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E.U. INSURERS WELCOME COMPROMISE ON SOLVENCY II DIRECTIVE / PAGE 3

SUPREME COURT HEARS ASBESTOS LIABILITY CASE / PAGE 3

MAURICE GREENBERG SEEKS RESTRUCTURED BAILOUT DEAL FOR AIG / PAGE 3

In Brief

Swiss Re names COO, plans 10% staff cut

Swiss Reinsurance Co. has named Agostino Galvagni chief operating officer and unveiled plans to cut its workforce by 10% as the reinsurer works to streamline its operations. Mr. Galvagni, who is head of insurance and specialty in client markets at Zurich, Switzerland-based Swiss Re, assumes his new position May 1. He takes over the COO role from longtime executive Stefan Lippe, who was named chief executive officer of Swiss Re in February. The cuts are part of the company's plan to reduce costs by 400 million Swiss francs ($349.7 million) by the end of 2010.

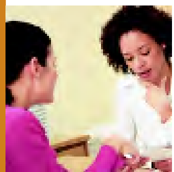
High court won't halt S.F. health spending law

U.S. Supreme Court Associate Justice Anthony Kennedy last week denied a request from a San Francisco-area restaurant trade association for an emergency order to halt enforcement of San Francisco's health care spending

See **IN BRIEF** page 21

BENEFITS MANAGEMENT

HEALTH CARE COST CONTROL



Firms focus on reducing premature births; fewer onsite clinics set up as recession takes hold; benefit managers look for ways to cut cost of specialty drugs. **PAGE 9**

A bill introduced by Reps. Bean (inset, left) and Royce would create a national insurance commissioner within the Treasury Department.

Reform bill seeks broad federal role

National regulation would be compulsory for some insurers

By MARK A. HOFMANN

WASHINGTON—Federal lawmakers last week introduced an insurance regulatory reform measure that would make the greatest changes of any proposed in recent history.

Although bills that would create a system of optional federal charters for insurers and producers have been introduced in recent congressional sessions, the National Insurance Consumer Protection Act, introduced last week by Reps. Melissa Bean, D-Ill., and Ed Royce, R-Calif., would require that some insurers deemed "systemically important" be subject to federal rather than state regulation.

GOING GLOBAL: G-20 participants plot course for improving regulation of financial firms. PAGE 19

Most eligible entities, however, would be permitted to choose whether to come under the new regulatory system or stay under state regulation. The measure would create a new Office of National Insurance headed by a national insurance commissioner within the Treasury Department to oversee federal regulation.

READ the full NICPA bill at BI's Knowledge Center www.BusinessInsurance.com

Federally regulated entities still would be subject to certain state laws, including tax laws. National insurers would be subject to examinations by the national insurance commissioner every two years, while national producers would be examined in response to a complaint or violation of the law or regulations.

The bill also would establish a National Insurance Guaranty Corp. that would assume obligations to policyholders for national insurers that become insolvent, although national insurance still would have

See **REFORM** page 19

Former Gen Re CFO gets prison sentence

Elizabeth Monrad given 18 months for role in finite fraud

By COLLEEN McCARTHY

HARTFORD, Conn.—A judge last week sentenced former General Re Corp. executive Elizabeth Monrad to 18 months in prison for her role in a bogus finite reinsurance transaction, but her attorney said an appeal is likely.

Judge Christopher Droney of the U.S. District Court in Hartford, Conn., again rejected federal sentencing guidelines—which called for life in prison—in sentencing Ms. Monrad, who is the fourth of five former Gen Re and American International Group Inc. officials sentenced since their February 2008 convictions.

Ms. Monrad, who was Gen Re's chief financial officer from 2000 to 2003, also was sentenced to two

BLOOMBERG/LANDOV

Ms. Monrad.

years of supervised release and fined $250,000.

Judge Droney said Ms. Monrad's involvement with the fraudulent transaction "was central to its success," adding that she knew the harm her conduct could cause.

"She was the financial expert for General Re in this transaction," Judge Droney said. "A message must

See **MONRAD** page 21

IRS guides employers on COBRA rule change

Gives more details on how subsidy works for laid-off workers

By JERRY GEISEL

WASHINGTON—New guidance clarifies for employers the key question of when an employee has been involuntarily terminated and thus is entitled to new federal subsidies to pay for COBRA health care premiums.

Last week, the Internal Revenue Service in Notice 2009-27 provided broad definitions and specific, real-world examples of involuntary terminations.

In addition, the IRS' 27-page notice resolves numerous other questions raised by employers about the new subsidies, which Congress created—at a $25 billion cost—as part of a massive economic stimulus bill legislators passed in February.

The subsidies, through which the federal government pays 65% of eligible beneficiaries' COBRA premiums, are available to employees

READ a Q&A on COBRA issues at *BI*'s Knowledge Center at www.BusinessInsurance.com

who are involuntarily terminated, except in cases of gross misconduct, from Sept. 1, 2008, through Dec. 31, 2009.

Beneficiaries are entitled to the subsidies for up to nine months or until they become eligible for new group coverage or Medicare. In all, lawmakers estimate that about 7 million people and their families will be able to retain health insur-

See **COBRA** page 20

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On the Web

COBRA Q&A

FAQ answers employers' COBRA questions

Business Insurance Editor-at-Large Jerry Geisel answers employers' questions about complying with the new federal law that provides a subsidy of COBRA health insurance premiums to laid-off employees. The online COBRA package includes a newly updated Q&A section, the guidance released by the Internal Revenue Service on March 31 and more. Go to *www.BusinessInsurance.com.*

***BI* VIDEO**

Specialty Risks video features D&O issues

In a new video in *Business Insurance*'s Specialty Risks series, experts talk about the need for D&O coverage and the changing landscape of professional liability insurance in a turbulent economy. Go to *www.BusinessInsurance.com/video.*

AIG IN CRISIS

Current AIG news all in one place

Business Insurance continues its online coverage of insurer American International Group Inc. The package includes latest developments in the news about executive bonuses, AIG's federal bailout, the asset sale and more. Go to *www.BusinessInsurance.com/AIG.*

***BI* DIRECTORIES**

Case management, PBM directories updated

Business Insurance has updated its Directory of Case Management Providers and its Directory of Prescription Benefit Managers for 2009. To purchase these and other directories offered exclusively by BI, go to *www.BusinessInsurance.com/directories.*

Business Insurance

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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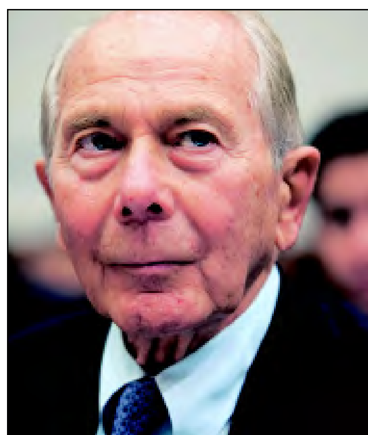
Greenberg calls for revamped bailout for AIG

Rebuilt company could repay loans, former chief says

By JERRY GEISEL



LANDOV/BLOOMBERG

Former AIG Chairman and CEO Maurice R. Greenberg testified last week in Congress about AIG's woes.

WASHINGTON—Maurice R. Greenberg last week described the $180 billion bailout of American International Group Inc. as a failure and said only a new management team and approach can turn AIG around, assertions that AIG rejected.

In his first Capitol Hill appearance since the government bailed out AIG last year, the former chief executive officer said "the combination of short-term-oriented managers and advisers hired merely to sell assets has demonstrably failed."

Mr. Greenberg then offered his recommendations to rebuild what once had been one of the world's most profitable insurance organizations.

"AIG can recover," Mr. Greenberg told the House Oversight and Government Reform Committee. But that recovery, intended to get AIG back on its feet and "become a taxpayer again," is only possible with a new approach and a new management team.

Rather than pursue the liquidation approach in which AIG is trying to sell off corporate units to repay tens of billions of dollars used to bail out the company, Mr. Greenberg suggested AIG should keep all core insurance properties that provide income he said is necessary to repay the government.

Additionally, the government should wall off AIG Financial Products Corp., the unit that provided the credit default swap products that led to AIG's near-collapse, and have a government-controlled entity run off the business, he said.

Mr. Greenberg also said government ownership of AIG—now just less than 80%—should be reduced to 15% and the interest rate AIG pays on the money, which was 14% initially, should be reduced to 5%.

Such steps, he said, would better ensure AIG survives. "The way to do this is to abandon the liquidation approach and focus instead on rebuilding AIG so that it is better positioned to pay back the taxpayer," he said.

Finally, Mr. Greenberg testified, a new AIG board and management team need to be installed.

Mr. Greenberg, who was forced out in 2005 after 38 years at AIG's

See GREENBERG page 20

E.U. insurers welcome Solvency II compromise

Europe set to move on risk-based capital after agreement

By RICHARD MILLER

BRUSSELS, Belgium—Despite disappointment that a provision of Solvency II benefiting Europe's multinational insurers was left out of a draft compromise on the directive, there's widespread relief that the new regulatory regime can now move forward.

Without the compromise, reached in late March between the European Parliament and representatives of European Union member states, Solvency II could have been delayed for years.

"It is very good news that a compromise was found, because the alternative of finding no comprise would have been very a long delay in the implementation of Solvency II," said Ferdia Byrne, a Paris-based principal at Towers Perrin and head of its Solvency II initiative.

"When you're talking about a one- or two-year delay, it can be very hard to revive something and it could even be lost forever, which would be a terrible disappointment after five years of hard (preparatory) work," Mr. Byrne said. "We think the finding of a compromise has been a major step forward."

Board members of the Federation of European Risk Management Assns. in Brussels are generally pleased an agreement was reached on the final text, particularly because it takes into account the specific nature of captive insurers, said Peter den Dekker, corporate insurance risk manager at Stork B.V. in Naarden, the Netherlands, and a director on FERMA's executive board.

However, FERMA has some reservations on the impact of Solvency II on small- to medium-sized insurers, as well as mutual insurance companies, said Mr. den Dekker, speaking Friday ahead of a formal FERMA statement to be released this week.

Solvency II will introduce a risk-based capital regulatory regime for insurers, reinsurers and captive companies with more than €5 million ($6.6 million) in gross premium volume that operate in the European Union.

Last week, a representative of the Czech Republic, which holds the rotating seat of the E.U. presidency, formally confirmed the agreement on the final text in a letter to the European Parliaments Committee on Economic and Monetary Affairs.

The Parliament is scheduled to vote on the final wording at an April 23 plenary session in Strasbourg, France, with E.U. states expected to follow suit in May.

A key sticking point holding up the directive had been over the so-called "group support" provision, which would have allowed capital adequacy requirements of subsidiary insurance firms to be calculated on a cross-group basis and encouraged cooperation between E.U. supervisors.

But regulators in smaller E.U. nations feared group support would reduce local supervisors' control over multinational insurers.

Removing group support language from the directive means large groups that had hoped to exploit the benefits of setting capital levels for an entire group would have to hold more capital in their subsidiaries, said Rob Jones, a London-based managing director at rating agency Standard & Poor's, a division of The McGraw-Hill Companies Inc. in New York.

This may result in large groups restructuring subsidiary companies to make them branches, he said.

See SOLVENCY II page 19

JOHNS MANVILLE CORP.

The U.S. Supreme Court last week heard oral arguments in a case that could lead to more asbestos liability litigation against insurers.

Supreme Court to rule in asbestos trust case

Insurers' exposure to claimant lawsuits at center of dispute

By ZACK PHILLIPS

WASHINGTON—The U.S. Supreme Court heard oral arguments last week in a case that attorneys said could open the door to a fresh round of asbestos liability litigation against insurers, depending on how the court rules.

