliance" insurance fraud and legal corruption case, was convicted in U.S. District Court in San Diego Oct. 7 on 13 felony counts. Mr. Stites, who will be sentenced in January, was the 13th lawyer convicted in the scheme designed to prolong litigation and cost insurers millions in legal fees (BI, Aug. 26, 1991). . . . **Shareholders and directors of D&O liability insurer Corporate Officers & Directors Assurance Ltd.** recently approved a revised acquisition offer for the company from ACE Ltd. that includes up to \$25 million in cash above the previously announced purchase price of approximately \$250 million (BI, Aug. 23). . . . **Prudential Securities Inc.** has no insurance to cover refunds and penalties totaling at least \$371 million that it will pay to settle fraud claims filed by securities officials on behalf of individuals who invested in limited partnerships that the broker marketed in the 1980s. The settlement amount could grow if additional investors submit claims.

Merrett stake

Continued from page 1

ing agency. The M&M unit that is participating in the consortium is a non-broking subsidiary, however.

Travelers Corp. earlier this month revealed its plans for a consortium led by the insurer to acquire Merrett. In addition to the 51% share the insurer will acquire, additional capital would be provided by Marsh & McLennan Risk Capital Corp., J.P. Morgan & Co. and current MUAM staff (BI, Oct. 18).

Under the proposed deal, a new company called NewMA will be established. Stephen Merrett is expected to join NewMA.

Lloyd's officials are considering the proposed MUAM sale.

"Stephen Merrett made a proposal and has told us the possible pattern, which we are looking at as we are all others. The regulatory board is looking at it and may wish to refer to the council. We will look at the issues, but our main concern is to protect the Merrett names," said Lloyd's Chairman David Rowland.

MUAM hopes the sale will help it to win back the confidence of some members agents that had threatened to withdraw their capacity from MUAM syndicates for the 1994 underwriting year unless management changes were made (BI, Aug. 23).

Sick time can be part of family leave: Court

By LOUISE KERTESZ

SALEM, Ore.—Oregon employers must let employees use accrued sick time toward parental leave under a state law even if their collective bargaining agreements say otherwise, the Oregon Supreme Court has ruled.

State business groups complain that the decision will be costly, and that the Oregon family leave statute was designed to let union contracts govern the use of accrued sick leave.

Oregon's parental leave law allows an employee to take up to 12 weeks of unpaid leave after the birth of a child.

The Oct. 19 ruling came in a case involving Joseph Clague, who wanted to use the 7½ weeks of sick time he had accrued at Portland General Electric Co. as part of his 10 weeks of parental leave.

In denying that request, the company said the collective bargaining agreement with the International Brotherhood of Electrical Workers permitted workers to use sick leave only

when they were actually sick or were receiving medical treatment or exams.

That argument did not persuade the state Bureau of Labor and Industries, which found for Mr. Clague and awarded him \$7,682 in sick pay and damages. The award was upheld on appeal and later by the high court.

The Oregon parental leave law "unambiguously allows an employee to use accrued leave, paid or unpaid, during the parental leave, even if the employee has not met the conditions of leave eligibility contained in an existing collective bargaining agreement," the court ruled.

"We're disturbed because we participated in framing that particular section (of the law), and we felt that the intent was that a collective bargaining agreement or employer policy would decide" whether sick days could be applied to parental leaves, said Karl Frederick, a lobbyist for the Assn. of Oregon Industries. "It was not to be unilaterally determined by the employee."

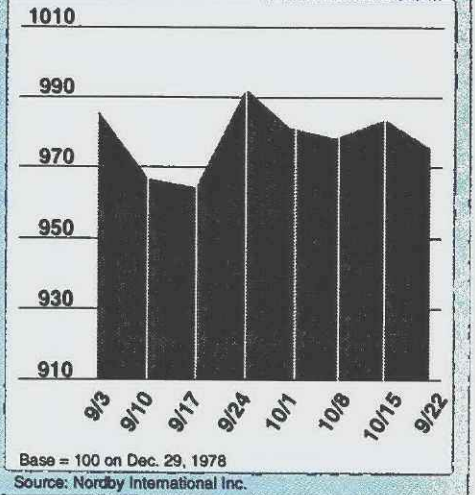
At PGE, workers accrue up to 12 sick days per year. If everyone could use that paid time off as part of family leave, it could be very expensive, a company spokeswoman said.

Some small companies may abolish sick days entirely because of the decision, said the AOI's Mr. Frederick. "A lot of human resource managers are irritated (by the ruling)."

