

**RASH OF TORNADOES LIKELY TO GENERATE LARGE LOSSES / PAGE 3**



**LLOYD'S OF LONDON TAPS ANOTHER OUTSIDER AS CHAIRMAN / PAGE 3**

**CAT BONDS UNDER REVIEW AFTER STORM MODEL UPDATE / PAGE 4**

## In Brief

### MMC names Glaser group president, COO

Daniel S. Glaser has been appointed to the new post of group president and chief operating officer of the Marsh & McLennan Cos. Inc., MMC said. In other management changes, Peter Zaffino succeeds Mr. Glaser as president and CEO of brokerage unit Marsh Inc., and Alexander Moczarski succeeds Mr. Zaffino as president and CEO of Guy Carpenter & Co. L.L.C.

### BP sues partners over Deepwater disaster

BP P.L.C. filed a spate of lawsuits seeking the full cost of the Deepwater Horizon disaster—an estimated \$42 billion—from the companies it partnered with in the project. BP sued Transocean Ltd., Halliburton Co. and Cameron

See **IN BRIEF** page 21



## SPOTLIGHT

### DENTAL, VISION & VOLUNTARY BENEFITS

Dental exams spot systemic ailments; the eyes have it in medical health; health care reform, costs boost voluntary benefits; insurers increase offerings; *BI* ranking of largest dental providers. **PAGE 9**

## PROPERTY/CASUALTY INSURERS

# Chartis offloads asbestos risks

*Deal with Berkshire may help prepare for AIG share sale*

By **MARK A. HOFMANN**

**NEW YORK**—American International Group Inc.'s retroactive reinsurance agreement with a Berkshire Hathaway Inc. unit should help resolve uncertainties about the insurer's bottom line and make AIG more attractive to investors, analysts say.

The agreement announced last week, which will transfer the bulk of Chartis Inc.'s legacy asbestos liabilities to National Indemnity Co., is AIG's most recent move to strengthen Chartis, analysts say. It followed a reserve boost in February and a senior management shake-up in the past month.

According to a filing last week with the Securities and Exchange Commission, AIG's Eaglestone Reinsurance Co. unit will pay National Indemnity about \$1.65 billion for a retroactive reinsur-

ance agreement with an aggregate limit of \$3.5 billion.

The transaction "covers potentially volatile U.S.-related asbestos exposures," but does not cover not accounts that Chartis believes have been fully reserved nor "certain other ancillary asbestos exposure assumed by Chartis affiliates," Chartis said in a statement.

Under the agreement retroactively effective Jan. 1, National Indemnity will assume responsibility for handling asbestos claims subject to reinsurance from the Berkshire unit. National Indemnity also will assume collection responsibility and "collectability risk" for third-party reinsurance related to the claims, Chartis said.

"We believe this transaction is beneficial for Chartis, as it will reduce the risk of future adverse development of U.S. asbestos exposures, including the risk associated with the recoverability of related reinsurance," Chartis CEO Peter Hancock said in the statement.

The property/casualty insurer

See **CHARTIS** page 20



Mr. Hancock

## CLIMATE CHANGE



# High court may toss global warming suit

By **JOANNE WOJCIK**

**WASHINGTON**—The Supreme Court last week heard oral arguments in a landmark case that could determine the future of global warming liability litigation.

During the arguments, justices expressed skepticism about both parties' positions in *American Electric Power Co. Inc. et. al. vs. State of Connecticut et. al.*, which some legal observers say indicates that the justices may be leaning

See **WARMING** page 17

## WORKERS COMPENSATION

# As job security grows, workers comp claims may follow

By **ROBERTO CENICEROS**

Employees fearful of filing workers compensation claims during the recession may be losing that fear

as the economy shows signs of modest improvement, industry experts and observers said.

That means employers may be paying for some injuries that

# 8.8%

During March, the national jobless rate dropped to a two-year low of 8.8%, 0.9 percentage points lower than a year earlier.

low of 8.8%, 0.9 percentage points lower than a year earlier, the Labor Department reported last week. The nation added 216,000 nonfarm jobs in March, although millions of U.S. residents remain unemployed, the government reported.

But workers with minor injuries—fearing they might attract negative employer attention or even lose their jobs when mass layoffs were common during the Great Recession—now appear less hesitant to file a claim, several workers comp experts said.

See **CLAIMS** page 18

worsened when employees delayed seeking medical attention, they added.

Unemployment fell in 34 states during March, while the national jobless rate dropped to a two-year

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# Business Insurance

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TOURISM VANCOUVER/JOHN SINAI

photos

**ENJOY VANCOUVER:** Learn about places to eat and attractions to visit with a slide show on locals' favorite eateries and getaways at the 2011 RIMS conference in Vancouver, British Columbia. From food and golf to shopping and the arts, there's sure to be something for everyone. [www.BusinessInsurance.com/photos](http://www.BusinessInsurance.com/photos).

## MOST POPULAR STORIES Week of April 18, 2011

1. Obama signs bill repealing health care reform law vouchers
2. MMC names Glaser group president, Zaffino to head Marsh
3. AIG's Chartis offloads asbestos liabilities in Berkshire deal
4. Berkshire Hathaway, Buffett sued over Sokol's trades
5. P/C insurers' income rises, underwriting results fall: Analysis
6. Kansas governor signs workers compensation reform bill into law
7. Hanover to buy Lloyd's of London insurer Chaucer for \$510 million
8. Obama backs lifting income cap for Social Security
9. Property/casualty market to firm: III's Hartwig
10. Most employers plan to alter retiree drug plans: Aon Hewitt

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nominate

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## PROPERTY/CASUALTY INSURERS

# Hanover makes bid for U.K.'s Chaucer

By **SONJA RYST**

**LONDON**—The Hanover Insurance Group Inc.'s offer last week to buy Lloyd's of London insurer Chaucer Holdings P.L.C. would broaden the U.S. insurance group's business and reach.

While the acquisition would be a major deal in the Lloyd's marketplace, analysts don't expect a spate of mergers and acquisitions in that market for now.

Worcester, Mass.-based Hanover, a holding company for a group of property/casualty insurers offering commercial, specialty and personal insurance products, offered to pay about £309 million (\$510 million), largely in cash, for Chaucer.

Hanover President and CEO Frederick H. Eppinger, who said he started talking to Chaucer about a deal "a number of months ago," said combining the companies would expand Hanover's market presence. "For us, this was a company that had capability that could be delivered in the U.S."

Lloyd's "is an efficient platform with great capability, and it brings scale along with it as well," Mr. Eppinger said. "That makes us a more diversified, larger, more significant company with greater earnings power."

In a statement, Mr. Eppinger said buying "Chaucer would enable us to further advance our specialty strategy, given its recognized expertise in underwriting energy, marine and aviation risks." The deal, he said, also would give Hanover agents access

to "a valued market for complex, cross-border risks."

After Hanover's announcement, A.M. Best Co. Inc. kept its A rating and stable outlook on Hanover's financial strength. Best noted in a statement that the deal takes into consideration Chaucer's expected exposure to losses related to the Japanese earthquake, and the "uncertainty regarding future losses from this event appears to be manageable at this time."

Chaucer said last week that it expects its losses from the Japan disaster to range from £27.5 million to £35 million (\$44.8 million to \$59.3 million).

Best also said the deal would benefit Hanover's business strategy by adding products and boosting its geographic reach.

