



AP PHOTO

Dillard's is challenging a ruling that voided parts of Oklahoma's opt-out workers comp law.

WORKERS COMPENSATION

Employer challenges opt-out ruling

Oklahoma case cause for pause

BY STEPHANIE GOLDBERG

The challenge to the Oklahoma Employee Injury Benefit Act that's before the state Supreme Court has put a chill on the workers compensation opt-out movement and may prompt some employers to return to the state comp system.

Opt-out backers, however, say the fight is far from over.

In an appeal filed earlier this month, retailer Dillard's Inc. asked the Oklahoma high court to vacate the Oklahoma Workers'

See **OPT OUT** page 33

INTERNATIONAL

BRUSSELS TERROR ATTACKS HIGHLIGHT EVOLVING THREATS

Insurer coverage offerings may lag changing tactics



AP PHOTO

Authorities in and around Brussels conducted raids last week as they searched for terrorists linked to several bomb attacks.

BY DOUGLAS McLEOD AND SARAH VEYSEY

As Europe responds to last week's deadly terrorist bombings in Belgium, insurers and reinsurers are weighing the threat of more attacks and changes that would expand terrorism coverage to better fit the evolving and increasing threat.

Police raided locations in Brussels and Paris, arresting a series of suspects and hunting for others connected to the attacks in Brussels as well as last November's terrorist attacks in Paris. But the extent of the terror cell and others linked to the Syria-based Islamic State group is uncertain, sources say.

At least 31 people were killed and hundreds were injured last week when suicide bombers triggered a pair of explosions at Brussels' Zaventem Airport and a blast at the Maelbeek subway station near the European Union headquarters. The attacks came soon after Belgian authorities captured Salah

See **TERROR** page 33

PBM

Anthem suit over drug costs may start trend

Litigation follows failed contract renegotiation

BY SHELBY LIVINGSTON

Anthem Inc.'s lawsuit over pharmacy benefit manager Express Scripts Holding Co.'s pricing practices sparks questions about transparency in the PBM industry and what the future may hold for stand-alone PBMs.

Indianapolis-based Anthem last week filed a nearly \$15 billion lawsuit against St. Louis-based Express Scripts alleging the nation's largest PBM breached its contract with the health insurer by charging higher-than-competitive prices for its services.

According to the suit, filed in U.S. District Court for the Southern District of New York, Anthem also alleges Express Scripts breached its contract by not performing services in a "prudent and expert manner" and through system defects, inadequate training of workers and a lack of expertise.

The suit is the culmination of a monthslong dispute in which Anthem claims it tried unsuccessfully to negotiate lower pricing.

Anthem alleges that Express Scripts' pricing exceeds competitive benchmark pricing by more than \$3 billion annually, or \$13 billion for the rest of Anthem's 10-year contract with Express Scripts, plus \$1.8 billion for the time it would take Anthem to

See **PBM** page 33

BELGIAN TERRORISM BACKSTOP

- Belgium's Terrorism Reinsurance and Insurance Pool, in operation since 2008, provides coverage up to €1 billion (\$1.12 billion) per year.
- The pool covers buildings, contents in Belgium; policyholders living in Belgium; vehicles registered in Belgium; travel, holiday assistance coverage bought in Belgium up to four months.
- About 65 insurers that represent about 95% of the Belgian market participate in the pool.
- Insurers retain up to €300 million (\$337.3 million) with stop-loss reinsurance up to €700 million (\$787.0 million). Belgium pledges about €300 million, which is tapped after exhausting the retention and reinsurance.

Sources: Terrorism Reinsurance and Insurance Pool, Organization for Economic Cooperation and Development, Willis Towers Watson.



Q&A: ROBBIE THOMPSON

Executive director of PLUS discusses his plans for the underwriting society

PAGE 12

COMMENTARY

The creativity and audacity of the comp system's cheaters highlight its shortcomings

PAGE 14

RESEARCH & DATA

Ranking of the largest third-party claims administrators

PAGE 26



RIMS PREVIEW

With a theme of "Go Beyond," risk managers will be encouraged to optimize their potential and position within their organizations at this year's Risk & Insurance Management Society Inc. conference in San Diego.

PAGE 18

SPECIAL REPORT: CLAIMS MANAGEMENT PAGE 22



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*Balance sheets as of 12/31/14 for the Berkshire Hathaway National Indemnity group of insurance companies.

CONTENTS

FEATURES

INTERNATIONAL



Profile: Malta

Malta is positioning itself to become a major financial center with favorable legal conditions for insurers, particularly captives. 10

PERSPECTIVES

Havoc in the supply chain tests interruption policies

The port explosions in Tianjin, China, caused the latest break in international supply chains. Donald J. Friedman and Thomas M. McMahon, partners at Perkins Coie L.L.P., discuss the benefits and limitations of contingent business interruption insurance in such situations. 15

OFF BEAT



Contest sinks to the silly

When a U.K. council opened an online vote to name its new research vessel, it didn't consider the risks involved. 34

SECTIONS

INTERNATIONAL 10

PEOPLE 12

OPINIONS 14

PERSPECTIVES 15

MARKET PULSE 28

OFF BEAT 34

NEWS

CYBER RISKS

EMPLOYERS FACE GROWING RISK IN TAX SEASON: 'SPEAR PHISHING'

Legitimate looking emails seek employee data

BY JUDY GREENWALD

Emails sent to payroll and human resources departments seeking personal information may look like they are from the CEO rather than what they really are: "phishing" attacks that have grown so numerous that the IRS has issued a warning.

Several attorneys say they have clients whose employees have fallen victim to these "spear phishing" or "spoofing" emails, generally presented as urgent requests for information such as Social Security numbers and W-2 forms that often are carefully written in the same style favored by the executive whose identity is being faked. The adjective "spear" has been added to the term "phishing" because of the precision of these emails' targets.

"If your CEO appears to be emailing you for a list of company employees, check it out before you respond," IRS Commissioner John Koskinen said in a statement earlier this month about the scam that has ramped up this tax season. Consumer complaints about the scams were up 400% through mid-February, the IRS said.

Firms that have reported phishing breaches include Cupertino, California-based Seagate Technology L.L.C.; Venice, California-



PHISHING ATTACKS

Reports of phishing and malware designed to trick taxpayers have surged about 400% this tax season. They include:

- Through mid-February, 1,389 incidents of phishing and malware were reported.
- Phishing and malware reports so far this year have bested 2014's total of 1,361.
- Through mid-February, 2016 reports already were halfway to 2015's total of 2,748.

Source: Internal Revenue Service

based Snapchat Inc.; and Irondale, Alabama-based Eternal Word Television Network Inc., a Catholic network.

"It's hitting everywhere. I'd be surprised if there's an industry or a sector that's not being affected," said F. Paul Greene, a partner at Harter Secrest & Emery L.L.P. in Rochester, New York.

"The thing that's new this time round is it's focused on HR," said Mr. Greene. Three or four years ago, criminals focused on chief financial officers and financial departments, which would receive a wire to send money to a certain account.

"Companies quickly learned to tighten their financial controls to forbid wire transfers based on email. Now, they're learning their HR information has just as much value," he said.

"Because it is tax season, HR department and payroll employees are accustomed to receiving requests from some executives about various tax-related issues, and that's maybe why they're more susceptible to believing these are valid requests," said Melinda McLellan, counsel at Baker & Hostetler L.L.P. in New York.

In one case, the scam was discovered when an employee filed his income tax return and was told it had already been filed, said William H. Latham, a partner at

See PHISHING page 32

SAFETY

OSHA puts incentive plans under scrutiny

Employers vexed by agency's stance

BY GLORIA GONZALEZ

A federal agency's strong stance against using incentives in workplace safety programs has baffled advocates, although some say employee incentives can be crafted to avoid violating safety rules while increasing their effectiveness.

The Occupational Safety and Health Administration's stance dates back to the March 2012 release of what's known as the "Fairfax memo." Drafted by former Deputy Assistant Secretary of Labor Richard Fairfax, the memo outlined "problematic" policies and practices such as incentive programs that could discourage employees from reporting workplace injuries and illnesses in violation of federal health and safety and whistleblower laws.

OSHA reiterated that stance late last year in a draft update to its safety and health program management guidelines. Among comments on the proposal made since November, Cincinnati-based workers comp insurer Great American Insurance Co. rebuked OSHA for its resistance to employee incentive programs.

"OSHA has completely ignored the benefits of these programs for years," said Lawrence Halprin, a partner at Keller & Heckman L.L.P. in Washington and counsel for Great American.

OSHA has not adopted a stan-

See INCENTIVES page 32

BENEFITS MANAGEMENT

IRS signals grad student health plans need overhaul

BY JERRY GEISEL

The IRS has given colleges and universities more time to scrap long-established health insurance plans offered to student teaching assistants and devise new approaches, but the plans' end looks to be in sight.

In Notice 2016-73, the IRS affirmed earlier guidance that a widespread approach colleges and universities use to provide health coverage to students — typically graduate teaching assistants — flunks provisions of the health care reform law.

In what the IRS calls "employer payment" plans, schools buy and pay most or all of the premium for individual policies purchased from commercial insurers.

"These arrangements, by their very definition, include dollar limits on the amount of reimbursements or payments, and therefore violate the Affordable

Care Act prohibition on annual dollar limits," the IRS said in its February notice.

"The IRS views these students as employees, and therefore you cannot offer them individual policies," said Steven Bloom, director of federal relations at the American Council of Education in Washington.

The IRS is saying, "No employer can reimburse an employee for all or some of the premium for individual health insurance," said Rich Stover, a principal at Xerox HR Services in Secaucus, New Jersey.

Still, the IRS said it recognizes "schools may need additional time to adopt a suitable alternative or make other arrangements to come into compliance," and said its rules would not apply for student health plan years starting prior to Jan. 1, 2017.

See STUDENTS page 32

CORE ELEMENTS

The basic components of effective safety incentive programs commonly used by companies insured by Great American Insurance Co. include:

- Program must be group-based, usually including 75 to 125 employees.
- Program should be based on number of lost-time claims rather than total claims.
- If no one in the group has lost a workday, typically one month, all members qualify for a random cash drawing.
- Cash awards generally rise the longer a group goes without a lost workday, generally capped at \$1,000.
- Program should stress importance of reporting all claims.

Source: Great American Insurance Co. submission to the Occupational Safety and Health Administration

ONLINE
FEATURES

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Risk Management Summit

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Risk Management Summit 2016

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NEWS

RISK MANAGEMENT

INSURER MERGERS CREATE CONCERNS
OVER REDUCED CHOICE, SERVICE DISRUPTION

Risk management panel sees downside to industry consolidation

BY MARK A. HOFMANN

NEW YORK — Mergers and acquisitions among insurers may present as much of a risk as the risks the underwriters insure.

Property/casualty insurer mergers are an “emerging risk” for risk managers, said Debbie Rodgers, senior vice president of global risk management at Aramark Corp. in Philadelphia.

Insurer solvency questions used to be a key concern for risk managers seeking coverage, but now the sheer volume of M&A activity means that the pool of companies from which to buy coverage is shrinking, she said.

While the number of property/casualty insurer deals last year was smaller than in 2014, Ms. Rodgers said several studies have shown the 2015 deals were “significantly” larger.

An example was Ace Ltd.’s acquisition of Chubb Corp., forming the new Chubb Ltd., in a deal worth \$29.7 billion.

Ms. Rodgers, *Business Insurance*’s 2010 Risk Manager of the Year®, made the comments while moderating a panel on consolidation during *Business Insurance*’s seventh annual Risk Management Summit in New York last week.

Marti Dickman, vice president of risk management at Advanced



BARTOMEU AMENGUAL

Audrey Rampanelli, vice president of Loews Corp., leads a Risk Management Summit panel sharing success stories.

Disposal Services Inc. in Pointe Vedra, Florida, said the continued consolidation has definitely changed the insurance marketplace — and not for the better, as far as risk managers are concerned.

The M&A wave has resulted in limited property/casualty insurance capacity and a change in terms and conditions, said Ms. Dickman.

“We’re very concerned about it,” she said. Insurers transitioning during a merger also are not as responsive to clients.

“I’m uncomfortable with it,” said

Ms. Dickman.

“Without competition, you don’t have innovation,” said Jack Hampton, a professor of business at St. Peter’s University in Jersey City, New Jersey.

He noted that downsizing in the early 1990s took “a big piece” out of underwriting talent, but said commercial insurance underwriting cannot be mechanized.

Timothy J. Cunningham, a partner at Optis Partners L.L.C. in Chicago, picked up on Mr. Hampton’s concerns about talent.

See **SUMMIT** page 31

Care in writing
cyber cover
warranted

Lack of data on threats troubles insurers

BY GLORIA GONZALEZ

NEW YORK — Insurers remain reluctant to cover cyber risks, leaving some companies to explore insuring the risk in their captives.

Given the lack of sufficient historical data, global insurers are being “very sensible” in offering limited coverage for cyber exposures though there is huge client demand and media coverage about “the industry failing to step up to the plate,”



Mr. Casserley

Dominic Casserley, president and deputy CEO of Willis Towers Watson P.L.C., said last week.

“Lloyd’s of London has been very

See **CYBER** page 31

WORKERS COMPENSATION

For some injured employees, opioid prescriptions spell double trouble

BY STEPHANIE GOLDBERG

BOSTON — Opioid painkillers aren’t appropriate for most workers compensation patients, yet, many injured workers are prescribed more than one of the powerful drugs.

That some workers injured on the job receive two or more opioids is based on preliminary research from the Cambridge, Massachusetts-based Workers Compensation Research Institute.

While about 30% of injured workers received one prescription for opioids in most of the 25 states studied, the percentage of injured workers who received more than one ranged from 27% in New Jersey to 59% in Louisiana, WCRI researchers found.

The study, compiled using data from injuries that occurred from October 2009 through

September 2012 with prescriptions filled through March 2014, was presented by WCRI Policy Analyst Vennela Thumula at the institute’s 2016 Annual Issues and Research Conference in Boston this month.



Though most states saw opioid use decrease between 2010 and 2012, about three in four injured workers with pain medications in most states received at least one opioid prescription, Ms. Thumula said, adding the amount of opioids per claim was “unusually higher” in Louisiana, New York and Pennsylvania.

Joseph Paduda, principal of Madison, Connecticut-based Health Strategy Associates L.L.C., said that while opioids are prescribed more often in some states, “their use of opioids is fundamentally different.”

For example, New York physicians may

“write more scripts for opioids, (but) those scripts are for Vicodin and Percocet as opposed to” more potent narcotics such as OxyContin, added Mr. Paduda, who attended the conference.

“Doctors in different areas of the country just practice medicine differently,” Mr. Paduda said. “That means that some prescribe Vicodin, some prescribe Percocet, some prescribe (nonsteroidal anti-inflammatory drugs). This is more evidence of the need to inject more science into the practice of medicine, specifically around the use of pharmaceuticals in the workers compensation system.”

Opioid use in workers comp is down overall, said Dr. Marcos Iglesias, vice president and medical director at Hartford Financial Services

See **WCRI** page 32

HOW DO YOU MAKE AN INSURANCE VALUATION PRACTICE EVEN MORE VALUABLE?

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Property/casualty insurer profits slip

BY MARK A. HOFMANN

Commercial property/casualty insurers enjoyed a good if not outstanding year in 2015, but the prospects for 2016 are mixed.

For most insurers, underwriting remained profitable as catastrophe losses remained low and they eked out rate increases in some lines. As a result, combined ratios were favorable for most insurers.

But the rate of increases continued to slow, and many lines and accounts saw decreases. In addition, underwriters continue to contend with low interest rates, which cut into investment earnings, and the prospect of loss cost inflation looms.

Net income for the 10 largest U.S.-based or listed commercial property/casualty insurers that report quarterly results dropped 28.7% compared with 2014 to \$13.19 billion. But the drop was not spread evenly.

At one extreme, the two largest insurers in the group, Liberty Mutual Insurance Co. and American International Group Inc., both posted declines of more than 70%.

In Liberty Mutual's case, the drop reflected one-time expenses associated with divesting its Venezuelan operations.

At AIG, a \$3 billion charge for adverse prior-year loss reserve development in property/casualty operations put a damper on results. The insurer, which is

PROPERTY/CASUALTY INSURERS' YEAR-END 2015 RESULTS

Largest U.S.-based or listed property/casualty insurers that report quarterly results. Ranked by net premiums written, in millions of dollars.

Insurer	Net premiums written 2015	% increase (decrease)	Net income 2015	% increase (decrease)	Combined ratio 2015*
Liberty Mutual Insurance Co.	\$34,533	0.6%	\$514	(71.7%)	97.8%
American International Group Inc.	\$32,020	(4.2%)	\$2,222	(70.5%)	115%
Travelers Cos. Inc.	\$24,121	0.9%	\$3,439	(6.9%)	88.3%
Chubb Corp. ¹	\$17,713	(0.5%)	\$2,834	(0.7%)	87.4%
Ace Ltd. ¹	\$12,633	0.3%	\$2,136	1.7%	87.2%
The Hartford Financial Services Group Inc.	\$10,578	3.3%	\$1,682	110.8%	92.6%
XL Group P.L.C. ²	\$7,951	32.6%	\$1,313	NM	92.0%
CNA Financial Corp.	\$6,962	(1.8%)	\$479	(30.7%)	96.4%
W.R. Berkley Corp.	\$6,190	3.2%	\$504	(22.3%)	92.4%
Hanover Insurance Group Inc.	\$4,617	(4.0%)	\$332	17.7%	95.7%
Cumulative	\$157,318	0.0%	\$15,455	(25.2%)	94.5%

*Includes dividends. 1 Chubb Corp. legacy results and Ace Ltd. legacy results reported by the merged entity Chubb Ltd. following the January 2016 merger of Chubb and Ace. 2 Parent XL Group P.L.C. retained its name following its 2015 merger with Catlin Group Ltd., with the combined entity doing business as XL Catlin. NM=not meaningful

Source: Company reports

under pressure from activist investor Carl Icahn to break into three separate companies — life, mortgage insurance and property/casualty — also had to contend with costs associated with an ongoing reorganization, including the elimination of more than 20% of its top management positions.

At the other extreme, XL Group P.L.C.'s net income for the year jumped more than 500%, reflecting

benefits from its merger with Catlin Group Ltd., which closed earlier in the year. Hartford Financial Services Group Inc. also saw a profit surge with net income up 110.8% from the previous year, which had been hit by a loss from discontinued operations associated primarily with its Japanese annuity business.

Net written premiums for the group rose 0.7% from 2014's total to

\$157.32 billion. The group's cumulative combined ratio deteriorated to 94.5% from 93.1% a year earlier. But the number was skewed somewhat by AIG's 115.0% combined ratio. No other insurer reported a combined ratio of 100.0% or above.

On the whole, analysts liked what they saw.

"The industry had a good year on balance," said Josh Stirling, a senior analyst with Sanford C. Bernstein & Co. in New York. "The industry had the benefit of a number of years of price increases, and ultimately most of the companies have done a decent job in managing underwriting."

Mark Dwelle, an analyst with RBC Capital Markets L.L.C. in Richmond, Virginia, said last year was a year of record earnings for many insurers, while for others like AIG it was a year of "significant strategic change."

But he said that three straight years of below-normal catastrophe losses may skew the outlook for insurers. "That alone would be a headwind if it returns to normal," he said.

"It's inevitable that fortunes turn there," said James Auden, managing director of insurance at Fitch Ratings Inc. in Chicago.

Insurers results were acceptable, considering the commercial environment, said Paul Newsome, managing director at Sandler

See **INSURERS** page 30

Health insurers see good year despite ACA

BY SHELBY LIVINGSTON

Despite challenges stemming from public health insurance exchange business and distractions posed by mergers among the top five, the largest publicly traded health insurers reported strong results in 2015.

Collectively, the largest U.S.-based publicly held health insurers reported \$388.77 billion in total revenue in 2015, a 12.4% increase from 2014. Net income for the group grew 5.2% to \$14.17 billion in 2015 (see chart, page 30).

UnitedHealth Group Inc., the only member of the top five not involved in a potential merger, posted the biggest gain in revenue with a 20.4% jump to \$157.11 billion, while Aetna Inc. posted the largest percentage gain in net income, which rose to \$2.39 billion in 2015.

Total medical enrollment rose 2.5% to \$137.7 million members.

"Overall they did really well, compared to what they had projected," said Stephen Zaharuk, New York-based senior vice president at Moody's Investors Service Inc. "Most of them beat guidance, and in 2015 there was a lot going on."

The biggest challenge — and "the biggest disappointment," Mr. Zaharuk said — was the performance of exchange business related to the health care reform law, which remained unprofitable for the group.

"It's a new paradigm," Mr. Zaharuk said. Insurers "weren't clear on who was going to buy the insurance policies, and so they made some guesses and it turned out they were wrong."

Analysts say public health insurance exchange enrollees tend to be older and higher risk, meaning they use more services.

Several insurers have complained that people in need of medical care signed up for coverage during special enrollment periods, and then dropped it once they received treatment. Heeding insurers' calls, the Centers for Medicare and Medicaid Services in January tightened the rules governing special enrollment.

UnitedHealth, which pulled back on marketing its exchange plans for 2016 and is mulling an exit in 2017, reported a loss of \$720 million related to the individual policies it

See **HEALTH** page 30

Organic growth, M&A activity drive broker results

BY DONNA MAHONEY

The five largest publicly traded insurance brokers posted a collective single-digit increase in 2015 revenue thanks to modest organic growth and expense reductions as mergers affected their ranks.

Some analysts, however, expect organic growth to challenge the brokerage space this year.

2015 was "better than expected," said Timothy J. Cunningham, managing director at Chicago-based investment banking and consulting firm Optis Partners L.L.C. "The fourth quarter was an uptick."

"Overall, it was a solid year for brokers," with most reporting organic growth and steady or slightly improving margins, said Julie Herman, New York-based associate director of insurance rat-

ing at Standard & Poor's Corp.

The two largest brokers, Marsh & McLennan Cos. Inc. and Aon P.L.C., reported slight declines in 2015 revenue. Arthur J. Gallagher & Co., Willis Group Holdings P.L.C. — before the completion in January of its \$18 billion merger with Towers Watson & Co. — and Brown & Brown Inc. improved their top lines.

Aon was the only member of the top five to report 2015 net income that was less than 2014.

Collectively, the top five had \$35.46 billion in 2015 revenue, a 1.3% increase, and \$4.04 billion in net income, a 6.1% gain.

Foreign exchange rates were the major headwind global brokers faced last year, "but they managed through it well," Ms. Herman said.

Organic growth rates were "very consistent" with increases gener-

BROKERS' YEAR-END 2015 RESULTS

2015 results for the largest publicly traded insurance brokers ranked by total revenue, in millions of dollars.

Broker	2015 revenue	% increase (decrease)*	2015 net income [†]	% increase (decrease)*
Marsh & McLennan Cos. Inc.	\$12,893	(0.4%)	\$1,599	9.1%
Aon P.L.C.	\$11,682	(3.0%)	\$1,422	(0.6%)
Arthur J. Gallagher & Co.	\$5,392	16.5%	\$389	18.6%
Willis Group Holdings P.L.C. [‡]	\$3,829	0.7%	\$384	2.9%
Brown & Brown Inc.	\$1,661	5.4%	\$243	17.5%
Total top five	\$35,457	1.3%	\$4,037	6.1%

*Percentage change reflects unrounded figures. 1 Includes impact of acquisitions or discontinued operations. 2 Reflects Willis Group Holdings P.L.C. before its January 2016 merger with Towers Watson & Co. to form Willis Towers Watson P.L.C.