Business groups could also push for repeal of all three of the state's leave laws—for parental, maternity and family leave—and "go under the umbrella of federal law," including the Family and Medical Leave Act that took effect in August, he said. Under that law, an employee can take 12 weeks of unpaid leave following a birth or adoption, to care for a relative with a serious health condition; or if the employee's own health condition prevents him or her from working.

Portland General Electric Co. vs. Bureau of Labor and Industries, Supreme Court of Oregon; SC 39897.

BI Insurance Index



Insurance stocks fell last week, as the Business Insurance Index lost 9.6 points to 975.0 Oct. 22 from 984.6 on Oct. 15. Advancing issues were led by: Seibels Bruce Group, up 66.7%; Statesman Group Inc., up 13.8%; and Lawrence Insurance Group, up 7.7%. Declining issues followed: Mid Ocean Ltd., down 10.6%; American General, down 8.3%; and Torchmark Corp., down 7.8%. The most active issue was NWNL Cos., 6.8 million shares traded. The BI Index fell 1.0%; the Dow Jones 30 Industrials rose 0.5%; the NYSE Composite fell 1.3%; and the S&P 500 fell 1.3%.

Benlate settlement

Continued from page 2
claims in the future, said Gavin R. Arton, senior vp and investor relations officer at X.L. He would not elaborate.

Du Pont began receiving claims for damage to crops and flowers in 1990 and in March 1991 it recalled Benlate DF. Over the next 18 months, the company paid \$500 million to settle suits by growers. Then, in September 1992, Du Pont claimed that new research showed its fungicide was not responsible for the damage after all (BI, June 22).

When Benlate was recalled, Du Pont had \$300 million in excess liability coverage excess of a \$50 million self-insured retention. X.L. wrote the first \$100 million in coverage and ACE Insurance Co. Ltd. the next \$200 million.

The Bermuda source who was not directly involved said he believed that the recent settlement pertains to X.L. insuring a chunk of the payments made by Du Pont in 1990-91 as well as approximately \$65 million Terra paid Du Pont through 1992 for mishandling a Benlate production contract.

At least one element in the dispute was Du Pont's alleged failure to report an ongoing Benlate contamination problem in 1989, when it increased its limits with X.L. to \$100 million

(BI, June 28).
That contamination problem appears to have been at a Terra facility in Blytheville, Ark. Du Pont had hired Terra to convert raw chemicals into Benlate DF. But a batch of the fungicide was ruined when it was contaminated by an herbicide while at the Arkansas plant, Terra said in a 10-K statement it filed with the Securities and Exchange Commission last year.

Du Pont recalled that batch of Benlate and demanded that Terra assume liability, according to the SEC filing. More than \$90 million in claims were ultimately filed over that batch, and Terra settled about \$65 million of them, receiving \$60.5 million in reimbursements from its insurers, the filing said. One of those insurers was chemical industry captive Primex Ltd. (BI, July 13).

This isolated batch of contaminated Benlate would later lie at the center of the dispute over indemnification for the later Benlate settlements, according to both a U.S. reinsurance source and the Bermuda source.

Under X.L.'s standard general liability policy, coverage is governed by the terms of the policy in force at the time of a first occurrence.

Sources believe that X.L. insisted that the

Arkansas contamination was a first occurrence and therefore the smaller policy that was in effect in 1989 should govern. It is not clear what limits Du Pont purchased from X.L. before 1990.

Du Pont, meanwhile, is believed to have argued that the Arkansas contamination was unrelated to its later Benlate settlements with growers and that, therefore, its 1990 policy, with limits of \$100 million, should govern.

Meanwhile, ACE remains at odds with Du Pont over the \$200 million layer it wrote on top of X.L.'s layer and Du Pont's \$50 million self-insured retention. ACE's chairman and chief executive, Walter Scott, declined to comment on either that dispute or the X.L. settlement.

And, in a related case, Du Pont recorded its first Benlate victory in court on Oct. 14 when a Texas State Court judge ruled for the company in a \$900,000 lawsuit brought by a pecan grower who had alleged that Benlate had damaged his orchard.

It was Du Pont's only victory in court, following a \$4.25 million settlement, in addition to \$10.7 million and \$3 million verdicts against the company in Arkansas and Florida, respectively.