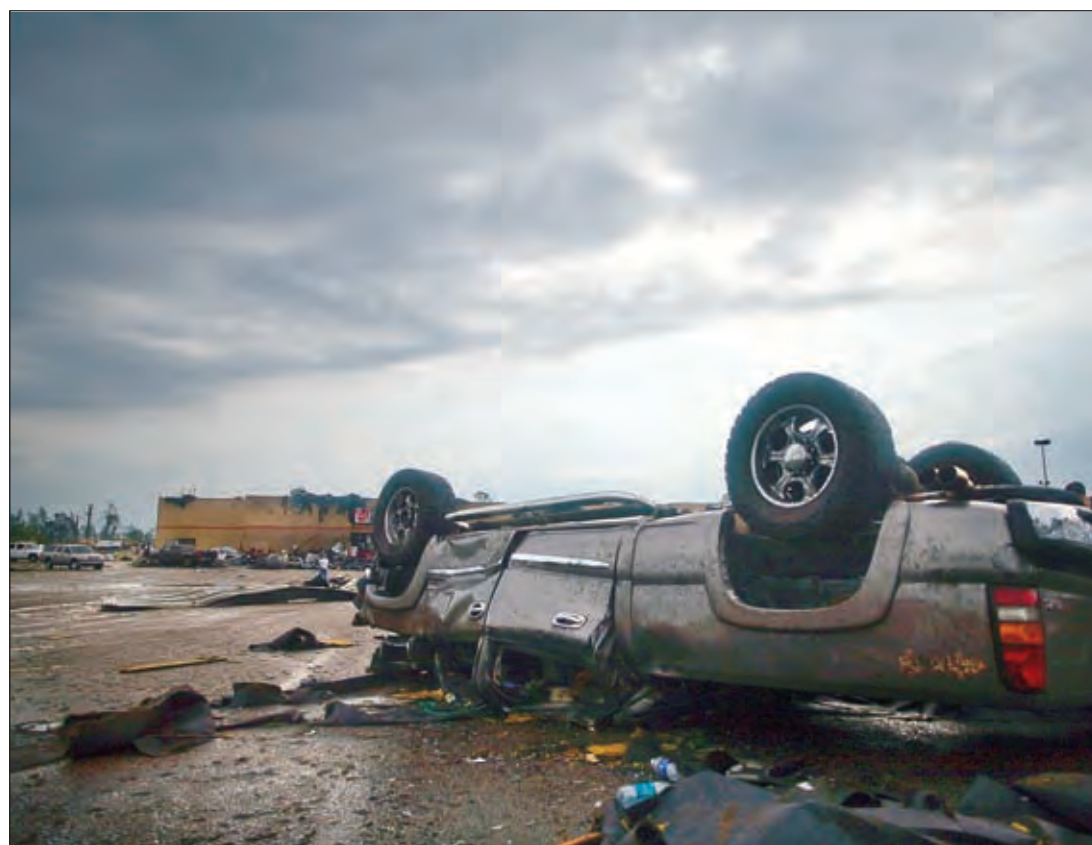
"Furthermore, Chaucer's in-house Lloyd's syndicates with operating licenses worldwide are expected to further elevate the Hanover's business profile and may result in greater cross-selling opportunities for both organizations," Best said in the statement.

Gary Davis, assistant vp at Oldwick, N.J.-based Best, said his team looked at factors such as Hanover's capitalization, business, diversification and funding sources. Hanover expects to finance its deal with a combination of cash and up to \$250 million in new senior debt, but Best said it doesn't expect that to significantly increase the combined company's leverage.

Meanwhile, Fitch Ratings Inc.

See **HANOVER** page 6

## CATASTROPHES



AP PHOTO

A truck was flipped over by a tornado that swept through Sanford, N.C. on April 16. State authorities said more than 440 homes and 21 businesses were destroyed by tornadoes or high winds.

## Tornado losses may hit \$200 million

*N.C. hit hardest as deadly storms pound 16 states*

By **MATT DUNNING**

**RALEIGH, N.C.**—Insured losses could reach \$200 million from hundreds of tornadoes that struck 16 states in mid-April, hitting North Carolina the hardest during the three-day outbreak, experts say.

As insurers and emergency

management personnel worked last week to assess total damage caused by the deadly storm system, meteorologists and catastrophe modelers forecast more turbulent weather ahead.

At least 45 people died during tornadoes and severe thunderstorms, which packed high winds, heavy rain and hail, that formed April 14 over Oklahoma and Texas and charged into the Southeast during the next two days.

The worst destruction, according to reports and ground

observers, occurred April 16 in eastern North Carolina. State authorities confirmed that more than 440 homes and 21 businesses were destroyed by tornadoes or high winds.

The damage total is "a constantly moving target," said a spokeswoman for the North Carolina's Raleigh-based Department of Crime Control and Public Safety. As of late last week, the death toll in the state had risen to 24, making the April 16 storm

See **TWISTERS** page 21

## INTERNATIONAL

# Lloyd's names former investment banker as chairman

*New chair follows in Levene's footsteps as market outsider*

By **SARAH VEYSEY**

**LONDON**—Lloyd's of London has reached outside the insurance industry in naming the new chairman of the market, just the second time it has done so in its more than 300-year history.

Lloyd's announced last week that businessman John Nelson will succeed Lord Peter Levene, the first outsider to chair the insurance market. He is stepping down as chairman in October.

Mr. Nelson, 63, is chairman of London-based real estate company Hammerson P.L.C., a position he will continue to hold. He also is



LLOYD'S OF LONDON

**John Nelson will succeed Lord Peter Levene as chairman of Lloyd's.**

deputy chairman of London-based home improvement retailer Kingfisher P.L.C., a position from

which he will retire this year.

Previously, Mr. Nelson was chairman of the European operations of financial services company Credit Suisse First Boston from 1999 until he retired in 2002.

He began his career as an accountant and then spent 15 years at banking group Kleinwort Benson, working in the United Kingdom and the United States. He then moved to financial advisory and asset management group Lazard Ltd., where he ran the corporate finance division and was appointed vice chairman in 1990.

Mr. Nelson has been a nonexecutive director of several large U.K. companies and remains an adviser to investment firm Charterhouse Capital Partners L.L.P. as well as a trustee of the National Gallery in London.

The appointment is for an ini-

tial three-year term and is subject to annual election by the Council of Lloyd's. Mr. Nelson will work an average of three days a week and be paid an annual salary of £525,000 (\$855,488), Lloyd's said in a statement.

"John's business experience makes him the perfect candidate to take on this role and help Lloyd's build on its position as the pre-eminent market for specialist insurance," Lloyd's CEO Richard Ward said in the statement.

Lloyd's last month reported a profit of £2.2 billion (\$3.58 billion) for 2010, down 43% from £3.87 billion (\$6.31 billion) the previous year, after a string of natural catastrophes and man-made disasters.

The market has yet to report loss estimates for the earthquake and tsunami that struck Japan on

March 11. Loss data reports from the market's syndicates were due last week and the market will issue a loss estimate in the coming weeks.

Lord Levene, who has served a nine-year term as chairman, oversaw the start of operations of the market's franchise performance board, the body that scrutinizes business plans of syndicates in the market, among other developments.

Lord Levene, 69, last year set up NBNK Investments P.L.C. to buy U.K. bank assets.

Sir David Clementi, a former deputy governor of the Bank of England, and Lord Paul Myners, former U.K. financial services secretary, are among those who had been touted as Lord Levene's replacement. However, both withdrew from consideration.

## CATASTROPHES

# Cat bonds under review after model update

By JEFF CASALE

**NEW YORK**—Standard & Poor's Ratings Services placed its ratings of 16 natural peril catastrophe bonds issued by insurers under review for a possible downgrade due to Risk Management Solutions Inc. releasing its updated U.S. hurricane model.

It had been expected that the updated model released in February would have some impact on the catastrophe bond market, though it is unclear whether the model pricing will affect primary insurance or reinsurance pricing.

RMS' updated model—RiskLink V11 U.S. Hurricane Model—doubled the modeler's one-in-100-year estimate for insured hurricane losses in Texas, increased its loss estimate at least 75% in the

Middle Atlantic region, and had smaller increases in Florida. The model includes higher inland wind speeds; greater building vulnerability; updates of secondary modifiers, such as roof type and construction; and increases in modeled storm surge losses.

"We have come out with an updated view of hurricane risk," said Peter Nakada, Hackensack, N.J.-based director of RMS RiskMarkets. "Hurricane risk is higher than we originally thought, and it's a logical consideration and ratings action (by S&P) based on that."

Gary Martucci, New York-based director and catastrophe bond analyst with S&P, said the rating agency was aware of that the model was being updated, that RMS said there would be some changes

and that the marketplace was aware of the expected changes.

"We came out with (ratings news) when we did because the

## Questions & Answers

**WHY RMS UPDATED MODEL:**  
A senior vp at RMS explains reasons behind changes. **PAGE 20**

model had been accepted by the marketplace at some level and prior to the windstorm season," Mr. Martucci said.

While S&P put the 16 cat bonds on CreditWatch, including those issued by Montana Re Ltd. on

behalf of Flagstone Reinsurance Holdings Ltd., Lodestone Re Ltd. on behalf of Chartis Inc., Ibis Re Ltd. on behalf of Assurant Inc., Foundation Re III Ltd. on behalf of Hartford Financial Services Group Inc., Calabash Re III Ltd. on behalf of Swiss Reinsurance Co., and Longpoint Re II Ltd. on behalf of Travelers Indemnity Co.

William Dubinsky, New York-based managing director and head of insurance-linked securities for Willis Capital Markets & Advisory, said S&P's actions really offered no change from the cat bond investor's point of view of how the bonds are evaluated.

"Investors take a multimodel view of risk similar to reinsurers," Mr. Dubinsky said. "Three to five years ago, it was more of a single-model approach, but not any-

more. All of the models are valued and that is why there is a multi-model view."