Source: Company reports

ally in the 3% to 5% range, said Bruce Ballentine, vice president and senior credit officer at Moody's Investors Service Inc. in New York. "This is a good steady

growth, and it's a little ahead of economic growth."

Some analysts foresee future

See **BROKERS** page 30

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Centene closes \$6 billion acquisition of Health Net

■ St. Louis-based health insurer Centene Corp. has closed its \$6 billion acquisition of Woodland Hills, California-based insurer Health Net Inc., creating a company that covers more than 10 million people, Centene said in a statement. The acquisition, initially announced in July, expands Medicaid managed care provider Centene's government programs to include Medicare Advantage, as well as those offered through contracts with the U.S. departments of Defense and Veterans Affairs, as well as extending Centene's reach across the public health exchange marketplaces, the insurer said in the statement. Centene President and CEO Michael F. Neidorff will continue to head the combined company, which will be headquartered in St. Louis. Jay Gellert, Health Net's former president and CEO, and James Woys, its former executive vice president and chief financial and operating officer, will consult on the transition.

OSHA halves permissible crystalline silica dust levels

■ The U.S. Occupational Safety and Health Administration has released its final silica rule, which will lower the amount of silica dust workers can be exposed to and mandate certain controls to limit exposure. The Occupational Exposure to Respirable Crystalline Silica rule will reduce the permissible exposure for crystalline silica to 50 micrograms per cubic meter of air, averaged over an eight-hour shift, from the current 100 micrograms per cubic meter of air standard. The final rule is written as two standards: one for construction and one for general industry and maritime. Employers covered by the construction standard have until June 23, 2017, to comply with most requirements, while those covered by the general industry and maritime standard have until June 23, 2018, to comply with most requirements.

High court hears oral arguments in religious nonprofits' case

■ The Patient Protection and Affordable Care Act's controversial contraceptive mandate went in front of the U.S. Supreme Court for a second time last week as the court heard oral arguments for a group of religious nonprofits challenging its legality. The mandate requires employers to provide contraceptive coverage to employees at no cost. Central to the case, *Zubik et al v. Burwell*, which includes seven consolidated cases, is whether the government accommodation to the mandate given to religious nonprofits violates their rights under the 1993 Religious Freedom and Restoration Act. The religious nonprofits argue that the accommodation, which allows employers to pass the obligation to their health insurer or third-party administrator, still requires them to be complicit in providing contraceptives to their employees, in violation of their faith. Plaintiffs attorney Paul D. Clement, partner at law firm Bancroft P.L.L.C., argued "they can adhere to their religious beliefs and pay millions of dollars in penalties, or they can take steps that they believe to be religiously and morally objectionable and that the government deems necessary, for them to provide contraception coverage through their health care plans," according to a transcript. U.S. Solicitor General Donald B. Verrilli Jr., in defense of the government, argued that the accommodation "strikes pre-

cisely the sensible balance between religious liberty and compelling governmental interests that Congress sought when it enacted RFRA," according to the transcript. A ruling is expected sometime this summer.

Fewer employer-insured workers expected

■ The number of individuals with employment-based health insurance coverage will remain steady this year and next, then slide in 2018 and remain near constant after that, according to a Congressional Budget Office report. In 2016 and 2017, 155 million employees and dependents will have employment-based coverage. Then in 2018, employment-based coverage will drop to 153 million, slip to 152 million in 2019 and remain at that level through 2026, the CBO projects. Reasons include more lower-paid employers shifting from employer plans to Medicaid and last year's repeal of an Affordable Care Act provision in which employers with at least 200 employees would have been required to automatically enroll employees who didn't sign up for a health care plan.

Former Chubb executive, descendant of founders dies

■ Chubb Ltd. last week announced the death of Percy Chubb III, 81, its former vice chairman. Details about the circumstances of his death were not immediately available. Mr. Chubb, who was known as Pi, was the great-grandson of Thomas Caldecot Chubb and grandson of Hendon Chubb, who founded Chubb & Son in 1882. He joined the firm in 1958. At the time, the former Chubb Corp., which was acquired by Ace Ltd. in January, had 17 offices and \$67 million in written premium. He was elected a director of Chubb Corp. in 1978 and vice chairman in 1986, and served on its policy committee. He retired as a company officer in 1997. He is survived by his wife, the former Sally Gilady, and their children and grandchildren, Chubb said in its statement.

Penalty for not offering employee health insurance rising in 2017

■ Employers who do not offer health care coverage in 2017 are expected to be hit with a \$2,260 penalty for each full-time employee, up from \$2,160, according to Mercer L.L.C. projections. In addition, the penalty for offering coverage in which the share of the premium the employee pays for single coverage exceeds 9.5% of household income is projected to rise to \$3,390 for each affected employee, up from \$3,240 in 2016. The higher penalties are tied to annual increases in health premiums.

Paperwork snafu on auto policy costs Zurich almost \$1 million

■ Zurich America Insurance Co. is liable to pay an injured worker \$1 million in uninsured motorist coverage because his employer failed to sign all the necessary documents needed to reduce coverage to just \$35,000, a three-judge panel of the 3rd U.S. Circuit Court of Appeals in Philadelphia ruled in *Stefan Freeth v. Zurich American Insurance Co.* The president of West Chester, Pennsylvania-based Road-Con Inc. signed an "uninsured/underinsured motorist coverage selection/rejection limits summary form" in 2012, electing to reduce the company's

uninsured motorist coverage to \$35,000 from \$1 million, but he did not sign the necessary state-specific forms enclosed with the summary form. After Mr. Freeth was seriously injured while working on the back of a Road-Con truck later that year, he Freeth filed suit against Zurich, seeking a declaration he was entitled to \$1 million in coverage. Zurich argued the policy only provided \$35,000 in coverage because of the signing of the summary form. However, said the 3rd Circuit, "Zurich must show that the summary form by itself constituted a 'request,' notwithstanding the language in the summary form warning insureds that signing the summary form was insufficient to effect a reduction in coverage. Zurich fails to do so."

FDA to make opioid prescription warnings more prominent

■ All immediate-release opioid painkillers will now feature a highlighted warning about the serious risks of misuse, abuse, addiction, overdose and death, the U.S. Food and Drug Administration said. The updated warning says immediate-release opioids "should be reserved for pain severe enough to require opioid treatment and for which alternative treatment options," such as nonsteroidal anti-inflammatory drugs, "are inadequate or not tolerated," the FDA said in a statement. The FDA notes that immediate-release opioids are usually used every four to six hours, while extended-release/long-acting opioids are taken once or twice a day.

Execs cite regulatory change, scrutiny as greatest risk

■ Regulatory change and scrutiny, economic conditions and cyber threats are the top risks that concern executives, according to a survey by the Enterprise Risk Management Initiative of the Poole College of Management of North Carolina State University in Raleigh, North Carolina, and Menlo Park, California-based consultant Protiviti Inc. Succession challenges, ensuring privacy and the speed of disruptive innovations also were among top risks cited by 535 board members and high-level executives who were surveyed. The remaining top 10 risks cited were: resistance hindering necessary adjustments to the business model and core operations; anticipated volatility in global financial markets; organizational culture not sufficiently encouraging timely identification of risk issues; and the increasing difficulty of sustaining customer loyalty and retention.

Loading up on cyber risk ratings negative for insurers

■ Uncertainties surrounding insurers' coverage of cyber risks now outweigh the benefits of their potential earnings growth from a ratings perspective, New York-based Fitch Ratings Inc. said in a report. "At this stage, Fitch would view aggressive growth in stand-alone cyber coverage, or movement to high portfolio concentration in cyber, as a negative to the ratings," according to "Global Cyber Insurance Market Update, Expanding Threats Amplify Underwriting Opportunity, Loss Potential." The report continued: "We believe the underwriting, pricing and reserving uncertainties currently outweigh the potential earnings growth benefits" of providing cyber insurance. "Controlled growth as part of a diversified portfolio, coupled with continually enhanced underwriting standards, would generally be neutral to ratings."

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Fosun weighs IPO for Ironshore

■ Shanghai-based Fosun International Ltd., which has wrapped up purchasing the remaining stake of Hamilton, Bermuda-based Ironshore Inc., now is considering an initial public offering of Ironshore. The companies said in statements that no final decision has been made on when or where to proceed with taking Ironshore, a specialty property/casualty insurer formed in the wake of devastating 2005 hurricanes, public through a stock offering. Fosun last May agreed to buy the 80% of Ironshore that it did not already own for \$1.8 billion.

Aon snags Marsh exec for middle-market unit

■ Aon Risk Solutions has recruited Julie Page from rival Marsh Ltd. to run its U.K. middle-market business. Ms. Page will join the Aon P.L.C. unit on April 18 as managing director, national and will head the London-based brokerage's U.K. midmarket business. At Marsh, she was CEO of the New York-based brokerage's U.K. consumer and commercial business. Ms. Page previously worked at Aon for several years in the 1990s before joining Marsh.

PartnerRe reveals new top execs

■ John Elkann has been appointed chairman of PartnerRe Ltd., and Emmanuel Clarke has been named its president and CEO, the reinsurer said. Mr. Elkann, based in New York, is the chairman and CEO of Turin, Italy-based Exor S.p.A. Mr. Clarke, based in Zurich, previously was president of Pembroke, Bermuda-based PartnerRe. PartnerRe said in a statement. "I am honored to assume the role of chairman of PartnerRe, and very pleased that we can appoint from within the company a CEO of the caliber and experience of Emmanuel Clarke. His intimate knowledge of PartnerRe and his deep understanding of the sector will prove crucial as we embrace the challenges and the many exciting opportunities we have in front of us," Mr. Elkann said in a statement.

LatAm event uninsured? Expect a Zika exclusion

■ Organizers of rock concerts and conferences in Latin America and fringe events at the Rio Olympics

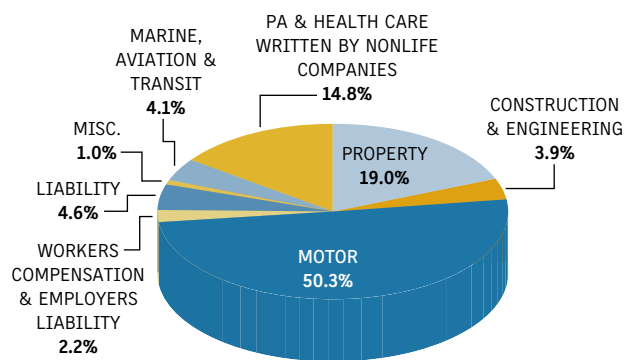
PROFILE: MALTA

\$127.0
MILLION

With a property/casualty penetration rate lower than that in most of the European Union and market growth constrained by a flat economy and limited industry, Malta is positioning itself to become a major financial center with favorable legal, fiscal, administrative and operating conditions for insurers, particularly captives. Physically, the Mediterranean nation, comprising the islands of Malta, Gozo and Comino, is prone to flash floods and windstorms. And though it suffers frequent tremors, the last major earthquake there was in 1693.

◀ 2014 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

- Third-party liability for motor, firearms holders, construction developers, hunters, diving centers and discharging fireworks
- Professional indemnity for insurance brokers and agents, auditors, accountants, notaries, private guards and members of the medical and health-care professions
- Public liability for vessels licensed to carry more than 12 passengers to cover personal injury and damage to luggage
- Clinical trials liability
- Workers compensation, state sponsored

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Malta, but the law doesn't require buyers to purchase policies from locally authorized insurers. This is generally interpreted to mean that insurers can issue any type of policy from abroad if approached by a buyer or intermediary.

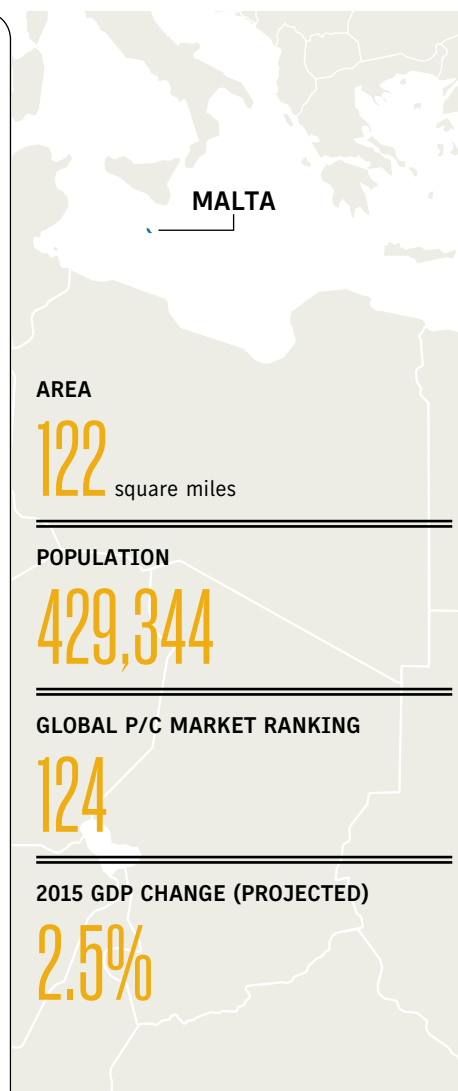
INTERMEDIARIES

Agents and brokers have to be authorized to carry on insurance business. They are not allowed to place business with nonadmitted insurers except for reinsurance of large risks and some classes including aviation, marine and credit cover. The MFSA also can authorize nonadmitted placement. Brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

The presence of all major global insurers via their European operations through European Economic Area (E.U. plus Iceland, Liechtenstein and Norway) freedom of services rules makes nonadmitted placements largely unnecessary and fronting only occasional. Noncompliance, which is said to be nonexistent, can bring fines up to \$165,000 plus \$252 per day for a continuing offense.

Information provided by Axco Insurance Information Services.
www.axcoinfo.com



MARKET DEVELOPMENTS

UPDATED NOVEMBER 2015

- The Various Financial Services Laws Act, 2015, adopted in October, amended financial laws including the Business Insurance Act and Insurance Intermediaries Act for the Jan. 1 advent of Solvency II, the E.U.'s new capital requirements.
- Two consumer protection circulars by the Maltese Financial Supervisory Authority in December 2014 and February 2015 set out rules for the sale of insurance products and information disclosures to policy holders.
- Securitization Cell Company Regulations, in effect from November 2014, provide the legal framework for SCCs and the formation of segregated cells for transactions including insurance-linked securities.
- The stamp duty payable on all property/casualty insurance except aviation, marine cargo and hull, boat, credit, surety, and medical cover, increased to 11% from 10% in February 2015.
- The 2014 market exit of Allcare Insurance Brokers Ltd., an aggressive insurer that transferred its portfolio to Mapfre Middlesea P.L.C., has eased competitiveness in Malta and allowed rates to return to healthier levels.

beware: If you still need insurance to cover cancellation due to the Zika virus, it's probably too late. The International Olympic Committee took out cancellation insurance for this August's games in the Brazilian city years ago, long before the mosquito-borne virus spread from the country through the Americas. Anyone else who acted early is probably also safe. "Existing policies are unaffected, and cover is provided," said Gary Flynn, at insurance broker JLT Specialty Ltd. But organizers still seeking protection are finding clauses that block any payout should their event be called off due to the Zika outbreak. "Insurers are now excluding this peril from any new cancellation policy for events in an affected area," said Mr. Flynn, JLT's London-based practice leader for sport federations.

Reuters

Lloyd's profit slips; U.K. E.U. exit weighs

■ Lloyd's of London posted profit of £2.1 billion (\$3.04 billion) for 2015, down 30% from 2014, due largely to lower investment results. While the market posted gross written premiums of £26.7 billion (\$38.65 billion), up 5.5% from 2014, it reported a slightly higher combined ratio of 90.0% for 2015, compared with 88.4% for 2014. Lloyd's investment return was £402 million (\$581.8 million) in 2015 versus £1.0 billion (\$1.56 billion) the prior year, Finance Director John Parry said during a press briefing. Low yields on many of Lloyd's investments, notably bonds and cash, was a major driver in the reduced profit for 2015, he said. Lloyd's would continue to improve its

market access amid ongoing challenging market conditions, Mr. Parry said, adding that Lloyd's is preparing for the possibility that the United Kingdom might leave the European Union after the binding referendum on the subject June 23. Still, Mr. Parry said, Lloyd's position is clear that it is "better for us if we stay in."

Broadspire names U.K. director

■ Atlanta-based Broadspire Services Inc., the third-party administration business of Crawford & Co., has appointed Ian Sutcliffe as managing director for its U.K. business. He replaces Margaret Clubley, who has left the company to pursue new opportunities, Broadspire said in a statement.

Mr. Sutcliffe, who is based in London, was previously client relationships director at Crawford U.K., which he joined after the 2014 acquisition of GAB Robins Holdings U.K. Ltd., according to the statement. London-based Mark O'Mahony, who is currently business development director of Crawford U.K., will take over as client relationships director at Crawford in the United Kingdom, Broadspire said.

Insurers plug hole in Iran oil cover

■ Ship insurers have stepped in to help plug a shortfall in cover for transporting Iranian oil resulting from the fact that U.S. reinsurers are still restrained by Washington's sanctions, according to offi-

cialists involved in the initiative. International oil and shipping companies have been eager to boost business with Iran since international sanctions related to its nuclear program were lifted in January, but securing proper insurance cover has been a stumbling block. The gap in third-party liability insurance and pollution cover for vessels has been addressed by an initiative of the International Group of Protection & Indemnity Clubs. The International Group has created a “fall-back” of \$500 million additional coverage per ship for Iranian oil at no extra cost to the members, the Japan P&I Club said. This raises the default insurance coverage for tankers carrying Iranian oil to \$580 million per ship from \$80 million. An Iranian official said exports had risen to 2.2 million bpd in the past two months.

Reuters

Aviation consortium forms at Lloyd's

■ Brit Ltd. is leading a consortium at Lloyd's of London to underwrite commercial general aviation business. The consortium will underwrite hull risks of up to \$10 million and liabilities of up to \$150 million and cover a wide range of specialty risks including firefighting helicopters and regional aircraft carriers, Brit said in a statement. The consortium will cover 100% placement in Lloyd's. Capacity for the consortium is provided by Apollo Syndicate Management Ltd., Hiscox Ltd., Tokio Marine Kiln Group Ltd. and MSF Pritchard Syndicate, according to the statement.

Bangladesh Bank weighs suit against N.Y. Fed

■ Bangladesh's central bank has hired a U.S. lawyer for a potential lawsuit against the Federal Reserve Bank of New York after hackers stole \$81 million from its account with the New York Fed, according to an internal report. Bangladesh Bank criticized the New York Fed in the incident report, dated March 13, that said the New York Fed allowed five of 35 fraudulent payment instructions to go through. “We view this as a major lapse,” Bangladesh Bank said in the report, a copy of which was obtained by Reuters. The Bangladesh Bank interim report also said the bank was considering “preparing the ground to make a legitimate claim for the loss of funds” against the New York Fed “through a legal process.” A source at Bangladesh Bank confirmed the authenticity of the report.

Reuters

Talbot appoints Aussie financial lines team

■ Talbot Underwriting Ltd. has named David McKenzie and David Jones class underwriters of Talbot's financial lines team in Australia. Previously, Mr. McKenzie was state manager of Queensland for Axis Specialty Australia. Mr. Jones was state manager of Victoria at Axis Specialty Australia,

London-based Talbot said in a statement. Both executives will be based in Sydney.

Generali's new CEO sticks to Greco strategy

■ New Assicurazioni Generali S.p.A. CEO Philippe Donnet, previously the insurer's Italy country head, said he would stick to his predecessor's strategy after write-

downs on BTG Pactual and other equity holdings pushed the Italian insurer's fourth-quarter earnings below forecasts. The group said its profit in the fourth quarter came in at €304 million (\$339 million), below a Thomson Reuters consensus estimate of €493 million (\$549.7 million). Full-year profit stood at just over €2 billion (\$2.23 billion), also some €200 million (\$223 million) short of forecasts. Its economic solvency ratio, a measure of financial strength based on

industrywide Solvency II principles, improved to 202% at the end of 2015 from 196% at the end of the third quarter. Generali said the results showed the quality of the turnaround plan launched by Mario Greco, who left the company abruptly this year to join rival Zurich Insurance Group Ltd. Mr. Donnet said he would not change course from his predecessor's plan based on cost-cutting and the sale of assets.

Reuters

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UNDERWRITING SOCIETY STRIVING TO NURTURE MEMBER ENGAGEMENT

Q What are your plans for PLUS?

A We have to constantly evolve and change, yet respect our history. Our plan is to continue the great work that's being done at the conferences and our education offerings. We're looking to increase our member engagement and ensure that all members know what PLUS has to offer and the value of PLUS.

Also, we look to continue our efforts to expand globally and do that in a defined and smart way. It's an important long-term strategy, and this year we are looking for how we can better utilize our technology to deliver education.

Q Could you expand on that?

A I think that there's an incredible amount of competition in the education marketplace. PLUS has created an outstanding curriculum with its Registered Professional Liability Underwriter Program. We need to find a way to get it into the hands of our members.

In short, our objectives are to

Q&A

increase member knowledge of the value PLUS provides; to engage our members and to create more opportunities for them to be involved in PLUS; to continue our global efforts; to enhance our education offerings through the use of our existing technology; to maintain the high standards and excellence of our events; and to advance our diversity inclusion, our initiatives through our Diversity Leadership and Mentoring Program.

Q You've discussed the idea of an association "creating experiences." Could you explain that?

A An important part of an association, especially for an association that is focused so heavily on networking, is that people want more than just to learn a few things or meet a few people.

They want an event to be something they remember, and I think PLUS has done a good job of that. And we want to do an even better job in the future, making sure we have outstanding events where people enjoy and get a lot of value out of being there and meet people who are friends for life.

Q Was this why at your recent PLUS directors and officers liability symposium you increased the break time between sessions to half an hour?

A PLUS is about education and networking, and the networking is a very, very important part and component, and we want to make sure we are able to create as many opportunities for people to network as possible.

Q What do you see as the challenges facing PLUS?



ROBBIE THOMPSON

PROFESSIONAL LIABILITY UNDERWRITING SOCIETY

Insurance Senior Editor Judy Greenwald. Edited excerpts follow.

Robbie Thompson, executive director of the Minneapolis-based Professional Liability Underwriting Society, joined PLUS in 2015, having spent most of his career in association management. Most recently, he was president and CEO of the Bismarck, North Dakota-based Credit Union Association of the Dakotas, an advocacy-based trade association for credit unions in North and South Dakota. He discussed his plans for PLUS with *Business*

A I think that the challenge for PLUS going forward is that we have members with very diverse needs who are in different stages of their careers, that work for different types of companies, that have different positions; and we're looking to use data analytics and making sure that we're getting the information to the people that they want and need.

A couple of things that I found that are really great here, com-

pared with some other associations, is how volunteer-driven the association is. I think that's a testament to the strength of the organization — very passionate, long-time members who do a lot to support PLUS in the industry.

There's no greater need for PLUS in the past 30 years than there is today, especially for the younger and new professionals in the industry because of their need to continue to sharpen their skills and network extensively.

COMINGS & GOINGS

UP CLOSE: JARED MAXWELL

BOSTON-BASED VICE PRESIDENT AND PARTNER

Ames & Gough

PREVIOUS POSITION: Boston-based client executive, assistant vice president at Ames & Gough

GOALS FOR NEW POSITION: To help Ames & Gough continue providing the best client experience possible.