At issue in *Travelers Indemnity Co. et al. vs. Bailey et al.* is whether bankruptcy courts have the authority as part of a reorganization to bar lawsuits against insurers who underwrote coverage for manufacturers. The case argued last week centers on Denver asbestos manufacturer Johns-Manville Corp. and a trust, funded partly by insurers, to pay victims exposed to its products.

PUNITIVES: The Supreme Court last week decided not to rule in a case centering on a large punitive damages award. PAGE 4

"This was the only argument that day in the Supreme Court and it was a packed courthouse and there were lots of people who didn't get in," said Tancred Schiavoni, a New York-based attorney at O'Melveny & Myers L.L.C. who attended the hearing. Mr. Schiavoni earlier represented CIGNA Corp., another insurer sued in the case. That suit was dismissed.

"It is probably one of the most closely watched insurance cases…this year," Mr. Schiavoni said.

The trust was part of a novel arrangement approved in 1986 to deal with the potentially unwieldy size and complexity of litigation stemming from asbestos in Manville's products, which filed for reorganization in 1982.

Travelers, Manville's primary insurer until 1976, and other insurers agreed to contribute to the trust in exchange for protection against future claims "that were based upon, arose out of, or related to Manville's liability insurance policies," court documents say. The deal gave insurers resolution in a potentially long-tail liability case, because asbestos-related ailments may take years to manifest, and provided quicker payments to claimants affected by asbestos exposure.

See ASBESTOS page 20

Bermuda rivals battle over catastrophe reinsurer

Validus bid for IPC could derail merger with Max Capital

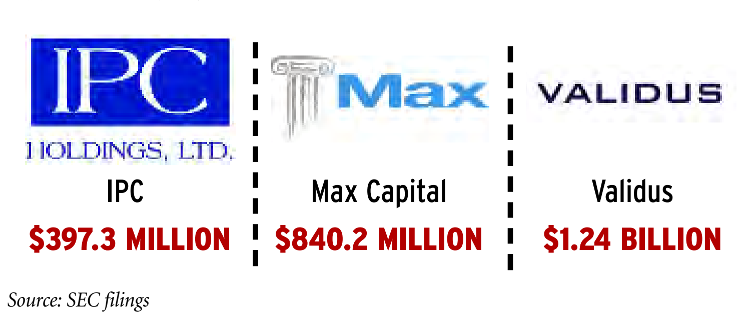
By COLLEEN McCARTHY

HAMILTON, Bermuda—A new suitor for Bermuda-based reinsurer IPC Holdings Ltd. emerged last week when Validus Holdings Ltd. made an unsolicited offer to buy IPC for $1.68 billion in stock, potentially thwarting the planned merger between IPC and Max Capital Group Ltd.

Under the terms of the offer, which Validus called a "superior proposal" to the Max Capital deal, Validus would pay 1.2037 of its shares for each IPC common share. The offer values IPC shares at $29.98 a share, based on last Monday's closing price, representing an 18% premium over the stock's closing price on the day the offer was made, Bermuda-based Validus said.

Validus, through its subsidiary Validus Reinsurance Ltd., writes short-tail lines of reinsurance, including property catastrophe, marine and energy, and other specialty lines. IPC operates through its subsidiary IPC Re as a property catastrophe reinsurer. The combined entity would be a "market-leading carrier" in Bermuda's short-tail reinsurance and insurance market, Edward Noonan, Validus chairman and chief executive officer, said in the offer letter.

Validus also said the resulting company would have a significantly larger capital position, with a post-deal market cap of roughly $3.6 billion, compared with $2.3 billion for the IPC-Max Capital combination.



IPC	Max Capital	Validus
$397.3 MILLION	$840.2 MILLION	$1.24 BILLION

Source: SEC filings

In a statement, Pembroke-based IPC said it will review the terms of Validus' proposal but noted it continued to be bound by the terms of its agreement with Max.

Last month, IPC and Max Capital, a Hamilton-based specialty insurer and reinsurer, said they had reached a definitive merger deal in which IPC would acquire Max Capital for about $912 million in stock. The deal valued IPC shares at 1.5554 Max shares, or $26.38 a share, based on last Monday's closing price, analysts say. When the deal was announced, IPC said it had been seeking a partner to diversify its monoline business model.

IPC is a well-capitalized firm with an attractive book of business "that is becoming even more appealing as reinsurance rates are expected to rise," said Mark Murray, an analyst at A.M. Best Co. Inc. in Oldwick, N.J.

Max Capital said in a statement it still expects its proposed deal with IPC to close in the coming months.

Max Capital Chairman and CEO W. Marston Becker said that "the transaction that IPC's board agreed to is clearly a superior deal….I really think the IPC board went through an exhaustive process with some

See **IPC** page 6

AP PHOTOS

Mayola Williams, shown in 2006 leaving the Supreme Court in Washington, was awarded $79.5 million in punitive damages from Philip Morris USA following the death of her husband, a longtime smoker.

High Court lets stand $79M punitives award

Unusual move allows big penalty despite earlier case

By MARK A. HOFMANN

WASHINGTON—The effect of the Supreme Court's decision not to rule in a high-profile punitive damages case on which the justices already heard oral arguments remains unclear, some tort reform advocates say.

Last week's unusual action in *Philip Morris USA vs. Mayola Williams* leaves unanswered whether state courts have to follow the Supreme Court's guidelines on how disproportionate a punitive damage award must be to the underlying compensatory damages as to violate the Constitution. The case, in its third appearance before the Supreme Court, involves an Oregon court's order that Philip Morris pay $79.5 million in punitive damages to the widow of a longtime smoker. The punitive award came atop compensatory damages of less than $522,000.

Philip Morris appealed and the U.S. Supreme Court ruled in 2003 that the Oregon Supreme Court should review the punitive award under standards it set earlier in the year in *State Farm Mutual Automobile Insurance Co. vs. Curtis Campbell*, in which it said punitive damages that exceed single-digit multiples of compensatory damages are generally unacceptable. The Oregon high court upheld the punitive award, leading to another appeal and another U.S. Supreme Court directive in 2007 to review the award.

See **PUNITIVES** page 20

Errors and Omissions

- A chart associated with a March 30 story, "Project Seeks Better Data on Earthquake Risks Worldwide," misstated several figures related to earthquake losses. The figures should have been reported in billions of dollars except for the insured loss for the Izmit, Turkey, quake, which should have been in millions.

U.K. regulator OKs disclosure guide

Industry document details ways for brokers to avoid conflicts of interest

By RICHARD MILLER

LONDON—The U.K. financial services regulator has formally endorsed insurance industry-developed guidance to address conflicts of interest, transparency and disclosure in the commercial insurance market.

The endorsement, announced last week in a Financial Services Authority newsletter, means the FSA now will take into account the guidance in regulating insurance brokers. The FSA said last December that it would not mandate the disclosure of commission in the commercial insurance sector but instead would welcome an industry solution to addressing concerns about disclosure and conflicts of interest.

The guidance, developed by British Insurance Brokers Assn. and the London & International Insurance Brokers' Assn., instructs brokers on how to prevent and manage conflicts of interest stemming from their compensation or business models. For instance, it says an insurance intermediary can manage such conflicts either through disclosure or by ending problematic business relationships.

The guidance also suggests brokerage firms establish their own internal policies for managing conflicts of interest. "Insurance intermediaries need to be able to demonstrate that they have in place rigorous internal controls for identifying and managing potential conflicts of interest and a mechanism for preventing them adversely affecting the firm's commercial customers," the guidance states.

Brokers also must have policies, written procedures and systems in place to be able to disclose compensation information on request from clients, the guidance states. It recommends that brokers regularly inform insurance buyers about remuneration, reminding customers that they are entitled to request information regarding any commissions, including contingents.

In its newsletter, FSA said that in the coming years it will assess whether brokerages have "succeeded in achieving the customer outcomes" as set forth in the guidance. "Until then, we will be regularly monitoring progress," the FSA said.

The London-based Assn. of Insurance & Risk Managers called the broker guidance a "step forward" and said it intends to produce guidance for its members on how to request full disclosure.

Jury finds for Aon in Unicover trial

Rejects claim brokerage breached its duties to ReliaStar over comp pool

By JEFF CASALE

NEW BRUNSWICK, N.J.—After seven weeks of litigation, a trial stemming from the collapse of reinsurance pool Unicover Managers Inc. concluded when a jury decided unanimously that Aon Corp. was not at fault in Unicover's disintegration and met all obligations to its client.

The jury verdict, reached late last month in the Superior Court of New Jersey in the case of *ReliaStar Life Insurance Co. vs. Aon Reinsurance Inc. and Roger Smith*, ended a major workers compensation reinsurance issue that began in 1999 when Lisle, Ill.-based Unicover folded. Its demise caused billions of dollars in losses across the workers comp industry and sparked several suits.

Established in 1994, Unicover operated three insurance facilities through which life insurers assumed low-layer carve-out risks, comprising the accident and health portion of workers comp policies.

Minneapolis-based ReliaStar Life Insurance Co. sued Aon Re and one of its brokers, Roger Smith, in 2003. ReliaStar argued that Aon Re and Mr. Smith, who arranged and managed reinsurance for ReliaStar, forced the life insurer to write business it did not agree to accept, and that Aon breached its fiduciary duties by failing to advise ReliaStar of the risks related to Unicover, court documents show. ReliaStar said it lost more than $30 million as a result of its exposure in the pool.

ReliaStar argued that Mr. Smith and Aon Re did not advise it of the possibility that reinsurers were unhappy with the amount and quality of business ceded in the pool. ReliaStar also asserted that the defendants "were required to look out for ReliaStar's interests and keep it informed about matters related to insurance coverage." It contended Mr. Smith and Aon Re encouraged the life insurer to write more business, thus "increasing the risks to ReliaStar...and failed to warn ReliaStar about the dangers."

Mr. Smith and Aon Re denied ReliaStar's assertions.

A spokesman for Chicago-based Aon said the brokerage "was happy to put the matter behind them."

Calls to ReliaStar's parent company, ING Financial Services Group, and attorneys were not returned.

Shand S. Stephens, the New York-based attorney with DLA Piper U.S. L.L.P. who represented Mr. Smith and Aon Re, said there is "little doubt" ReliaStar will appeal.

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IPC: Bermuda rivals in takeover battle

CONTINUED FROM PAGE 4

defined goals for what they wanted to achieve, and the main goal they wanted to achieve was true diversification, and Validus represents more of the same. It's just another property cat company, and if they wanted to do more property cat, they could do that as a standalone. They don't need anybody else."

Furthermore, he said, IPC would be brought into "a culture that they not only feel comfortable with" but one in which IPC executives will have a continuing role. Mr. Becker said in a IPC-Max Capital deal, each company would account for half of the directors, while Validus is not offering IPC any board memberships. Its proposal is "not a merger of equals," Mr. Becker said.

Analysts say while the Validus offer is a better deal for shareholders, the IPC-Max Capital combination may be better suited strategically and provide more diversity by lines of business.

"We expect IPC shareholders to continue to prefer the Max Capital Group combination, as the modest price premium in the Validus deal is offset by the more diversified pro-forma company Max Capital Group-IPC would create," Dean Evans and Frank Lee, analysts with Keefe, Bruyette & Woods Inc., said in a research note.

"From the surface, it appears there would be correlation with Validus," said Mr. Murray. However, he said it is possible to achieve diversity with a property book of business, either by geography or peril.

Validus requested that IPC respond to the binding offer by April 15.