Other valued catastrophe modelers include EQECAT Inc., which said it was refining its north Atlantic hurricane model to be released in June, and AIR Worldwide Corp., which could not be reached for comment.

Though not surprised by S&P's actions, Mr. Nakada said he would prefer ratings agencies to use a more holistic approach to cat bond ratings and have other models be part of the evaluation.

Further, he said it's possible that insurers or reinsurers may move away from using RMS' model in light of S&P's actions, but that he is confident they won't, given the

See **RMS** page 20

## RISK MANAGEMENT



AP PHOTO

Smoke billows from the Magna Exteriors and Interiors Corp. building after a fire on an assembly line in its Howell, Mich., plant.

## Improvised crisis plan saves auto parts maker

*After frenetic week, firm gets production back to 80% capacity*

By DAVID SEDGWICK

**HOWELL, Mich.**—Nobody knows how the fire started.

Robert Brownlee, president of Magna Exteriors and Interiors Corp., got the news on his BlackBerry while traveling.

On Wednesday, March 2, a 5 p.m. blaze on an assembly line in Magna's interior trim plant here reduced one-third of the factory to blackened wreckage.

All 100 employees on the afternoon shift escaped injury, but Mr. Brownlee knew he had a huge problem. The plant makes head-

liners, rear window trays, door panels, instrument panel skins and other products for 16 assembly plants operated by General Motors Co., Ford Motor Co., Chrysler Group L.L.C. and Nissan Motor Co. Ltd.

Within 24 hours, some of those assembly plants slowed production while others shut down. Mr. Brownlee gave himself just two days to resume production at the Howell, Mich., plant.

This is a story about crisis management—how a company reacts when a disaster disrupts normal decision-making. A manager has to create order out of chaos, and he has to do it right now.

Even before the fire was extinguished, Mr. Brownlee called his

See **MAGNA** page 18

## WORKERS COMPENSATION

## N.Y. comp trust assessments OK'd

By ROBERTO CENICEROS

**NEW YORK**—A state appellate court has upheld the New York State Workers' Compensation Board's authority to assess financially healthy group self-insured trusts to pay for the liabilities of defaulted groups.

Last week's decision by the 3rd Judicial Department of the Supreme Court's Appellate Division in *William Held Jr. vs. State of New York Workers' Compensation Board* stemmed from a 2008 lawsuit filed by self-insured group trusts, the ruling states.

They challenged the constitutionality of annual assessments imposed on them by the board.

Among other arguments, the plaintiffs contended that a workers comp law authorizing the board to assess all private self-insured employers when it is determined that an insolvent, self-insured employer may not meet its claims obligations does not apply to them. They argued the law does not apply to them because, as groups, they are not employers.

They also argued that the assessments amounted to an "unconstitutional taking."

While a trial court agreed with the group trusts last year, the state appellate court disagreed. "There is no dispute that plaintiffs are self-insurers," the appel-

late court ruled.

"The amounts of the assessments may have been unanticipated, but it cannot be said that their economic effect on plaintiffs rises to the level of a taking," the court ruled. "While plaintiffs may be deprived of substantial amounts of money to pay the assessments, their liability is not made in a vacuum and directly depends on their proportional role in the self-insurance program and the workers compensation system."

New York's group self-insured trusts have faced a financial crisis since 2006. Since then, several have closed voluntarily while others became insolvent.

## PROPERTY/CASUALTY INSURERS

## Investments fuel insurer profits

By MIKE TSIKOUKAKIS

U.S. property/casualty insurers' aftertax profits increased nearly 21% to \$34.7 billion in 2010 from a year earlier, according to an analysis released last week.

In 2009, the U.S. property/casualty insurance industry reported \$28.7 billion in aftertax net income, according to the Insurance Services Office Inc. and the Property Casualty Insurers Assn. of America.

The data provided by the Jersey City, N.J.-based ISO and Des Plaines, Ill.-based PCI accounts for at least 96% of all business written by private U.S. property/casualty insurers, according to the organizations.

**\$34.7B**

U.S. property/casualty insurers' aftertax net income in 2010.

Net written premiums increased 0.9% to \$3.7 billion in 2010. The insurers reported a 102.4% combined ratio for 2010 vs. 101% a year earlier. Policyholder surplus increased 8.9% to \$556.9 billion.

Among other results, insurers' net investment income earned rose to \$47.2 billion last year. When net realized capital gains

are included, insurers reported a 35.2% increase in net investments, which rose to \$52.9 billion in 2010.

Commenting on property/casualty insurers' positive results for 2010, Michael Murray, ISO's assistant vp of financial analysis, said growing investor expectations that the economy will continue to improve have contributed to the increase in investment gains for insurers.

"But insurers continue to face substantial headwinds in their core business—underwriting—with prices yet to firm in many commercial insurance markets despite rising loss and loss adjustment expenses," Mr. Murray said in a statement.

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## BUSINESS LINES

Chaucer Holdings P.L.C. deploys specialist underwriters in all major insurance and reinsurance classes, including global marine, energy, nonmarine and aviation with a U.K. motor business and nuclear insurance. Headquartered in London, Chaucer has international operations in Buenos Aires, Argentina; Copenhagen, Denmark; Houston; and Singapore.

CATEGORY	2010*	2009
Net earned premiums	£652.8 million (\$1.6 billion)	£672.6 million (\$1.1 billion)
Pretax profit	£32.9 million (\$53.6 million)	£42.0 million (\$68.4 million)
Combined ratio	99%	93%

\*According to Chaucer's preliminary results for the year ended Dec. 31, 2010.  
Source: Chaucer Holdings P.L.C.

## Hanover: Insurer makes bid for U.K.'s Chaucer

CONTINUED FROM PAGE 3

affirmed its A- financial strength rating on Hanover but revised its outlook to stable from positive. Among other concerns, Fitch said the acquisition is the company's first outside the United States.

Martha Butler, Chicago-based senior director in the insurance group at Fitch, said the global property/casualty industry is "competitive, so when you do a deal, there's going to be uncertainty."

Hanover had company in bidding for Chaucer.

Lloyd's insurer Brit Insurance Holdings N.V. made an offer in 2009, but Chaucer didn't recommend it to shareholders. In February, Chaucer said it had "received

a number of approaches regarding a possible offer for the company," and private equity firm Terra Firma Capital Partners III L.L.P. announced its interest.

But, Chaucer's board accepted Hanover's terms and recommended the deal to shareholders. Seventy-five percent of shareholders must approve the deal for it to proceed. Some large investors committed to the deal, including private equity firm BlackRock Investment Management (UK) Ltd. and investment manager Aberdeen Asset Managers Ltd.

"We're still confident that with the shareholders we've got, (the deal) will still get done," Chaucer CEO Bob Stuchbery said in an interview.

Even if the deal is completed, it is not likely to signal a wave of activity in the Lloyd's market, at least for now, analysts say.

"We're not seeing a rush of deals," said Bill Cooper, managing director at Lloyd's Banking Group in London. "We're seeing a lot of conversations about deals."

In the Lloyd's market, competition has lowered valuations for acquirers and acquisition targets in recent years, limiting the number of deals getting done.

"There has been some activity," said Christopher Hitchings, an analyst in London at the investment bank Keefe, Bruyette & Woods Inc. "It's very difficult to get these done. I can't see anything that'll change that in the short term."

So far this year, U.K. multiline insurers have announced five M&As compared with four during the comparable period in 2010, according to London data and analytics firm Dealogic (Holdings) P.L.C. But the value of deals surged to \$801 million so far this year vs. \$185 million in 2010.

"As a general matter, both strategic and private equity investors are interested," said Andrew Sibbald, managing director at London-based corporate finance adviser Lexicon Partners. He said strategic investors want things like access to business that comes through the Lloyd's market, and financial investors see that the businesses are trading more cheaply.

"I'd expect there to be a resumption in M&A activity when there's more clarity over the exposures to the Japanese earthquake," said Tom Dorner, an analyst at Oriel Securities Ltd.

## Commentary

# Who left that bone by the water cooler?

The newsroom, like many workplaces, I suspect—particularly these days—can be a stressful environment.

Stress can have all sorts of negative repercussions in the workplace, affecting employee health and job performance and potentially hurting employee retention.

So it stands to reason that a benefit that might reduce employee stress while potentially improving employee health and productivity at little or no cost to the employer would be a no-brainer, right?

And so it would seem the case is obvious for dogs in the workplace.

I've previously mentioned my wish that my employer would embrace Take Your Dog to Work Day. I was delighted, then, when I recently got what I feel to be a pretty reputable backer in my corner in the form of one of the premier insurance industry trade organizations.