CHALLENGES FACING INDUSTRY: Today there is tremendous competition among carriers writing architects and engineers professional liability. With dozens of carriers, I believe we could see a number of them exit due to limited market share and/or claims experience. With that, I've been advising design firms to carefully consider their options and the importance of experience, consistency and longevity in a given market.

FIRST INDUSTRY JOB: Des Moines, Iowa-based marketing specialist at Marsh USA Inc.

ADVICE: Take risks. Sure you will fail at times but in the end you will be in a better place than if you hadn't

HOBBIES: Golfing (and) going to the beach.



OUTSIDE THE INDUSTRY, A DREAM JOB: Professional golfer.

THING MOST PEOPLE DON'T KNOW ABOUT ME: In high school, I made two free throws with no time on the clock to win the (basketball) game. It was a miracle (because) I was a terrible free throw shooter.

WHEN I RETIRE: Hope to travel and check off a few things on my bucket list.

FAVORITE MEAL: Anything seafood.

FAVORITE BOOK: "The Snowball: Warren Buffett and the Business of Life" by Alice Schroeder

CAN'T-MISS TELEVISION SHOW: "Big Bang Theory"

BEST CITY: Charleston, South Carolina

ON A SATURDAY AFTERNOON: Typically is spent with family.

THOUGHTS ON SMARTPHONES: For better or worse, they have changed the art of conversation.

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EDITORIAL

HEALTH CARE LAW BENEFITS UNDENIABLE

Aniversaries are times for reflection, and last week's 6th anniversary of the signing of the Patient Protection and Affordable Care Act into law is no exception. It would be hard to ignore or dismiss the health care reform law's accomplishments.

The biggest ACA success has been the reduction in the number of Americans without health insurance. The most recent Census Bureau report, for example, showed a steep decline in the number and percentage of uninsured Americans.

In 2014, 33 million people lacked coverage, down 8.8 million from 41.8 million in 2013. Similarly, the percentage of the population who were uninsured dropped to 10.4% in 2014 from 13.3% in 2013.

The reasons for those declines, which we believe will be even steeper by the time of the next Census Bureau report in September, are directly attributable to the ACA.

Close to 13 million people, many of them previously uninsured, signed up for coverage in public exchanges during the 2016 open enrollment. More than 80% of those individuals, because of their low incomes, are eligible to use federal subsidies — also created by the ACA — to offset all or part of premiums they pay for exchange coverage.

Other ACA provisions, including those giving states big financial incentives to ease eligibility requirements for Medicaid programs, also have helped make a dent in the number of uninsured.

The benefits of expanded coverage are obvious and important. For individuals, it means they are more likely to have medical problems treated promptly rather than waiting until those problems mushroom into conditions that are far more expensive to treat.

Expanded coverage rates also benefit employers in the form of cost containment. To the extent more people have coverage, health care providers will have less need to shift uncompensated care costs, in the form of higher charges, to insured patients.

That said, the law is not without problems.

One obvious example is its 40% excise tax on group health care plan premiums that exceed certain amounts. The assumption that the tax will raise tens of billions of dollars in federal revenue as employers raise employees' taxable wages to offset benefit cuts to avoid the levy is nonsense. That provision should be killed ASAP.

Above all, we hope lawmakers and the next president focus on improving the law, not repealing it.

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COMMENTARY

SYSTEM'S BOLDEST CHEATERS HIGHLIGHT COMP'S SHORTCOMINGS

The creativity and audacity of some workers compensation claimants is breathtaking. Looking at some of the incidents of fraud in just the past several months, it's clear that people will go to some lengths to cheat the system.

The story of the beauty queen who pleaded guilty to fraud last September after she was caught strutting her stuff in high heels during a pageant when she was supposed to be laid up with an injured foot is almost mundane compared with other examples.

As is the tale of the guy who worked as a dancing hamster in a Kia commercial while he was claiming comp benefits. In January, he wound up facing \$24,000 in restitution and was sentenced to 400 hours community service for his efforts.

Moving onto the more grisly and unusual claims, this month a husband and wife were convicted of fraud after the man claimed he was shot and paralyzed while on duty as a correctional officer. Prosecutors, however, claimed that the shooting resulted from an argument that ensued after the couple had visited a swinger's club and was far from work-related.

All of these incidents occurred in California, which, according to the latest data available, prosecuted 1,371 comp fraud suspects in fiscal 2013-'14 and won 644 convictions.

Of course, it's not just a California problem. People all over the country are posting pictures of themselves on Facebook skiing, surfing, participating in a triathlon, etc. etc., while claiming comp.

And while the stories of claimants perpetrating fraud often provide the most interesting details, it's not a one-sided affair. Employers who pay workers off the books or misclassify workers as contractors are



**GAVIN
SOUTER**
EDITOR

just as guilty of fraud. And medical mills, where doctors and lawyers collude to inflate claims and scam insurers, also add to the problem.

While it's safe to say that the vast majority of comp claims are legitimate and are dealt with fairly, fraud is still an expensive and difficult problem. The nature of the grand bargain of the workers comp system,

where workers give up their right to sue their employers over work-related injury in return for a no-fault guarantee of benefits, means that people on all sides will be tempted to abuse the system.

Advocates of the Texas and Oklahoma opt-out systems would say that they have found the solution. The closer control over a comp benefits delivery system that individual employers achieve by setting up alternative plans allows them to clamp down on fraud. But the opt-out option and other comp alternatives are struggling to gain ground in other states after being blasted by critics.

For now, employers have to look to other ways to curb workers comp abuse: enhanced safety to prevent the opportunities for claims, speedy investigations, clear claim protocols, improvement in pre-employment screening and manager training can help, but, absent more radical solutions, audacious comp cheats will still have plenty of opportunities to keep the creative juices flowing.

Havoc in the supply chain tests business interruption policies

The port explosions in Tianjin, China, caused the latest break in international supply chains. Donald J. Friedman and Thomas M. McMahon, partners at Perkins Coie L.L.P., discuss the benefits and limitations of contingent business interruption insurance in such situations.



AP PHOTO

An excavator clears burnt cars at the site of the explosion at the port of Tianjin, China. The event continues to have a ripple effect on “just-in-time” supply chains for automotive and other industries.

In August 2015, massive explosions at a warehouse in Tianjin, China, caused fires, left hundreds dead or injured and destroyed much of the city’s port facilities. Tianjin is in the industrial northern area of China and is a critical transit point for many global industries, including electronics, automotive, aerospace, petrochemicals and manufacturing equipment. For example, thousands of vehicles owned by Jaguar Land Rover Ltd., Hyundai Motor Co., Kia Motors Corp., Volkswagen A.G., Groupe Renault and Toyota Motor Corp. were damaged or destroyed by the explosions and fires.

And those are just the direct hits.

Like the 2011 earthquake and tsunami in northern Japan, the explosions and their resulting damage to the port and railroads that serve it have delayed and canceled international product shipments, disrupting supply chains. Component manufacturers have been forced to use alternate transportation routes. Because “just-in-time” inventory management systems that deliver parts on demand have made component supplies extremely time sensitive, there has been a ripple effect on the availability of finished goods, particularly in the automotive, aerospace and electronics industries. In many cases, these supply-chain losses are

still being quantified.

Most companies have insurance coverage for losses resulting from such supply-chain disruptions, even if none of their own property was damaged in the Tianjin disaster.

First-party insurance policies typically contain contingent business interruption, or CBI, coverage. Although the policy language can vary significantly, CBI coverage usually means that if an unforeseen event such as a fire, explosion, earthquake or extreme weather causes property damage that prevents a customer from buying the company’s goods or a supplier from delivering parts to the company, the insurer will indemnify the company for the resulting economic loss. Most policies provide coverage even if the customer or supplier is only partially prevented from doing business with the company.

But where things get murky is when a supplier is further downstream.

Case law offers no clear direction. For example, in *Archer-Daniels-Midland Co. v. Phoenix Assurance Co. of New York*, farmers damaged by Mississippi River flooding were held to be “suppliers” to ADM, an agricultural processor. However, in *Pentair Inc. v. American Guarantee & Liability Co.*, an electrical substation damaged by an earth-

quake was not deemed to be a “supplier” to Pentair, a manufacturer that also provides water, fluid and thermal management systems, thereby defeating an indemnity client.

The same issue exists with respect to whether a company’s “customer” is direct or indirect. In many policies, the coverage wording specifically includes both types of suppliers and customers.

A second coverage issue is the level of proof required to show that the unforeseen incident was the real cause of the company’s economic losses. Many policies contain expansive language indicating that coverage exists if the unforeseen incident “directly or indirectly” caused the losses. In any case, disputes with the insurer about the “real” cause of the company’s losses are likely to arise.

A third issue is whether the unforeseen incident must damage property owned by the supplier or customer in question. In some cases, an incident might damage property owned by a supplier to the supplier or even a more remote connection. Or the incident might damage the property of a supplier to a customer, so that customer then decides not to accept the company’s goods.

Some policies bar coverage where the only property damage is sustained by such second- or third-tier suppliers/customers. However, many other policies do not. In most jurisdictions, any ambiguity on this point should be construed in favor of the policyholder.

The 2011 earthquake and tsunami in northern Japan provided a clear example of how CBI coverage can be critical when an unforeseen event disrupts international “just-in-time” product supply chains. In that case, the principal company whose operations were shut down by the earthquake and tsunami was an air-bag part supplier. But because many of the world’s largest automobile manufacturers depended on that part, their car sales were disrupted. This, in turn, disrupted the sales of other parts suppliers to those carmakers. Hundreds of millions of dollars in claims were made and resolved based upon a close analysis of the specific wording of each company’s CBI insurance coverage.

The Tianjin explosions and fires and the earthquake and tsunami in northern Japan are among the most recent and most significant events that disrupted international product supply chains. Other — and even less catastrophic — explosions, fires, earthquakes, hurricanes, tsunamis and catastrophes are bound to occur and disrupt international product supply chains.

Companies that have suffered business losses because of shipment cancellations or delays attributable, directly or indirectly, to the Tianjin port explosions, or to any catastrophe that affects international product supply lines, should carefully examine the contingent business interruption language of their first-party insurance coverage policies, notify their insurers promptly and activate accounting procedures that will accurately track the losses.



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RIMS 2016

CONFERENCE PREVIEW: SAN DIEGO, APRIL 10-13

Annual gathering focuses on optimizing risk manager role

BY GLORIA GONZALEZ

Risk managers will be strongly encouraged to optimize their potential and positioning within their organizations at this year's Risk & Insurance Management Society Inc.'s annual conference in San Diego.

With a theme of "Go Beyond," the conference aims to encourage risk managers to evolve along with their discipline by enhancing their expertise, building a more robust risk program within their organizations and expanding their networks, said RIMS President Julie Pemberton, Chicago-based director of enterprise risk and insurance management for Bellevue, Washington-based Outerwall Inc.

"The conference just allows them to reach these new heights and potential," she said, adding that the goals for this year's conference are to further the education of the RIMS membership and provide a networking forum.

Many of the roughly 180 educational sessions will focus on three main topics — emerging risk management, cyber risk and public-sector risk management — selected based on "overwhelming" feedback from RIMS members, Ms. Pemberton said. The conference routinely draws about 10,000 risk professionals every year, organizers say.

More than 10 sessions will be devoted to cyber risk and include discussions of cyber liability and directors and officers insurance, updates on data security and breach notification, and protecting critical infrastructure.

"Cyber risk in particular is just a huge area," she said. "I can speak personally to that. It's a huge area of risk that risk management professionals are trying to better understand. It's such a highly specialized area, so trying to educate ourselves around the risks connected with it is important ... also trying to understand the insurance products that are out there and how they are evolving."

Emerging risk sessions will range from developing a strategy for transgender employees and managing threats related to firearms and unmanned aircraft to 10 things risk managers need to know about doing business in Africa.

Globalization, similar to cyber risk, is another evolving area that risk managers can learn more about at the conference, Ms. Pemberton said. "We're just trying to keep our finger on the pulse of that," she said.

Public-sector risk management was selected as a core topic based on feedback from RIMS' large contingent of professionals from that sector. Under this banner, there will be



The theme of this year's Risk & Insurance Management Society Inc. conference in San Diego is "Go Beyond," encouraging risk managers to evolve along with their discipline.

a session about responding to accusations of sexual abuse on campus on April 11, a session on strategies for effective management of public safety officer claims on April 12, and several sessions on the changing government workforce, public playgrounds and disaster response and recovery funding on April 13.

For the up-and-comers

Some conference sessions are aimed specifically at rising risk professionals.

"Typically, they are younger risk professionals, but there are also more mature individuals just recently getting into risk management," Ms. Pemberton said. "It may be a new career choice for them. What we're trying to do is identify those folks, develop programs that help educate them in a more fundamental way so that we're bringing them in the right way. We have a great number of professionals within our industry that are nearing retirement age, and so we're making sure we're backfilling that talent."

RIMS also will administer its first Certified Risk Management Professional exam April 11 at the conference. However, registration is required, and more than half the 200 seats are already filled.

The conference's April 11 general session in the morning will adopt a TED-style format, with three keynote speakers each delivering 18-minute presentations. Vinh Giang, an entrepreneur, magician and speaker, will illustrate how magic relies on misdirection and how to overcome misdirection in life and business. Scott Klososky, entrepreneur, author and consultant, will discuss what is going on in the world of 3-D printing. And Pamela Meyer, entrepreneur, fraud examin-

er and author, will teach attendees how to spot liars. All three will have more in-depth sessions in the afternoon April 11.

The themes around those are addressing thought skills that are useful for risk management professionals today, Ms. Pemberton said.

Comedian Martin Short will deliver the closing keynote.

RIMS members will spend the day on April 10 volunteering with Harmonium Inc., a non-profit organization whose mission is to promote well-being and self-sufficiency in children, youth and adults through creative education, intervention and prevention services rooted in collaboration with neighborhoods and families. They will work at Harmonium's Klassic Kids program, which provides care before and after school and full-day care on nonschool days, by painting, landscaping, installing siding, cleaning and undertaking other maintenance projects at these school sites.

Once again, RIMS has partnered with *Business Insurance* for a Tuesday breakfast that honors the 2016 Risk Manager of the Year®, Gus Fuldner, head of insurance at ride-sharing service firm Uber Technologies Inc. in San Francisco, and the Risk Management Honor Roll®. The breakfast will include a panel discussion by chief executive officers on the state of the industry.

Post-conference, risk managers will have educational opportunities such as scenario planning with senior officials of the risk management team at The Lego Group and a behind-the-scenes look at how the risk management team of San Diego International Airport handles operational, environmental, reputational and safety risks.

INSIDER RECOMMENDATIONS



Kelly Rossi
Risk manager
Becton, Dickinson & Co.

Dining: Peohe's and Il Fornaio in Coronado. Ask for an outside table at the latter for a gorgeous view of San Diego Bay.

Attractions: Torrey Pines State Natural Reserve just north of San Diego has great hiking trails right above the ocean.

Getaway: Julian is a very quaint mountain town about an hour east of San Diego that's known for its famous apple pie.



Liz Zepeda
Project coordinator/risk manager
Chelsea Investment Corp.

Dining: The first is a bit north of the city but worth the drive: Jake's Del Mar is right on the beach and the seafood is spectacular. For a treat downtown by Horton Plaza — the mussel bisque at Dobson's Bar & Restaurant can't be beat.

Attractions: Lots to see in scenic Balboa Park — a variety of museums — my favorite is the San Diego Museum of Art. A short walk away, the Japanese Friendship Garden is filled with cherry blossoms this time of year!

Getaway: Stroll the beach on Coronado Island and stop by the historic Hotel Del Coronado for a spa treatment.

San Diego schools will benefit from RIMS Community Service Day

Giving back to host community is important part of annual conference

BY JOYCE FAMAKINWA

Teaming up with nonprofit Harmonium Inc., members of the Risk & Insurance Management Society Inc. will spend this year's Community Service Day sprucing up schools in the San Diego area.

"This is the ninth Community Service Day project, and it really has become a great tradition for RIMS," said Stuart Ruff, vice president of events and education for the New York-based society that is hosting its annual conference April 10-13 in San Diego.

RIMS volunteers will paint, landscape, install siding, clean and perform other maintenance at school sites from 8 a.m. to 3 p.m. on April 10 as part of San Diego-based Harmonium's Klassic Kids after school program. Harmonium promotes well-being and self-sufficiency through neighborhood and family programs.

About 75 RIMS members usually participate in the service day, Mr. Ruff said. In 2014, RIMS worked with educational nonprofit Resource Area for Teaching in Denver to assemble math and science teaching kits.

RIMS does its research, working with contacts in host cities to find charities with which it can partner for its annual community service project, a selection process Mr. Ruff described as "rigorous." It examined several local charities this year, he said.

RIMS attendees also can work from 10 a.m. to 2 p.m. April 12 with Louisville, Kentucky-based Blessings in a Backpack Inc., which provides backpacks of food to children who qualify under a federal program for free or reduced-price meals at local elementary schools.

RIMS first worked with Blessings at its 2015 conference in New Orleans, filling more than 250 backpacks last year, Mr. Ruff said.

"Blessings in a Backpack provides elementary school children ... with a backpack of food to take home for 38 weekends throughout the school year. So we really want the risk professionals to come out and lend support by assembling the backpacks that will be donated to the local schools," he said.

This year, conference attendees also are being asked to donate new and gently used fiction and nonfiction books for children ages 5 to 11.

"Basically any book is great as long as it can hook a child into reading," said Mr. Ruff.

He said turnout for past community service projects has been high, and it's easy to stop by the

exhibit hall and lend a hand.

"Last year, we probably had around 300 people," he said.

RIMS officials said about 10,000 attended last year's conference.

"We are a large conference, and we are grateful to the city that is

hosting us. We greatly impact their city ... in terms of tax dollars generated and jobs created and things like that, but finding a way to give back to the residents and industries who don't necessarily have a direct benefit in the pres-

ence of our conference is something I think is important to us and is just another way of saying thank you to a destination or community for welcoming us into their home and providing us good service while we are there," Mr.

Ruff said.

"It's also great to see the risk management community refocus their energy and demonstrate an enormous level of commitment and compassion for those who are less fortunate" he said.

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Besides ideal weather and miles of Pacific coastline, San Diego, the host city for the 2016 Risk & Insurance Management Society Inc. Conference & Exhibition, offers attractions, fine dining and getaways in town or a few hours away by car. *Business Insurance* polled a group of local risk management and insurance professionals for their recommendations of things to see, do and eat.

Compiled and written by Joyce Famakinwa



Balboa Park



Diane Caminite
Risk and safety manager
San Diego Unified Port District

Dining: Island Prime/C Level, Harbor Island. Just a few minutes from downtown San Diego, this restaurant has a stunning view of the San Diego skyline, along with great food and a lively atmosphere. It's nice to dine on the patio to experience the view. Next door to Island Prime/C Level is Coasterra, a Mexican-themed restaurant that also features panoramic bay views.

Attractions: San Diego Seal Tour – this is a unique and fun way to learn about San Diego by land and sea. The tours are held on amphibious vehicles – guided by experienced captains – that travel through the scenic streets before diving into San Diego Harbor, home to many California sea lions. The tours depart from Seaport Village and are about 90 minutes long.

Getaway: My favorite is the beach in Coronado. It's a short trip from downtown over the Coronado Bridge. It is one of the most beautiful beaches in San Diego.



Duane Johnson
Director of business development
WorkPartners Occupational Health Specialists

Dining: You can't visit San Diego and not have a fish taco. In my opinion the best fish tacos in town come from Blue Water Seafood Market & Grill, a hidden gem close to the airport and featured on Food Network's "Diners, Drive-Ins and Dives." From fish tacos to chowder or fresh oysters on the half shell, you won't go wrong!

Attractions: San Diego takes craft beer seriously. We are the nation's No. 1 craft beer destination with more than 115 local breweries. I recommend visiting the innovators such as Ballast Point Brewing Co., Stone Brewing Co. or Green Flash Brewing Co.

Getaway: I recommend enjoying a fantastic dinner and the stunning views of the San Diego skyline at sunset on a Hornblower Dinner Cruise. If you are in town on Sunday morning, the brunch cruise is even better! The port is located conveniently downtown and just minutes from the San Diego airport.



Joyce Genita
Adviser, risk management
Becton, Dickinson & Co.

Dining: My favorite restaurant is Eddie V's Prime Seafood in La Jolla because of the exceptional food and wine offerings and, of course, the spectacular view. I also enjoy Fogo de Chao Brazilian Steakhouse in downtown San Diego. The restaurant offers a large selection of choice meats (including filet mignon) carved tableside from skewers, a salad bar and an extensive wine list.

Attractions: Balboa Park has enough museums, gardens, theaters and street performers to entertain anyone for an entire day.

Getaway: Temecula, a quaint town about an hour north of San Diego, is home to a couple of Southern California's favorite wineries. There are a lot of charming bed and breakfasts and hotels that offer wine tour packages, which makes it very convenient to enjoy the day without worrying about getting behind the wheel. They also have a casino resort in town that offers Las Vegas-style amenities and gaming.



Armond Sarkis
Corporate director of risk management
Welk Resort Group Inc.

Dining: Best place to enjoy togarashi sesame spiced ahi tuna is at the Marine Room in La Jolla, where the restaurant is practically on the surf. During high tide, the waves crash onto the panorama windows. For a fine dining experience and a commanding view of the downtown skyline, head to Bertrand at Mister A's in the Banker's Hill area.

Attractions: Cabrillo National Monument at Point Loma, where Spanish explorer Juan Rodriguez Cabrillo landed in 1592 and is widely considered the first European to step on the West Coast, and world-famous San Diego Zoo at the Balboa Park.

Getaway: Estancia La Jolla Hotel & Spa is good for a relaxing quick getaway, and The Lodge at Torrey Pines in La Jolla for golfing and a unique experience in a Five Diamond property.



Melissa Losasso
Casualty program manager, risk finance and insurance
CenturyLink Inc.

Dining: Puesto in Seaport Village has the best gourmet tacos in San Diego. My favorite local watering hole is Werewolf American Pub. It has the friendliest servers, great food and free Keno during happy hour.

Attractions: San Diego has a great craft brewery scene. There are more than a dozen breweries or tasting rooms within walking distance of the convention center where the 2016 RIMS conference will be held. A few of my favorites are Mission Brewery, Half-Door Brewing Co., Stone Brewing Co. and Bolt Brewery.

Getaway: My favorite getaway is Palm Springs, about two hours from San Diego. The vibe is laid-back, and the weather is almost always perfect. Try the live music on the patio of Las Casuelas Terraza, and for an overnight stay I highly recommend the Riviera Palm Springs.



Felicia Amenta
Workers compensation program manager
San Diego County and Imperial County Schools Joint Powers Authority

Dining: I love Fleming's Prime Steakhouse & Wine Bar in the Gaslamp District and La Jolla. My favorites are the filet and lobster duo, and the chocolate lava dessert is fantastic. The brunch at Fig Tree Cafe in Pacific Beach is wonderful, and they have the best eggs Benedict in town.

Attractions: We like to walk through the Little Italy area downtown for a gelato or cannoli and have dinner at Buon Appetito for the best pasta and a great wine selection. Ocean Beach is a fun, eclectic beach neighborhood, and we like to take a walk on the pier and have fish tacos and beer at South Beach on the upper deck with an ocean view.

Getaway: My favorite place in San Diego is the Hotel Del Coronado, and I love to stroll around the hotel shops and gardens, walk on the beach and have lunch with my family at the Sheerwater.