On Friday, shares of Max Capital Group Ltd. closed at $17.48, Shares of Validus Holdings closed at $23.36; shares of IPC closed at $26.67 on the NASDAQ.

Judy Greenwald contributed to this report.

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Commentary

Wherever you read it, standards still count

JOANNE **WOJCIK**

Senior Editor Joanne Wojcik can be reached at: jwojcik@businessinsurance.com

Denver became a one-newspaper town in February when E.W. Scripps Co. shut down the Rocky Mountain News after failing to find a buyer for the venerable 150-year-old newspaper. A New Mexico town suffered the same fate a week earlier when Scripps sent employees of the Albuquerque Tribune packing.

In mid-March, I read Hearst Corp. ceased publication of the Seattle Post-Intelligencer and shifted its operation to the Web, with only a skeleton staff. Hearst also said it may shutter the San Francisco Chronicle if it can't cut its overhead enough to put the paper, founded in 1865, back in the black.

Trade magazines also are finding it tough to operate in today's Internet world.

As more of these reliable sources of news and information disappear, it worries me what will become of journalism in America. Will the void be filled by bloggers who are not trained journalists? If so, will the amateur bloggers take the time to vet the information they put on their sites to ensure that it is accurate and objective? Will they try to obtain a counter viewpoint to provide balanced reporting? Or will their sponsors' opinions be the only ones presented?

While many reputable news outlets have blogs written by their reporters and editors, some blogs act like wire services, aggregating content from various newspapers and journals, and many are nothing more than rantings.

Anyone who can write can start a blog. But knowing how to write is not even half of it. There are no guarantees that amateur news bloggers will follow the journalist's code of ethics—to seek the truth, to minimize harm, to maintain objectivity and to be accountable for what he or she reports.

To be fair, many bloggers serve a purpose. In fact, I occasionally use blogs to get news tips, find sources and generate ideas for feature stories. But they are only the starting point for my reporting. It is my mission as a professional journalist to dig through the propaganda to uncover the truth, and if the truth hurts someone or some company, to give the person or company equal time.

One blog I occasionally read shows how biased this medium can be. It touts itself as "the voice of the health care consumer," but it is hosted by an organization that promotes consumer-driven health care and is backed by the Chicago-based Heartland Institute, which describes itself as a libertarian think tank.

In a recent edition, while criticizing the Obama administration's attempts at national health reform, the blog author asserted that Massachusetts' reforms, which some have suggested may serve as a model for national health reform, are a failure because they don't follow the tenets of consumer-driven health. The blog doesn't acknowledge that Massachusetts' reforms have reduced the state's uninsured rate to just 2.7%.

Now that I have lambasted bloggers, I feel somewhat hypocritical. As I was writing this column for *Business Insurance*, I learned that I soon will compile a blog for *BI's* Web site about employee benefits. Talk about irony!

It behooves me to follow the same strict standards I apply to my other reporting.

But because I am a professional journalist, it behooves me to follow the same strict standards I apply to my other reporting.

My editors say I can use this new online vehicle as an opportunity to report short news items that might not merit a print story but still are of interest to our readers. This blog also will provide an opportunity for readers to share comments, in an open and public forum. It will create a home for those interviews that are too long for the print publication. I find that particularly appealing because I really appreciate the time people spend with me when I'm doing reporting for a story and would very much like all of their voices to be heard.

Maybe blogging isn't all bad, if it's done right. Maybe if more journalists enter the blogosphere, readers will see the propaganda peddlers for what they really are. And then maybe the radicals promoting their personal agendas online will fade away like newspapers are doing today.

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Business Insurance OPINIONS

Benefits post requires balanced approach

IN ANALYZING President Obama's nomination of Phyllis Borzi as the Labor Department's top employee benefits regulator, we're reminded of legendary Washington Post editorial cartoonist Herblock.

For years, Herblock, who disliked Richard Nixon intensely, gave him a deep five o'clock shadow, giving him a decidedly sinister appearance.

But after Mr. Nixon was elected president in 1968, Herblock drew a cartoon showing a barber shop and a sign that said: "This Shop Gives to Every New President of the United States a Free Shave."

We are willing to have an open mind about Ms. Borzi, despite her past positions.

In that same vein, we are willing to have an open mind about Ms. Borzi, despite her past pro-organized labor positions. One example was her legal defense of a Maryland law requiring large employers to spend a specific percentage of total payroll costs for employee health care or pay the difference to a state fund providing coverage to low-income uninsured.

The law—later overturned—was written in such a way as to apply only to Wal-Mart Stores Inc., which has a nonunion workforce. The law was backed by the AFL-CIO.

We hope that if approved as an assistant secretary at the Labor Department's Employee Benefits Security Administration, Ms. Borzi recognizes her positions cannot be for the benefit of one interest group. The views and interests of employers also must be considered.

Even her critics would not deny that Ms. Borzi, who served as a congressional pension and benefits committee staffer for many years, has a rich knowledge of employee benefit issues.

Now, her task will be to deploy that knowledge and insight in a fair and balanced way. We will be watching.

Insurance reform bill tackles systemic risk

MOMENTUM CONTINUES TO BUILD for some form of federal insurance regulation, and that indeed is a good thing.

As we report on page 1, Reps. Melissa Bean, D-Ill., and Ed Royce, R-Calif., have introduced a new—and, we believe, improved—version of the insurance regulatory reform bill they introduced in the last Congress. That bill would have allowed insurers and producers to choose whether they would be regulated by state or federal authorities.

We say the National Insurance Consumer Protection Act is an improvement because it takes into account part of the reason for the economic turmoil of the past few months by removing the element of choice for insurers deemed to be systemically important. Those insurers would be federally regulated, period.

And that's the way it should be. Everyone knows what happened to American International Group Inc. when regulatory oversight failed and, what Federal Chairman Ben Bernanke so memorably described as a hedge fund atop of an insurer, nearly destroyed the underlying insurance company. Such a situation can never be allowed to arise again.

By placing some—and odds are not very many—insurance companies under a federal regulator who would coordinate with a separate systemic risk regulator, the chances of another AIG-type near-collapse should be greatly diminished. That's a goal everyone should support, and we believe a well-crafted federal regulatory structure is the best way to achieve that.

WRITE

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THIS WEEK'S RESULTS

Q If you worked at a company that received TARP funds, would you return your bonus?

I would give it all back. 24%

I would give some back 9%

I would keep it 67%

NEXT WEEK'S QUESTION

Q: What impact has the financial crisis had on the status of risk management?

LETTERS

AIG can't be blamed for all our woes

TO THE EDITOR: It is truly remarkable how rather suddenly the financial crisis has been painted as the fault of AIG (New York A.G. Sets Sights on AIG, March 30, 2009). This is a misleading diversionary tactic that benefits incompetent politicians who have committed political malpractice. The true cause of the financial crisis is the attempt to eliminate social injustice through government intervention. Our Constitution guarantees equal opportunity, not equality. The goal is to "promote" the general welfare, not "provide" it. It was the goal of the politicians, however, to eliminate inequality and, in their zeal to do so, they enabled people to buy homes they couldn't afford and weren't qualified to own—not AIG. The subprime mortgages became the oily rags in the basement eventually catching fire and burning down the house. And from where I'm sitting, the replacement house will look nothing like the first.

Renny W. Hodgskin
Senior Vp
Cambridge Integrated Services Group Inc.
Cranbury, N.J.

PERSPECTIVES

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BENEFITS MANAGEMENT

HEALTH CARE COST CONTROL

Rankings of largest case management providers, largest prescription benefit managers / Page 10

Employers' options expand as more providers seek to offer worksite clinics / Page 13

Benefits managers look for strategies to reduce cost of providing specialty drugs / Page 16

Firms seek to control costs with active prenatal care

Efforts focus on reducing premature births

By KAREN PALLARITO

Premature births have become a significant driver of employers' maternity-related costs, particularly for companies where the workforce consists largely of women of childbearing age, experts say.

Employers that don't educate women about having a healthy pregnancy and actively manage their care are missing an opportunity to improve the health of mothers and infants and slash costs, they say.

"It's a huge issue and premature births can certainly be in the high-cost claimant arena," said Patricia Friedman, a senior consultant with Watson Wyatt Worldwide in New York. "It's not unusual for a preemie to cost upwards of $200,000 to $250,000."

Babies born before 37 weeks of gestation are considered premature and may require neonatal intensive care until they can thrive on their own.

Employers spend an average of nearly $50,000 on medical costs for a premature and low-birthweight baby in the first year of life—11 times the cost of a healthy full-term baby, according to a March of Dimes study.

The combined cost for moms and premature or low-birthweight infants, including nine months of prenatal care, delivery, medical care through the infant's first year and three months of postpartum care, is $64,713 vs. $15,047 for an uncomplicated birth, concluded the study released in March (see chart, page 14).

Unfortunately, there's no quick fix, said Dr. Marjorie Schulman, senior medical director for Aetna Inc. in New York. There is one exception, she said: Emerging data suggest giving synthetic progesterone to women who had a premature birth may help prevent a repeat in subsequent pregnancies.

'We do know that there are ways to make pregnant women healthier so that their pregnancies are healthier and they engender less cost.'

Dr. Marjorie Schulman, Aetna Inc.

"On the other hand, we do know that there are ways to make pregnant women healthier so that their pregnancies are healthier and they engender less cost," Dr. Schulman said.

"That's the essence of the maternity management programs that are out there on the market," she said.

Nationwide Better Health Inc., a unit of Nationwide Mutual Insurance Co., has found enrollment time affects results.

"So if the mom enrolled in the first trimester and the baby, unfortunately, did end up in the (neonatal intensive care unit), the baby's going to have a much shorter stay in the NICU than if she enrolled in the second or third trimester or if she didn't enroll at all," said Chris Wilhide, director of clinical program development and research in Hunt Valley, Md.

Based on 2007 Nationwide client data, the maternity program, FutureFootsteps, avoided $8.8 million in neonatal ICU charges.

The March of Dimes urges employers to motivate employees "to start thinking about healthy behaviors even prior to pregnancy," said Steve Abelman, director of worksite wellness programs at the White Plains, N.Y.-based nonprofit. It offers a free, online Healthy Babies, Healthy Business program at *www.marchofdimes.com/hbhb* that teaches women what they need to do before and during their pregnancy to have a healthy baby.

The advice echoes the Centers for

See MATERNITY page 14

Interest in workplace clinics cools as recession puts cap on spending

But many existing operations expand health care offerings

By JOANNE WOJCIK

The proliferation of onsite medical clinics may have stalled during 2008 due to the economic downturn, but it is revving up again as employers realize their cost-savings potential, benefit consultants say.

While interest has been high for the past several years, last year many employers put plans to build new clinics on hold, usually after experiencing "sticker shock" in response to the costs outlined in providers' requests for proposals, consultants say.

However, many employers with clinics in place are going full steam ahead with plans to expand their scope of services offered to include wellness, health promotion and primary care, especially in cases where the facility's main focus had been on providing occupational medicine, consultants note.

"There was a noticeable decline—not a very large one—in the fourth quarter of 2008 between October and December. We saw fewer requests coming in from clients considering clinics, asking us to do feasibility studies," said Bruce Hochstadt, a principal at Mercer L.L.C. in Chicago who oversees the consultant's annual Survey on Worksite Medical Clinics. "But things began to recover in January. I'd say it's getting close to where it was last summer."

"We're still getting interest, but when they see what it's going to cost to get it up and running, that it won't yield a positive return on investment until one or two years later, and that the overall ROI will only be 2-to-1 or 2.5-to-1, they back off," said Jeffrey Dobro, a principal at Towers Perrin in Parsippany, N.J. "They say they think it's a great idea and that one day when business picks back up, they'll reconsider it."