British Issues

Oct. 21 Companies	Price pence	P/E	Div. pence	Yield %	1 week High-Low pence	
					High	Low
Comm Union	655	N/M	32.5	5.0	655-624	
Genl Accident	717	N/M	35.7	5.0	721-707	
Gdn Royal Exch	221	N/M	9.3	4.2	221-211	
Royal	325	N/M	6.7	2.1	325-319	
Sun Alliance	380	N/M	19.0	5.0	384-379	

Brokers	Price	P/E	Div.	Yield	High-Low
Bradstock	130	15.3	6.8	5.2	130-125
CE Heath	398	19.3	20.5	5.1	398-383
Hogg Group	160	17.8*	10.2*	6.4	160-160
JIB Group	175	17.2	10.0	5.7	175-175
Lloyd Thompson	285	19.2	8.4	2.9	285-282
Lowndes Lmbt	419	15.3	18.0	4.3	419-413
PWS Holdings	65	9.7	5.3	8.1	65-62
Sedgwick Grp	184	22.1	8.0	4.3	184-179
Steel Bri Jones	149	N/M	11.3*	7.6	149-149
Willis Corroon	223	20.8	8.8	3.9	223-219

Source: Philip Olsen, London * Estimated

BI Industry Stock Report

OCT. 18, 1993 THROUGH OCT. 22, 1993

BROKERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value		
				High	Low										High	Low								
ACE Inc.	NYS	24.63	-1.50	14.53	27.63	16.88	311	0.44	1.79	15	9.57	2.57	29.00	-0.85	7.41	46.00	29.00	76	0.40	1.38	15	11.39	2.55	
Alexander & Alexander	NYS	19.50	-3.70	-26.42	28.88	19.13	306	1.00	5.13	21	5.02	3.88	32.00	-7.25	-20.99	44.75	32.00	436	0.16	0.50	41	17.23	1.86	
E.W. Blanch Holdings Inc.	NYS	23.25	0.54	N.A.	23.38	16.50	29	0.00	0.00	29	3.60	6.46	39.63	-1.90	8.86	39.63	25.50	84	0.12	0.37	10	14.18	2.87	
Gallagher Arthur J. & Co.	NYS	34.75	-1.77	23.01	37.38	24.25	123	0.72	2.07	19	6.26	5.55	36.00	0.00	10.77	38.00	28.50	16	0.00	0.00	26	16.99	2.12	
Hilb, Rogal & Hamilton	NYS	12.63	7.45	-19.20	16.88	11.38	189	0.44	3.49	19	2.73	4.62	6.75	-2.71	14.89	8.25	4.50	9	0.00	0.00	3	6.84	0.99	
Marsh & McLennan	NYS	83.25	-0.30	-8.89	97.63	82.25	1072	2.68	3.22	19	15.03	5.54	34.88	-5.74	37.10	38.75	18.63	6820	0.80	2.29	14	21.65	1.61	
Poe & Brown	OTC	19.63	-0.63	17.16	21.25	13.50	25	0.40	2.04	34	2.60	7.55	67.25	-1.47	6.53	72.00	59.25	262	2.84	4.22	12	45.85	1.47	
AVERAGE		0.0	0.0				2.5	22																