Kimberly Dyess
Shareholder
Grancell, Stander, Reubens, Thomas and Kinsey

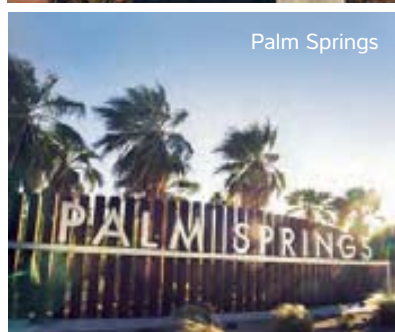
Dining: My favorite pizza place in San Diego is a little hole in the wall in La Jolla called Johnny Carino's. The doors are so tiny, you literally have to walk in sideways. It's been around since the '70s and is best to order a pie and head two streets over to sit at a picnic table or in the grass overlooking the tide pools in La Jolla Shores.

Attractions: Spend some time on a tandem bike or personal pedicab through Coronado. The unique homes are stunning, and the shopping is excellent.

Getaway: If you're in the mood for an exquisite afternoon culinary experience and maybe a little local antiquing, I strongly suggest the Queen Victoria Tea at Aubrey Rose Tea Room in La Mesa. While their house tea is delicious, I wouldn't leave without trying the Paris tea. Savory sandwiches, scones, fresh desserts and plenty of unique shopping, Aubrey Rose is the best tea room in San Diego, maybe in all of California.



Cabrillo National Monument



Palm Springs



Temecula



San Diego Zoo



David Dolnick
Risk manager
The Brady Cos.

Dining: My favorite place in town is Piacere Mio, a great little Italian spot at 1947 Fern St. in South Park, a little northeast of downtown. Reservations are a must; they fill up fast and stay busy until closing time, but the food is fabulous and the service is comfortable and gracious. The house-made pastas are the star, but don't overlook their fresh daily specials.

Attractions: Anything in Balboa Park, but the San Diego Zoo has a very special place in my heart. It is among the very best in the world and a leader in species preservation.

Getaway: The half-day or three-quarter-day sport fishing trips can be a lot of fun in the spring (try H&M Landing) or a drive up to Julian.

Fund-raising events, skill-stretching exercise on tap for risk management students

BY STEPHANIE GOLDBERG

Promising “old friends and new opportunities,” the 25th Spencer/ Gallagher Golf Tournament will tee off at 8 a.m. April 10 at the Maderas Golf Club in San Diego.

The tournament is sponsored by insurance brokerage Arthur J. Gallagher & Co. and the Spencer Educational Foundation Inc., which works to fund the education of future risk management and insurance leaders.

This has been going on for 25 years, which “shows the commitment that the industry has to education,” said Timothy Boston, director of marketing in Baton Rouge, Louisiana, for Gallagher. “The industry knows we have to bring in young people.”

It’s also one of three activities at the 2016 Risk & Insurance Management Society Inc. conference April 10-13 in San Diego.

In addition to spending quality time with other industry professionals and participating in a breakfast and buffet-style lunch, golfers will have the chance to compete in hole-in-one, longest drive and Par 3 contests.

Andrew Miller, director of development for the Spencer Educational Foundation in New York, called the golf tournament “a hallmark event” at RIMS. “We’re so thankful that Gallagher and their team there have been doing this (for 25 years),” Mr. Miller said. “We’re grateful they see value in supporting education.”

Such events enable “us to do more for students and industry professionals,” such as award grants to organizations including Gamma Iota Sigma, and fund scholarships and other experiential learning programs, he said.

5K run

Another event that aims to raise funds for the Spencer Educational Foundation is the second annual Spencer 5K Fun Run, presented by Sedgwick Claims Management Services Inc.

Participants will start walking or running at 6:30 a.m. April 12 on a scenic 3.14-mile course through San Diego’s Embarcadero Marina Park. But sneakers are not required, as some will register simply to raise funds for the event.

“Fun is in the title — we did that by design,” said Jarrod Magan, Memphis, Tennessee-based vice president of client technology services for Sedgwick. “We wanted it to be something that everyone felt, ‘I could participate in that.’”

Having raised more than \$12,500 from the inaugural run last year, Sedgwick says its goal is \$20,000 this time around.

And thanks to feedback from participants, the run is no longer just an individual competition.

Teams of five are welcome.

The top three finishers among females, males and teams will be recognized thanks to a chip-timing system, new this year, Mr. Magan said. Navy and pink shirts in men’s and women’s sizes will also be available to participants this year, he added. There has been “overwhelming support for the race ... we had people coming up to (us) last year and asking to sponsor it. So that was a no-brainer, reaching back out to them for this year,” Mr. Magan said.

In addition to sponsors including Advisen Ltd. and One Call Care Management, Starbucks Corp. will provide complimentary coffee and tea at the event, Mr. Magan said.

“Spencer is a big component of funding the next leaders of risk management, and we’re a big supporter of that,” Mr. Magan said.

“That’s the lifeblood of this industry, and to be able to encourage and support it any way we can getting more leaders and more people into this space, we’re obviously very supportive of that,” he added.

Student challenge

The competition doesn’t end there for risk management and insurance students participating in the Spencer-RIMS Risk Management Challenge. Three four-person teams from several universities will be selected from a pool of eight to compete in the final round of the competition at 2 p.m. April 11. The winning team will be crowned that evening.

For this year’s challenge, the students were presented with a case study by The Lego Group asking

them to identify risks associated with fast growth and offer potential solutions, RIMS said.

In addition to gaining experience in critical thinking, the participants will network with industry leaders and present their findings to a panel of risk manager judges.

“The Risk Management Challenge, and RIMS as a whole, is a great experiential opportunity for students,” Mr. Miller said. “They not only get to attend sessions, but they also get to network with key people in the industry.”

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California medical reviews could add to comp claim costs

PAGE 24

Advocacy model for comp claims aids return to work

PAGE 25

Data and rankings for third-party administrators

PAGE 26

Adjusters seek to cut red tape

State licensing requirements seen as hindrance to handling catastrophe claims

BY MARK A. HOFMANN

Independent claims adjusters want to be treated the same way as insurance agents and brokers when it comes to the issue of nonresident state licensing. The independents say they face many of the same problems agents and brokers with interstate business faced before legislation was enacted to establish the National Association of Registered Agents and Brokers.

When fully operational, NARAB will allow producers doing business across state lines to avoid getting multiple nonresident state licenses, which, they had said, resulted in duplicative, expensive efforts that did nothing to serve consumers.

Independent adjusters now argue that they face the same problems.

So it's not surprising that the Washington-based American Association of Independent Claims Professionals has lined up behind the Claims Licensing Advancement for Interstate Matters Act that Rep. Stephen Fincher, R-Tenn., introduced last year in the House of Representatives.

H.R. 2998 would allow adjusters to be members of NARAB. "Under current law, independent claims adjusters face a hodgepodge of inconsistent state regulations that only serve to delay the prompt adjustment of claims for natural disasters, accident victims and other tragedies in life," Rep. Fincher said in introducing the bill.

Independent adjusters have to take a license exam in each state, requiring them to travel there and increasing their costs, he said.

Allowing independent adjusters to be licensed through NARAB would lift "a big administrative burden," said Cari Miller, counsel at Gallagher Bassett Services Inc. in Itasca, Illinois, and co-chair of the independent claims association.

"This year we're hopeful it will get passed," Mr. Miller said. "We're working on a Senate bill right now, and working to get some co-sponsors. We have some really good advocates on the House side."

The measure also enjoys support of the Risk & Insurance Management Society Inc., which endorsed the bill last year.

"While it has become increasingly important for risk professionals to implement proactive strategies, insurance and the processes for settling claims remain critical to protecting an organization's assets," said Rick Roberts, then-RIMS' president and currently director of risk management and employee benefits for Ensign-

Bickford Industries Inc. "Allowing claims adjusters to practice across state lines is particularly important when natural disaster or catastrophe strike."

But the proposal is far from a shoo-in. Rep. Fincher, who is not seeking re-election, has introduced the bill several times. The House Financial Services Committee has yet to hold a hearing on it, and no companion bill has been introduced in the Senate.

In addition, the National Association of Insurance Commissioners opposes it.

"Given state regulators' experiences with recent disasters, we have not found adjuster licensing to be a problem that needs this kind of federal tool," the NAIC said earlier this month in an email. The NAIC's producer licensing task force is looking at the issue and is "committed to working with stakeholders to update licensing and reciprocity guidelines and handbooks as appropriate," the organization said.

David Farber, a partner in the Washington office of King & Spalding L.L.P. and counsel to the independent claims adjusters group, said about 35 states licensing adjusters sets up "a true patchwork of requirements that severely impedes efficient claims management, consumer service and the day-to-day business for adjusting companies. The CLAIM Act would cut through those problems by motivating the states to adopt uniform and reciprocal adjuster licensing."

"We know this model will work; it has worked for agents and brokers, and will do the same for adjusters," he said.

Industry observers agreed.

While the Council of Insurance Agents and Brokers does not represent claims adjusters, "they have many of the same challenges in nonresident licensure," said Joel Wood, senior vice president of the Washington-based council. We "are completely fine with their legislation with one caveat — that we shouldn't relitigate any of the core language of NARAB itself," which the coun-

cil supported for years.

"The practical problem that they face is strong opposition from the NAIC, and it made quite a difference for those of us who supported the version of NARAB that passed in the TRIA extension that we enjoyed the support of the NAIC," Mr. Wood said.

Refinements to the initial NARAB proposal were part of a bill last year that extended the federal terrorism insurance program, established by the Terrorism Risk Insurance Act of 2002, through 2020.

A single license would benefit adjusters and claimants alike, some say.

"If an adjuster in one state passes an exam and goes through the fingerprint and background check process, there's no good reason to have to do that in another state," said Kim Brown, vice president of government relations at Sedgwick Claims Management Services Inc. in Memphis, Tennessee, and a co-chair of the AAICP. "It doesn't create value for the consumers in any given state to duplicate efforts."

"It helps claimants a lot, too, since we can focus on adjusting instead of worrying so much about the regulatory burdens of maintaining multiple different state licenses," said Gallagher Bassett's Ms. Miller. "We have adjusters who have 17 different state licenses."

Not all states have licenses. For those that do, both the individual adjuster and the company can face fines, sometimes as much as several hundreds of dollars for each claim file handled, if they aren't properly licensed, according to the AAICP. The amount depends on the state.

In addition, the company itself can be subject to the same financial penalty plus risking their license to do business in the state.

Penalties levied against individual adjusters are entered into a national database, which can cause the adjuster problems when he or she attempts to relicense in the future.



H.R. 2998

The Claims Licensing Advancement for Interstate Matters Act would authorize an independent insurance claims adjuster to apply to the National Association of Registered Agents and Brokers for membership in specific circumstances. This would apply to licensing in any state that requires a license for claims adjusters, but has not met specific CLAIM Act requirements within four years of its enactment. To comply with the CLAIM Act, states would have to:

1. Enact uniform laws and regulations governing the licensing of individuals and entities authorized to adjust claims within the state, and
2. Enact reciprocity laws and regulations governing the licensing of nonresident individuals and entities authorized to adjust such claims within those states.

The U.S. Department of the Treasury would be required to determine a state's continued compliance with such requirements annually.

Source: Library of Congress



Booth 2534 at RIMS



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OLD REPUBLIC

Independent medical reviews come at a price

BY SHEENA HARRISON

Independent medical reviews have helped reduce unnecessary medical treatments for injured workers, but there is worry that costs could increase since the independent reviews are being requested more often than expected.

"The employer community has benefitted, but at a price for the cost of the review, which is not

exactly cheap if it is just over a dispute over the declination ... of a prescription," said Zachary Sacks, managing partner at Culver City, California, law firm Sacks & Zolonz L.L.P.

Under California workers comp reforms passed in 2012, injured workers can request independent medical reviews to dispute treatment that was modified or denied under utilization reviews, which employers and insurers request.

Such disputes previously were decided in court. Insurers and employers pay for independent medical reviews.

Independent medical reviews have largely upheld medical treatment decisions made in utilization reviews. Nearly 89% of independent medical reviews last year upheld utilization review decisions, the Oakland, California-based California Workers' Compensation Institute said in a Febru-

ary report.

"From a cost savings perspective, the indicators all point to a high likelihood that inappropriate care is consistently being denied" and the findings are being upheld, said Joseph Paduda, principal of Health Strategy Associates L.L.C., Madison, Connecticut.

But experts say the frequency of independent medical reviews is preventing the system from achieving its full cost-savings

potential.

"We're getting so many more IMR requests than were anticipated," Mark Sektman, president of the Sacramento-based Association of California Insurance Companies, said in an email.

The California Workers' Compensation Insurance Rating Bureau in Oakland said in a November report that the frequency of independent medical review requests through the third quarter of last year was "far above the levels initially projected."

The CWCI said in February there were 163,826 independent medical review determinations in 2015, up nearly 19% from 2014.

Employers and insurers were expected to pay \$60 million for independent medical reviews in 2015, with the fees expected to increase loss adjustment expenses by 2.4%, according to the WCIRB.

"It hasn't produced the savings in frictional costs as we were anticipating," said Dave Bellusci, WCIRB executive vice president and chief actuary. "So while the hope was that some of the frictional costs would drop with ... the IMR process, we haven't seen that."

William Zachry, vice president of risk management at grocery store chain Safeway Inc. in Pleasanton, California, who worked on the reform bill, said he views independent medical reviews favorably despite the costs to employers. That's because they appear to prevent doctors from using non-evidence-based practices to treat injured workers, he said.

The "overwhelming numbers are that it is working and is reducing the costs of the system through improved care for the injured workers," Mr. Zachry said in an emailed statement.

Cost reductions over time?

Sources are hopeful the independent medical review process will reduce some comp costs in the long run.

The WCIRB said in November that independent medical reviews and other provisions of California's comp reforms produced \$770 million in annual savings for the state's workers comp system so far.

"My strong belief is that the IMR, medical guidelines and (utilization review) processes will lead to a significant reduction in adverse medical events, extended disability and, therefore, costs to employers and the taxpayers," Mr. Paduda said.

Still, Mr. Sacks said lawsuits in California courts questioning the constitutionality of independent medical reviews may hinder their projected cost savings.

"The battle is not yet over," Mr. Sacks said.



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ADVOCACY MODEL FOR COMP CLAIMS EMPOWERS WORKERS, SPEEDS RETURN TO WORK

BY STEPHANIE GOLDBERG

Using an advocacy-based model for workers compensation claims can reduce attorney involvement, improve medical outcomes and speed return to work.

Though few employers have implemented an advocacy-based claims model, the concept is “certainly something the industry is talking about broadly,” said Kimberly George, Chicago-based senior vice president and senior health care adviser at Sedgwick Claims Management Services Inc.

At its core, an advocacy-based claims model involves designated service providers assisting and empowering injured workers at any point during the claims process.

One way to advocate for injured workers is by not calling them “claimants,” sources said.

They’re just patients, “people who need medical care,” said Phil Walls, chief clinical and compliance officer at Tampa, Florida-based pharmacy benefit manager Matrix Healthcare Services Inc., which does business as myMatrix.

Similarly, titles such as claims examiner and adjuster reinforce the industry’s adversarial reputation, sources said.

Such positions are called “claims representatives” at Walt Disney World Resort, which uses an “advocacy-based model for delivering workers compensation,” Michele Adams, vice president of risk management services at the self-insured and self-administered Orlando, Florida, company said during the Alliance of Women in Workers’ Compensation’s conference in Boston earlier this month.

Advocacy is about “protecting the best interest of the patient,” Mr. Walls said. “However, in workers comp ... all parties may not agree on what is in the patient’s best interest.”

Mr. Walls said he recently helped wean an older patient off the powerful opioid fentanyl, which he considers a “huge win.” Despite it being in the patient’s best interest to stop taking the drug, Mr. Walls said the man calls his nurse case manager weekly asking for more.

Advocacy-based claims models also immediately connect injured workers with someone who has medical knowledge, such as a triage nurse, sources said.

When a worker is injured on the job, the first priority is their health, not filing a workers comp claim, said Paul Braun, managing director of casualty claims at Aon Global Risk Consulting in Los Angeles.

If an employee is bruised in a fall, for example, a triage nurse can suggest icing the area and potentially prevent a loss from occurring, Mr. Braun said. “It’s not to try and prevent claims or pay the medical outside the claim, it’s to talk about giving that worker information that will help them either decide to file a claim or not,”

Mr. Braun said.

When medical treatment is necessary, a triage nurse can help locate physicians and schedule appointments, taking the burden off employees, Ms. George said.

Empathy is another component and includes training supervisors and other employees on interactions with injured workers, Ms. George said. For service providers, empathy is more than just saying, “Here’s what your diagnosis means” — it’s ensuring the people you communicate with understand what you’ve shared.

Mr. Walls said he suggests getting to know injured workers, since they might be dealing with other problems, such as a spouse battling cancer, that could affect their recovery.

Advocacy is about establishing expectations, said Joe Picone, Glen Allen, Virginia-based claim consulting practice leader at Willis Towers Watson P.L.C. Injured workers want to know what their recovery will entail and who to contact if a check comes late.

Failing to set expectations increases the likelihood of litigation and higher costs, sources said.

“It’s so important to maintain ongoing interaction with that injured worker,” Mr. Picone said. “The supervisor or (human resources) department or risk management department should be in contact with that employee and advocating for them, whether it’s every 30 days, (and ask), ‘How is the carrier doing? How are you doing? We’re looking forward to having you back. Is there any part of the claim process right now that you have questions on? We can get answers for you.’”

While sources agree it’s easier for large employers to implement

such a claims model, they’re split on whether employers should outsource advocacy from companies such as King of Prussia, Pennsylvania-based MedRisk Inc. and Irvine, California-based CorVel Corp. “If everybody is doing their job, I just don’t see a need for it,” Mr. Picone said.

The return on investment for an advocacy-based claims model can be measured through litigation rates, claim duration, the number of medical-only claims versus lost-time claims, return-to-work rates and injured workers’ satisfaction, sources said.

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LARGEST THIRD-PARTY CLAIMS ADMINISTRATORS*

Ranked by 2015 gross revenue

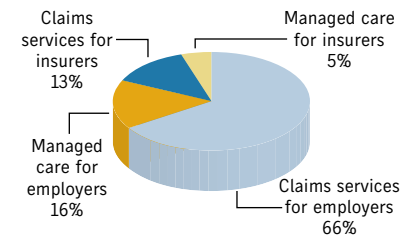
Rank	Company	Headquarters	TPA services provided	Gross revenue 2015	Percent increase (decrease)	Total claims staff	Officers
1	Sedgwick Claims Management Services Inc.	Memphis, Tennessee	Multiline ¹	\$1,589,020,086	8.1%	11,445	David A. North, president/CEO
2	Crawford & Co.	Atlanta	Multiline ¹	\$1,234,000,000	1.4%	7,100	Harsha Agadi, interim president/CEO
3	Gallagher Bassett Services Inc.	Itasca, Illinois	Multiline ¹	\$727,100,000	9.5%	4,407	Scott Hudson, president/CEO
4	York Risk Services Group Inc.	Parsippany, New Jersey	Multiline ¹	\$726,216,000	2.9%	N/A	Richard Taketa, president/CEO
5	UMR Inc.	Wausau, Wisconsin	Employee benefits only	\$662,700,000	11.2%	2,600	Jay M. Anliker, CEO
6	CorVel Corp.	Irvine, California	Workers compensation only	\$497,000,000	1.2%	750	Gordon Clemons, chairman/CEO
7	ESIS Inc.	Philadelphia	Multiline ¹	\$358,000,000	2.0%	1,179	Joe Vasquez, president
8	Meritain Health	Buffalo, New York	Employee benefits only	\$342,400,000	16.2%	N/A	Mark Schmidt, CEO
9	HealthSmart Holdings Inc.	Irving, Texas	Multiline ¹	\$222,223,000	(0.9%)	223	Tom Kelly, CEO
10	Helmsman Management Services L.L.C.	Boston	Multiline ¹	\$195,958,000	(0.7%)	1,170	Debbie Michel, president

*Companies listed in the *BI* directory. 1 Includes employee benefits and/or property/casualty and/or workers compensation.

Source: *BI* survey

TPA REVENUE*

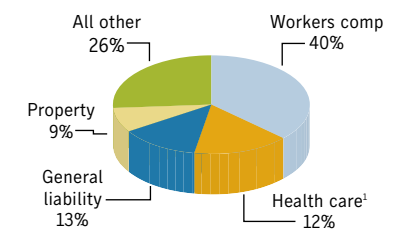
Percentage of 2015 revenue from all services provided



*Companies listed in *BI* directory

TYPES OF CLAIMS MANAGED*

Percentage of claims by category

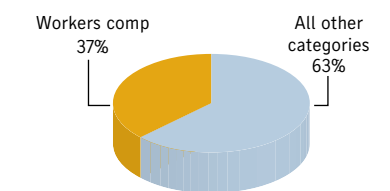


*Companies listed in *BI* directory

¹ Includes medical, vision, dental and prescription drugs

VALUE OF CLAIMS PAID*

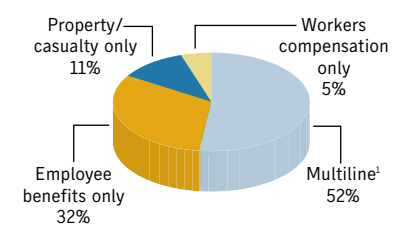
Based on dollar amount of claims paid in 2015



*Companies listed in *BI* directory

TYPES OF SERVICES PROVIDED*

Percentage of TPAs handling multiline¹, employee benefits-only, property/casualty-only and workers comp-only claims in 2015



*Companies listed in *BI* directory

¹ Includes employee benefits and/or property/casualty and/or workers compensation

LARGEST CLAIMS-HANDLING TPAS*

Ranked by 2015 gross revenue from claims handled for employers

Rank	Company	2015 revenue from employers ¹
1	Sedgwick Claims Management Services Inc.	\$1,086,006,643
2	UMR Inc.	\$662,700,000
3	Crawford & Co.	\$573,000,000
4	Gallagher Bassett Services Inc.	\$510,700,000
5	Meritain Health	\$315,600,000

*Companies listed in *BI* directory. 1 Excludes managed care and medical billing services.

LARGEST MULTILINE¹ TPAS*

Ranked by 2015 gross revenue from claims handled for employers

Rank	Company	2015 revenue ²
1	Sedgwick Claims Management Services Inc.	\$1,086,006,643
2	Crawford & Co.	\$573,000,000
3	Gallagher Bassett Services Inc.	\$510,700,000
4	York Risk Services Group Inc.	\$255,325,290
5	ESIS Inc.	\$223,000,000

*Companies listed in *BI* directory. 1 Includes employee benefits and/or property/casualty and/or workers compensation. 2 Excludes managed care and medical billing services.

LARGEST BENEFITS-ONLY TPAS*

Ranked by 2015 gross revenue from claims handled for employers

Rank	Company	2015 claims revenue ¹
1	UMR Inc.	\$662,700,000.00
2	Meritain Health	\$315,600,000.00
3	CoreSource Inc.	\$157,451,958.00
4	HealthScope Benefits	\$128,171,000.00
5	Total Administrative Services Corp.	\$96,533,205.00

*Companies listed in *BI* directory. 1 Excludes managed care and medical billing services.



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D&O liability offered for Asia asset managers

Berkshire Hathaway Specialty Insurance Co. has launched a professional liability policy for asset managers in Asia.