While acknowledging clinic growth "hit a little bump in the road driven by the financial crisis," Paul Crowley, a senior consultant in Hewitt Associates Inc.'s health management group based in Boston, said he still is seeing activity among employers with existing clinics seeking to expand into primary care, wellness, health coaching or pharmacy services.

"It takes a lot of capital funding to build these clinics," he said, but costs are much less to expand services and hours of operation.

Kingsport, Tenn.-based Ordnance Systems, a subsidiary of BAE Systems Inc., is preparing to add primary care services to its seven-year-old worksite clinic, which had been providing mostly occupational medical care and wellness- and health-coaching services, said Michael Puck, director of human resources.

LISTEN to a podcast and read a Q&A with Michael Puck of Ordnance Systems on how a focus on health risks can reduce health care costs. www.BusinessInsurance.com

"The plan is to route 50% of the primary care office visits that are going outside the company into the health care system onsite and therefore generate significant cost savings," Mr. Puck said.

The clinic, which serves approximately 500 employees, is staffed with a full-time occupational medical nurse, a part-time dietician and part-time medical director, all of whom are under contract from Mountain States Health Alliance, he said.

Most early worksite clinics, like that at Ordnance Systems, focused primarily on providing occupational medical care, but as the workplace became safer and nonoccupational health care costs grew, an increasing number of employers have expanded their clinics' services to also include primary care, wellness and disease management, benefits experts said.

In many cases, the scope of clinic services is influenced by whatever is lacking in the community, said Hal Rosenbluth, president of Walgreen Co.'s health and wellness division in Conshohocken, Pa., which operates Take Care Health Systems Inc., a leading provider of worksite and retail clinics.

"We have health centers that have primary care, chronic care, optometry, pharmacy, dentistry, radiology," he said. One clinic at a

See WORKSITE page 12

Largest case management providers

Ranked by 2008 gross revenues from case management services

Rank	Company/Address	Phone/Web site	Case management revenues	Total employees assigned to case management	Total cases managed	Principal officer
1	**Intracorp** 2 Liberty Place, 1601 Chestnut St., Philadelphia, Pa. 19192	800-345-1075 *www.intracorp.com*	$319,884,082	2,275	1,472,777	Mark Farrell, president
2	**Coventry Workers' Comp Services** 720 Cool Springs Blvd., Suite 300, Franklin, Tenn. 37067	858-547-2528 *www.coventrywcs.com*	$190,000,000	1,900	360,000	Derrick Amato, COO-clinical services
3	**GENEX Services Inc.** 440 E. Swedesford Road, Suite 1000, Wayne, Pa. 19087	610-964-5100 *www.genexservices.com*	$176,000,000	1,218	173,200	Peter C. Madeja, president/CEO
4	**Broadspire Services Inc., a Crawford Co.** 1001 Summit Blvd., Atlanta, Ga. 30319	800-726-8898 *www.choosebroadspire.com*	$102,245,520	675	74,960	Ken Martino, president/CEO
5	**CorVel Corp.** 2010 Main St., Suite 600, Irvine, Calif. 92614	949-851-1473 *www.corvel.com*	$101,000,000	1,500	80,000	Daniel Starck, CEO
6	**Paradigm Management Services L.L.C.** 1001 Galaxy Way, Suite 300, Concord, Calif. 94520	800-676-6777 *www.paradigmcorp.com*	$100,000,000	60	750	Kevin Fleming, CEO
7	**UMR** [1] 11 Scott St., Suite 100, Wausau, Wis. 54403	866-881-0800 *www.umr.com*	$37,500,000 [2]	91	16,906	Jay Anliker, CEO
8	**MedInsights Inc.** 206 Gothic Court, Suite 308, Franklin, Tenn. 37067	615-778-5000 *www.medinsights.com*	$23,000,000	88	15,034	Paula Woolworth, executive vp
9	**American Health Holding Inc.** 100 W. Old Wilson Bridge Road, Worthington, Ohio 43085	866-614-4244 *www.americanhealthholding.com*	$19,062,991	103	16,600	Dianne Oldach, senior vp-operations
10	**FARA Health Management** 1625 W. Causeway Approach, Mandeville, La. 70471	800-259-8388 *www.fara.com*	$6,700,000	56	21,500	M. Todd Richard, president/CEO

1 Formerly Avidyn Health. 2 BI Estimate
Source: BI survey

Largest prescription benefit managers

Ranked by 2008 revenues from unbundled PBM services

Rank	Company/Address	Phone/Web site	PBM revenues	Total staff	Total clients	Principal officer
1	**Medco Health Solutions Inc.** 100 Parsons Pond Drive, Franklin Lakes, N.J. 07417	201-269-3400 *www.medcohealth.com*	$51,258,000,000	22,000	N/A	David B. Snow Jr., chairman/CEO
2	**CVS Caremark Corp.** 1 CVS Drive, Woonsocket, R.I. 02895	401-770-3317 *www.cvscaremark.com*	$43,769,200,000	N/A	N/A	Howard McLure, president
3	**Express Scripts Inc.** 1 Express Way, St. Louis, Mo. 63121	800-332-5455 *www.express-scripts.com*	$21,978,000,000	10,820	2,117	George Paz, chairman/president/CEO
4	**Prescription Solutions Inc.** 2300 Main St., Irvine, Calif. 92614	877-309-5345 *www.prescriptionsolutions.com*	$12,400,000,000	3,900	747	Jacqueline Kosecoff, CEO
5	**Catalyst Rx** 800 King Farm Blvd., Rockville, Md. 20850	301-548-2900 *www.catalystrx.com*	$2,543,379,000	801	698	David T. Blair, CEO
6	**RESTAT L.L.C.** 724 Elm St., West Bend, Wis. 53095	800-926-5858 *www.restat.com*	$1,242,426,071	127	4,200	David R. Kwasny, president
7	**National Pharmaceutical Services** 13660 California St., Suite 300, Omaha, Neb. 68154	402-964-9030 *www.pti-nps.com*	$825,000,000	125	3,500	Douglas M. Pick, president/CEO
8	**First Script Network Services** 155 N. Rosemont Blvd., Suite 201, Tucson, Ariz. 85711	520-202-1290 *www.coventrywcs.com*	$230,000,000	N/A	N/A	Christopher Watson, COO
9	**HealthTrans** 8300 E. Maplewood Ave., Suite 100, Greenwood Village, Colo. 80111	800-950-9120 *www.healthtrans.com*	$199,064,747	250	175	Jack McClurg, CEO
10	**Progressive Medical Inc.** 250 Progressive Way, Westerville, Ohio 43082	800-777-3574 *www.progressive-medical.com*	$194,493,676	450	255	Kevin Banion, president

N/A=Not available
Source: BI survey
Charts researched by Kevin Edison and Karen Tucker

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Worksites: Recession puts cap on clinics

CONTINUED FROM PAGE 9

Toyota plant in the Midwest "has all of the above, but more dentistry services are available there" due to a shortage of such services in the community, he added. Take Care's onsite clinic at an investment banking firm on Wall Street provides infusion therapy services, he noted (see story, page 13).

The primary reason employers have maintained interest in onsite clinics is their health care cost savings potential, benefit consultants and clinic experts say.

Clinic vendors usually are compensated on a "cost plus" basis, which means the employer picks up the total cost of building the clinic, equipment and supplies, as well as staffing, in addition to paying a management fee that ranges from 15% to 30% of staffing costs. The vendors supply the providers, either hiring them directly or under an independent contractor agreement, and pick up the tab for their medical malpractice insurance.

Even with this overhead, which can be as little as $50,000 for a small, part-time clinic, to several million dollars for a clinic that operates around the clock providing primary and specialty care, returns on investment range from $2 to $4 for every dollar invested, benefit consultants and clinic vendors say.

The savings come from having greater control over the care that is delivered.

"This is a gatekeeper model," providing "an integrated platform to manage both group health and workers comp," said Brian Klepper, managing principal of Healthcare Performance Inc., a consultant in Atlantic Beach, Fla., that helps smaller and midsize employers across the country establish worksite clinics. As a result, there are usually fewer specialist referrals, which are not only more expensive but often lead to duplicate lab and radiology tests, he said.

Worksite clinics also "fully empower the primary care physician to aggressively manage patients with chronic conditions, which represents 70% of the money" employers spend on health care, Mr. Klepper said.

In addition to medical care, some clinics offer e-prescribing via their Internet platforms, connecting the patient directly with an onsite pharmacy if it is available, a local pharmacy that is part of a discounted pharmacy network or a mail-order program. Because of its affiliation with Walgreens, Take Care offers its clinic clients access to discounted prescription drugs.

Worksite clinics are especially helpful in supporting wellness and disease management programs, according to Mike Thompson, a principal at PricewaterhouseCoopers L.L.P. in New York.

"The focus on the health center today is to attack the chronic disease states, prevent patients who are predisposed and, at the same time, better manage those that have chronic disease. When you're not on site, the only other way to get to that patient is over the telephone or Internet," said Stuart Clark, executive vp at Comprehensive Health Services, which recently opened a clinic at the Lincolnshire, Ill., headquarters of Hewitt Associates Inc.

Todd Sondergeld, Hewitt's director of clinic operations, said the Choose Health Wellness Center is part of the benefit consultant's overall wellness strategy, which includes providing employees with tools to keep them healthy, condition management for those who already have chronic diseases, and enhancing productivity by making medical services available in close proximity to the workplace.

The clinic, which also features an onsite pharmacy staffed by licensed pharmacists from CVS Caremark, also will serve "as a showcase for Hewitt to show other employers that it can be done," Mr. Sondergeld said.

"Ideally, if the on-site physician or clinician is able to gain the trust of employees…they probably have a better opportunity to influence health behaviors, whether it's weight management or adherence to medication, and then to monitor the ongoing health metrics that employers can be more assured that they're doing the right thing," Mr. Thompson said. "There's something about face-to-face interaction that makes a difference."

HEWITT

Al Green, the site pharmacy coordinator from CVS, at the worksite pharmacy at Hewitt Associates Inc.'s headquarters in Lincolnshire, Ill.

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Options expand as more providers offer onsite clinic services

By JOANNE WOJCIK

Employers looking to open worksite clinics have more provider options as new companies enter the market and occupational medicine clinic operators expand their services to primary care, wellness and disease management.

Retail clinic operator, Take Care Employer Health Solutions, a unit of Deerfield, Ill.-based Walgreen Co., became the largest U.S. worksite clinic operator with last year's acquisition of CHD Meridian Healthcare Inc. and Whole Health Management Inc. Take Care Employer Health Solutions operates nearly 370 workplace health centers and pharmacies for 183 employers in 44 states, the District of Columbia and Guam.

CIGNA Corp. last year began establishing clinics at the worksites of some of its self-insured employer clients.

Because the insurer has owned a medical group in Phoenix for nearly 35 years, "it was a logical extension of that business model," said Dr. Kurt Weimer, president of CIGNA Medical Group and head of the clinic initiative. Because "onsite clinics often have a hard time integrating with the health plan, we've got the health plan connection accomplished since we're owned by CIGNA," he said.

> **'We've seen a shift in the size of the company....We have a client with 150 employees that's opening a clinic.'**
>
> Bruce Hochstadt, Mercer L.L.C.

CIGNA so far has three operational clinics and three more under construction.

Addison, Texas-based Concentra Inc., a provider of occupational medical services via onsite clinics, last month introduced TotalCare, which blends primary, preventive, occupational and environmental health and safety services into a single offering.

"We provide a full spectrum of care ranging from health improvement to primary care treatment, whether it be urgent care or convenient care," said Dr. Amy Chan, medical director for TotalCare in Reno, Nev.