In reading my daily copy of the Property Casualty Insurers Assn. of America's PCI SmartBrief newsletter a couple of weeks ago, among the articles aimed at property/casualty insurance company executives was one that drew my eye. The piece was titled, "A Dog in the Office Is Good for Business (and for You)."

The piece, by author, journalist and personal finance expert Jean Chatzky, noted that nearly 20% of companies allow employees to bring pets to work, according to the American Pet Products Assn.

The article went on to cite some of the potential workplace benefits that dogs might offer, including stress relief, increased socialization, exercise and more productive workers.

On the latter point, Ms. Chatzky cited APPA statistics that indicate widespread belief that pets in the workplace decrease absenteeism, create a more productive environment and lead those who bring their pets to the office to work longer hours.

Pet Sitters International Inc.'s Take Your Dog to Work Day (June 24 this year, if you're interested) website at [www.takeyourdog.com](http://www.takeyourdog.com) offers other information about the benefits of pets in the workplace, as well as tips for a successful Take Your Dog to Work Day, most of which seem a combination of responsible dog ownership and a little risk management. There's also information aimed at winning



**RODD ZOLKOS**

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your boss over to the concept of dogs in the workplace.

I suppose there might be some other points to consider before bringing a dog to the office. Among them: how the work environment might affect the dog. The workplace might be stressful for some and, as in humans, stress can be the source of health issues in some pups.

Recently, our flat-coated retriever, Smoke, experienced some gastrointestinal issues

**Some of the potential workplace benefits that dogs might offer include stress relief, increased socialization, exercise and more productive workers.**

that prompted a visit to the vet. Our fine veterinarian quickly determined that Smoke was suffering from colitis, and prescribed medication and a high-fiber diet. Within less than 24 hours, Smoke was back to his old self.

Our vet explained that stress can cause canine colitis, though knowing Smoke as he does, he noted that stress was not the likely culprit in our dog's case. Smoke's a pretty happy-go-lucky, light-hearted guy, and his closest brush with stress comes in choosing which tennis ball to take from his collection by the front door at walk time.

My wife, Kathy, might suggest that rather than being a victim of stress, if anything, Smoke's a carrier. But then, as I've written before, Smoke and Kathy have a history involving a laptop and a BlackBerry. But he's older now, and well past that sort of behavior, I'm sure. And ready to go to work.

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# Business Insurance OPINIONS

## Speedy treatment aids workers, bottom line

AS COMPANIES TURN their attention from cutting costs to expanding their operations as the economy rebounds, risk managers also should get back to the fundamentals of their business.

Included in those efforts should be renewed efforts to treat injured workers as soon as possible, as part of being a good employer as well as keeping workers compensation costs under control.

As we report on page 1, some anecdotal evidence suggests that workers delayed in reporting of injuries during the economic downturn. Workers, some say, were leery of reporting injuries out of fear that it would increase their chances of being laid off, and employers were focused on core issues affecting their businesses and had little time for secondary concerns, such as workers comp issues.

With economic conditions improving, however, workers feel more secure in their jobs and there is some indication that they are more inclined to file comp claims again. Of course, with the previous delays in filing claims, minor injuries sustained earlier may have developed into more severe medical problems when treatment finally was sought.

In an ideal world, risk management would be recession-proof. After all, smart risk management is an investment in a firm's future and, ultimately, can lead to significant savings. But in the real world, risk managers have been just as susceptible to business pressures as any other manager.

With medical costs continuing to rise, risk management departments should renew their focus on managing comp claims effectively. Encouraging workers to report injuries earlier should be a key part of that process.

*Smart risk management is an investment in a firm's future and, ultimately, can lead to significant savings.*

## Climate change lawsuits stifle good regulation

WE CERTAINLY HOPE the U.S. Supreme Court overturns a lower court's decision that allows individual states to proceed with a lawsuit asserting that utility companies created a public nuisance by allegedly contributing to climate change.

As we report on page 1, the stakes involved in *American Electric Power Co. Inc. et al. vs. State of Connecticut et al.* are high.

Allowing the states or other parties to attempt to regulate environmental issues through common law nuisance claims would do little more than open the floodgates to what we fear could be a wave of litigation, some of it bordering on frivolous.

After all, an argument could be made that everyone contributes to greenhouse gas emissions simply by exhaling. It's not a very good argument, but an argument doesn't have to be a good one to find its way into a lawsuit.

What makes the situation even worse is that the lawsuit isn't necessary. The Environmental Protection Agency already has the power to regulate greenhouse gases. We'd much prefer that the EPA attempt to control greenhouse gas emissions with a national rule than allowing states to pursue their own actions.

This is a case where regulation should trump litigation. We hope the justices agree.



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Will the U.S. insurance market harden as a result of the first-quarter catastrophes?

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# Dental exams spot systemic ailments

*Some employers manage to cut costs by increasing benefits*

By JOANNE WOJCIK

After attending a seminar several years ago where she heard a dental expert talk about the link between oral and systemic health, Fran Ruderman saw to it that her company's dental plan covered three dental cleanings per year for all of its employees.

Last year, Leviton Manufacturing Co. Inc. in Melville, N.Y., added a fourth cleaning per year for pregnant women—not only because pregnancy often has a detrimental effect on gums and teeth, but because women with periodontal disease may be at greater risk of a preterm delivery, said Ms. Ruderman, vp of human resources at Leviton.

"Sometimes employers feel that it will cost them more money to add a third dental hygiene visit (per year), but it is important to understand the correlation

between poor dental health and certain medical conditions," she said.

Employers that persuade their employees and dependents to use their dental benefits could see lower health care costs overall, experts say.

In fact, individuals suffering from coronary artery disease, diabetes or cerebrovascular disease (stroke) who receive regular periodontal treatments had lower medical costs than those who do not receive such care, according to a two-year retrospective examination of Aetna Inc.'s claims data by Columbia University's College of Dental Medicine.

As a result of that study, Aetna began offering enhanced dental benefits for dental plan members who were identified as having those health conditions, said Dr. Mary Lee Conicella, Pittsburgh-based chief dental officer.

Also, in response to growing scientific evidence of a link between oral and systemic health, Philadelphia-based CIGNA Corp. recently expanded dental services under its group dental plans.



## EARLY DETECTION

Conditions that can be identified by an oral exam include:

- Common viral infections
- Diabetes
- Endocrine diseases
- Erythema multiforme
- HIV
- Hypertension
- Leukemia/lymphoma and other blood disorders
- Lichen planus
- Malignancies of the head and neck
- Melanoma
- Negative effects of cancer therapies
- Neurological disorders
- Oral cancer
- Oral viral infections
- Pemphigus
- Pregnancy
- Salivary gland diseases
- Sexually transmitted diseases
- Sjogren's syndrome
- Tuberculosis
- Vascular disorders

Source: UnitedHealthcare Dental

When it first launched in 2006, CIGNA's Oral Health Integration Program provided enhanced dental coverage to treat gum disease of pregnant women and people with cardiovascular disease and

diabetes enrolled in its dental and medical plans. But beginning this year, the program was extended to all CIGNA dental plan members

See **DENTAL** page 12

# The eyes have it in medical health

*Vision care viewed as opportunity for medical checks*

By JOANNE WOJCIK

While a poet may envision the eyes as the window to the soul, an ophthalmologist may regard them as apertures illuminating any number of health conditions.

In fact, eye examinations are being used to detect not only glaucoma and cataracts, but also hypertension, rheumatoid arthritis, diabetes and a host of other ailments.

Given its cost relative to the potential benefit—comprehensive eye exams are significantly less expensive than routine medical exams—experts say employers may find value by offering vision coverage to employees through a standard medical plan or as a stand-alone voluntary benefit.

While 47% of employers offer dental benefits, just 18% offer

vision benefits, according to the Kaiser Family Foundation/HRET "Employer Health Benefits 2010 Annual Survey."

Vision care got a boost with last year's Patient Protection and Affordable Care Act, the health care reform law that mandates offering pediatric vision and dental care as part of essential benefits in plans offered through health insurance exchanges beginning in 2014.

Don Yee, president and CEO of UnitedHealthcare Vision in Sacramento, Calif., says approximately two dozen conditions can be identified or monitored through regular eye exams (see box). "The more prevalent ones are diabetes, hypertension, high cholesterol, diabetic retinopathy, cataracts, glaucoma and macular degeneration," he said.