Professional First Asset Management Liability Insurance provides professional liability, directors and officers liability, employment practices liability and crime coverage for mutual funds, alternative funds and asset managers in Asia, Boston-based BHSI said in a statement.

The limits being offered were not immediately available.

“Volatile investment markets coupled with increased regulatory oversight and operational exposures have left asset managers throughout Asia more vulnerable to claims than ever,” Marcus Portbury, Hong Kong-based senior vice president and regional head of third-party lines for BHSI in Asia, said in the statement. “Our Professional First Asset Management Liability Insurance provides the comprehensive coverage these professionals need in a highly customizable form, backed by the balance sheet and claims handling expertise of BHSI.”

Ironshore upgrades target transport manufacturers

Ironshore Inc. said its specialty casualty transportation unit has launched coverage enhancements for transportation product manufacturers and distributors.

The Transitprotect Plus coverage includes limited professional liability, garage keepers’ legal liability and lot or batch coverages. The coverage has limits up to \$5 million on an occurrence or claims-made basis, New York-based Ironshore said in a statement.

“Our seasoned production team understands the complex risks and coverage needs of transportation product manufacturers and distributors. Transitprotect Plus allows us to customize coverage to meet the specific needs of each client facing challenging transportation risks,” Tim McAuliffe, New York-based president of specialty casualty, said in the statement.

Aon offers social service organization cover

Affinity Nonprofits, a division of Aon P.L.C.’s Aon Affinity business, has partnered with Arch Capital Group Ltd. to launch a property/casualty insurance solution for social service organizations.

The division will provide property/casualty coverage to the non-profit social service sector, which includes organizations involved in counseling, mentoring, community action and service, special needs, programs for women and seniors and other nonprofit organizations, Aon said in a statement.

“Affinity Nonprofits is very pleased to partner with Arch to offer the social service community and brokers alike access to a competitively priced property and casualty solution that meets their needs,” Amy Doherty, senior vice presi-



Product protects against charter flight groundings

***** Aon Benfield Group Ltd., the global reinsurance intermediary and capital adviser of Aon P.L.C., has launched a product to help the charter aircraft industry avoid financial losses due to flight cancellations.

Aircraft On Ground Protect compensates aircraft operators for the financial loss that takes place when their aircraft cannot be used by flight operators for a contracted charter flight, leaving the operator to subcharter or reposition a replacement aircraft, Aon Benfield said in a statement.

With AOG Protect, operators receive an insurance payout when a flight is canceled for reasons including mechanical breakdown, accidental damage, crew sickness and midflight diversions from mechanical fault, according to the statement.

AOG Protect will be offered to aircraft owners and operators through Mountfitchet Risk Solutions Ltd.

Insurance capacity for the product is being provided by Swiss Re Corporate Solutions Ltd., according to the statement.

dent of Affinity Nonprofits, said in the statement.

Insurer QBE opens inland marine practice

QBE North America, New York, said its QBE Specialty division has launched a new inland marine practice staffed with former executives from Zurich Insurance Group Ltd. and XL Catlin.

Based in Chicago, the inland marine unit will provide offerings for the construction, energy, logistics and mobile equipment industries. In the upcoming months the unit plans to offer motor truck cargo and builders risk coverage, QBE North America said in a statement.

Chicago-based Richard Pye will lead the inland marine practice as senior vice president. Previously, Mr. Pye was senior vice president for inland marine at Zurich Insurance Group Ltd.

“QBE Specialty remains committed to expanding our product suite, so our producers can provide a complete insurance solution for their clients,” Jeff Grange, president of specialty lines for QBE North America, said in the statement. “Our new inland marine practice has, in a few short months, established itself due to the quality of our underwriting team and broker relationships.”

Brit launches fine art and specie offering

Specialty insurer Brit Ltd. has launched Conexus, a fine art and specie offering for the North American market.

Conexus was designed to combine coverage for fine art and specie, property business interruption and general liability into a single policy, London-based Brit said in a statement.

The package combines fine art and specie, property BI and general liability through one underwriter and a unified product, Buckhurst Hill, England-based Craig Dennis senior underwriter at Brit said in the statement.

“We continue to see demand for this type of offering and are delighted that Brit is able to lead the way in designing new products to meet the evolving needs of the insured,” Mr. Dennis said.

Well-being scorecard for international workers

Mercer L.L.C. and the Edina, Minnesota-based Health Enhancement Research Organization have launched an international version of their U.S. scorecard that analyzes employers’ health and wellness best practices.

The international HERO Health and Well-being Best Practices Scorecard in Collaboration with Mercer allows employers to evaluate their workplace health initiatives with an inventory of current best practices compiled by industry leaders, the organizations said in a joint statement.

The international scorecard follows a U.S. version released in 2008 that allows employers to benchmark their wellness program and outcomes against companies of similar sizes and industries, the organizations said. Once employers complete the international scorecard, benchmarks will become available that allow employers to compare their programs to others in their own country and other countries where the scorecard is used.

The international scorecard asks employers to provide information about organizational and cultural support for employee health and well-being, specific program offerings, integration of health and well-being programs with other areas of the company, strategies to encourage participation, program costs and outcomes, according to the statement. Employers will then receive their best practice scores for promoting employee well-being.

DEALS & MOVES

Marsh & McLennan Agency buys broker for wealthy clients

Marsh & McLennan Agency L.L.C., a division of Marsh L.L.C., has acquired Palm Beach, Florida-based property/casualty insurance broker Celedinas Insurance Group.

Terms of the deal were not disclosed.

The acquisition will enhance White Plains, New York-based Marsh & McLennan Agency’s capabilities in high-net-worth personal lines, Marsh L.L.C. President and CEO Peter Zaffino said in a statement.

Celedinas’ 120 employees and executives, including President and CEO Ray Celedinas, will join Marsh and continue to operate out of their five Florida offices under the name Celedinas Insurance Group, a Marsh & McLennan Agency company, Marsh said in its statement.

Mr. Celedinas will continue to lead the group and has been named national private client practice leader for Marsh & McLennan Agency.

Hub International acquires Alaskan insurance agency

Hub International Ltd., Chicago, has acquired the assets of independent insurance agency Gwaltney & Associates Inc.

Terms of the deal were not disclosed.

Gwaltney is an Anchorage, Alaska-based firm that provides commercial insurance, Hub said in a statement. Its president, Dave Gwaltney, and its staff will join Hub.

Gwaltney & Associates will operate under a co-branded name, a Hub spokeswoman said.

Hartford to buy excess and surplus lines insurance group

The Hartford Financial Services Group Inc. has agreed to purchase the holding company of excess lines insurer Maxum Specialty Insurance Group for \$170 million in cash.

Alpharetta, Georgia-based Maxum, which focuses on property/casualty coverage for small to medium-size businesses, will be managed as a separate unit within Hartford’s small commercial business operation, Hartford said in a statement. The deal is expected to close in the third quarter of 2016, according to the statement.

Hartford said in its statement that Maxum will maintain its brand and limited wholesale distribution model and that all Maxum employees will be offered continued employment. The company will continue to be headquartered in Alpharetta and maintain its regional offices in Palatine, Illinois, and Warminster, Pennsylvania.

Integro to acquire Lloyd’s broker covering North American property

New York-based broker Integro Ltd. is acquiring Lloyd’s of London broker Croton Stokes Wilson Holders Ltd. for an undisclosed amount.

CSWH, which was founded in 1988, specializes in the placement of North American property business into the Lloyd’s market, Integro said in a statement. Staff members of the firm, including its management team, will join Integro’s London wholesale group.

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Continued from page 6

O'Neill & Partners L.P. in Chicago.

"On a relative basis, these companies have done very well as compared to other financial companies.

That's because much of what they do is little affected by a lot of the macroeconomic changes that have hurt the overall financial market lately," such as turmoil in the financial markets overseas, he said.

Meyer Shields, managing director with Keefe, Bruyette & Woods Inc. in Baltimore, was a bit more skeptical.

"If I look at the sector as whole, it was OK, but not as good as 2014," he said. "Mostly it was compounding of rate decreases and unprofitable commercial auto lines." In addition, he said, some insurers had unfavorable loss reserve developments in the fourth quarter and faster-than-expected loss cost inflation.

Insurers may have a hard time

HARD TO TOP 2015 PACE FOR M&A ACTIVITY

Last year's hectic pace of high-profile insurer mergers and acquisitions probably won't be repeated in 2016, but the market will likely continue to consolidate, according to market analysts.

The biggest deal of 2015 hit in early summer, when two top commercial insurers set the stage to become one. Ace Ltd.'s \$28.3 billion deal to acquire Chubb Corp. created a new insurer called Chubb Ltd., which came into existence this January.

Also in 2015, XL Group P.L.C. closed its acquisition of Catlin Group Ltd.; Exor S.p.A. bought reinsurer PartnerRe Ltd. after a bidding war; and Asian insurers bought North American underwriters, with Tokio Marine Holdings Inc. agreeing to buy U.S. specialty property/casualty insurer HCC Insurance Holdings Inc. for \$7.5 billion and China's Fosun International Ltd. closing a deal to acquire U.S. insurer Ironshore Inc. for \$1.8 billion.

While merger and acquisition activity will probably continue this year, it won't be at the same rate as 2015, say observers.

"Last year a few things lined up well, we had an influx of activity that you might not have every year," said James Auden, managing director of insurance at Fitch Ratings Inc. in Chicago.

"I think there's still room in the reinsurance market for M&A," he said.

"I think it will continue, but perhaps not at the pace you saw last year," said Paul Newsome, managing director at Sandler O'Neill & Partners L.P. in Chicago.

"You had a temporary boost that was related to interest from Japanese insurers, and that should decline," he said. "I think the market turmoil that we've seen will probably also give folks a pause when they look at transactions."

Mr. Auden said that a deal like the creation of Chubb Ltd. is a "rarity."

"A lot of stars need to be aligned for a deal like that to be executed," he said. He said that the creation of the new Chubb Ltd. involves a major integration effort that will take a long time to complete.

By Mark A. Hofmann

maintaining their profitability levels as prices continue to fall meaningfully in key areas such as spe-

cialty lines and coastal property, said Mr. Stirling. However, insurers focused on small and middle-

market business as well as some casualty lines are still raising prices, he said.

OUTLIER BERKSHIRE HATHAWAY DEAL DRAGS DOWN REINSURER RESULTS

A group of 18 U.S. property/casualty reinsurers produced \$38.87 billion in net written premiums in 2015, an 18.6% decline from the prior year due largely to a loss-portfolio deal involving National Indemnity Co., according to the Washington-based Reinsurance Association of America.

The one-time consideration for the loss-portfolio contract by Berkshire Hathaway Inc.'s National Indemnity was booked in 2014 with

affiliated insurer GEICO, the RAA said.

The loss-portfolio deal also affected net income for the 18 reinsurers, which dropped 31.1% to \$10.79 billion in 2015.

The net income for National Indemnity, which was among 11 reinsurers reporting a lesser profit in 2015, dropped 40% from 2014 to \$7.18 billion last year.

Ten of the 18 reported declines in net written premiums in 2015 compared with 2014, with

National Indemnity accounting for about 90% of the \$8.89 billion decline.

The group's combined ratio deteriorated from 91.1% in 2014 to 92.6% last year, the RAA said in a statement.

Policyholder surplus was \$130.42 billion at the end of 2015, down about 8% from a year earlier and up less than 1% compared with the third quarter of 2015.

By Mark A. Hofmann

HEALTH

Continued from page 6

sold through the public exchanges in 2015, including \$245 million set aside in the fourth quarter for 2016 losses. The insurer cited weak enrollment in public exchange business and high medical costs for those who did enroll.

"We can't subsidize a market that doesn't appear at this point to be sustaining itself," United CEO Stephen Hemsley told analysts in November.

Exacerbating matters for some insurers, CMS announced last year that the reform law's risk corridor program, which is intended to offset some losses sustained by insurers during the first three years of the exchanges, would pay only 12.6% of the funds insurers requested for 2014 losses.

"It was a headwind as far as profitability," said Vishnu Lekraj, Chicago-based senior health care analyst at Morningstar Inc.

"It's going to take (insurers) time to get used to the underwriting, the pricing — especially with all the added mandates the Affordable Care Act has placed on these companies as far as restricting underwriting, profitability caps,

MAJOR U.S. HEALTH INSURERS' YEAR-END 2015 RESULTS

Largest publicly traded U.S. health insurers ranked by reported revenue. Dollar figures and enrollment in millions.

Insurer	2015 Revenue	% increase (decrease)*	2015 Enrollment	% increase (decrease)*	2015 Net income	% increase (decrease)*
UnitedHealth Group Inc.	\$157,107	20.4%	46	3.1%	\$5,868	4.4%
Anthem Inc.	\$79,157	7.2%	39	2.9%	\$2,560	(0.4%)
Aetna Inc.	\$60,337	4.0%	24	.0%	\$2,390	17.1%
Humana Inc.	\$54,289	11.9%	14	2.9%	\$1,276	11.2%
Cigna Corp.	\$37,876	8.5%	15	3.4%	\$2,256	(0.8%)
Total	\$388,765	12.4%	137.7	2.5%	\$14,171	5.2%

*Percentage change reflects unrounded figures

Source: Company reports

things of that nature," he said. Still, "I don't think you are going to see any large-scale exits unless there are massive losses in 2016."

Despite the poor results of the exchange business, the top five insurers have enjoyed "strong and consistent financial results" during the last several years due to "disciplined pricing, strong membership growth in the government segments, continued moderate utilization trends and earnings diversification," according to a Moody's report released in February.

"It looked like medical cost trend stayed pretty low, or moderate, and I think that helped earnings a lot," said Tom Mason, senior insur-

ance industry analyst at S&P Global Market Intelligence in Charlottesville, Virginia.

"High deductibles make people think about going to the doctor before they go to the doctor. That helps bring down utilization," Mr. Zaharuk said. "They've also put in more tools, electronic tools, where people can get better understanding of how to take care of themselves and basically get the most efficient care when they need care. Those tools are starting to work and to get utilization down."

Additionally, insurers saw solid membership growth in Medicaid and Medicare business. And insurers' have been expanding into non-

insurance, health-related business to diversify earnings, which helps "provide them with unregulated cash-flow or earnings that are free from any threat of regulation," Mr. Zaharuk said.

Aetna, for example, has invested in health information technology. But the biggest example in the past several years is UnitedHealth's operations under its subsidiary Optum Inc., a health services and analytics company. Optum's pharmacy services unit, OptumRx, also acquired rival PBM Catamaran Corp., and Optum announced its acquisition of walk-in clinic provider MedExpress last year.

Analysts said the other major distraction for health insurers was the wave of merger activity in the sector, including the proposed tie-ups between Aetna and Humana Inc., and Anthem and Cigna Corp., as well as the recently approved acquisition of Health Net Inc. by Centene Corp.

The mergers will lead to increased "financial leverage, reduced financial flexibility and larger goodwill and intangibles on their balance sheets," said a February A.M. Best Co. Inc. report.

The Aetna-Humana and Anthem-Cigna mergers are expected to close in the latter half of 2016.

BROKERS

Continued from page 6

organic growth as a problem.

"Acquisition revenues have been especially strong in firms like Gallagher, but as the commercial pricing cycle softens, organic growth will be a challenge for the entire segment," said John L. Ward, CEO of Loveland, Ohio-based private equity firm Cincinnatus Partners L.L.C. "Organic growth for the segment in general has dropped from mid-single digits in recent years to being pretty flat now."

Acquisition "remains a reasonable additional source of growth, either enhancing existing platforms or with diversification of revenue streams," said Gretchen Roetzer, director and group operations head at Fitch Ratings Inc. in Chicago.

Willis' merger this year with Towers Watson will tap their respective strengths, said Ms. Herman.

"Marsh and Aon dominate the large-accounts space in the U.S.," she said. "Willis has a lot of large accounts internationally, but less so in the U.S.; and Towers had a lot of those on the benefits side in the U.S., so they will try to use the Towers network to penetrate that large-account space in the (property/casualty) brokerage world."

However, Ms. Herman said, "it remains to be seen whether or not they can. Towers is big in benefits in the U.S. and Willis has a good network of large accounts internationally. I think they rounded each other out in the areas they were looking to penetrate."

Willis Towers Watson is a "bigger and more balanced organization, with an improved balance sheet from putting these two companies together," said Mr. Ballentine.

Analysts differed on whether increases in interest rates or debt will slow M&As in 2016.

"I think we are in the final phase of the mergers and acquisition frenzy of the last several years" that was fueled by private equity buyers and a strong debt market, said Mr. Ward.

M&As may be tempered if interest rates rise, but acquisitions remain a likely source of growth, Ms. Roetzer said.

Ms. Herman doesn't see the space changing from economic shifts.

"Willis and Towers was a big deal, but most of the deals were in the small- to middle-market space," Ms. Herman said. With more than 30,000 insurance brokers in the United States, "the small to middle market is very fragmented" and private equity buyers are accelerating consolidation, she said.

"The demand is still there," Ms. Herman said. "Going into 2016, I see another active year."

CYBER

Continued from page 4

focused on what syndicates are doing in the cyber space and has basically been saying, 'Be careful, for good reason,' Mr. Casserley said. As more data is available on the effectiveness of cyber security practices, procedures and technologies, "I think we will see more capital come in."

Industrial control systems operating critical U.S. infrastructure are particularly vulnerable because they use outdated software, said Ryan Spelman, program executive of the Center for Internet Security in East Greenbush, New York.

"But it's tough," he said during *Business Insurance's* Risk Management Summit in New York City last week. "It's difficult to turn off a power plant to do a system update. That's a hard sell" to facility operators.

"We need to be able to develop control systems cyber security metrics ... so you have some idea of should they or should they not even be insured, unless you want to take a very big bath," said Joe Weiss, managing partner of Applied Control Solutions L.L.C. in San Francisco.

The Department of Homeland Security last year put out an alert about disconnecting industrial control systems from the Internet due to system compromises experienced during the BlackEnergy malware campaign, he said.

"What are (insurers) going to do when somebody disregards what DHS told them 'do not do?'" he said.

Malicious or criminal attacks accounted for 49% of breaches, 32% were caused by system glitches and 19% by employee negligence, Traverse City, Michigan-based consultant Ponemon Institute L.L.C. said in an analysis last year.

"In our world, the only difference between malicious and unintentional is often motivation," Mr. Weiss said. "If you're going to offer cyber insurance, you better realize that distinction doesn't exist in our world in most cases."

In the absence of sufficient capacity in the standard market, some companies are looking to their captives to cover their cyber exposures, said Delaware Captive Insurance Director Steve Kinion.

"Rarely do I see a captive application for a new captive cross my desk ... without some type of cyber coverage component, whether it's the entire cyber (risk) or insuring the deductible portion of a commercial insurance policy," he said of such applications that typically are from single-parent captives.

Captives can provide coverage that insurers often exclude from general liability insurance, he said.

"Is electronic data tangible property?" Mr. Kinion said. "No, not under most general liability policies. That's why captive owners form captives so they can cover

those excluded types of items such as electronic data."

Carolyn Snow, director of risk management at Humana Inc. in Louisville, Kentucky, said caution should be used in putting cyber coverage in a captive.

"You don't have the benefit of a feasibility study, and you have to think about how you're going to manage your claims," she said. "And there is the catastrophic exposure to your captive."

The average organizational cost of a breach over the past 10 years peaked at \$7.2 million in 2011 and was \$6.5 million in 2014, according to the Ponemon Institute study.

Steps that can be taken to guard and defend against cyber threats

include having information technology staff check logs to see whether the system is being accessed by employees at unusual times or from locations such as China, Mr. Spelman said.

Risk managers should make a list of all company assets such as laptops and printers, ensure that systems are configured to require the use of strong passwords and other protections, and limit administrative privileges to the system, he said.

"Administrative privileges give somebody the ability to make changes," Mr. Spelman said. "It's the keys to the kingdom. If an admin gets infected, it is a problem."

SUMMIT

Continued from page 4

The insurance industry is an "older" one, Mr. Cunningham said. "The industry has to get younger" to fill the "underwriting moxie" lost as baby boomers retire.

Insurance brokers also are merging, such as Willis Group Holdings P.L.C.'s recent tie-up with Towers Watson & Co. to form Willis Towers Watson P.L.C.

There's an "enormous amount of activity in broker mergers and acquisitions," Mr. Cunningham said.

Private equity-backed brokers

are growing "some very robust practices," but there is little private equity interest on the underwriting side of the insurance business, Mr. Cunningham said.

Industry consolidation has resulted in "instability," with the people who handle risk managers' accounts changing constantly, Ms. Dickman said.

She said she works to have a "partnership with a team of people" at a broker, and if one person left the team and the replacement fit well with Advanced Disposal, she would not move the account.

Ms. Dickman pointed to the impact of M&A activity among health insurers, which has resulted in fewer choices for buyers.



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SENTRY
INSURANCE

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Group Inc. in Hartford, Connecticut.

Dr. Iglesias, who also attended the conference, noted that Hartford saw a 20% drop in the number of opioid prescriptions last year.

Hydrocodone-acetaminophen combination drugs such as Vicodin were the most frequently used opioids among injured workers, according to WCRI's study. However, Ms. Thumula noted that the drugs, which were classified as Schedule III controlled substances during the study period, became more tightly regulated under Schedule II in October 2014.

Unlike Schedule III and Schedule IV drugs that have less abuse and addiction potential, Schedule II drugs cannot be refilled under the same prescription, according to the U.S. Drug Enforcement Administration.

As a result of the reclassification, "we might, when we update the study, see a different mix of pain medications here," Ms. Thumula said.

Hydrocodone-acetaminophen and oxycodone-acetaminophen drugs "have long been the market share leaders in opioid use, so I don't see that changing," said Dr. Jacob Lazarovic, chief medical officer at third-party administrator Broadspire Services Inc. in Sunrise, Florida, who attended the conference.

At the same time hydrocodone-acetaminophen combination drugs were rescheduled, the DEA classified tramadol as a Schedule IV controlled substance. The drug, sold under the names Ultram and Ryzolt, was previously unregulated by the DEA.

"Some pain experts do recommend that tramadol be the first choice after more conservative choices like (nonsteroidal anti-inflammatory drugs) and (acetaminophen), prior to using more potent opioids," Dr. Lazarovic said.

Occupational health guidelines say not to prescribe opioids with other powerful drugs, but Ms. Thumula said the percent of claims with opioids and benzodiazepines, such as Xanax and Valium, ranged from less than 1% in Texas to nearly 9% in Massachusetts.

"This probably is an underestimate," Ms. Thumula said, noting that "using these two medications together increases the risk of (emergency department) visits and also opioid-related deaths."

She added that the low percentage in Texas is probably due to the state's closed drug formulary, which went into effect in September 2011 for new injuries and in September 2013 for all injuries.

"Pain is often accompanied by insomnia and anxiety," so it's not surprising that opioids and benzodiazepines are used together, Dr. Iglesias said.

Sources agreed that educating patients and prescribers about possible drug interactions is one way to combat the problem.

Nelson Mullins Riley & Scarborough L.L.P. in Columbia, South Carolina.

"The criminals are doing their homework," said Ben Beeson, Washington-based cyber risk practice leader at Lockton Cos. L.L.C. They will investigate the person they want to pretend to be through Facebook or LinkedIn, build a profile of that person and use it to create a successful attack, he said.

Cyber criminals may already "have been in your system, looking at how the communications are written so they can mimic the tone and the structure of the emails as closely as possible," said Eric C. Cernak, Munich Reinsurance Co.'s U.S. cyber and privacy

practice leader in Hartford, Connecticut.