Concentra has clinics in more than 260 locations.

"Many of the vendors that started out as occupational health vendors have moved into the nonoccupational health space," said Marne Bell, a senior consultant at Watson Wyatt Worldwide in Atlanta. "What they've done is they've basically developed models around how they can respond to employers' needs."

When Walgreens launched its Complete Care and Well-Being program earlier this year, it was designed to reduce costs for large, national employers through a combination of worksite clinics, retail clinics and pharmacies with discounted drug pricing. The company also is developing an electronic health record to enable employees to use Take Care's retail clinics on evenings and weekends when their company's onsite clinic is closed.

Retail clinic operator Minute-Clinic, a unit of Woonsocket, R.I.-based CVS Caremark Corp., has yet to fully exploit the onsite clinic market. Instead, it is concentrating on providing pharmacy services through other clinic operators, said Chip Phillips, Minute-Clinic's president.

For example, it joined occupational health care operator Comprehensive Health Services Inc. to open a clinic at the Lincolnshire, Ill., headquarters of consultant Hewitt Associates Inc. that incorporates onsite and mail-order pharmacy services from another CVS subsidiary.

Founded in 1975, Reston, Va.-based Comprehensive Health Services operates 90 clinics for Fortune 1000 companies.

In the past five years, several smaller clinic operators have sprouted in response to demand for clinics among smaller and midsize companies.

These include:

- Nashville, Tenn.-based Care-Here L.L.C., which provides clinic services for employers with as few as 200 employees in a single location. It operates 83 clinics at 50 employers in 15 states.
- Burlington, Vt.-based Marathon Health Inc., which provides clinic services to employers ranging from 400 to 10,000 employees. It has 11 employer clients.
- Lake Mary, Fla.-based WeCare TLC L.L.C., which caters to employers with 250 to 600 employees. It has 12 clinics in operation.

"We've seen a shift in the size of the company that's opening clinics," said Bruce Hochstadt, a principal in Chicago for consultant Mercer L.L.C. "As a rule of thumb two, three years ago, the number that was batted around in the industry was about 1,500 employees on a given site."

Today, however, "in our practice we use 750 as a rule of thumb. We're moving forward on vendor selection with an employer with slightly under that, 700 employees, and we have a client with 150 employees that's opening a clinic," Mr. Hochstadt said.

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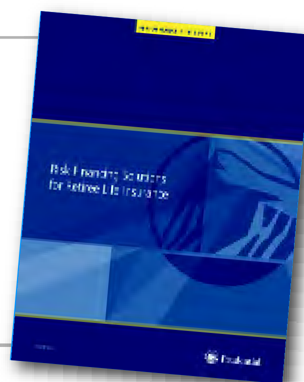

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TOTAL NEWBORN AND MATERNITY COSTS

Data is for infants born in 2005; costs are adjusted to reflect 2007 dollars.

Newborn diagnosis	Total cost	Inpatient	Outpatient	Prescription
All births	$21,328	$15,385	$5,205	$739
Uncomplicated	$15,047	$10,109	$4,342	$596
Premature/ low-birthweight	$64,713	$52,781	$10,132	$1,801
Other complications	$22,183	$15,757	$5,691	$736

Source: Thompson Reuters; prepared for the March of Dimes

Maternity: Active prenatal care helps control costs

CONTINUED FROM PAGE 9

Disease Control and Prevention's 2006 "preconception care" recommendations.

Some employers stress the importance of such care as part of their wellness initiatives, said Helen Darling, president of the National Business Group on Health in Washington. "But it's hard to start a conversation and say, 'Oh, by the way, whenever you think about getting pregnant,' " she said.

Still, it's "not something a lot of employers are really focusing on," Watson Wyatt's Ms. Friedman said. She suspects many employers don't want to get involved in people's personal lives or promote pregnancy.

Aetna recently piloted a program with six national employers in which female employees of childbearing age were offered a coupon for $1 off a bottle of folic acid, a supplement that has been shown to reduce the incidence of neural tube defects, such as spina bifida. Dr. Schulman said she hopes the program will be a model for preconception education.

Paychex Inc., a Rochester, N.Y.-based provider of payroll processing services, found that Aetna's coupon program dovetailed nicely with its efforts, said Jacob Flaitz, benefits director for the 12,600-employee company. With a predominantly young, female workforce, Paychex's maternity costs typically account for 25% to 30% of its overall health care spending, he said. So it offers maternity management services through its two third-party administrators, and participants can earn points toward cash rewards in a separate program launched last year to encourage healthy behaviors.

> 'It's hard to start a conversation and say, "Oh, by the way, whenever you think about getting pregnant." '
>
> Helen Darling,
> National Business Group on Health

In 2008, 60% of pregnant employees participated in maternity management, a 33% increase from the prior year that Mr. Flaitz attributes to new financial incentives and an increase in pregnancies. A recent CDC report said total U.S. births topped 4.3 million in 2007, a record.

Paychex has experienced a reduction in premature births in recent years, partly because of the maternity management programs, Mr. Flaitz said.

While the number of preterm births fell slightly in 2007, the latest data available, the 12.7% preterm birth rate still produces more than 540,000 preterm births nationwide a year, according to the March of Dimes.

Dr. Schulman also stressed the importance of teaching women the signs and symptoms of premature labor and directing them to in-network hospitals. If a woman goes into early labor and an ambulance takes her to the nearest hospital, it might be outside the provider network. "Then, all bets are off about how much the cost of the neonatal ICU care might be because it's stratospherically expensive when it's out-of-network," she said.

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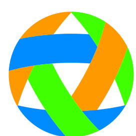

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Firms develop strategies for specialty drugs

Care coordination, patient education improve outcomes

By LOUISE KERTESZ

Faced with the high cost of specialty drugs, many employers are relying more on strategies from specialty arms of their pharmacy benefit managers to control spending.

Specialty pharmaceuticals, or biological drugs, are made from living organisms rather than chemical compounds and are prescribed for multiple sclerosis, hepatitis C, cancer and certain other diseases and conditions.

Biologics may be injected, infused, taken orally or inhaled, insurers and PBMs say. Many require special transportation and storage.

A specialty drug costs an average of $1,600 a month. Biologics can cost up to $300,000 a year. Such drugs make up 24% of an employer's drug spending and are projected to be 44% by 2030, said Dr. Brian Solow, vp and medical director of clinical programs at Prescription Solutions, an Irvine, Calif., PBM and unit of UnitedHealth Group Inc.

A specialty pharmacy provides drugs at a discount, special shipping and handling, patient education and proactive management, including patient training on self-injected biologics so the patient adheres to the therapy and avoids potentially expensive complications.

General Motors Corp. looks to its PBM, Franklin Lakes, N.J.-based Medco Health Solutions Inc., to implement "a really comprehensive program to make sure the patient gets the right drug at the right time. It's a pretty rigorous process," said Cynthia Kirman, director of GM's clinical pharmacy initiatives in Detroit.

Medco oversees drug dispensing and patient education for GM employees through retail specialty networks as well as its mail-order specialty pharmacy, Accredo Health Group Inc., Ms. Kirman said.

"Many specialty drugs are getting additional indications, which doubles their use. The classic example is Enbrel," said Joanne M. Sica, director and national pharmacy practice leader at PricewaterhouseCoopers HR Services in Philadelphia. The Food and Drug Administration initially approved using Enbrel for rheumatoid arthritis. The FDA later gave additional indications, or approval to use, for juvenile arthritis and severe psoriasis, she said.

"Unless the psoriasis is severe, patients should start with a cream or tablets" to see if they bring relief, rather than using a much more expensive biologic, said Steve Russek chief clinical officer at Accredo.

A specialty pharmacy also monitors treatment to avoid waste and overuse, said Mr. Russek, who is based in Franklin Lakes, N.J. For example, a care coordinator and specialist pharmacist at Accredo collaborated to modify dosage of a medication for a young patient with hemophilia. The health plan saved more than $44,000 during the course of a year, Accredo said.

Absent a specialty pharmacy, the patient's physician supplies the drug at a markup and charges the insurer, often leaving the employer "blinded" to the cost, Ms. Sica said.

But only half of biological drugs are screened and paid by PBMs, said John Malley, national practice leader of pharmacy benefit consulting at Watson Wyatt Worldwide in New York. "Clearly, some employers out there are not doing anything to manage these drugs and this will be a rogue wave that eventually is going to hit them," he said.

Coordinated disease management provided by an employer's health insurer and a specialty pharmacy "would be an employer's best bet" to control the cost of specialty drugs, Dr. Solow said.

At Las Vegas-based Boyd Gaming Corp., CIGNA Pharmacy Management manages specialty drugs whether dispensed by physicians or its specialty pharmacy, a strategy that has kept its drug spending under control for its 21,000 employees, said Bob Berglund, vp of employee benefits and insurance.

While some employers require a higher employee copayment for specialty drugs, Boyd Gaming's maximum drug copay is $150 a month—even for the 100 employees whose specialty drugs cost $5,000 a month, Mr. Berglund said.

The benefit "builds up a sense of loyalty. These people understand that the drugs are saving their lives," Mr. Berglund said.

GM is among employers that charge higher copays for specialty drugs. "The first thing we do is to make sure it's the right drug for that patient and that they understand the importance of the medication so they continue to take it," said Ms. Kirman. Patient education works to ensure adherence, she said.

Using its coordinated approach, Aetna Specialty Pharmacy has achieved 94% adherence for eight conditions for which the patient is on case management, said Dr. Edmund Pezalla, national medical director of Aetna Pharmacy Management in Hartford, Conn.

For Prescription Solutions, Dr. Solow said data has been submitted for publication that show improved adherence among multiple sclerosis patients taking injectable drugs.

Specialty approaches to biologics even have spread to the retail level.

Nurse practitioners at CVS Caremark's MinuteClinics nationwide this month begin training individuals who are prescribed self-injectable drugs, charges that typically are less expensive than a visit

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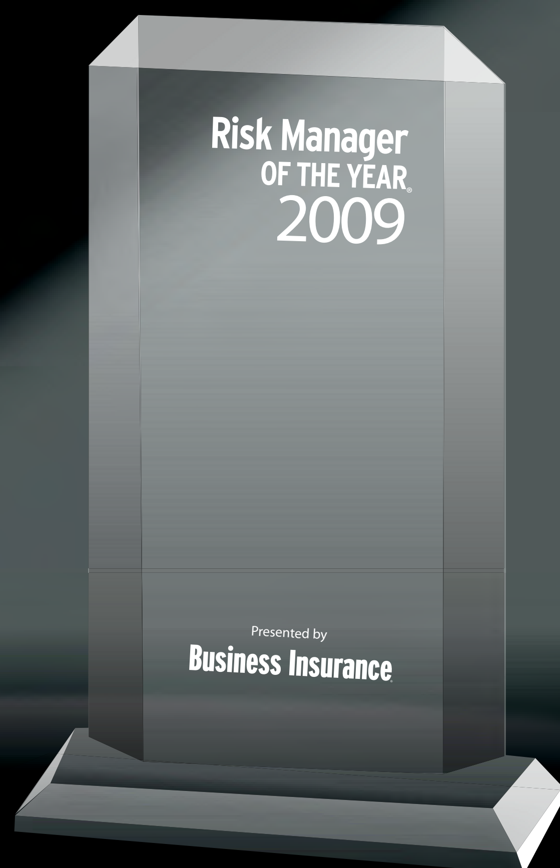

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Firms develop strategies for specialty drugs

Care coordination, patient education improve outcomes

By LOUISE KERTESZ

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Market Moves

AmWINS acquires stop-loss brokers

CHARLOTTE, N.C.—AmWINS Group Inc. has acquired three medical stop-loss wholesale insurance providers.