Because two-thirds of U.S. residents need some sort of visual correction at some time in their lives, they are more likely to get an eye exam regularly than a general medical exam. This makes ocular



## IN FOCUS

Conditions that can be detected during a general eye exam include:

- Cataracts
- Cytomegalovirus
- Crohn's disease
- Diabetes
- Diabetic retinopathy
- Glaucoma
- Graves' disease
- Herpes zoster
- High cholesterol
- Hypertension
- Hypertensive retinopathy
- Juvenile rheumatoid arthritis
- Lupus
- Lyme disease
- Macular degeneration
- Multiple sclerosis
- Pseudotumor cerebri
- Rheumatoid arthritis
- Sarcoidosis
- Sickle cell anemia
- Sjogren's syndrome
- Tumors
- Vascular disease

Source: UnitedHealthcare

medical providers often the first responders, Mr. Yee said.

"We ask our eye doctors to alert the patient" whenever they detect the possibility of a serious health

condition, Mr. Yee said.

To ensure that patients receive recommended follow-up health

See **VISION** page 12

Dental, Vision & Voluntary Benefits

SPOTLIGHT

**BUSINESS INSURANCE RANKING: LARGEST DENTAL PROVIDERS PAGE 10**

**HEALTH CARE REFORM, HIGHER COSTS BOOST VOLUNTARY BENEFITS PAGE 12**

**INSURERS EXPANDING VOLUNTARY BENEFITS FOR GROUP PLANS PAGE 13**

# DATA snapshot

## DENTAL PLAN PROVIDERS

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## LARGEST DENTAL PLAN PROVIDERS

Ranked by total number of participants in plans

RANK	Company/address	Phone/website	Total participants	Total clients	Total staff	Dentists in network	Dental claims processed	Principal officer
1	Delta Dental Plans Assn. 1515 W. 22nd St., Suite 450, Oak Brook, Ill. 60523	630-574-6001 <a href="http://www.deltadental.com">www.deltadental.com</a>	54,000,000	93,600	7,000	208,800	84,000,000	Kim Volk, president/CEO
2	MetLife Inc. 200 Park Ave., New York, N.Y. 10166	877-638-2862 <a href="http://www.metlife.com/dental">www.metlife.com/dental</a>	20,000,000	42,000	N/A	150,000	30,000,000	Michael H. Schwartz, David Guarrera, Andy Laderman, vps-dental products
3	Aetna Inc. 151 Farmington Ave., Hartford, Conn. 06156	877-238-6200 <a href="http://www.aetna.com">www.aetna.com</a>	13,700,000	27,000	1,650	144,000	23,000,000	Dan Fishbein, head-group insurance, dental and vision
4	CIGNA 1601 Chestnut St., Two Liberty Place, Philadelphia, Pa. 19192	800-257-5800 <a href="http://www.cigna.com">www.cigna.com</a>	10,300,000	N/A	N/A	194,200	N/A	Matt Manders, president-CIGNA U.S. Service, clinical and specialty
5	United Concordia Cos. Inc. 4401 Deer Path Road, Harrisburg, Pa. 17110	888-884-8224 <a href="http://www.unitedconcordia.com">www.unitedconcordia.com</a>	8,026,582	32,393	1,200	72,763 <sup>1</sup>	13,914,050	Daniel Lebish, chairman/CEO
6	Guardian Life Insurance Co. of America 7 Hanover Square, H-26-E, New York, N.Y. 10004	212-598-8000 <a href="http://www.glic.com">www.glic.com</a>	5,829,625	72,621	1,359	142,090	14,671,145	Christopher Swanker, vp-group dental
7	WellPoint Inc. 120 Monument Circle, Indianapolis, Ind. 46204	317-532-6000 <a href="http://www.wellpoint.com">www.wellpoint.com</a>	4,000,000	54,000	750	94,000	7,000,000	Mike Walsh, president, WellPoint Dental
8	Ameritas Group Dental & Eye Care 475 Fallbrook Blvd., Lincoln, Neb. 68521	800-776-9446 <a href="http://www.ameritasgroup.com">www.ameritasgroup.com</a>	3,180,443	64,335	642	146,536	3,681,541	Ken VanCleave, president-group division
9	Assurant Employee Benefits 2323 Grand Blvd., Kansas City, Mo. 64108	816-474-2345 <a href="http://www.assurantemployeebenefits.com">www.assurantemployeebenefits.com</a>	1,740,128	59,873	210	131,857	2,333,642	Tim Knott, senior vp-strategic markets and products
10	Principal Financial Group 711 High St., Des Moines, Iowa 50392-0001	800-986-3343 <a href="http://www.principal.com">www.principal.com</a>	1,379,509	27,215	440	141,643	1,960,185	Theresa McConeghey, dental and vision director

<sup>1</sup> Advantage Plus PPO only. N/A=not available

Source: BI survey. Researched by Kevin Edison and Karen Tucker

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# Employers adding voluntary benefits

*Worker-paid critical illness, accident coverage showing double-digit rise in uptake*

By LOUISE KERTESZ

Health care reform and rising health care costs are fueling the growth of voluntary, employee-paid benefits, brokers and insurers say.

Many employers that have increased employee cost-sharing in response to higher costs and uncertainty about mandates in the federal health care reform law have added voluntary benefits, experts say.

Already, about 80% of U.S. employers offer voluntary benefits to their workers, according to consultant Mercer L.L.C.

Voluntary benefits can offset employees' out-of-pocket medical expenses, particularly in high-deductible plans. Employers can use their size to get prices for voluntary benefits that are less expensive than buying them through the individual market, experts say. Examples of voluntary medical coverage include critical illness, cancer, hospital confinement indemnity and accident insurance.

"Our two products that had the highest growth rate are critical illness insurance (which grew 29% last year) and accident insurance, which grew 23%, and that speaks to an environment where employers are looking for ways to supplement their health plans," said Neicie Durrence, vp of voluntary benefits at Unum Group in Chattanooga, Tenn.

"Employers want to make sure they're taking care of essentials"—core medical

benefits—"so many employers are offloading coverage like short-term disability to employees," said Ron Agypt, senior vp of broker sales at Aflac Inc. in Columbus, Ga.

"We've seen voluntary disability sales really spike," said Leonard Cavallaro, vp of employee benefits at American United Life Insurance Co. in Indianapolis. "If employers can get away from funding the benefit, it helps them deal with the uncertainty" of health care reform. "We need to make employers aware that there are other ways

**'If employers can get away from funding the benefit, it helps them deal with the uncertainty' of health care reform.**

Leonard Cavallaro, American United Life Insurance Co.

to restructure their benefits that allow them to keep their powder dry" for their greatest expense, which is medical benefits, he said.

Some employers are switching from employer-paid dental to voluntary coverage, said Richard Klassen, chief marketing and sales officer at Delta Dental of Missouri in St. Louis. Still, companies tend "to leave their dental in place because employees view it as a significant benefit" and the cost is much less than medical coverage, he said.

In "the proverbial perfect storm," brokers are contributing to voluntary benefits'

growth, said Mr. Cavallaro. With the prospect of lower commissions as a result of the federal mandate that 80% to 85% of premium revenues be spent on medical care, more brokers are turning to voluntary benefits to maintain their income. "It's self-preservation," said Pat Haraden, a principal at Longfellow Benefits in Boston.

However, sources agreed with Aflac's Mr. Agypt, who said broker interest in voluntary benefits "is a commission issue, but not the issue. I really believe that the holistic approach to benefits is driving" interest in voluntary benefits. "Clients are saying to brokers, and to us, 'You need to integrate the medical or core group products and the ancillary or voluntary offerings—and most important is educating and communicating to employees how this all fits together.'"

When employers ask how to reduce employees' out-of-pocket expenses, "we suggest voluntary benefits as a way to bridge the gap," Mr. Haraden said.

"My conversation with employers about voluntary benefits is dictated by gaps in coverage," said Jim Edholm, president of Business Benefits Insurance in Andover, Mass. "Employers are more open to brokers presenting voluntary benefits" because of their strong correlation with job satisfaction, productivity and lower absenteeism, he said.

"Three or four years ago, brokers were not very interested in voluntary benefits," said Mark Parabolicoli, director of affinity partnerships at Liberty Mutual Group in Boston. "With health care in flux, my calls from

brokers have probably increased threefold in the last year," he said.

Voluntary benefit sales once were the domain of "the worksite specialist, agents whose vast majority of revenue came from voluntary benefits," said Unum's Ms. Durrence. But a study by Eastbridge Consulting Group Inc. shows that 52% of voluntary benefit sales now are generated by traditional benefit consultants, she said.

"It's more incumbent on us that we have to be different and find unique solutions out there for our clients," said Paul Shaheen, vp of Horton Benefit Solutions in Chicago. "I'm trying to leverage health reform's emphasis on wellness to our advantage, since it's all the more motivation to get employers to think about wellness plans."