"It's simple, it's elegant and it's been effective because of the time of year and the sense of urgency communicated in the messaging," said Douglas F. Brent, counsel to Stoll Keenon Ogden P.L.L.C. in Louisville, Kentucky.

Many companies have warned employees about the dangers of malware, ransomware and credit card fraud, so an email with no attachment and a simple request from a known person "catches people with their guard down," he said.

Training and vigilance is important, say observers.

"Rarely will a business make a valid request of sensitive information by email," said Mr. Greene, "so it's matter of looking internally, identifying where the risk is with respect to information and figuring out how to close the

gaps," he said.

Anyone with access to personal information "should be given regular training as to things to look out for," said Mr. Latham. Many companies are hiring firms to conduct tests "to see if employees are biting on these phishing attempts," but they also should also have a culture "where you can question an email," he said.

"The savvy HR folks are picking up the phone and asking, 'Why do you want this?' and the CFO is saying, 'What are you talking about?'" said Linn Foster Freedman, a partner at Robinson & Cole L.L.P. in Providence, Rhode Island.

Software is also available that can warn if email is being sent to recipients outside the company, said Mr. Latham.

Companies whose employees are phishing victims should contact the IRS and law enforcement

themselves rather than relying on employees to do so, said Kathleen M. Nilles, a partner at Holland & Knight L.L.P. in Washington.

Firms also should quickly contact counsel to determine their notification obligations and whether they need to offer credit monitoring services, Ms. McLellan said.

Data breaches resulting from the theft of personally identifiable information would be covered under firms' cyber insurance policies, Mr. Beeson said. Such coverage also would pay an employer's defense costs and damages should an employee sue because their tax return was filed fraudulently.

Experts say employees should be suspicious of any of emails seeking personally identifiable information and confirm their veracity, either in person or by phone — but not by email.

dard or regulation that bans employee incentive programs outright, but some companies have responded to the guidance by halting these programs.

"Those employers who are aware of the Fairfax memo and this relatively new enforcement posture by OSHA, who are not relatively sophisticated, have simply decided against having safety incentive programs of any kind or even have scrapped the ones they had," said Eric Hobbs, a partner at Michael Best & Friedrich L.L.P. in Milwaukee.

"There are a lot of workplaces out there I'd suggest that by reason of the memo and the new posture are worse places for employee safety than they were before. On the good side, I think employers who are pro-safety and who do want employees to report injuries have been awakened to the fact that some of their programs as drafted really were discouraging reporting," he said.

Mr. Hobbs said he has had clients cited for having incentive

programs that OSHA decided discourage reporting.

"None of them has wound up going to trial," he said. "All of them have settled. They're not going to spend an immense amount of money to challenge OSHA's position. They're going to change their incentive program."

While Howard Mavity, an Atlanta-based partner at Fisher & Phillips L.L.P., firmly believes OSHA "misses the boat" on employee incentive programs, he recommends against basing such programs on lagging indicators such as injury and illness rates, because they are ineffectual and could run afoul of OSHA.

Instead, employees and supervisors should be evaluated based on leading indicators such as reporting near misses and fixing hazards without being told to do so, said W.E. Scott, director of consulting services at the National Safety Council in Itasca, Illinois.

Several studies on employee incentive programs have underpinned OSHA's position, although management advocates often dispute the findings and argue that OSHA is projecting the actions of a few bad employers on the entire business community.

A 2012 Government Accountability Office study estimated that 25% of U.S. manufacturers had safety incentive programs and most had other workplace safety policies that could affect injury and illness reporting. It found that 22% of manufacturers had rate-based safety incentive programs, which reward workers with few or no reported injuries or illnesses during a set period, while 14% had behavior-based programs to report near misses or recommend safety improvements.

"The idea that the record is just based on anecdotal information is completely false," said Nancy Lessin, senior staff for strategic initiatives at the United Steelworkers' Tony Mazzocchi Center for Health, Safety and Environmental Education in Pittsburgh.

However, Mr. Halprin argued that the contention that incentive programs discourage injury and illness reporting is false, citing estimates that the accuracy rate for employers using OSHA's reporting forms is 90% to 95%.

"Those studies have shown no pervasive intentional underreporting or discouraging of anyone reporting," Mr. Halprin said. "They've simply shown mostly

overreporting and underreporting due to an overly complex rule."

Seeking an alternative, Boston-based Northeastern University researchers devised a construction reporting program designed to promote, recognize and reward safe working conditions that relied on worksite safety audits, according to their May 2015 report.

Foremen received weekly reports — including positive and negative examples — over a six-month period analyzing recognition of hazards such as lack of fall protection or guardrails.

The approach triggered safety improvements in as little as 30 days, researchers said, and a passing score resulted in a catered lunch for employees and a raffled free parking space for a month for one individual employee.

"You always have to be careful when creating an incentive what you are incentivizing," said Jack Dennerlein, a professor at Northeastern University's Bouvé College of Health Sciences, Department of Physical Therapy, Movement, and Rehabilitation Sciences in Boston.

Since health plans typically start with the beginning of college and university academic years in the fall, many schools will have about 18 months to devise new approaches.

"This is something colleges and universities will have to address, but at least they will have time," said J.D. Piro, a senior vice president at Aon Hewitt in Norwalk, Connecticut.

Benefit experts say colleges and universities will consider several approaches: extending their group health plans to working students, such as teaching assis-

tants, and giving students cash, which they could use to purchase health insurance coverage.

"I think many colleges/universities will work to extend eligibility for the employer-sponsored group health plan. This is probably going to end up being the easiest approach because the group health administration structure is already there," said Jen Faifer, a principal at Mercer L.L.C. in Chicago.

The "approach will vary by school depending on needs and student issues," Xerox's Mr. Stover said.

Some schools hope Congress may intervene to block the rules.

"The major research universities across the country have mobilized their congressional del-

egations to address the IRS ruling so that beginning in 2017, we may be able to continue to offer the same insurance coverage that we have always offered," said a spokeswoman for University of Missouri in Columbia.

"We have not given up hope," said the Mr. Bloom of the American Council on Education. "We are exploring avenues on Capitol Hill. I don't believe this is what the White House thought that this is what the ACA intended to do."

"Colleges and universities are likely to develop some alternative scenarios, but wait until after the election to decide whether to implement them," said Amy Bergner, managing director of people and organization at PricewaterhouseCoopers L.L.P. in

Washington.

But others doubt Congress will intervene.

"It is unlikely that Congress would pass and President Obama would sign legislation impacting the reach of the ACA," said Andy Anderson, a partner at Morgan, Lewis & Bockius L.L.P. in Chicago.

In fact, colleges and universities recognize that congressional intervention or the IRS changing its position are far from certain.

"Depending on what the relevant agencies advise us, we may have to find a new solution to the problem. While we cannot predict what the agencies will do, we can predict our own institutional behavior," the University of Missouri spokeswoman said.

PBM

Continued from page 1

transition PBM services once the contract ends in 2019, according to the lawsuit. The overpricing “has resulted in massive damages to Anthem and an obscene profit windfall to (Express Scripts),” Anthem alleges.

Express Scripts, on the other hand, has “consistently acted in good faith and in accordance with the terms of its agreement with Anthem,” a spokesman said in an email. “We believe that Anthem’s lawsuit is without merit.”

PBMs help health insurers process claims, manage retail pharmacy networks and negotiate rebates with drugmakers. Many experts consider PBMs essential for health insurers to score the best prices for drugs.

Analysts disagree on the outcome of the dispute.

Chicago-based Morningstar Inc. senior research analyst Vishnu Lekraj said in a research note that he believes Anthem and Express Scripts will reach an agreement, as “Anthem’s alternative PBM vendor choices are limited.”

Meanwhile, Ana Gupte, New York-based managing director and senior research analyst at Leerink Partners L.L.C., said in a report that while “partial pricing relief” for Anthem is likely through the end of the contract, she expects the health insurer to look for another PBM partner beyond 2019.

That partner could be OptumRx Inc., a unit of UnitedHealth Group Inc., she said.

But losing Anthem could be costly for Express Scripts, said Randy Vogenberg, Greenville, South Carolina-based partner at Access Market Intelligence.

“It’s a lot of money, and Anthem’s a big client for Express Scripts,” he said.

According to Fitch Ratings Inc., Anthem accounted for 16.3% of Express Scripts’ 2015 sales, or \$16.6 billion. The suit also could prompt other Express Scripts clients to question if they’re getting the best deal on PBM prices, sources said.

“What’s going to happen is you could see more of this kind of (legal) activity, where in the past they would just work it out because everybody was making money,” Mr. Vogenberg said.

Now, rising health costs, thanks in part to costly specialty drugs, make it necessary to find savings anyway possible, he said.

The fact that profits are getting squeezed also means there’s a bigger spotlight on the lack of transparency in the PBM industry, Mr. Vogenberg said.

The suit may be “the tipping

point that will force transparency, certainly, but will also cause change in the way health plans and PBMs and probably (drug) manufacturers do business,” he said of a business that can be “convoluted.”

“The lawsuit challenges a fundamental aspect of PBM-insurer relationships: the value of a PBM’s negotiating power with pharmaceutical manufacturers,” Fitch said in its report.

The increased scale that Anthem will derive from its proposed merger with rival health insurer Cigna Corp. could reduce PBMs’ negotiating power relative to the scale of a combined Anthem and Cigna, Fitch said. If Anthem switches to another PBM, that could indicate a stand-alone PBM like Express Scripts isn’t “best positioned to pass through cost savings to clients.”

Other experts, however, see a

future for stand-alone PBMs.

“Most people in the industry will tell you that PBMs have staying power. Their clout and leverage will always make them a viable play for employers, regional health plans and even large multistate insurers,” Josh Golden, Atlanta-based practice leader of employer consulting at Pharmaceutical Strategies Group L.L.C., said in an email.

Employers and other plan sponsors can learn lessons from the Anthem-Express Scripts dispute, said Craig Oberg, St. Paul, Minnesota-based managing consultant at PBM consultant The Burchfield Group Inc.

“This should be an encouragement to all purchasers of PBM services that they should be cautious about long-term agreements and even renewing existing agreements without testing the market,” Mr. Oberg said.

TERROR

Continued from page 1

Abdeslam, wanted in the Paris attacks that killed 130 and injured hundreds.

The Islamic State quickly claimed responsibility for the Belgian attacks and later warned in a statement that there would be “dark days ahead.” U.S. Defense Secretary Ash Carter vowed in a West Point speech that “we will kill ISIL.”

Much of the Brussels damage would be covered by a state-run insurance pool. But terrorism insurance originally designed to respond to massive property losses can fall short as the threat evolves toward smaller-scale attacks targeting civilians, London-based Jardine Lloyd Thompson Group P.L.C. said in a report last week.

That threat requires better coverage of contingent business interruption and brand/reputational damage risks, along with government reinsurance programs for cyber terrorism and nuclear, chemical, biological and radiological risks, JLT said.

While commercial insurers are expanding existing terrorism policies to take on some of these risks, “as a sector we are not there yet,” said David Flandro, global head of analytics at JLT Re in New York. “Some of the necessary coverage is still only done around the edges, basically.”

Brussels authorities said the airport would be closed to passenger flights through the weekend while parts of the city’s subway system were closed most of last week. Security precautions, particularly at air and rail transportation sites, were tightened around the world.

Xavier Carn, Paris-based regional security director at International SOS and Control Risks, said travelers in Brussels should be vigilant and ready for disruptions caused by closures or false reports.

Willis Towers Watson P.L.C.’s Special Contingency Risk Ltd. arm said in an advisory that companies should follow the advice given on the websites of security services for countries in which they have employees, restrict or delay employee travel in Brussels and advise avoiding major transport hubs, government buildings and iconic public areas.

John Parry, finance director at Lloyd’s of London, said the market undoubtedly would have exposure to the attacks since it underwrites terrorism and aviation

business, but it was too early estimate.

With the Associated Press reporting that the Islamic State has trained at least 400 fighters to carry out further attacks and reports that more terrorist plots had been foiled, the possibility exists that additional cells have not yet been discovered.

If so, Brussels-type attacks “can reoccur in other cities in Europe and maybe in the U.S.,” said Tarique I. Nageer, property practice leader and terrorism coverage adviser at Marsh L.L.C. in New York.

Contingent business interruption — in particular for losses not triggered by actual property damage — is one area where terrorism coverage needs to be expanded, Mr. Flandro said. After 2013’s Boston Marathon bombing, authorities shut down a 15-square-block area around the site, and parts of the city were locked down 80 hours afterward amid a manhunt for suspects. While large firms can absorb such shutdown losses, small and medium-size businesses may struggle, JLT said.

Despite limitations, brokers can still structure policies to include nonphysical damage, and coverage is available for active shooter, terrorism liability, cyber terror and NBCR risks, Mr. Nageer said.

XL Catlin, for example, now offers up to \$35 million in “active assailant” coverage, including time element triggers, along with its \$200 million in available limits for stand-alone terrorism risk.

In the U.S., cities such as San Francisco are concerned with larger-scale terror attacks, while smaller communities and school districts are more worried about home-grown lone-wolf terrorists, said John Chino, area senior vice president at Arthur J. Gallagher & Co. in Irvine, California. Citing the December San Bernardino, California, shooting by a radicalized U.S. citizen and his wife that killed 14 at a state government office, “that really changed the attitude (about terror risk) quite a bit,” Mr. Chino said. “It was like a bell ringing, at least in California.”

“While individual locations can be made more secure, it is impossible to protect all crowds against terrorists,” said Randolph W. Hall, vice president of research and a professor at the University of Southern California’s Epstein Department of Industrial and Systems Engineering. “The only effective measures are intelligence and policing to break up terrorist networks along with support for peaceful alternatives to violent action.”

OPT OUT

Continued from page 1

Compensation Commission’s February ruling in *Jonnie Yvonne Vasquez v. Dillard’s Inc.* that the state’s opt-out law unconstitutionally deprives injured workers of equal protection and access to the court access.

Ms. Vasquez, who aggravated an earlier spine injury in September 2014 while working at a Shawnee, Oklahoma, Dillard’s store, was denied benefits because the Little Rock, Arkansas-based retailer’s alternative benefits plan does not cover pre-existing injuries, according to court records.

In its appeal, Dillard’s argued the commission does not have jurisdiction to invalidate the law, saying “a finding of unconstitutionality affects all qualified employers under the option.”

Dillard’s is one of 60 employers that have opted out of the state workers comp system, said James Mills, Tulsa, Oklahoma-based chief of staff and director of workers comp at the Oklahoma Insurance Department.

Neither Dillard’s nor its attorneys responded to requests for further comment.

While the commission’s decision affects all qualified employers who have opted out, Ms. Vasquez’s attorney, Bob Burke in Oklahoma City, said he doubts the state Supreme Court will allow other employers to join the suit “because they are not party to this litigation.”

“However, anyone can file a friend-of-the-court brief. I am sure there will be plenty,” Mr. Burke said in an email.

In the meantime, employers likely will “continue to operate their Oklahoma option programs, including the processing of claims in accordance with the terms of their insurance department-approved plans and applicable state and federal laws,” said Bill Minick, president of Dallas-based PartnerSource, an alternative workers comp consultant and unit of Arthur J. Gallagher Risk Management Services Inc. “My expectation at this point for Oklahoma is that some combination of an Oklahoma Supreme Court (rul-

ing) and legislative action in 2016 will make adjustments to the state’s option, and we will keep moving forward,” he said.

But Mr. Minick said some employers might rejoin the state’s workers comp system.

Nationwide, fewer employers are publicly expressing interest in opting out of workers comp, said Mike Vitulli, vice president of insurance brokerage Risk Strategies Co. Inc. in Boston. Many employers “don’t want to be seen as trying to reduce workers’ rights,” but others remain focused on saving money for their shareholders, Mr. Vitulli said. “If we had a better medical care system, my guess is this would be less of an issue.”

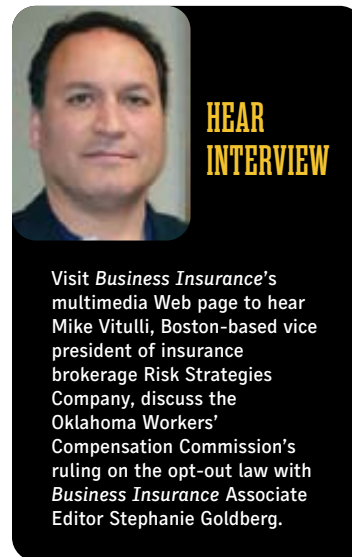
Sources said end-of-shift or 24-hour injury reporting requirements — as well as an employer’s ability to decide what injuries and types of medical care, such as physical therapy or surgery, it will cover — are among the major issues detractors cite concerning opt-out plans.

For example, in addition to making it more difficult for injured workers with pre-existing conditions to obtain benefits, the Dillard’s plan does not cover bodily harm caused by exposure to asbestos, court records say. “It would behoove most employers to be somewhat less draconian in the way they apply those limitations” given the challenge in Oklahoma, Mr. Vitulli said.

Dillard’s alternative benefits plan — in line with most other employers’ plans — also says “the claims administrator may terminate, modify or reduce a previously approved treatment plan prior to the completion of the approved treatment,” Trey Gillespie, Austin, Texas-based senior workers compensation director at the Property Casualty Insurers Association of America, said this month during the Workers Compensation Research Institute’s conference in Boston.

In its decision, “the Oklahoma Workers’ Compensation Commission clearly found that the opt-out plans do not provide the same benefits as regular workers comp,” Mr. Burke said, adding that such plans wouldn’t be very appealing to employers if they did.

Despite the challenge in Oklahoma, “Texas nonsubscription remains very much alive and well,” Mr. Minick said.



Visit *Business Insurance’s* multimedia Web page to hear Mike Vitulli, Boston-based vice president of insurance brokerage Risk Strategies Company, discuss the Oklahoma Workers’ Compensation Commission’s ruling on the opt-out law with *Business Insurance* Associate Editor Stephanie Goldberg.



NATURAL ENVIRONMENT RESEARCH COUNCIL

The Natural Environment Research Council's new, unnamed research vessel

Naming contest sinks to the silly

When the U.K.'s Natural Environment Research Council opened an online public vote to come up with a moniker for its new research vessel, it possibly didn't consider quite seriously enough the risks involved in asking the Internet to name something: Currently, the front-runner in a poll to name the £200 million (\$289.5 million) Royal polar research vessel is Boaty McBoatface.

So far, the moniker is leading the poll with more than 28,000 votes — way ahead of second-place Henry Worsley, which has garnered about 3,000, according to the BBC TV station. Mr. Worsley was an acclaimed explorer who died in January while attempting a solo crossing of the Antarctic.

Boaty McBoatface even has a Twitter handle.

While James Hand, a communications director and former BBC Radio Jersey presenter, has apologized to the NERC for suggesting the name, the research body has said it is "Very much enjoying hearing everyone's ideas."

Buffett offers employees Madness

Berkshire Hathaway Inc. sponsored and funded a bracket contest for its employees this year, with Warren Buffett offering a prize of \$1 million per year for life to any Berkshire employee or an employee of its subsidiaries who got every pick in the first two rounds of March Madness correct.



Warren Buffett

Thanks to Middle Tennessee State University's stunning victory over Michigan State University in Round One of the tournament, no

participant would claim the big pot. But two employees — Kevin Wills and Robert Keller — will split the \$100,000 consolation prize for picking the winners in the first 15 games.

Each March, 68 teams are selected for the NCAA Division I men's basketball tournament, known as March Madness.

Prize indemnity insurance is provided by National Indemnity Co., a subsidiary of Berkshire Hathaway.

BAND'S PLANE HAS HEAVY METAL FENDER BENDER



YULIA GRIGORYEVA/SHUTTERSTOCK.COM

Iron Maiden's plane, Ed Force One, crashed into a tow truck, damaging the undercarriage of the plane.

Iconic British heavy metal band Iron Maiden didn't run to the hills after its tour plane had an accident while being towed at a South American airport. The plane collided while on the ground with the airport truck that was towing it this month, injuring two people and damaging two of the 747's engines.

Iron Maiden's plane, Ed Force One, was being towed for refueling at the Comodoro Arturo Merino Benitez Airport in Santiago, Chile, before flying over the Andes for their next concert in Cordoba, Argentina, when a steering bolt that attaches the plane to the tow truck fell out and left the aircraft free to move out of control. It then crashed into the tow truck, badly damaging the undercarriage of the plane and two of the engines.

The band was en route to Cordoba after their concert in Chile, where 58,000 fans had attended their "Book of Souls" tour.

The two injured airport staff were sent to the hospital but are expected to make a complete recovery, officials said.

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Lord & Taylor dressed down for promotion

A paisley print dress with an asymmetrical hemline that was described by one fashion website as having a "whimsical design perfect for summer" has gotten Lord & Taylor L.L.C. into hot water with the Federal Trade Commission.

The FTC has charged that in March 2015, the New York-based retailer placed an article in a fashion

magazine promoting the dress, which is part of its private label Design Lab collection, in an online fashion publication, Nylon, without disclosing that it was a paid promotion. Lord & Taylor also gave the dress, which originally sold for \$88, free to 50 fashion "influencers," and paid each \$1,000 to \$4,000 to post a photo of themselves wearing it on Instagram or another social media site. The store contractually obligated them to use the "@LordandTaylor" Instagram user designation and the hashtag

"#DesignLab" in the caption of the photo they posted. The company did not require the influencers to disclose they were compensated for posting the photo, and none of them did. Their posts reached 11.4 million Instagram users over just two days, the FTC said.

Under terms of the proposed settlement, Lord & Taylor is required to ensure that its influencers clearly disclose when they have been compensated.



AP PHOTO

Yasiel Puig of the Los Angeles Dodgers

Dodger chasing down settlement

Major League Baseball player Yasiel Puig is swinging for the fences — this time against his insurer.

The Los Angeles Dodgers right fielder has reportedly sued Lexington Insurance Co. for failing to fully pay his claim after a refrigerator malfunction in November 2015 flooded his 6-bedroom, 5½-bathroom mansion in Miami. The malfunction caused damage in excess of \$15,000.

Mr. Puig quickly reported the incident and received a claim number from Lexington, which responded with an unspecified partial payment, but has not fully compensated him for the damage under his \$2 million policy, according to a TMZ report.

The 25-year-old outfielder is hoping to hit a home run off his Lexington dispute.