Terms of the deals were not disclosed.

In March, the specialty wholesale insurance broker acquired Worcester, Mass.-based American Stop Loss Insurance Brokerage Services Inc., Benicia, Calif.-based Health Benefit Solutions Insurance and Houston-based National Insurance Wholesalers.

The management teams of the acquired companies will continue to lead day-to-day operations for their operations and will work directly with brokers, consultants and third-party administrators, Charlotte, N.C.-based AmWINS said in a statement.

Willis consolidates professional risks units

LONDON—Brokerage Willis Group Holdings Ltd. has consolidated its existing financial, executive risk and professional liability business into a London-based unit.

The new division, FINEX Global, incorporates FINEX Professional Risks, FINEX International and FINEX M&A teams, Willis said in a statement.

The broker established FINEX in 2004 as part of its Global Specialties unit, which also includes aerospace, marine, energy, financial solutions, construction and global markets businesses.

FINEX Global has more than 250 associates and is led by Chief Executive Officer Antonio Tosti, formerly managing director of FINEX International.

Zurich expands in Midwest, Southeast

CLEVELAND—Zurich North America Commercial, a unit of Zurich Financial Services Group, has expanded its energy operations in the U.S. Southeast and Midwest.

The firm's Commercial Energy Casualty unit earlier this month opened offices in Cleveland and Atlanta to better serve customers and brokers in those areas, Zurich said in a statement.

The Cleveland office now is the base of Zurich's expanded mining practice, the Schaumburg, Ill.-based insurer said in a statement.

Lockton opens Middle East office

DUBAI, United Arab Emirates—Brokerage Lockton Cos. L.L.C. has opened an office in Dubai, United Arab Emirates.

The Kansas City, Mo.-based brokerage said it had received a license from the Dubai Financial Services Authority to operate as an insurance broker in the Dubai International Financial Center.

The new office marks the broker's entry into the Middle East and North Africa markets. The firm said in a statement that the Dubai office would serve as a regional hub as it expands its operations. The office will offer treaty and facultative reinsurance and will be able to handle all classes of business backed by the firm's wholesale business in London and elsewhere.

Wael Khatib, president of Lockton Dubai, will manage the office.

DFA Capital Management launches U.K. operation

LONDON—DFA Capital Management Inc. said it has launched operations in the United Kingdom.

DFA Capital, which provides enterprise risk management software for insurers and financial services firms, said its London operation is intended to better serve clients.

Hamish Bailey, vp of business development, is leading the London operations and can be reached at 44-774-876-8590.

The Purchase, N.Y.-based DFA also has offices in Cologne, Germany, and Zurich, Switzerland.

TO SUBMIT ITEMS

BI's Market Moves column reports on activities by insurance industry companies and related entities. Please send news of Market Moves to Zack Phillips, 711 Third Ave., New York, N.Y. 10017 or e-mail *zphillips@businessinsurance.com.*

CONTINUED FROM PREVIOUS PAGE

to the doctor or from a home health aide, a spokesman said.

Walgreen Co.'s Take Care Employer Solutions in Conshohocken, Pa., which operates customized worksite medical centers, offers infusion of specialty drugs at a medical center sponsored by a large pharmaceutical company employer. The convenience will encourage adherence and improve productivity, said Dr. Cornell Pearcy, Take Care's Mid-Atlantic regional medical director in Moorestown, N.J.

Pittsburgh-based Walgreens Specialty Pharmacy L.L.C. also has launched a pilot at its retail Take Care clinics in Florida that offers infusions and injections.

On another front, the Coalition for a Competitive Pharmaceutical Market, GM and other large employers support bipartisan legislation to allow the FDA to create a regulatory pathway to approve generic biologics, Ms. Kirman said. Even if a generic were to become available at only a 1% or 2% discount, "those are large dollars."

Employers should "push their consultant, health plan and PBM to come up with creative ways to manage the cost of these drugs," Ms. Sica said. "Stay on top of this because if you don't, it's going to run over you."

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF ROLF ÅBJÖRNSSON,
AS OFFICIAL RECEIVER OF
ATERFORSAKRING AB LUAP,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (PCB)

NOTICE IS HEREBY GIVEN THAT ON MARCH 19, 2009, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR SEPTEMBER 17, 2009 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

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

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN,
AS ADMINISTRATOR OF
FOLKSAM INTERNATIONAL INSURANCE COMPANY (UK) LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (PCB)

NOTICE IS HEREBY GIVEN THAT ON MARCH 19, 2009, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR SEPTEMBER 17, 2009 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE ADMINISTRATOR LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE ADMINISTRATOR.

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Comings & Goings

JACK BUTCHER

NEW JOB TITLE: New York-based U.S. sales and marketing leader of Marsh Inc.

PREVIOUS POSITION: New York-based chief executive officer of Marsh & McLennan Agency L.L.C.

GOALS FOR NEW POSITION: My goal, quite simply, is to drive our organic growth across the United States.

CHALLENGES FACING THE INDUSTRY: Obviously, everyone is faced with economic head winds, which is an industry reality. In our industry, there continues to be the war for world-class talent.

FIRST EXPERIENCE IN THE INDUSTRY JOB MARKET: I actually started as an underwriter for Chubb and then joined Marsh as a broker. It certainly seemed a lot more simple (20 years ago). I think the sophistication of our clients and the complexity is different. The earth is becoming flat. Global business is a global reality. There are new risk dynamics. It challenges our industry to improve every day.

WHAT I WOULD CHANGE IN THE INDUSTRY: I would challenge all of us in the industry to spend more time and focus on developing the next generation.

ADVICE: Have a hunger to understand the world your customer lives in. We have to be experts in our clients' businesses as much as we are in our own.

OUTSIDE THE INDUSTRY, A DREAM JOB: A firefighter...because I did that before I got in the industry.

WHAT I FEEL MOST PASSIONATE ABOUT: Clearly my family, but in the business, the people. We cannot spend enough time investing in the people.

Comings & Goings ONLINE

VISIT ***www.businessinsurance.com/ComingsandGoings*** for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

POSTINGS THIS WEEK

BROKERS:
- Woodruff-Sawyer & Co.
- Faber & Dumas
- Momentous Insurance Brokerage Inc.
- IMA Financial Group Inc.
- Thomas Rutherfoord Inc.

INSURERS:
- Novae Insurance Co. Ltd.
- Aspen Insurance Holdings Ltd.
- Allianz Risk Transfer A.G.
- Farmers Group Inc.

REINSURANCE:
- Maiden Re

OTHER PROVIDERS:
- Dempsey Partners L.L.C.
- Beard Miller Co. L.L.P.
- Hewitt Associates L.L.C.
- Risk Enterprise Management Ltd.
- Coastal Risk Underwriters L.L.C.
- Specialty Risk Services L.L.C.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to: Allison Martinat, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806 email: *amartinat@businessinsurance.com*

Solvency II: E.U. insurers welcome compromise

CONTINUED FROM PAGE 3

Companies outside the European Union may welcome the removal of group support that some contended would have set up an uneven playing field for non-E.U. companies operating in Europe, Mr. Jones said.

The Comite Europeen des Assurances, the Brussels, Belgium-based European insurance and reinsurance federation, called the informal agreement on Solvency II a "decisive step." But by carving out group support, CEA said it felt the E.U. had "missed the opportunity" for a more "efficient and effective supervision of multinational groups."

"The industry looks forward to Europe taking this step (toward group support) as soon as possible," said Alberto Corinti, deputy director general of the CEA.

Under the agreement, the soonest group support provisions could be revived is 2015.

Peter Skinner, a U.K. member of the European Parliament and rapporteur on Solvency II, said the agreement includes a clause allowing group support to be reviewed three years after Solvency II goes into effect, which is at the end of 2012. By then, Mr. Skinner said he hopes the economic and political climate will favor adding group support back into the directive.

"I'm satisfied. I'm not overjoyed. I wish I could have had more, but I think in the current financial climate and with the amount of distrust that exists with regulators, I think having just the possible prospect of coming back to (group support) and then re-engaging on the issues is still something that is worthwhile celebrating."

A compromise also was reached on a French demand concerning treatment of equity risk, which allows insurers in France to have lighter solvency requirements on some products. The European Parliament agreed to the measure as long as it was restricted to being an option for a member state and not have the potential to spill across borders, Mr. Skinner said.

Had the Solvency II stalemate pushed the draft directive language to a second reading in the European Parliament, Mr. Skinner said "it may have been five to eight years from now before we had even what we've got on the table now for consumers and companies."

EUROPA

'I think having just the possible prospect of coming back to (group support) and then re-engaging on the issues is...worth celebrating.'

Peter Skinner,
European Parliament

Meanwhile, Solvency II was a major topic last week at the European Insurance Forum 2009 in Dublin, Ireland, sponsored by the Dublin International Insurance and Management Assn.

"As with any good compromise, nobody is entirely happy with the outcome," Ben Carr, national expert in the insurance and pensions unit in the internal market directorate general of the European Commission, said at the forum last week.

Along with the European Commission, "we know that members of Parliament are also not so happy," particularly regarding the removal of group support, Mr. Carr said.

"I do think we are missing a lot by not having the group support mechanism," said Colm Fagan, chairman of the Irish Financial Service Center's subgroup on Solvency II. "It would be a terrible pity if we lose it," he said in holding out hope that it could be reinstated later.

"We cannot have a patchwork of regulations in different member states, each trying to replicate what everyone else is doing," said Mr. Fagan. "We have to move to a more pan-European approach to regulation."

Even with some of the architects of Solvency II at odds over portions of the proposed directive, the compromise is a good one that preserves important aspects of the proposal, Mr. Carr said.

"Given the wider economic environment, if we hadn't reached a deal, it would have sent a message to the world that we weren't moving to a more risk-based approach to assessing solvency," Mr. Fagan said.

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Financial regulation ideas come from G-20

By RICHARD MILLER and MARK A. HOFMANN

LONDON—Insurance and reinsurance groups generally support pledges made last week by leaders of the Group of 20 industrial nations to tighten global regulation of the financial sector, but some warn that insurers and banks should be considered separately in any regulatory revamp.

In a statement issued after world leaders met in London last week, G-20 members outlined a broad framework for global regulation of the financial services sector as part of an effort to prevent a future financial crisis.

According to the statement, "Major failures in the financial sector and in financial regulation and supervision were fundamental causes of the crisis. Confidence will not be restored until we rebuild trust in our financial system."

The broad scope of the criticism concerned some observers.

"The problem is that by talking about the financial services sector in general, rather than the banking sector where these problems came from, they are already making a mistake," said Patrick Liedtke, secretary general and managing director of the Geneva Assn., a think tank of 80 chief executives of the world's largest insurance companies.

"What is very important is to make sure one regulates the right thing, concentrating efforts on elements that were the real causes (of the current crisis)," Mr. Liedtke said.

He said there needs to be a balance between measures to avoid a future crisis but still promote market efficiency.

David Snyder, vp and associate general counsel at the American Insurance Assn. in Washington, said the G-20's statement was a move toward a global regulatory framework for financial services companies.

"At this point, it is not entirely clear the extent to which the new global regulatory framework will apply to insurers. We view this as comprehensive, dramatic and even breathtaking," Mr. Snyder said.

G-20 leaders agreed regulatory systems should be reshaped to "identify and take account of macro-prudential risks." They called for regulation and oversight to be extended to "all systemically important financial institutions, instruments and markets," including hedge funds, and agreed to establishing a Financial Stability Board as a successor to the Financial Stability Forum, an international group that exchanges information about financial supervision and surveillance.