Voluntary critical illness plans have a wellness incentive that reduces the premium when the person covered takes a screening test such as a colonoscopy or a lipid panel, Mr. Shaheen said. "You can leverage wellness to make a health insurance product less expensive," and it's a way to introduce wellness into a company, he said.

"As an industry in total, we're certainly seeing the sale of critical illness policies rise," said Heather Lavalley, president of employee benefits distribution at ING Employee Benefits in Minneapolis. An Aug. 2010 Eastbridge Consultants report showed critical illness sales in 2009 rose almost 88%.

"Aging baby boomers with concerns about being diagnosed are seeing these benefits really provide protection in the event of a catastrophic illness," she said.

The growth of voluntary benefits is transforming the benefits industry. Liberty Mutual began offering voluntary insurance in 1970 "as more of a hobby," said Mr. Parabolicoli. Today, Liberty Mutual's "employer affinity (voluntary) auto and home insurance program generates 80% of all personal lines auto and home business," he said.

## Dental: Spot other issues with exams

CONTINUED FROM PAGE 9

with qualifying medical conditions, regardless of whether they are also enrolled in a CIGNA medical plan.

In some cases, access to dental benefits has led to early detection of more serious health conditions (see box, page 9), experts say.

"One of the first things a dentist asks his or her patients to do is to complete a health history. Dentists look for connections, and we're seeing new connections all the time," said Dr. John Yamamoto, vp of professional services at Delta Dental Plans Assn. in San Francisco.

For example, "periodontal disease is an inflammatory response indicating that something else is wrong in the body," he said.

Stacey Whidden, president and CEO of Express Dental Care L.L.C. in Tampa, Fla., which provides occupational dental care, has run into situations in which a dentist discovered undiagnosed diabetes in workers compensation claimants suffering from mouth injuries.

In one case, "the claimant hadn't seen a dentist in two years. When the dentist examined him,

he saw that he had advanced periodontal disease and possibly diabetes," so he was referred to a physician who confirmed the diagnosis, Ms. Whidden said.

"What people don't realize is that when the dentist tells you that you have great teeth and gums, that means you have good overall health," she said.

Recognizing that dentists may be able to detect certain systemic health issues early, UnitedHealth Group Inc. recently launched a pilot wellness program in which Houston city employees enrolled in its HMO receive biometric screenings from dentists, rather than doctors or nurses, said Dr. John Luther, San Francisco-based chief dental officer of UnitedHealthcare Dental.

"While certain diseases can be identified in the health history, they also can be identified through observation. For example, facial asymmetry or lesions on the lower lip can be indicative of oral cancer," he said. Alternatively, "a head and neck examination can identify HIV or AIDS."

In addition, "diabetics get periodontal disease more frequently than nondiabetics do," Dr. Luther said. "If you can control periodontal disease in a diabetic, you will also have an easier time controlling blood sugar" levels, he said.

"If we get patients into care early, we have a win-win situation in not only improving outcomes but also in reducing overall health care costs," he said.

## Vision: The eyes have it as firms view health costs

CONTINUED FROM PAGE 9

screenings and medical treatment, the UnitedHealth Group Inc. unit provides referral support tools to its eye care professionals. The insurer also integrates eye care and general medical data to identify any disease connections and perform patient outreach when necessary, he said.

At the start of the year, Hartford, Conn.-based Aetna Inc. launched a vision care product for its national-account clients that blends vision care data with other medical information in a data warehouse managed by ActiveHealth Management Inc., an Aetna subsidiary.

Using this information in combination with claims data, ActiveHealth can identify individuals who might have undetected medical conditions and then contact their primary care doctors to make sure they receive recommended screenings and follow-up care, said Debra Wharton, head of vision at Aetna in Hartford.

"Our vision care providers are encouraged to collect that secondary diagnosis data and submit it to Aetna's data warehouse and ultimately through to ActiveHealth," Ms. Wharton said.

As part of a larger effort to increase awareness and understanding of the connection between eye health and general health, Rancho Cordova, Calif.-

based VSP Vision Care on March 31 kicked off its second Eye on Diabetes campaign in Phoenix. The campaign also will make stops in Lansing, Mich.; Atlanta; and Harrisburg, Pa.

The campaign highlights the vital role eye professionals can play in the early detection and treatment of chronic health conditions, said Susan Egbert, director of eye health management at VSP.

To ensure that patients whose eye exams reveal underlying medical conditions receive follow-up care, VSP doctors are encouraged to communicate directly with patients' primary care physicians, Ms. Egbert said.

In addition, VSP works with health insurers and disease management vendors to ensure that vision care data is incorporated into patients' health records, she said.

Through its patient outreach program, VSP has seen an 18% increase in the proportion of diabetic patients enrolled in its plans receiving regular eye exams, she said. At the same time, VSP has demonstrated savings in health benefit costs for some of its employer clients through early detection of chronic diseases, reduced workers compensation costs, lower absenteeism and workforce turnover, according to the company.

In a VSP study conducted by Cheyenne, Wyo.-based consulting firm HCMS Group L.L.C. that was released this month, six large VSP clients found that every \$1 they invested in eye exams yielded a total return of \$1.27 in long-term health care savings.

"About 20% of the population goes in for an annual physical, but about 60% use their vision benefits, if they have them," Ms. Egbert said. "This means vision providers are more likely to detect the first signs of common chronic diseases like diabetes and hypertension. Our eye health management program was built on that foundation."

**\$1.00:\$1.27**

In a VSP Vision Care study, six large VSP clients found that every \$1 they invested in eye exams yielded a total return of \$1.27 in long-term health care savings.

# Voluntary products can make life easier, lower costs

By LOUISE KERTESZ

A wide range of voluntary insurance products are available to employers, underwritten as group and/or as individual policies offered at cost savings through the group relationship.

These include life, disability, dental, accident, critical illness, cancer, hospital confinement indemnity, long-term care, vision, homeowners, auto, prepaid legal, travel assistance and even pet insurance.

With identity theft rampant, specialty companies including InfoArmor Inc., LifeLock Inc., and Pre-Paid Legal Services Inc. offer identity protection through credit monitoring, assistance in notifying creditors and agencies to restore someone's identity, and some limits of liability.

Pat Haraden, a principal at Longfellow Benefits in Boston, said endorsements to homeowner policies from major insurers provide restoration assistance and reimburse expenses incurred from credit fraud, including lost wages and attorney fees.

Insurers also are introducing new voluntary products or updating existing policies as well as providing more edu-

cation about how voluntary benefits can minimize employees' exposure as employer-paid benefits shrink.

While group voluntary critical illness insurance once paid a lump-sum benefit upon diagnosis of a major illness, such as a heart attack, after which the policy terminated, the coverage has evolved to pay upon diagnosis of specified illnesses and may pay again if an illness recurs. Depending on the employer's design, Unum's policy pays up to \$50,000, which the covered individual can use for any medical or nonmedical expenses.

Guardian Life Insurance Co. has enhanced disability insurance to provide more coverage and premium-level choices, making it accessible to more employees. Aflac Inc. plans to introduce a new voluntary group short-term disability policy this year. Unum plans to introduce a new voluntary accident product this summer.

This year, Aflac added voluntary group dental insurance and enhanced its voluntary individual dental policy. For both, each covered person's maximum increased to as much as \$500 per covered person per year. The orthodontic rider also pays a richer benefit.

American United Life Insurance Co.,

which offers employer-paid and group voluntary term insurance, also plans to make voluntary permanent life insurance available.

As for bundled products, American United Life offers a voluntary dental and vision insurance package. Guardian offers a multicoverage voluntary pack-

**'Many times what stops people from making a choice is if it's too complicated.'**

Elena Wu, Guardian Life Insurance Co.

age, allowing employers to customize coverages including long- and short-term disability, life, accidental death and dismemberment, and critical illness. Aflac offers a voluntary package that combines accident, personal sickness indemnity and term life coverage.

The idea is to make it easier for employers and employees.

"Many times what stops people from making a choice is if it's too complicat-

ed," said Elena Wu, 2<sup>nd</sup> vp of group marketing and worksite at Guardian.

AmeriCard L.L.C. offers discount cards—which are not insurance—that can be used with the Aetna Dental Access network and major vision chains. The discount cards also can be used for services including identity theft protection, prescription drugs, chiropractic care and legal services.

Paul Shaheen, vp of Horton Benefit Solutions in Chicago, said clients have inquired about discount dental and vision cards and he's testing the waters to see whether employers that have tried them are satisfied.