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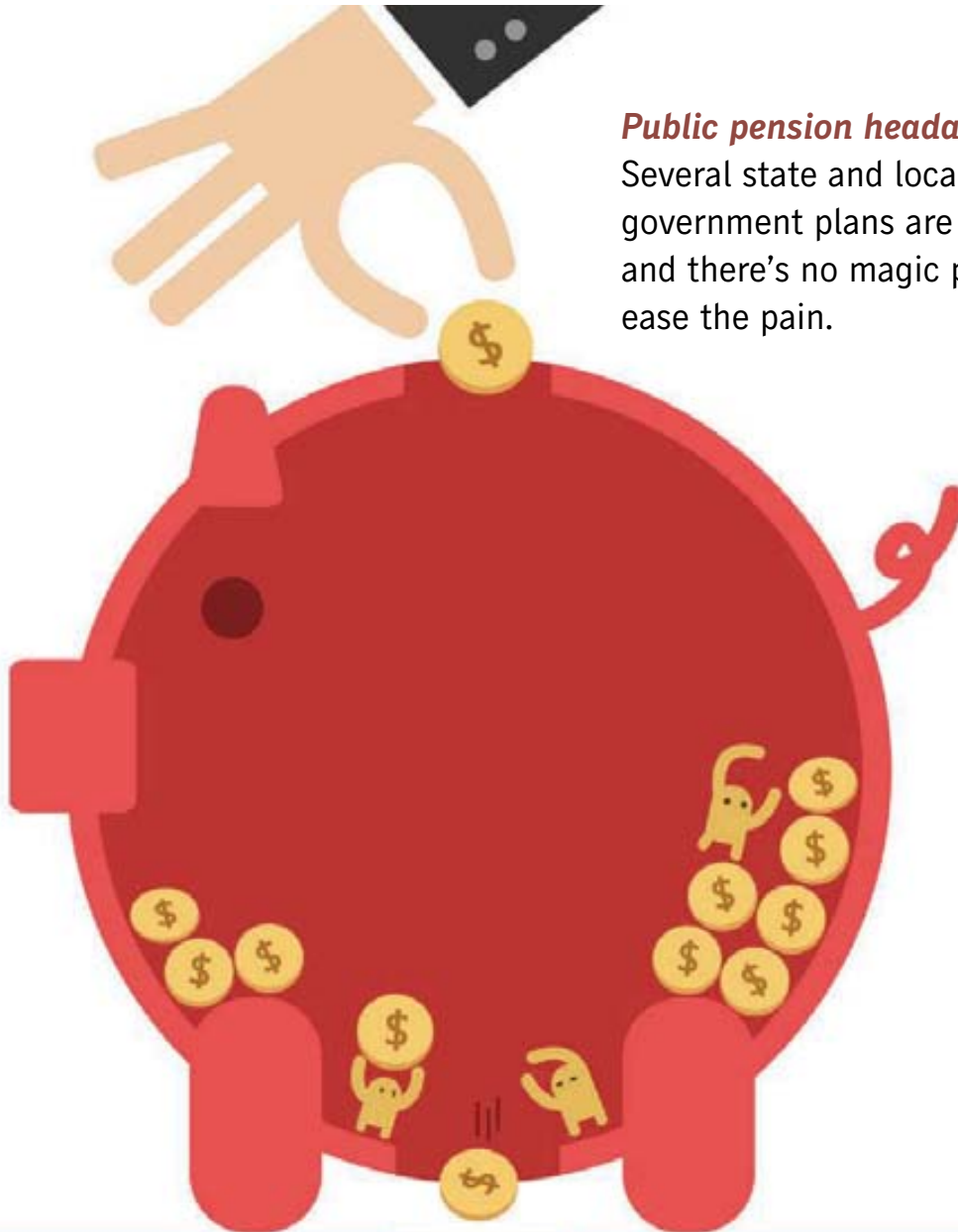
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Public pension headaches

Several state and local government plans are in crisis and there's no magic pill to ease the pain.



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Political spring could catalyze changes in benefits offerings

Politics, indeed, makes for strange bedfellows, be it in presidential races or in less obvious places such as the administration of public pension funds.

A lot is said about the sorry condition of those local and state public pension systems, with Illinois ranking among the sorriest.

The state's five largest state-funded pensions have a total unfunded liability of \$112 billion by some estimates, because the state for years borrowed against the pension system to fund public services. This action became legislated in 1995, when then-Gov. Jim Edgar signed into law the "pension ramp," which continued the practice of diverting funds for public services for 15 more years.

In short, Illinois "intentionally kicked the can down the road for generations through legislative action," said Ralph Martire, executive director of the Center for Tax and Budget Accountability, a nonprofit economic research organization in Chicago.

And though it's not the only chronically underfunded state — New Jersey and Pennsylvania are in a similar boat — the majority have made a "good-faith" effort to continuously fund their pension plans, according to a March 2015 report by the National Association of State Retirement Administrators.

Similarly, the Patient Protection and Affordable Care Act, signed into law in 2010, is front and center in this year's presidential election, with even ultraliberal Bernie Sanders, I-Vt., who is seeking the Democratic nomination, seeking to repeal it. But unlike his Republican counterparts — Sen. Ted Cruz of Texas, Gov. John Kasich of Ohio and businessman Donald Trump — who simply want to dismantle the Affordable Care Act, Sen. Sanders is proposing a single-payer system or, as he puts it, "Medicare for all."

That would meet with the approval of the vast majority of Canadians, who wouldn't give up their universal system, in effect for decades. "Generally, Canadians have a sentimental and emotional attachment for their health care system. They are quite happy with it," said Tim Clarke, chief innovation officer for health and benefits consulting at Aon Hewitt in Toronto. And

that's despite long waits to see the family doctor or for elective procedures.

The jury is still out on Solvency II, the European system of capital requirements for insurers that took effect Jan. 1. Many analysts expect underwriting in the bulk annuity market, the backbone of many private pension plans, to pick up by midyear after a slowdown during Solvency II's shakeout cruise. But one, London-based life insurer Prudential P.L.C., doesn't plan to wait for anticipated higher costs and increased bureaucracy. It has significantly reduced its U.K. annuity business rather than undertaking the financial engineering Solvency II would require, according to Nic Nicandrou, chief financial officer.

An up-and-coming entry in the burgeoning arena of voluntary benefits, or those offered by employers but paid for by participating employees, is critical care insurance. This comes into play on the diagnosis of major illness — cancer, heart attack and stroke, among them— and provides cash, often in a lump sum and without the 90-day wait typical of disability coverage, to help the policyholder with nonmedical expenses including mortgage payments. About 20% of private employers offer the coverage now, up from 11% in 2002.

"Wouldn't it help to maybe have \$5,000, \$10,000 of coverage to help you with those expenses that disability's not covering at that point?" said Old Lyme, Connecticut-based Daniel Pisetsky, founder of the National Association of Critical Illness Insurance.

Finally, Kevin Wagner, a Southfield, Michigan-based senior consulting actuary with Willis Towers Watson P.L.C., discusses the future of defined benefit pension plans. Once a staple of corporate America, only 20% of Fortune 500 companies still offer them to new salaried employees, according to Willis data, and Mr. Wagner doesn't see that trend changing anytime soon.

"I am not sure plan sponsors feel that it is their obligation to make sure that people have good retirement incomes. Employers have not reached the point where they feel it is their obligation to do that," Mr. Wagner said, adding that regulatory foot-dragging doesn't help them change their minds.



Cover Story

Several public pension systems are in a funding mess, but others are thriving. We take a look at the good, the bad and the ugly in the public sector. **4**

Health Care

When it comes to health care reform law changes that the major presidential contenders advocate, the differences are striking. **8**

Voluntary Benefits

Adding critical illness insurance to voluntary benefit packages can blunt the financial risks of HDHPs. **13**

International Benefits

Solvency II, the European Union's long-awaited capital requirements for insurers, is starting to play out in pension funding. **16**

Questions & Answers

Kevin Wagner, a senior consulting actuary with Willis Towers Watson P.L.C., discusses the decline of defined benefit plans. **18**



Public pension plans: A state of dysfunction

BY SHELBY LIVINGSTON

A lot is said about the sorry condition of certain local and state public pension systems, with Illinois a poster child for being among the sorriest.

The gulf between what Illinois owes pension beneficiaries and its assets available to pay the liabilities continues to widen.

There are 656 public-sector pension systems in Illinois, and the five largest state-funded pensions have a total unfunded liability of \$112 billion by some estimates. This has left workers questioning their retirement securi-

ty — and potential hires looking for jobs elsewhere.

For many, Illinois is an example of how not to run a pension system. The state's pension crisis is in some ways an outlier. Its pension debt — unique in its size and the length of time it has been growing — results from an intentional policy of underfunding, several public pension experts say. For years, the state's elected officials borrowed against the pension system to fund public services, and in 1995 then-Gov. Jim Edgar, a Republican, signed into law the "pension ramp," which continued the practice of diverting funds for

public services for 15 more years.

In short, Illinois “intentionally kicked the can down the road for generations through legislative action,” said Ralph Martire, executive director of the Center for Tax and Budget Accountability, a nonprofit economic research organization in Chicago.

Illinois is not alone. New Jersey and Pennsylvania have also chronically underfunded their plans, according to a March 2015 report by the National Association of State Retirement Administrators, based in Lexington, Kentucky.

Still, chronic underfunding has occurred in only a few states. The majority have made a “good-faith” effort to continuously fund their pension plans, NASRA said in the report.

A mixed bag

The varying conditions of the many pension funds in Illinois act as a “microcosm of what we see around the nation,” said Keith Brainard, an Austin, Texas-based expert on public sector retirement systems and NASRA research director.

While many of the major pension systems in Illinois are “in serious distress,” others, such as the Illinois Municipal Retirement Fund, based in Oak Brook, which caters to employees of local governments and school districts except Chicago and Cook County, “is in very good condition,” Mr. Brainard said.

That’s because it funds its pension plans.

Similarly, throughout the nation, “you’ve got some (systems) in fine shape and others that are not so much,” Mr. Brainard said.

The United States comprises about 4,000 public-sector retirement systems, 227 of which are state-administered and 3,771 locally administered, according to the U.S. Census Bureau. In total, these pension systems have about \$3.80 trillion in assets. The total debt of state and local pension funds exceeds \$1 trillion, according to a July report by the Pew Charitable Trusts, Philadelphia.

The condition of these public-sector pension funds varies widely, sources

STATES WITH TOP TAXPAYER BURDEN

New Jersey owes more than it owns. New Jersey’s “taxpayer’s burden,” each taxpayer’s share of state bills after assets are tapped, puts it 50th out of the 50 states. New Jersey has only \$24.8 billion of assets available to pay bills totaling \$185.6 billion. To fill the \$160.8 billion financial hole, each New Jersey taxpayer would have to send \$52,300 to the state. How other states rank in 2014 data:

State	Each taxpayer’s burden	Assets available to pay bills (in billions)	Bills (in billions)	Money needed to pay bills (in billions)
New Jersey	\$52,300	\$24.80	\$185.60	\$160.80
Connecticut	\$48,600	\$10.10	\$72.20	\$62.10
Illinois	\$45,000	\$29.50	\$213.80	\$184.30
Kentucky	\$32,600	\$13.10	\$53.20	\$40.10
Massachusetts	\$27,400	\$20.20	\$87.40	\$67.20

Source: State Data Lab - A project by Truth in Accounting

say. According to Mr. Brainard, Florida, North Carolina, South Dakota, Tennessee and Texas are among the state plans in good condition, while those in Illinois, Kentucky, New Jersey and Pennsylvania are not.

Troubled pensions

Pension funds become troubled for two major reasons. The first is failing to adequately fund the plan. City and state pension systems are funded through employer and employee contributions and investment returns. Much of the success of a pension plan depends on whether sponsors make the required annual contributions determined by actuaries, sources said. Failing to do so is often a straight road to distress.

In some cases, pension systems became complacent when markets were good and funding levels were high, and so they took a break from making necessary contributions. But liabilities continued to grow each year with nothing to keep them in check. Sound pension systems, on the other hand, looked to the future and saved extra money to weather weak markets.

“If you don’t maintain adequate funding on an ongoing basis, you certainly set yourself up for the development of a big unfunded liability,” said David Driscoll, Boston-based consulting actuary with Xerox HR Services.

But market conditions also play a significant role in pension funding, sources said.

“Volatility in returns on assets leads to big shifts in contribution requirements, and it’s often the case that state and local governments cannot easily accommodate the kind of swings,” Mr. Driscoll said.

According to the Public Fund Survey, sponsored by NASRA and the Elk Grove, California-based National Council on Teacher Retirement, a strong investment market in the 1990s created an aggregate funding ratio in excess of 100% in 2000 to 2001. But sharp economic declines in 2000-2002 and 2008-2009 helped shrink the aggregate funding ratio for the nation as a whole to 71.8% in 2013, the latest year for available data.

Filling the gaps

According to NASRA, almost every state has changed its pension funds’ structures since 2009. “In most cases, these (changes) have had the effect of making these benefits less generous,” Mr. Driscoll said.

There are several types of reforms a pension plan sponsor can implement: increasing employee contributions, increasing employer contributions and requiring people to work longer. Additionally, states can modify their laws to increase the amount of time an employee must work

before becoming fully vested.

The retirement age for city and state workers varies according to the pension plan, but many plans have raised retirement ages to as high as 67 years old from as low as 55.

Making plan participants work longer shortens the retirement period, so the pension system will pay out less money. Meanwhile, a longer vesting period requires an employee to work more years before becoming entitled to the full pension benefit, and saves the system money if the employee quits prematurely.

Many pension systems have also reduced or eliminated cost-of-living adjustments meant to combat the effects of inflation on the benefit.

Amanda Kass, Chicago-based research director at the CTBA, said these adjustments generally have been in line with the historical inflation rates, but the recent period of low to zero inflation makes many COLAs seem excessive. In Illinois, for instance, the COLA increase is 3% annually, more than double the consumer price index of 1.4% for the last 12 months starting in February, according to the U.S. Bureau of Labor Statistics.

Some plans have also switched to a defined contribution design from a defined benefit plan to address funding issues, but there's disagreement among pension experts over whether that's an effective strategy.

Alaska and Michigan are among those that have fully switched to a defined contribution plan. West Virginia moved to a defined contribution model for new hires, but reverted back to defined benefit because beneficiaries weren't accumulating enough retirement income, Mr. Driscoll said. Nebraska also took the defined contribution route but went back to a defined benefit under a cash-balance plan for similar reasons, he said.

"The reality of that switch is

that it immediately increases your unfunded liability significantly," because it halts future contributions that were anticipated to go into the defined benefit plan from new hires, said the CTBA's Mr. Martire, adding that it also increases costs for taxpayers because of the unfunded liability and "diminishes retirement security."

When it comes to pension reform, officials must strike a balance between cost savings and providing an attractive benefit, sources said.

Pension funds "are human resources tools," Mr. Brainard said. "You have to have a benefit that's going to keep people on the job."

Diminishing the benefit too much may mean potential employees will look for work elsewhere. For instance, Illinois created a second benefit tier for state-funded pension systems in 2010. Employees contributing to the fund for the first time on or after Jan. 1, 2011, are considered Tier II and receive a far lower benefit than those who were in the pension fund before 2011. Though this structure is expected to shrink the state's unfunded liability, there is concern about ill effects it may have on employees.

In 2015, state legislators convened a special task force to determine how the structure will affect recruitment and retention of teachers in Illinois, according to a letter by Dick Ingram, executive director of the Teachers' Retirement System. According to Ms. Kass, anecdotal evidence says higher education may be having difficulty filling positions because of the watered-down pension plan.

More risk for employees

The future of public pension funds will likely place more risk on the employees, much like the trend in the private sector but to

a lesser degree, pension experts say.

"Employees are taking on more of the overall investment risk or inflation risk or longevity risk, which are the three main types of risks in a pension plan," Mr. Brainard said.

That may mean incorporating defined contribution elements into the defined benefit plan, the way a cash-balance plan does.

The goal of city and state pension plans is to reach full funding, Mr. Brainard said. There's "no need to get there right away, but you do want to be moving in that direction. And in some of these cases it'll probably take 20-30 years to get there," he said.

As for Illinois, the future is murky.

The state's most recent attempt to overhaul the pension system in 2013 was unanimously struck down by the Illinois Supreme Court in May 2015. The court deemed the reform, which was estimated to save \$160 billion over 30 years, unconstitutional because it violated a clause in the state constitution that said benefits promised as part of the public pension system "shall not be diminished or impaired." Very few states have that level of legal protection for a public pension system, the CTBA's Mr. Martire said.

So Illinois has to find a way to fill the gaps without rolling back benefits of current workers.

"What they have to do is come up with a rational way to fund the systems that allows the system's funded ratio to grow while meeting all cash-flow obligations," Mr. Martire said.

It's "eminently doable," he said. "It's just a matter of political will. They'd have to put a little bit more into the systems now than what the current law requires, but the amount would grow, and that's a huge advantage."

"There's no real magic. You just have to put money into the system," Ms. Kass said.

The most troubled public pension funds

State	Liabilities as a percentage of state government revenues*	Local pension funds	Liabilities as a percentage of state government revenues*	State	Funded ratio
Illinois	297%	Chicago	703%	Illinois	39%
Connecticut	213%	Dallas	506%	Kentucky	44%
Kentucky	185%	Houston	458%	Connecticut	48%
New Jersey	162%	Los Angeles	410%	Alaska	52%
Maryland	149%	Jacksonville, Florida	403%	New Hampshire	57%
Louisiana	145%	Cook County, Illinois	346%	Louisiana	58%
Hawaii	141%	Phoenix	343%	Rhode Island	58%
Massachusetts	128%	Chicago Public Schools	343%	Mississippi	58%
Kansas	118%	Fairfax County, Virginia	333%	Michigan	60%
Pennsylvania	117%	Detroit	330%	Hawaii	60%

Source: Moody's Investor Services January 2016
*Data for fiscal 2013

Source: Moody's Investor Services July 2015
*Data for fiscal 2013

Source: Pew Charitable Trusts 2015



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Of the five leading candidates, Bernie Sanders (from top left) Ted Cruz, John Kasich and Donald Trump would repeal the Affordable Care Act. Hillary Clinton would “defend the Affordable Care Act and build on it.”

AP PHOTOS

ACA a major talking point on campaign trail

BY JERRY GEISEL

When it comes to health care reform law changes that the major presidential contenders advocate, the differences are striking.

Of the five leading candidates, only Democratic Party front-runner Hillary Clinton backs the Patient Protection and Affordable Care Act.

In her five-page health care position paper, Ms. Clinton says she would “defend the Affordable Care Act and build on it.”

“One of the most striking differences is that it is pretty obvious what Hillary Clinton would do as president with respect to health care: She would reinforce the Affordable Care Act and perhaps try to extend its reach,” said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

“It is clear she wants to keep the ACA. She views it as a great starting point,” said Alli-

son Klausner, a principal with Xerox HR Services in Washington.

Still, while Ms. Clinton is clear in her support, she hasn’t provided much detail on some of the changes she would make to the ACA.

For example, Ms. Klausner noted, while Ms. Clinton advocates repeal of the upcoming 40% excise tax on health insurance premiums that exceed certain amounts, she has yet to detail what she would propose to offset the loss of tens of billions of dollars in federal revenue government researchers say the tax would generate.

Sen. Bernie Sanders, I-Vt., Ms. Clinton’s chief opponent, would scrap the ACA and replace it with a single-payer national health insurance system, which he describes as “Medicare for all,” a reference to the 50-year-old federal program that provides health care coverage to more than 50 million Americans, mostly age 65 and older.

The frontrunners for the Republican presi-

dential nomination — businessman Donald Trump, Sen. Ted Cruz, R-Texas, and Ohio Gov. John Kasich — are united on one key position: “On repealing the ACA, the Republican candidates are all on the same page,” said Geoff Manville, a principal with Mercer L.L.C. in Washington.

“Obamacare is causing millions to lose their jobs, be forced into part-time work, lose their doctors and health insurance, and pay skyrocketing premiums. This law isn’t working,” according to a position paper by Sen. Cruz.

Gov. Kasich supports repeal of the health care reform law, which his position paper says “has driven up the cost of health insurance approximately 80% in Ohio’s individual and small-group market.”

Mr. Trump makes three in his opposition to the ACA.

“On day one of the Trump administration, we will ask Congress to immediately deliver a full repeal of Obamacare,” Mr. Trump said in a health care position paper he released this month.

Repeal and replace

But that’s where the similarity among the Republicans ends. All have different ideas about changing the nation’s \$2 trillion health care system.

Sen. Cruz says he backs expanding health savings accounts and allowing individuals to purchase health care coverage across state lines, giving them a greater number of insurers from which to choose.

Mr. Trump backs tax deductions to help individuals pay for premiums, would require greater price transparency from health care providers and make it easier for drug manufacturers outside the United States to export their products here.

“Allowing consumers access to imported, safe and dependable drugs from overseas will bring more options to consumers,” Mr.

Trump says in his position paper.

Observers say they understand the driving force behind Mr. Trump’s position: double-digit increases in prescription drug costs.

“Perhaps prices would come down somewhat” if more imports were allowed, said Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington.

Position paper to ACA

Candidate position papers have, in the past, been a first step on the path to significant changes in health care law.

The most recent example of that came in 2008, when Barack Obama, then a Democratic senator representing Illinois, was running for president. Then-Sen. Obama proposed in his health care reform position plan a mandate that employers — except the smallest firms — offer health coverage to their employees or face financial penalties.

He also proposed requiring employers to extend coverage to employees’ young adult children, as well as federal health insurance premium subsidies to make coverage more affordable for the lower-income uninsured.

Those positions ultimately were included in the health care reform legislation that President Obama signed into law in March 2010. The result: The nation’s uninsured rate fell to just over 10% in 2014, from 13.3% in 2013, the year before many ACA-mandated coverage provisions took effect.

Similar proposals by the 1992 Democratic Party presidential nominee, then-Arkansas Gov. Bill Clinton, didn’t fare so well.

His campaign health care reform promises, which included coverage requirements for employers and creation of a national board to set health care spending limits, an initiative overseen by Ms. Clinton when

she was first lady, didn’t receive much support, even from congressional Democrats, and died in the second year of the Clinton presidency.

Still, while the fate of the 2016 presidential candidates and their health care positions are likely to evolve, they give voters something to scrutinize.

For example, in her position paper, Ms. Clinton says she would expand a health care reform law requirement under which employers can be hit with a stiff financial penalty if the premiums employees pay for single coverage exceed 9.5% of their income, with affected employees eligible for federally subsidized coverage in public insurance exchanges.

Ms. Clinton says the employee health plan premium contribution limit, which, if topped, makes employees eligible for federal premium subsidies used to buy coverage in ACA-authorized public exchanges, should also apply to family coverage, contending that the current omission was a congressional “glitch.”

She also wants to place new limits on employees’ annual out-of-pocket health costs, which she says are “squeezing” American families.

“She has not said how she would change the out-of-pocket limits,” Ms. Klausner said. In 2016, those limits are \$6,850 for single coverage and \$13,700 for family coverage.

Picking up the tab

By contrast, Sen. Sanders has provided more details on certain aspects of his proposal to create a single-payer health care system.

For example, employers would pay an assessment equal to 6.2% of their income to help fund coverage, while employees would pay a premium up to 2.2% of income.

Of the Republican candidates, Sen. Cruz has provided the most

“Obamacare is causing millions to lose their jobs, be forced into part-time work, lose their doctors and health insurance, and pay skyrocketing premiums. This law isn’t working.”

Sen. Ted Cruz,
R-Texas

“On day one of the Trump administration, we will ask Congress to immediately deliver a full repeal of Obamacare.”

Donald Trump

“The first step is having a primary care system that helps promote long-term health instead of just reacting when someone gets sick.”

Ohio Gov. John Kasich

detailed proposals.

He says he would expand HSAs and allow insurers to sell policies across state lines.

“That will create a true 50-state national marketplace, which will drive down the cost of catastrophic health insurance,” Sen. Cruz said during a Republican candidates’ debate in late January in Des Moines, Iowa.

Sen. Cruz also said health insurance should be portable for employees.

“We should work to de-link health insurance from employment so if you lose your job, your health insurance goes with you and it is personal, portable and affordable,” he said during the Des Moines debate.

Quality over quantity

Gov. Kasich focuses specifically on cost control, calling for an overhaul of the medical payment system to tie provider reimbursement more closely to keeping patients healthy.

“The first step is having a primary care system that helps promote long-term health instead of just reacting when someone gets sick,” Gov. Kasich says in his position paper.

In addition, he says he would link providers’ compensation to their ability to coordinate with other medical professionals on procedures.