The G-20 intends to extend regulatory oversight to credit rating agencies and prevent unacceptable conflicts of interest. G-20 leaders also called for developing a single set of high-quality global accounting standards.

Insurance groups and organizations generally welcomed the G-20's commitment to tackle the economic crisis and take measures to prevent future crises.

The Comite Europeen des Assurances—the European insurance and reinsurance federation, based in Brussels, Belgium—welcomed the G-20's commitment to develop a globally consistent supervisory and regulatory framework, avoid protectionism and address the climate change threat.

In a statement, CEA also welcomed the agreement to develop one set of global accounting standards, but stressed the need to "maintain market-consistent valuation, which promotes transparency and market discipline."

The London-based Assn. of British Insurers said the "fine words" in the agreement would need to be backed by "sensible measures" to ensure effective regulation and avoid protectionism.

The European Union and the Financial Stability Forum must "stick to the principles of modern markets and not try and reinvent older forms of regulation that belong to past eras," the ABI said.

Reform: Bill seeks broader federal role

CONTINUED FROM PAGE 1

to participate in state guaranty funds. In addition, the bill would establish a division of consumer affairs within the National Insurance Office. The consumer division would have an office in every state.

During a Washington news conference last week, Rep. Bean said some insurers could be found to be so systemically important that they would be required to be regulated federally.

Under the bill, all insurance regulators—federal or state—would be required to share information with a systemic risk regulator once such an office is established. The systemic regulator, in consultation with the national insurance commissioner, would determine which insurers were so systemically important that they would require federal charters.

Rep. Royce said he was "cautiously optimistic" that Congress would approve the bill.

The New York-based Risk & Insurance Management Society Inc. welcomed the bill and its proposed mandatory federal regulation of some insurers.

Deborah Luthi, RIMS director-external affairs and director-enterprise risk management for Matheson Trucking Inc. in Sacramento, Calif., praised the bill's sponsors and noted that "RIMS has historically supported and continues to support efforts to address the antiquated state system of insurance regulation, which we believe increases costs to insurance purchasers."

"RIMS really is encouraged that the act also addresses weaknesses in the current financial regulatory framework by setting up a system whereby the national insurance commissioner, in consultation with the systemic risk regulator, can require an insurer to be nationally chartered if it is determined to be systemically important," she said.

Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington, said "those provisions are what connects the OFC concept—which has been around since the early '90s—with the political realities of this systemic risk debate. Ultimately, the administration and congressional leaders will orchestrate the umbrella regulator, and the insurance-specific issues will flow from that. But they've struck the right balance for this, the first serious opening shot in the debate."

But an opponent of federal insurance regulation said the proposal goes much too far.

"The way they added the systemic risk piece is so broad it creates the worst possible regulatory environment by creating dual regulation," said Jim Grande, vp in the Washington office of the National Assn. of Mutual Insurance Cos. "Under their definition of systemic risk, nearly every property/casualty insurance company in the country would fall under federal jurisdiction."

Ben McKay, senior vp in the Washington office of Property Casualty Insurers Assn. of America, praised the bill's drafters for their efforts but said systemic risk should be dealt with first.

"No matter how you slice it, an insurance regulator does not deal with systemic risk, an insurance regulator deals with intraindustry solvency," Mr. McKay said. "Those two missions are different."

Congress should address systemic risk first "because if you just plug a hole in the dike, another hole will form somewhere else. If you're not looking for that next hole, you'll miss it. We think there should be healthy debate about a federal insurance regulator, but we think that's a Phase 2 debate after systemic risk," Mr. McKay said.

Leigh Ann Pusey, president of the Washington-based American Insurance Assn., which has long advocated federal insurance regulation, praised the bill but questioned the guaranty fund provision.

"We think that consumers would be best protected under a single guaranty fund system, and are concerned with the approach taken by the bill on this issue," she said in a statement. "That said, we look forward to working with the bill's sponsors moving forward in a constructive manner."

New accounting rules could affect insurers

By JUDY GREENWALD

NORWALK, Conn.—Two new accounting standards approved last week were primarily developed with the banking industry in mind, but could impact insurers as well, observers say.

One new measure approved by the Norwalk, Conn.-based Financial Accounting Standards Board changes mark-to-market accounting under generally accepted accounting principles. Under the new standard, it will be easier for insurers to avoid "other than temporary impairment" charges for securities that have not experienced credit deterioration, which benefits their income statement.

For securities that have experienced credit deterioration, the new standard allows companies to bifurcate "other than temporary impairment" charges into the income statement—for the portion of the charge attributable to credit deterioration—and into "other comprehensive income" for the portion of the charge attributable to noncredit factors.

This also will help insurers because it means some of the impairment charges no longer will impact the income statement as much as they had previously, said Wallace Enman, vp and senior accounting analyst at Moody's Investors Service in New York.

In addition, under a second provision related to fair market measurement, insurers "will have more leeway to ignore, or to adjust, transactions that they deem distressed," which could result in a higher fair value for securities "and thereby an increase to equity," said Mr. Enman.

Referring to the mark-to-market standard, James Auden, senior director at Fitch Ratings in Chicago, said, "I don't know economically that it changes anything. It's more of an accounting basis."

Kevin P. Donoghue, managing director at New York-based Mystic Capital Advisors Group L.L.C., an insurance consulting firm, however, criticized the provision. "It makes balance sheets less conservative," and "puts more unknowns" on insurers' balance sheets.

Asbestos: High court to rule in trust case

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A federal bankruptcy court judge approved the Manville Personal Injury Settlement Trust as part of Manville's Chapter 11 reorganization. In 1994, Congress wrote the Manville decision into law, and the Manville trust became a model replicated in more than 40 other asbestos liability cases, according to an amicus brief filed in the case.

But in 2001, new plaintiffs sued Travelers and the other insurers directly, arguing they covered up information about the dangers of asbestos and disseminated misleading information about asbestos. Travelers settled in 2004 with several plaintiffs, agreeing to pay $500 million in exchange for an order from the bankruptcy court clarifying that its 1986 order barred such lawsuits against the insurers, which the court granted.

However, the 2nd Circuit Court of Appeals reversed the ruling in 2008 and said the bankruptcy court had no authority to block the suits because the new suits were between alleged victims and insurers and did not involve the Manville estate.

If the Supreme Court denies Traveler's appeal, the insurer and others suggested in legal briefs and in interviews that the decision could open the door to a new round of litigation against insurers. Travelers also said such a ruling would dramatically reduce the number of insurers willing to contribute to asbestos trusts, diminish trusts' ability to compensate victims and throw the system of resolving asbestos claims into disarray.

The plaintiffs and others argued that even if the high court rules against Travelers, insurers still would contribute to asbestos trusts, because they want to limit their liability.

"The present system will exist and continue to run; it (would) simply create an additional dimension," said Robert M. Horkovich, an attorney with Anderson Kill & Olick P.C. in New York. "(Insurers) will have to go out to the (new) claimants if they've engaged in that kind of (illegal) behavior. And they will go out to the claimants to get that liability extinguished because they want to get this off their books."

David B. Goodwin, a partner in San Francisco-based Covington & Burling L.L.P. and previously with the law firm that helped broker the original Manville settlement, agreed that a ruling against Travelers would cast some uncertainty on agreements that established existing trusts. But he said it would not be a major disincentive in insurers' willingness to contribute to asbestos trusts.

"I don't know how many (asbestos) bankruptcies are coming down the pike," Mr. Goodwin said. "Most of the major asbestos defendants have gone through it already."

About 90 firms have gone into bankruptcy because of asbestos liability, Mr. Horkovich said.

Just for the Manville trust through year-end 2008, more than 800,000 claims totaling about $3.9 billion had been paid with $1.07 billion in remaining net claimants' equity, according to the trust's Web site.

While a March study by Washington-based NERA Economic Consulting said asbestos claim filings decreased 82% between 2003 and 2007, an amicus brief filed by representatives of future claimants estimates that the Manville trust could receive 1.5 million to 2.5 million claims in the future.

Punitives: Court lets $79M award stand

CONTINUED FROM PAGE 4

The Oregon Supreme Court, however, decided it did not have to follow the federal standard because Philip Morris allegedly proposed a flawed jury instruction at the original trial. By doing so, Philip Morris forfeited its federal claim, the state high court ruled.

Philip Morris appealed again to the Supreme Court, which heard arguments in the case in December (*BI*, Dec. 8, 2008). Last week, however, the court issued a one-sentence, unsigned opinion saying it never should have granted the third review of the case.

The decision is "meaningful because it sends precisely the wrong signal" to state courts "that the principal has left the building on punitive damages, therefore courts can ignore, if they wish, rulings" that circumscribe punitive damage awards, said Victor Schwartz, general counsel of the American Tort Reform Assn. in Washington. "I am hopeful that most courts will not do that and will follow the Constitution of the United States; but as a practical matter, it sends the wrong signal to plaintiff-sympathetic courts."

In previous cases, the Supreme Court "occasionally" has held that a review was "improvidently granted," said Quentin Riegel, vp-litigation for the National Assn. of Manufacturers in Washington. "It's hard to read the tea leaves as far as what happened behind the scenes. The bottom line is that the lower court decision stands, which means that the court never resolved the issue we had hoped they would, which was to enforce the specific limits on punitive damages that they ruled on previously."

Mr. Riegel said he didn't know how great an effect the decision might have on state courts. "I just don't know whether there will be many instances where a state court will simply ignore the issue the Supreme Court resolved on punitive damages," he said.

Greenberg: Ex-AIG CEO calls for revamped bailout

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helm, said during nearly four hours of testimony that he was not responsible for the company's downfall.

Asked by panel member Rep. Elijah Cummings, D-Md., if he felt any responsibility for AIG's problems, Mr. Greenberg said, "I don't." He said when he left, the company was healthy.

As for the credit default swap business that started on his watch, Mr. Greenberg said the unit that developed the business was highly profitable and contributed $5 billion to AIG's pretax income between 1987 and 2004, Mr. Greenberg's last full year.

Mr. Greenberg said the problems developed after he left. "They got greedy," writing more than they should have.

He also said the company failed to hedge the risks on the lower-quality business. "It was a different book of business," Mr. Greenberg said of AIG activities after his departure.

AIG, though, disagreed with that assessment.

"It is sad that Mr. Greenberg continues to criticize and blame others, especially those who are working every day to correct both the accounting and legal problems he left behind as well as his ill-fated decision to lead an insurance company into the credit default swap business, which he failed to manage responsibly," AIG said in a statement.

AIG also said Mr. Greenberg's assertion that he would have hedged the entire credit default swap business after ratings downgrades in 2005 "is implausible" and "under his tenure none of these trades were hedged."

Mr. Greenberg said selling off AIG assets is a doomed strategy because in a depressed economy buyers won't pay market-value prices.

And, Mr. Greenberg said, it is destructive to morale when employees know the units in which they work will be sold.

In hindsight, Mr. Greenberg said, allowing AIG to file for bankruptcy reorganization may have been a better approach than the government bailout. A Chapter 11 filing would have caused a "ripple," but would not have been "catastrophic," he said.

COBRA: IRS offers guide to firms on rule changes

CONTINUED FROM PAGE 1

ance coverage because of the subsidies.

Benefit experts welcomed the guidance, for formalizing the IRS' positions and for providing needed details.

"It is good to have this in black and white," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"It is surprising in its breadth. A fair amount of detail was provided in various forums. But it really was impossible to keep track of everything," said Andy Anderson, of counsel with Morgan, Lewis & Bockius L.L.P. in Chicago.