"Voluntary benefits are constantly being updated by the industry as the needs are evolving, and benefit levels might increase as the cost of health care increases," said Heather Lavalley, president of employee benefits distribution at ING Employee Benefits in Minneapolis.

"Whatever we're selling today we're not going to be doing in the same form five years from now," said Leonard Cavallaro, vp of employee benefits at American United Life Insurance Co. in Indianapolis. "There will be more services, more decision assistance."



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# CASE STUDY

## ERRORS & OMISSIONS [BEST PRACTICES]

### Medicare audits create exposure for providers

By **MIKE TSIKOUDAKIS**

A physician's course of medical treatment and a hospital's documentation practices of Medicare cases can lay the groundwork for serious risk exposures under the government's Recovery Audit Contractor program, experts say.

The Centers for Medicare and Medicaid Services launched the program in January 2010, one that the Tax Relief and Health Care Act of 2006 made permanent.

The program aims to identify and recover improper Medicare payments to fee-for-service programs and health care providers through automated and human reviews to determine the medical necessity of procedures.

Incorrect amounts, incorrectly coded services, noncovered services deemed not reasonable and necessary, and duplicate services are among charges that can be deemed improper.

CMS hires third-party auditors to han-

dle the RAC audits. They are paid a contingency fee of 9% to 12% based on payments they identify as improper.

In a three-year RAC demonstration program in six states—Arizona, California, Florida, Massachusetts, New York and South Carolina—more than \$900 million in overpayments was returned to the Medicare Trust Fund from March 2005 through March 2008 and \$38 million in underpayments was paid to health care providers, CMS said in statement.

That compares with roughly \$470 billion in gross expenditures that the federal government spent on Medicare during 2008.

"Because Medicare pays for medical services and items without looking behind every claim, the potential for waste, fraud and abuse is high," acting CMS Administrator Kerry Weems said in a statement. "By enhancing our oversight efforts, we can better ensure that Medicare dollars are being used to pay for equipment and services that beneficiaries actually receive



while protecting them and the Medicare Trust Fund from unscrupulous providers and suppliers."

In addition, the Patient Protection and Affordable Care Act of 2010 expanded RAC audits to Medicaid billings, though CMS delayed the implementation date, which observers say most likely will be late summer.

"For hospitals, physicians and health systems, or any entity that bills Medicare or Medicaid or any government payer, the risk of a RAC take-back is one of the largest enterprisewide risks that they face today," said Bill Hammock, senior vp of Marsh Inc.'s global health care consulting

Continued on next page

### E&O policies can help transfer risk of government inspections

By **MIKE TSIKOUDAKIS**

Health care organizations looking to transfer the risks of government audits of Medicare and Medicaid billings are finding assistance under their errors and omissions insurance.

They need to do so in part because the Centers for Medicare and Medicaid Services in January 2010 launched the nationwide Recovery Audit Contractors program, which examines payments and documentation and may require repayment of amounts deemed improper.

The risk of a RAC audit is a major concern for health care provider risk managers, some of whom are turning to the insurance market for coverage, experts say. But strong compliance and training programs are essential to secure such coverage.

"This type of exposure is fairly new

to the marketplace, but we have seen insurers becoming more and more flexible and nimble in responding to the regulatory changes in the insurance environment," said Sarah Pacini, vp of risk management and insurance for Advocate Health Care Network in Oak Brook, Ill.

There are multiple types of financial loss associated with RAC risks, some of which are insurable, said Mark Karlson, Marsh Inc.'s national FINPRO health care practice leader in Hartford, Conn.

Exposures, such as legal defense during a RAC appeal process, are insurable up to a limit, while fines and penalties imposed on an organization may be insurable depending on state law and the type of penalty assessed, Mr. Karlson said.

"It's important for risk managers to understand while you can transfer some components of this and some

portions of it, there is no silver bullet from the insurance industry that can make this entire issue go away," Mr. Karlson said.

IronHealth, a unit of Ironshore Inc., has introduced a government billing E&O policy that covers defense costs and indemnity with limits up to \$5 million.

"We developed this product because we thought that there was a gap in what was being offered in the insurance market for, not just specifically RAC audits, but for government claims against health care provider organizations," said Alice Johansson, senior vp of IronHealth in Simsbury, Conn.

Underwriter scrutiny of health care providers is important, said Ms. Johansson, who looks for solid compliance and billing programs with up-to-date and concurrent training of employees when underwriting such coverage.

NAS Insurance Services, a Lloyd's of London managing general underwriter, offers Medefense Plus, a stand-alone policy that covers defense costs and civil fines and penalties stemming from RAC activity and other government billing audits, with limits up to \$5 million.

Genevieve Alexander, senior underwriter for NAS in Encino, Calif., also examines the types of processes and protocols health care providers have in place during the underwriting process.

"We take a look at what has occurred and compare it to the size of the risk and see if it makes sense that they would be under the microscope to such a large extent or to such a minor extent," Ms. Alexander said. "There is also software an insured or applicant can purchase that will help them to decipher which codes are correct ones to use" when billing for Medicare and Medicaid services, she said.

## CASE STUDY

CONTINUED FROM PREVIOUS PAGE

practice in Nashville, Tenn.

According to the American Hospital Assn.'s RACTrac survey of 1,850 hospitals nationwide, nearly 80% of participating hospitals experienced RAC activity and \$86 million in claims were denied since the first quarter of 2010.

"Trying to get our arms around the breadth of the RAC audits has been challenging," said Sarah Pacini, vp of risk management and insurance for Advocate Health Care Network in Oak Brook, Ill. "It's been an interesting 2010 and 2011, that's for certain."

Hospital risk managers are aware of government audit risks and are working to provide RACs with the information requested while developing protocols to avoid the audits, experts say (see related story).

Errors and omissions insurance also may help defray RAC-related costs, experts say (see story, page 14).

RAC requests and timelines to respond are one of the struggles that health care organizations face, experts say. RAC audits look back as far as three years and can request hundreds of medical records.

"The RAC can request a substantial amount of medical records at one time and then the hospital has got to do the administrative work to pull the records together and send them over to the RAC," said Elizabeth Baskett, senior associate director of policy for the AHA in Washington. "At times, we're talking about hundreds of medical records per 45-day period."

Typically, health care organizations will receive a request for medical records in the mail and have 45 days to respond from the date on the letter. The RAC has 60 days to review the records and issue determinations. At that point, the organization can either agree with the determination or appeal.

If the organization agrees with the overpayment determination, the money can be recouped electronically through the fiscal intermediary in each of four regions, known as Medicare administrative contractors. But many providers pay immediately to avoid interest charges because the process can take time, Ms. Baskett said.

Interest on the disputed amount also accrues if the hospital decides to appeal the RAC's determination, which can take up to two years, she said.

There are various levels of appeal, which can be costly, said Patrick J. Hurd, senior counsel for law firm LeClairRyan L.L.P. in Norfolk, Va.

Redetermination and reconsideration are the first two levels of appeal, and outside legal counsel

See **RAC** next page

# Hospitals review risk management to tackle audit risks

By **MIKE TSIKOUKAKIS**

Strategies to mitigate the risk of government audits of Medicare billing for health care organizations require shifting hospital risk management practices, experts say.

Historically, the largest claims for health care providers from a risk management perspective have been in obstetrics, emergency room care and operating room risks, said Bill Hammock, senior vp of Marsh Inc.'s global health care consulting practice in Nashville, Tenn.

"Hospital risk management programs have had to do a bit of an about-face and realize that this is a very significant risk that they need to get involved in and begin to mitigate against," Mr. Hammock said.

The main concern for hospital risk managers is "developing a process in order to respond to the inquiries and then also to appeal the denials, and then to identify partners in order to assist our ability to be compliant with the process," said Sarah Pacini, vp of risk management and insurance for Advocate Health Care Network in Oak Brook, Ill.

Jeffrey M. Teske, vp and chief compliance officer for Advocate, said the hospital system has set up a centralized group to address Recovery Audit Contractor activity.

"We're a big system, so we have a lot of

hospitals; and what we've done is established RAC task forces," Mr. Teske said. "We also have a central RAC committee that includes some of the members of each of those individual hospital task forces that works with the hospital sites to help them respond accordingly."

The RAC scrutiny has health care organizations looking to better unify their case

**'I think we tend to think in silos in health care and we've got to get out of that mindset.'**

Fay A. Rozovsky, The Rozovsky Group Inc.

management, quality control and risk management departments to efficiently and properly document medical cases, observers say.

While the Centers for Medicare and Medicaid Services said the three-year RAC demonstration program resulted in more than \$900 million worth of care that was not medically necessary and appropriate, others disagree.