INSURERS/REINSURERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	
				High	Low										High	Low							
ACE Ltd.	NYS	33.75	1.50	N.A.	36.00	25.50	263	0.40	1.19	8	25.37	1.33	44.25	-1.67	25.09	46.88	29.81	102	0.88	1.99	9	24.32	1.82
Acceptance Insurance Cos.	NYS	14.75	0.00	53.25	15.63	7.00	56	0.00	0.00	16	9.11	1.62	35.00	-4.76	122.22	38.25	12.50	444	0.20	0.57	-	11.88	2.95
AEGON N.V.	NYS	51.00	-0.24	22.52	51.50	40.38	39	1.22	2.39	10	32.78	1.56	27.38	-2.23	-3.95	31.50	24.75	89	1.04	3.80	11	30.72	0.89
Aetna Life & Casualty	NYS	63.25	-0.39	36.02	64.38	40.88	927	2.76	4.36	35	66.43	0.97	15.25	-1.61	-7.58	16.63	13.25	5	0.28	1.84	22	14.76	1.03
Allied Group Inc.	OTC	30.00	4.35	41.73	32.75	18.16	272	0.52	1.73	9	10.45	2.87	9.75	-1.27	59.18	10.38	4.88	779	0.32	3.28	3	2.99	3.26
Allmerica Prop. & Casualty	NYS	57.63	-3.15	14.11	62.50	45.50	56	0.44	0.76	5	46.94	1.23	24.88	-1.00	0.51	28.63	21.13	23	0.56	2.25	11	18.62	1.34
Allstate Corp.	NYS	33.13	-1.49	N.A.	34.25	27.13	1626	0.72	2.17	-58	12.26	2.70	61.50	-2.96	6.37	66.75	54.75	1058	1.80	2.93	12	38.95	1.58
American General	NYS	30.50	-8.27	7.02	36.50	25.13	4913	1.08	3.54	12	21.31	1.43	15.50	-3.13	-11.43	20.75	14.88	21	0.32	2.06	-	14.69	1.06
American Heritage Life Ins. NYS	19.88	0.63	-1.45	25.34	18.50	114	0.60	3.02	13	12.44	1.60	1.25	66.67	-33.33	2.50	0.31	653	0.00	0.00	0	1.90	0.66	
American Indemnity/Fin'l	OTC	14.50	1.75	141.67	16.25	5.75	13	0.12	0.83	5	16.18	0.90	30.63	1.24	39.20	30.75	19.75	127	1.12	3.68	23	22.92	1.34
American International	NYS	89.88	-2.84	16.22	100.25	71.75	3070	0.40	0.45	16	40.25	2.23	15.50	13.76	29.17	16.50	7.63	1585	0.20	1.29	7	8.65	1.79
American RE Corp.	NYS	30.50	-5.43	-17.57	41.75	30.00	808	0.00	0.00	25	6.67	4.57	25.88	1.97	N.A.	28.00	22.88	570	0.20	0.77	-9	17.14	1.51
Aon Corp.	NYS	53.38	-1.16	-1.16	58.50	47.75	189	1.80	3.37	17	31.79	1.68	60.13	0.21	25.26	67.00	43.25	4	0.00	0.00	-	57.72	1.04
Argonaut Group	OTC	33.25	1.53	9.02	35.50	27.00	122	1.00	3.01	11	25.52	1.30	50.25	-7.80	-11.45	64.75	49.88	956	1.12	2.23	14	15.15	3.32
AVEMCO Corp.	NYS	20.25	-0.61	-13.37	25.50	16.75	74	0.44	2.17	17	7.75	2.61	35.75	-4.67	31.19	38.88	22.00	2380	1.60	4.48	-9	31.77	1.13
Baldwin & Lyons Inc.	OTC	43.25	4.22	18.49	45.00	31.13	3	0.60	1.39	11	34.75	1.24	43.25	-1.70	6.13	49.75	37.25	106	0.88	2.03	16	26.00	1.66
Berkley W.R. Corp.	OTC	38.88	2.20	-9.59	50.50	36.75	921	0.40	1.03	15	26.31	1.48	37.00	2.78	-10.84	43.00	34.75	2	1.00	2.70	-	28.96	1.28
Berkshire Hathaway Inc.	NYS	17450.00	-0.29	48.51	17800.00	9375.00	1	0.00	0.00	-	7742.67	2.25	45.13	0.84	5.56	46.75	38.25	400	1.40	3.10	16	37.69	1.20
Chandler Insurance	OTC	4.25	-2.86	-10.53	5.25	3.50	3	0.00	0.00	16	8.87	0.48	52.38	-2.56	-1.18	60.13	45.13	1703	0.80	1.53	14	21.25	2.46
Chubb Corp.	NYS	81.75	-1.95	-8.02	96.38	79.50	2113	1.72	2.10	11	45.65	1.79	12.25	-1.01	22.50	13.75	6.50	218	0.00	0.00	14	10.48	1.17
CIGNA Corp.	NYS	64.50	-0.77	10.02	68.00	50.38	545	3.04	4.71	11	79.82	0.81	13.75	-0.17	11.11	19.63	10.88	1829	0.20	1.45	-	9.63	1.43
CNA Financial Corp.	NYS	82.38	-1.05	-15.94	102.88	82.38	52	0.00	0.00	-10	75.07	1.10	17.63	0.71	-2.08	20.00	15.00	97	0.24	1.36	-5	23.61	0.75
Continental Corp.	NYS	31.00	-0.80	15.35	34.63	24.38	611	1.00	3.23	17	34.73	0.89	45.00	0.84	24.14	45.25	30.59	202	1.20	2.67	13	29.48	1.14
EXEL Ltd.	NYS	47.00	-0.53	-0.53	52.25	42.00	188	1.20	2.55	7	29.54	1.59	24.50	2.62	6.52	28.00	20.25	99	1.08	4.41	12	38.84	0.85
Fremont General Corp.	NYS	26.13	-1.88	-24.28	28.75	18.84	653	0.72	2.76	9	19.81	1.32	27.25	-3.54	37.97	29.25	16.50	29	1.00	3.67	17	15.82	1.72
Frontier Insurance Group	NYS	48.50	3.00	11.49	50.00	31.81	49	0.60	1.24	17	14.78	3											

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