The key aspect of the guidance is clarification about what constitutes an involuntary termination—the trigger that makes an individual eligible for the subsidy.

Clarity on involuntary termination "is the big one here for employers," said Sharon Cohen, an attorney with Watson Wyatt Worldwide in Arlington, Va.

The IRS' definition of an involuntary termination is when an employer invokes its authority to terminate employment "where the employee was willing and able to continue performing services."

The guidance also makes clear that there can be situations in which the involuntary termination standard would be met even though the employee initiated a termination. That could occur if the termination was due to employer action that results in a "material negative change in the employment relationship for the employee."

The guidance provides several examples of how a material negative change could entitle a COBRA beneficiary to the subsidy.

Under one example, an employee elected to retire because he knew he would be terminated. That employee would be considered to have been involuntarily terminated.

Under the IRS guidance, an involuntary termination "is far more than an employer letting an employee go," said Tim Stanton, a shareholder with Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Chicago.

The guidance clarifies several other issues.

For example, employers do not have the right to deny the subsidy to higher-paid individuals who are not eligible for the subsidy because of their incomes. Unless those individuals sign a waiver revoking their right to the subsidy, they could take it, though they later would have to return it to the government.

In addition, beneficiaries can be eligible for the COBRA premium subsidy multiple times.

Take the example of an employee who is let go on March 1, 2009, opts for COBRA and receives the 65% premium subsidy. Then, on Oct. 1, 2009, he starts a new job, enrolls in the new employer's health care plan, ending his COBRA coverage. On Nov. 1, 2009, he is terminated and again takes COBRA. That individual would have a new right to nine months of federally subsidized COBRA coverage.

The IRS notice and an updated question-and-answer guide to the COBRA subsidy are available at *www.businessinsurance.com*.

News In Brief

law. The Golden Gate Restaurant Assn. sought the order after a ruling in March by the 9th U.S. Circuit Court of Appeals not to review a unanimous 2008 decision by an appeals court panel upholding the legality of San Francisco's law. It requires large employers to make health care expenditures of $1.85 per hour for every eligible employee working at least eight hours a week in 2009.

House OKs tougher bonus restrictions

The House of Representatives has approved a bill that would repeal a provision in the American Recovery and Reinvestment Act that exempted certain bonuses at companies receiving federal bailout money from tough executive pay regulations. The measure would affect the payment of retention bonuses, such as those paid to some employees of American International Group Inc.'s AIG Financial Products Corp. unit. H.R. 1664 would prohibit a company that receives money from the government under the Troubled Asset Relief Program and other programs from paying any employee any compensation that is "unreasonable or excessive," as defined by the Treasury secretary, and prohibit any bonus or other supplemental payment that is not based on performance-based standards set by the Treasury.

Treasury should seek changes at AIG: GAO

The Treasury Department should require that American International Group Inc. seek concessions from stakeholders as it finalizes an agreement for further federal aid, the Government Accountability Office recommended last week. The recommendation came in a report, "Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues."

Noted

American International Group Inc. last week closed the sales of two units. AIG said it completed the sale of AIG Life of Canada to BMO Financial Group for around $263 million. AIG said it also completed the sale of HSB Group Inc. to Munich Reinsurance Co. for $739 million and the assumption of $76 million of outstanding HSB capital securities...Janice Tomlinson, executive vp and international field operations manager for the Chubb Group of Insurance Cos., has been named 2009 Insurance Woman of the Year by the **Assn. of Professional Insurance Women.**

Monrad: Ex-Gen Re CFO gets 18 months

CONTINUED FROM PAGE 1

be sent to the business and financial communities that this kind of conduct will not be tolerated."

However, the judge said unlike many white-collar criminals, Ms. Monrad was not motivated by personal gain.

Before the sentence was imposed, Assistant U.S. Attorney Eric Glover asked the judge to consider post-verdict comments Ms. Monrad made to Bloomberg news service that "demonstrate a lack of respect for the judicial system."

Contrary to what Ms. Monrad said, "she was not found guilty for failing to police another company's accounting; she was found guilty for perpetrating fraud," Mr. Glover said.

The defense asked the judge for leniency, citing Ms. Monrad's personal qualities and otherwise unblemished record of honesty and integrity.

Her lawyer, Reid Weingarten, a partner with the Washington office of Steptoe & Johnson L.L.P., said Ms. Monrad always thought the deal was being driven by Gen Re Chief Executive Officer Ronald Ferguson's desire to please Maurice R. Greenberg, who was an important client and then AIG's CEO, but "it never occurred to her that she was part of a conspiracy."

Ms. Monrad begged the judge for mercy and said, "My life is in your hands."

"This conviction is at odds with my professional life," she said. Her father, two children and several former colleagues also spoke on Ms. Monrad's behalf.

She and the other defendants were convicted on charges of conspiracy, securities fraud and making false statements to the Securities and Exchange Commission. Prosecutors convinced the jury that the individuals set up a sham loss-portfolio transfer designed to help AIG manipulate its financial statements.

Last November, Judge Droney determined that AIG shareholders lost more than $500 million because of the bogus deal—a figure that, under recommended sentencing guidelines, could have resulted in life sentences.

However, federal sentencing guidelines no longer are mandatory and many judges do not feel bound by the guidelines, experts say.

"In this case, the judge has clearly decided to look beyond the mathematical calculations (of the loss amount) and instead sentence the individual," said Ellen Podgor associate dean and professor at Stetson University College of Law in Gulfport, Fla. However, despite a sentence far below federal guidelines, "18 months in prison is still very significant jail time."

Ms. Monrad's sentence falls within the range of relatively light sentences Judge Droney has handed down so far in the case.

In December, former Gen Re Chief Executive Officer Ronald E. Ferguson was sentenced to two years in prison and a $200,000 fine for his role in the deal. In January, Christian M. Milton, a former AIG vp of reinsurance, received a four-year sentence and a $200,000 fine. In March, Christopher Garand, Gen Re's senior vp in charge of U.S. finite underwriting, was sentenced to one year and one day in prison and a $150,000 fine.

While the trend has been to show leniency, the judge's pattern of issuing sentences outside the guidelines makes it difficult to determine what the remaining defendant may face, Ms. Podgor said. "Whether or not he goes high or low, will really depend on the individual," she said.

The final defendant convicted in the case, Robert Graham, former Gen Re senior vp and legal counsel, is scheduled to be sentenced April 30.

Messrs. Ferguson, Milton and Garand remain free while they appeal their sentences.

While the judge ordered Ms. Monrad to report to prison May 20, her attorney has indicated he will ask that she be allowed to stay out of jail pending an appeal.

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Business Insurance END PAGE

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LANDOV

Take Care Health Systems Inc. is offering free health care to some laid-off workers and their families.

No job doesn't mean no care

While there may be no such thing as a free lunch, some recently unemployed people and their families may find they can get free health care.

Take Care Health Systems Inc., a unit of Deerfield, Ill.-based Walgreen Co., is offering free health care services at its 341 clinics in 35 metropolitan areas for the rest of the year to individuals who lose their job on or after March 31, 2009, and have no health insurance.

But there's a caveat: Laid-off workers or their family members must have visited a Take Care clinic before they are eligible for free services.

"We felt this was simply the right thing to do, to open up in-store clinics for past, present and future patients and their families if by chance they should lose their job," said Hal Rosenbluth, president of the Walgreens health and wellness division in Conshohocken, Pa., which operates Take Care. "It goes back to why Peter Miller and I started Take Care: to close the socioeconomic gap in health care."

Mr. Miller, founder and former Take Care chief executive officer, is a divisional vp at Walgreens.

The Take Care Recovery Plan offer applies to most services provided at Take Care clinics, including routine treatment of colds, sinus infections, bronchitis, strep throat, seasonal allergies, urinary tract infections, pink eye, poison ivy, and minor skin infections and burns.

Patients can access these services between 11 a.m. and 3 p.m., Monday through Friday.

However, the offer excludes health evaluations, vaccinations, physicals and injection/infusion administration.

TBS

Nationwide is using a new advertising strategy in "My Boys," which airs on TBS. In addition to commercials, the company will be part of the show's plot.

Nationwide tries the personal touch

If your insurance agent knows your middle name, favorite smell and your high school mascot, you might be really impressed or entirely creeped out.

While it's not likely an insurance agent would know all that personal information, the personal touch is how Nationwide Mutual Insurance Co. is portraying its approach to interacting with customers.

In a promotion for the show "My Boys," which airs on cable outlet TBS, P.J. Franklin, played by Jordana Spiro, asks a series of personal questions of her best friend Bobby, played by Kyle Howard, and her Nationwide agent.

The 30-second clip ends with the agent defeating Bobby, highlighting Nationwide's attention to detail.

The Columbus, Ohio-based insurer has become a sponsor for "My Boys," and will be part of plot lines in the series in addition to commercials.

The sponsorship allows viewers to engage with the Nationwide brand, "but also adds some comedic support to the series with the customized 'My Boys' Nationwide integrated tune-in," a spokeswoman for TBS, a division of Turner Broadcasting System Inc., said in a statement.

Nationwide will try to gain more customers through promotions on the "My Boys" section of TBS' Web site.

The face-off between Bobby and the Nationwide agent can be viewed at *http://www.tbs.com/video/index/#/all-video/shows/my-boys/171669*.

Prince sees AIG as symbol of Wall Street

Music star Prince once showed his ire with the corporate world by changing his name to an unpronounceable symbol for seven years.

In the Minneapolis native's latest single, "Ol' Skool Company," the Grammy- and Oscar-winning star vents his anger at American International Group Inc.'s bailout by the Federal Reserve Bank of New York.

The musician, who debuted the single last month on NBC's "The Tonight Show with Jay Leno," laments the bailout of "The fat cats on Wall Street, they got a bailout. Think it was AIG."

The man who changed his name to a symbol in a contract dispute with Warner Bros. and whose songs reportedly set off a chain of events that led the music industry to voluntarily put warnings on his album with offensive lyrics has taken on the corporate world previously.

NBC PHOTO: PAUL DRINKWATER

Prince sings "Ol' Skool Company" on "The Tonight Show."

Even so, the latest tune by the artist inducted to the Rock and Roll Hall of Fame and the U.K. Music Hall of Fame likely is not the sort of attention the beleaguered insurer desired from the 51-year-old who's also been named a winner of several Razzie Awards for the worst Hollywood has to offer.

Team strikes deal to keep sponsor's name on door

The Friendly Confines again are welcoming athletic apparel manufacturer Under Armour Inc. now that the company reached an agreement with the Chicago Cubs that allows displaying the Under Armour logo amid the ivy on Wrigley Field's left- and right-field walls.

In 2007, the Cubs entered into a sponsorship agreement with Under Armour, under which the company logo and name appeared on two sets of doors in Wrigley Field's outfield walls—the only advertisements on the legendary ballpark's outfield walls.

In January, however, Chicago's National League ballclub sued Baltimore-based Under Armour in federal court in Chicago, accusing the company of reneging on an agreement under which the Cubs said they were owed more than $2 million a year through the 2013 season.

GETTY IMAGES

Under Armour and the Chicago Cubs ended a dispute over an ad deal that puts the firm's name amid the ivy in Wrigley Field.

Meanwhile, according to published reports, Under Armour claimed it was the Cubs that had terminated an existing three-year deal after its first two years, and said the two sides were unable to come to terms on a new agreement.

Reports of the new agreement didn't specify whether the terms under which the Cubs and Under Armour will play ball were the same as those the Cubs spelled out in their January suit.

And there's no word on whether the agreement addresses where left fielder and Under Armour endorsement partner Alfonso Soriano hits in the Cubs batting order.

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