According to the position paper: “In a joint replacement, for example, surgeons, anesthesiologists, hospitals, device manufacturers, rehabilitation therapists and drugmakers all have separate roles and little incentive to worry about each other’s costs. Instead, what if the surgeon earned more for meeting high quality standards, while also better managing the entire procedure in order to produce lower costs?”

In response to a request for comment, Mr. Trump’s campaign offered the candidate’s position paper. The other campaigns did not respond.

HSA, FSA rules keep candidates guessing

When it comes to getting the facts straight on health care issues, presidential candidates need to brush up.

Take Republican frontrunner Donald Trump. In his health care position paper released this month, Mr. Trump says individuals should be allowed to use “health savings accounts. Contributions into HSAs should be tax-free and should be allowed to accumulate.”

Congress authorized HSAs in 2003. The appeal of the accounts linked to high-deductible health plans is that employee contributions can be made on a pretax basis and can be withdrawn tax-free to pay for uncovered health care expenses. And amounts unused at year-end can be rolled over indefinitely to pay for succeeding years’ expenses.

In 2015, nearly 20 million people were enrolled in HSA-linked health plans: 15.4 million in plans offered by employers with at least 51 employees, 2.3 million in the small

employer market and just over 2 million in the individual market, according to an America’s Health Insurance Plans survey.

Among other health care gaffes, Sen. Marco Rubio, R-Fla., who withdrew from the presidential campaign this month after poor results in several primaries, including his home state of Florida, said on his campaign website that aside from supporting the “full repeal of Obamacare, Marco has voted to specifically repeal harmful components of the law,” including “new taxes” on flexible spending accounts and HSAs.

The Patient Protection and Affordable Care Act did not impose new taxes on FSAs and HSAs. What the law did was impose a \$2,500 annual limit — indexed for inflation — on employees’ pretax FSA contributions. Before that, tax law did not impose an annual limit on FSA contributions, though employers typically sets limits at \$4,000 to \$5,000 annually.

By Jerry Geisel

Where they stand

How the major presidential candidates stand on the Patient Protection and Affordable Care Act



HILLARY CLINTON

- Retain ACA
- Reduce maximum annual out-of-pocket expenses, which stand at \$6,850 for single coverage and \$13,700 for family coverage for 2016
- Increase financial penalty on employers if employees' premiums exceed 9.5% of their income
- Repeal 40% excise tax on high-cost group plans



TED CRUZ

- Repeal ACA
- Expand health savings accounts
- Allow interstate health insurance
- Make health insurance portable



JOHN KASICH

- Repeal the ACA
- Base provider compensation on patient outcomes, not on volume
- Focus primary care on keeping patients healthy



BERNIE SANDERS

- Replace ACA with a single-payer system akin to Medicare providing universal health care coverage
- Employers would pay an assessment equal to 6.2% of their income to help fund coverage
- Employees would pay a premium up to 2.2% of income to fund coverage



DONALD TRUMP

- Repeal ACA
- Allow all individuals to take tax deductions to cover health plan premiums
- Allow importation of prescription drugs

Source: Candidate position papers

Next door but worlds apart on health care

The United States and Canada share a several thousand-mile border, and the differences in the two countries' health care systems are just as vast.

In Canada, health care coverage has been universal for decades and is largely provided through the country's provinces and funded mostly through taxes.

In the United States, even after the passage of 2010 legislation that authorized federal premium subsidies to lower-income individuals obtaining coverage in public exchanges, about 33 million people, or more than 10% of the population, remain uninsured.

In Canada, health care costs account for just over 10% of the gross domestic product, while health care spending in the United States in 2014 hit a record 17.4% of GDP.

In the United States, employers are the primary source of health plan coverage for Americans younger than 65.

In Canada, the role of employers is much narrower, with employers typically providing such coverage as dental and vision care, as well as prescription drugs typically not offered by provinces. Employers also frequently enhance provincial coverage to allow their employees to have private or semi-private rooms for hospital stays rather than multipatient wards.

Another big difference: In the United States, individuals increasingly face significant copayments and deductibles for physician services and hospital care as more employers adopt consumer driven health plans. In Canada, patients have no such charges.

But perhaps what stands out about the Canadian health care system is its popularity. Public opinion polls consistently show widespread support — often at 90% — for the system.

"Most people here are proud of the fact that we have universal coverage. This defines us as nation," said Brian Lindenberg, leader of Mercer L.L.C.'s Health and Benefits practice in Calgary, Alberta.

"Generally, Canadians have a sentimental and emotional attachment for their health care system. They are quite happy with it,"

said Tim Clarke, chief innovation officer, Health & Benefits Consulting at Aon Hewitt in Toronto.

Still, Canadian benefits experts say, the country's health care system is not without problems, the biggest being long wait times to see family physicians or to have elective medical procedures.

"Wait times are a significant concern," said Karen Millard, a senior consultant with Willis Towers Watson P.L.C. in Toronto.

"The quality of health care services is quite good. What annoys people is the lack of immediate access" for some services, said Mercer's Mr. Lindenberg.

"In the United States, you have relatively immediate access to providers. In Canada, that is not always the case. You may have to, for example, hunt around for a GP who will accept new patients," Mr. Lindenberg added.

Still, "if you are seriously ill, you get care quickly," said Lizann Reitmeier, health practice leader with Xerox HR Services in Toronto.

While the Canadian health care system is often called national health insurance, that is misleading, experts say.

Physicians, for example, are not employed by the government, but, like in the United States, have their own practices. In addition, provider fees are not dictated by the government but are negotiated between medical provider groups and provincial officials.

In addition, Canada's provinces have considerable flexibility in determining coverage beyond basic physician and hospital services.

Take vision care. In Manitoba, the provincial plan covers one routine eye exam over a 24-month period for residents younger than 19 and for those 65 and older; coverage is not provided for those age 19 through 64, unless medically necessary.

The Ontario plan covers one eye exam annually for children age 19 and younger and for adults 65 and older. No coverage is provided for those between 19 through 64 unless they have a medical condition, such as glaucoma, affecting the eyes.

By Jerry Geisel

"Most people here are proud of the fact that we have universal coverage. This defines us as nation."

Brian Lindenberg,
Mercer L.L.C.



Critical illness cover a cushion during crisis

BY KAREN PALLARITO

Adding critical illness insurance to voluntary benefit packages can blunt the financial risk that employees assume when they enroll in high-deductible health plans, and it's a key reason for the upswing in employer demand for this cover, experts say.

Twenty percent of private employers with more than 10 employees offered critical illness coverage as a voluntary benefit to their nonunion workforces in 2014, up from 11% in 2002, according to LIMRA, a financial services research organization based in Windsor, Connecticut.

Introduced in the United States in the late 1990s, critical illness policies have evolved from niche products to mainstream voluntary benefits.

Employers are looking for ways to close gaps in coverage left by high-deductible plans, said Cindy Santangelo, Gold River, California-based voluntary benefits consultant at Edgewood Partners Insurance Center, which does business as EPIC.

"Critical illness insurance is one way to provide that additional financial protection," she said.

Employees diagnosed with life-altering conditions often face a 90-day waiting period

Employer checklist

Before adding critical care insurance to a benefit package, employers need to consider the following factors, experts say:



How is it priced?

Your employees will pay a little more upfront for an “issue-age” product with a locked-in rate. “It gives some stability,” said Cindy Santangelo, Gold River, California-based voluntary benefits consultant at Edgewood Partners Insurance Center, which does business as EPIC. “Attained-age” products start lower, but rates rise every few years, becoming increasingly expensive as employees age.



Does it require medical underwriting?

Guarantee-issue policies skip the underwriting. Everyone in the group is eligible, regardless of pre-existing conditions — “a real plus” for employees and their families, said Daniel Pisetsky, Old Lyme, Connecticut-based president of U.S. Living Benefits and vice president of public relations and founder of the National Association of Critical Illness Insurance. Some insurers use simplified underwriting or yes/no questions about employees’ family medical history, especially with higher benefit amounts.



Is it portable?

With employees paying the premiums for this insurance for the most part, they may want to take their policies with them when they leave the company. Make sure to ask the insurer about a portability clause.



Are benefits timely?

Ask insurers how quickly they pay claims after a condition is diagnosed. Some speed through the process in a week or two, while others take 30 days or more, Mr. Pisetsky said.

before they can collect disability benefits, said Daniel Pisetsky, Old Lyme, Connecticut-based president of U.S. Living Benefits and vice president of public relations and founder of the National Association of Critical Illness Insurance. In the meantime, they’re piling up bills for tests and treatments.

“Wouldn’t it help to maybe have \$5,000, \$10,000 of coverage to help you with those expenses that disability’s not covering at that point?” he said.

Critical illness insurance kicks in on a diagnosis of cancer, heart attack or stroke and often includes benefits for other debilitating conditions, including kidney failure, paralysis and burns.

Policyholders who file claims typically receive a lump-sum benefit to spend however they see fit.

Insurers market these policies as a financial safety net that employees can use to cover deductibles and copayments or experimental treatments, or to make rent or mortgage payments.

Some policies offer partial payouts for heart bypass surgery and cancer that has not spread, among other procedures and conditions. Some provide a cash benefit for preventive health screenings. And most insurers offer a recurrence benefit, which pays a percentage of the lump-sum amount for, say, a second bout of cancer, and is often called a restoration benefit when it applies to heart conditions. So most policies no longer lapse after a policyholder receives a benefit for a covered malady.

“Critical illness provisions vary widely across the industry, so no two products are identical,” said Stephen Rowley, vice president at General Re Corp. in Stamford, Connecticut, a reinsurance unit of Berkshire Hathaway Inc.

Premiums can vary significantly based on factors including age, gender, benefit triggers, premium structure and how the policy

is underwritten, he said.

Suffice it to say that many employees can purchase a \$10,000 to \$20,000 benefit for \$15 to \$20 a month, Mr. Pisetsky said.

Heather Lavalley, president of employee benefits at Voya Financial Inc., a Minneapolis-based provider of retirement and investment products, has seen “a real uptick in demand” from employers, insurance brokers and benefit consultants for critical illness insurance.

Employees still want to receive their benefits in the workplace, and they want more choices, she said.

Between 2010 and 2014, insurance premiums from new sales of group and individual worksite policies nearly doubled, according to General Re’s annual Critical Illness Insurance Market Survey. All 59 respondents to the 2015 Gen Re survey said they will maintain or increase their focus on critical illness over the next three years.

Joe Torella, president of the New York-based Eastern region of Hub International Ltd., encourages employers to adopt a three-to-five-year benefits strategy that bundles medical, ancillary and voluntary benefits such as critical illness.

A 25-year-old starting a family may be more inclined to pick up accident insurance, while 40- and 50-somethings may be thinking about critical illness.

“You really want to build a program that takes people through their life cycle,” Mr. Torella said.

Brooks Brothers Group Inc. in New York added an individual critical illness insurance option five or six years ago, long before it rolled out a high-deductible health plan.

“This was offered more from a paternalistic standpoint ... We feel it’s important to offer it,” said Jonathan Theroux, the clothing retailer’s Enfield, Connecticut-based director of total rewards.

Today, roughly 80 of Brooks



“If it’s something that our clients are going to offer, we make sure there’s a really strong (educational) campaign,” including multiple “touch points.”

Cindy Santangelo,
Edgewood Partners Insurance Center

Brothers’ 2,200 benefit-eligible employees, or fewer than 4%, buy the coverage, which Mr. Theroux said speaks to the challenge of communicating a complex benefit to employees.

“It’s not as simple as saying, we offer a vision plan, you wear contacts, you probably should be in this plan,” he said.

Participation in voluntary benefits is notoriously low, but to snag a group rate policy, insurers look for 10% to 25% of those eligible to enroll, EPIC’s Ms. Santangelo said. Insurance products offered on a group chassis generally offer better pricing than individual policies offered through the worksite. Smaller companies that include a critical illness benefit tend to offer individual worksite policies.

“If it’s something that our clients are going to offer, we make sure there’s a really strong (educational) campaign,” including multiple “touch points,” such as videos, webinars, email blasts and mailings to employees’ homes, she said.

Most critical illness policies are true voluntary plans, fully paid

by employees who elect coverage, consultants said. But some employers are subsidizing the premium or paying for a minimum benefit, say \$5,000, and allowing employees to buy additional coverage.

Among private employers with 10 or more nonunion workers, the percentage paying some or all of the premium has more than tripled between 2002 and 2014, to 30% from 9%, according to a LIMRA representative. Mr. Pisetsky sees insurers enhancing benefits to set themselves apart from the pack of roughly 40 to 50 companies that offer critical illness insurance in the United States.

Trustmark Insurance Co.’s critical illness product, for example, offers a payout for policyholders caring for a family member.

A few insurers, including UnitedHealthcare, are offering coverage for chronic conditions, such as Alzheimer’s and Parkinson’s diseases. But others shy away from such coverage because they don’t know how to price it, Mr. Pisetsky said.

“I think that’s a gray area right now,” he said.

Top 10

Top writers of critical illness insurance, including direct, group and worksite/voluntary, in alphabetical order

- Allstate Insurance Cos.
- Colonial Life & Accident Insurance Co. Inc.
- Humana Inc.
- Lincoln National Corp.
- MetLife Inc.
- Transamerica Employee Benefits Life Insurance Co.
- Trustmark Corp.
- Unum Group
- Voya Financial Inc.
- Washington National Insurance Co.

Source: LIMRA

Solvency II took effect Jan. 1, and its effect on bulk annuities, a mainstay of pension funding, remains to be seen.



Retirement annuities adjust to Solvency II

BY SARAH VEYSEY

Solvency II, the European Union's long-awaited capital requirements for insurers, is starting to play out in the already contentious area of pension funding.

The rules took effect Jan. 1, and their effect on bulk annuities, a mainstay of pension funding where insurers write annuities to cover the retirement income of a group of retirees, remains to be seen, particularly with employers looking for ways to reduce such liabilities on their balance sheets.

Experts say the rules on treatment of such long-term guarantees may encourage insurers to hedge more longevity risk than previously, but they expect interest in bulk annu-

ity deals to continue.

"Fitch Ratings Ltd. expects the bulk (annuity) market to grow significantly in the next five years, despite higher costs due to low interest rates and Solvency II capital requirements," Fitch analysts Sam Mageed and David Prowse said in a report last month.

Shelly Beard, London-based senior de-risking consultant at Willis Towers Watson P.L.C., said that buy-in and buyout activity likely will increase in 2016 as longevity risk increases in importance for pension plans.

Ms. Beard said Willis Towers Watson estimates that more than £10 billion (\$14.23 billion) of pension liabilities were transferred to the insurance market through buy-ins or buyouts in 2015.

While some insurers have taken time to “bed in” Solvency II to their models, and while the new rules have led to a some testing out new pricing structures for deals, Willis Towers Watson already has seen a high level of interest in the first part of this year, she said.

Insurers’ interest in bulk annuities stems in part from a desire to offset lower individual annuity sales prompted by 2015 changes in U.K. law that no longer require retirees to buy an annuity with their pension savings, experts say.

While Solvency II raises the longevity capital requirements on insurers that write bulk annuity business, those requirements can be eased by reinsuring longevity risk, Fitch said.

Last year was a busy time for bulk annuity deals, as insurers pushed deals forward before Solvency II was implemented, according to a report by Ms. Beard and Ian Aley, head of transactions at Willis Towers Watson in London.

Working ahead also gave insurers time to digest the Solvency II rules, obtain regulatory approval for any changes to their business models and establish their pricing structures, among other things, Aon Hewitt said in its January 2016 U.K. Risk Settlement Bulk Annuity Monitor.

“Whilst we do not expect to see a material change in the best available pricing for pensioners as a result of Solvency II, there could well be an increase in cost for bulk annuities covering members who have not yet retired,” the report stated.

For pension plans looking to secure an actuarial valuation including their buyout funding position, it will therefore be important to determine whether allowance has been made for Solvency II, Aon Hewitt said.

Many insurers spent the latter half of 2015 preparing for Solvency II, but the final details on reserve requirements under the new rules were not provided by the U.K. regulator, the Prudential Regulation

Authority, until December.

Treatment of long-term guarantees was one of the things that delayed implementation of Solvency II to Jan. 1. A proposed start date of 2014 was delayed while legislators finalized the treatment of long-term guarantees.

“This means that as insurers start to submit responses to quotation processes in early 2016, there will inevitably be a period of price discovery for both pension schemes and insurers, as the market looks to understand how different players have been affected by the new reserving rules,” Willis Towers Watson’s Mr. Aley and Ms. Beard said in the report.

Activity is likely to pick up in the spring, they noted.

Once there is clarity on the effect of Solvency II, there likely will be an increase in insurer capacity for bulk annuity deals and renewed management focus and risk appetite, London-based accountancy firm Lane, Clark & Peacock L.L.P. said in a report.

“Solvency II also encourages insurers to hedge more longevity risk than before,” LCP noted.

This likely will result in insurers buying more longevity reinsurance and increased competition for reinsurer capacity for longevity swaps with pension plans, and insurers making more use of reinsurance as part of pension buyout or buy-in deals, it said.

London-based life insurer Prudential P.L.C. is not waiting for the shakeout. Nic Nicandrou, chief financial officer, told investors last month that it will reduce the amount of U.K. annuity business it underwrites because it believes Solvency II requirements would make it more difficult to generate attractive returns.

He said a lot of financial engineering would be required to make the sale of bulk annuities — in which Prudential has been a major player — work under Solvency II’s capital constraints.

Prudential wouldn’t comment further on the topic.

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Questions & Answers



For many years, employer sponsorship of defined benefit pension plans has been declining. The past ten years in particular has seen a rapid fall in the number of traditional plans being offered to new salaried employees. In a recent interview with Editor-at-Large Jerry Geisel, Kevin Wagner, a senior consulting actuary with Willis Towers Watson P.L.C. in Southfield, Michigan, discussed the decline of defined benefit plans, the broad implications of that decrease and whether the plans will stage a comeback.

Q

The number of defined benefit pension plans offered by employers has been declining for many years. Your data shows that just under 20% of Fortune 500 companies offered the pension plans in 2015, down 30 points from 10 years earlier. How do you explain the dramatic decline?

A The reasons for the decrease are several. First of all, the aging of the population. Pension plans are more expensive when they cover more older people.

In addition, the government loosened funding rules. That boosted federal revenue because with companies making smaller contributions, that reduced their tax deductions. That meant companies underfunded their pension plans and had to make higher plan contributions later on.

Furthermore, with the feds moving interest rates to essentially zero, that means higher liabilities and higher cost of future pension plan payments.

Q But there are industries in which defined benefit plans still are common. How do you explain that?

A There are industries with a relatively high prevalence of defined benefit plans. You see that in the utility industry, in financial organizations and in the oil and gas industry. The main reason you still see a higher prevalence in those industries is that those industries have fundamental differences compared to the average organization.

Take utilities. Typically, the cost of their pension plans is part of the rate-making process. So, plan sponsors in the utility industry typically keep their pension plans well-funded because those costs are included in the bills we pay every month.

With respect to the oil and gas industry, companies in that industry feel the same financial pressures as other plan sponsors, but their balance sheets are tremendously different.

If you take a look at an oil and gas organization, the risks posed by their pension plans to them are substantially smaller than, say, the risk of drilling a dry hole.

So plan sponsors in those industries focus on other things. They have bigger risks in other areas. The risks inherent in their pension plans are considered more manageable.

Q Did Congress contribute to the decline of defined benefit plans?

A I believe that Congress, the Executive Branch and the federal regulatory agencies are all to blame, as well as perhaps the short-term views of plan sponsors. They are all to blame. Take Congress. They want plan sponsors to minimize contributions to plans because that maximizes revenue for the federal government.

In addition, look at what happened to cash balance plans. Many of us saw cash balance plans as a panacea. But it has taken regulators decades to figure out the regulatory requirements the plans would have to meet.

Employers can't really wait 20 years for legal rules that support the structure of these plans.

So, even though we may have once thought cash balance plans would be the savior of the defined benefit plan system, they really have not been because many employers' unanswered questions are only now beginning to be answered by regulators.

Q Is it too late for the defined benefit plans?

A I believe it is probably too late for defined benefit plans to come back in response to what government could do.

That said, just in the last couple of weeks, I have talked to a couple of major organizations who are quite frankly coming to the conclusion that 401(k) plans are not meeting the joint financial needs of employers and employees.

Q Where do such defined contribution plans fall short?

A They fall short in a number of areas. I think many of us are aware that many employees have not used 401(k) plans to the extent they could to provide the same level of income that one might have received out of a defined benefit plan. Secondly, we are seeing a much more diverse workforce than what we had years ago. Take my son-in-law. He is in dental school. He will have a good career as a dentist, but he will come out with a substantial amount of debt. So, the expectations we have that employees can reasonably save early and save long, that is really questionable. We need to have some kind of program that better meets the financial needs of all of our employees.

If defined benefit plans ever come back, it will be because plan sponsors realize that other alternatives have not been working. I think the only way (defined benefit plans) will come back is when plan sponsors figure out how they will add value.

Q Are you optimistic that defined benefit plans will come back?

A I think they could, but I doubt that will ever happen. The reason I say that (is because) I am not sure plan sponsors feel that it is their obligation to make sure

We need to have some kind of program that better meets the financial needs of all of our employees.

that people have good retirement incomes. Employers have not reached the point where they feel it is their obligation to do that.

Q Will employers continue to slim down their defined benefit plans, for example, by letting employees convert their annuity benefit to a cash lump sum or selling the liabilities to insurers?

A There is not a single monolithic answer for every employee. Some employees might be better off taking a lump sum with them. From a plan sponsor perspective, they might like to pay a lump sum because it really reduces risk by removing pension liabilities from their balance sheets.

I do think plan sponsors want to make their pension plans smaller by giving certain participants the option to take a lump sum. I think we will continue to see that.

Q Where does this downsizing trend leave the Pension Benefit Guaranty Corp., the federal agency that takes over the pension obligations of failed or financially troubled companies? Premiums have soared in recent years. Soon, they will be \$80 per pension plan participant, up from \$1 when the PBGC was formed in 1974. How important are rising premiums in employer decisions to slim down their pension plans?

A The move of employers away from defined benefit plans initially was not driven by higher PBGC premiums. However, over the last few years, the mass increases in the flat-rate and variable-rate PBGC premium has led employers to make financial decisions to reduce the cost of their pension

plans. The cost of keeping participants in their pension plans is substantially higher than it was five years ago. That is one of the reasons you are seeing plan sponsors offer lump sums to plan participants, such as vested former employees, so they don't have to keep paying those escalating premiums. You also are seeing employers slash PBGC premiums by shifting liabilities to insurers through the purchase of group annuities. Because of higher PBGC premiums, there is more urgency to do this sooner rather than later. It is a way of saving dollars.

Q Will lawmakers come to recognize that what is going on will shrink the PBGC premium base so much that the agency won't be able to meet its legal mandate to guarantee participants' benefits?

A That could happen. But even when you take into account all the transactions plan sponsors have taken over the last few years to reduce PBGC premium payments, that is still a small dent in the number of employers paying PBGC premiums. To be sure, the administration has said that it essentially believes that premium rates for the single-employer pension plan system should remain at current levels. The thing, though, that scares plan sponsors is when we talk about the 300-pound gorilla: multiemployer pension plans. Many are very scared whether there is sufficient money in the PBGC multiemployer pension insurance program. Congress might say why don't we aggregate the PBGC's single- and multiemployer pension insurance programs? That would cause single-employer plan sponsors to pay an enormous amount in premium dollars.

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