"Physicians frequently say that is absolutely not true," said Mr. Hammock. "They believe that care was medically necessary

and appropriate; it simply wasn't documented to be."

"The best strategy is to ensure on a concurrent basis that the documentation supports the level and care ordered and billed every time. If you have that process in place through your case management program, you should have almost zero medical necessity take-backs," Mr. Hammock said.

Mitigating RAC exposures includes an enterprise risk management infrastructure, said Fay A. Rozovsky, principal and founder of consultant The Rozovsky Group Inc. in Bloomfield, Conn.

"I think we tend to think in silos in health care and we've got to get out of that mindset," Ms. Rozovsky said. "From an ERM perspective, that is our opportunity to get away from that kind of old thinking and look more holistically to see what we can be doing differently."

Those efforts include coordination by various parts of the organization—such as billing, coding, quality and medical services—to pre-empt risks and discern areas of improvement, Ms. Rozovsky said.

There is a trend of tearing down silos that exist for quality management, case management, reimbursement and risk management, said Mr. Hammock, who agreed that ERM is essential for health care providers facing RAC activity.

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## CASE STUDY

# RAC: Medicare audits create exposure

CONTINUED FROM PREVIOUS PAGE  
can cost \$3,000 to \$5,000, Mr. Hurd said.

The next levels of appeal are to an administrative law judge and the Medicare Appeals Council, which can cost health care providers \$10,000 to \$15,000, Mr. Hurd said.

If the provider believes it has a well-documented case, it can move forward with a judicial

review in federal court, the fifth and final level of appeal.

"You got to have a lot of money on the table if you're going to go this way," Mr. Hurd said, who estimated legal costs of various appeals could range from \$50,000 to well into the six-figure range.

According to participants in the AHA's RACTrac survey, 57% of hospitals appealed at least one RAC denial. Of appeals claims that completed the process, 85% were

overturned in favor of the provider.

Many hospitals do a cost/benefit analysis when deciding whether to appeal, Ms. Baskett said. However, the time to prepare the record with staff testimony and other documentation may cost more than the amount of the denial. "So we're seeing denials that weren't necessarily correct but the hospital has elected not to appeal them," she said.

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### JOHN DUNCAN

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**PREVIOUS POSITION:** San Francisco-based director of the California Department of Industrial Relations

**GOALS FOR NEW POSITION:** My goals include taking my public sector experience in a broad regulatory area and helping to expand the consulting practice at Bickmore Risk Services. I would like to introduce best practices in some areas and take a proactive approach (to risk). I want to use the data and research capability at Bickmore to measure whether regulatory impacts are positive or negative, and to provide insight to employers.

**INDUSTRY CHALLENGES:** There's a rising workers compensation cost in certain areas; there are broader challenges in the public sector (from the economy). It's important to get on top of whether certain intervention

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**HOBBIES:** I like to ski, both cross-country and downhill, hike and any outdoor activity.

### ON A SATURDAY AFTERNOON:

Probably some involvement in my children's sports. Depending on the time of year, it's either swimming, softball or basketball.

### EMAIL OR PHONE, AND WHY:

Either one, but I don't mind talking to people. You can get to the bottom of issues a bit more quickly by talking to people. Email is also a good form of communication.

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## Warming: High court may toss suit

CONTINUED FROM PAGE 1

toward tossing the suit because it is too unwieldy.

Experts have predicted a deluge of climate change litigation if the Supreme Court allows the underlying “public nuisance” lawsuit against greenhouse gas producers to proceed.

But even if the nation’s highest federal court invalidates the suit, creative plaintiffs lawyers are expected to use the state courts to seek redress for damages from global warming.

The suit was filed in 2004 by a coalition of states, environmental groups and the city of New York against several of the nation’s largest coal-burning utilities, alleging that their carbon dioxide emissions led to beach erosion, droughts and floods.

A New York federal judge dismissed the case in 2006 on grounds that the regulation of greenhouse gas emissions was a political question best left for the elected branches of government. However, in September 2009, the 2nd U.S. Circuit Court of Appeals reversed, sending shock waves through the energy industry.

Because of its potentially far-reaching implications, the Obama administration intervened in the case in August, filing a brief asserting that it was the job of the U.S. Environmental Protection Agency, and not the courts, to address greenhouse gas emissions.

All three participants in last week’s oral arguments—Washington lawyer Peter D. Keisler, representing the utilities; acting U.S. Solicitor General Neal K. Katyal, representing the Obama administration; and New York Solicitor General Barbara D. Underwood, representing the states—faced tough questioning by the court.

While Messrs. Keisler and Katyal asked that the case be dismissed on the premise that it simply did not belong in the courts, especially because the EPA has begun to address climate change, that did not seem to be enough to sway the justices.

Justice Antonin Scalia said “the suit will just be brought in state court” if the Supreme Court rules there is no federal cause of action for global warming.

Some of the justices wanted to focus on whether the EPA was doing enough to “displace” such a lawsuit.

Chief Justice John G. Roberts

Jr. suggested that perhaps the court should decide the case on its merits rather than on the narrow issue of administrative law.

Ms. Underwood received an equally cool reception when she asserted that litigation is the states’ only remedy because the EPA has yet to act. She pleaded that the court not shut the doors to state nuisance lawsuits because of “something that is said to be imminent” but “may never happen.”

In response, Justice Ruth Bader Ginsburg said “the relief you are seeking...sounds like the kind of thing that EPA does...the relief you’re seeking seems to me to set up a district judge...as a kind of super EPA.”

Justice Elena Kagan agreed that the lawsuit “sounds like the paradigmatic thing that administrative agencies do rather than courts.”

Justices Scalia and Samuel A. Alito expressed concern that allowing the state’s suit to go forward would create a potentially infinite number of plaintiffs to litigate against an equally infinite number of defendants.

Several legal experts said they expect the Supreme Court to overturn *AEP vs. Connecticut*.

“If you were trying to read the tea leaves, the comments of Justices Kagan, Ginsberg and (Stephen) Breyer, each suggesting in different ways that greenhouse gas regulation is best left to the EPA, are particularly problematic for the plaintiffs, especially since these are justices whose support a successful environmental plaintiff would need to count on,” said William F. Stewart, a partner at Nelson Levine de Luca & Horst L.L.C. in Blue Bell, Pa.

“Each in their own way, Justices Alito, Scalia and Roberts expressed the view that, due to the ubiquitous nature of carbon emissions, and due to the magnitude of the challenge, courts are ill-equipped to address global warming,” said Mr. Stewart, who was not involved in the *AEP* case.

“It seems the Supreme Court probably will reverse the 2nd Circuit’s decision. The court’s reasoning is more difficult to predict, but victory for the petitioners seems likely,” said Richard Faulk, a partner at Gardere Wynne Sewell L.L.P. in Houston, who is not involved in the case but filed an amicus brief on behalf of several chemical, refining, manufacturing and insurer organizations.

“It does appear that the court will reverse the 2nd Circuit,” said John P. Krill Jr., a partner at K&L Gates L.L.P. in Harrisburg, Pa., who also filed an amicus brief.

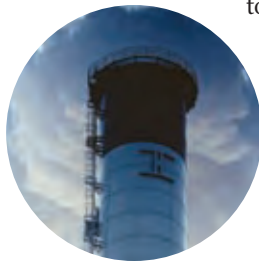
Regardless of how the high court rules, legal experts expect climate change litigation to continue.

“It means we enter a new phase of the litigation. As some of the justices noted, someone will file a suit in a state court that has a more liberal interpretation,” said Mr. Krill.

“Tobacco cases were tossed for years and years, and ultimately they stuck,” said J. Wylie Donald, a partner in the Wilmington office of McCarter & English L.L.P. and chair of the firm’s climate change and renewable energy practice.

“I wouldn’t doubt the ingenuity of the plaintiffs bar...they are going to be looking for theories on how to get the compensation,” said Mr. Donald, whose firm was not involved in the case.

*AEP vs. Connecticut* is one of three closely watched cases in the area of climate change litigation, the other two being *Native Village of Kivalina et al. vs. ExxonMobil Corp.* (see related story) and *Ned Comer et al. vs. Murphy Oil USA et al.*, filed by a group of Gulf Coast property owners who claim that oil and electric power companies’ emissions “added to the ferocity of Hurricane Katrina” by contributing to global warming. The Supreme Court in January declined to hear *Comer*, which had been dismissed on the grounds that it presented a political question that could not be decided by the courts.



**‘I wouldn’t doubt the ingenuity of the plaintiffs bar...they are going to be looking for theories on how to get the compensation.’**

J. Wylie Donald, McCarter & English L.L.P.

## Climate cover suit heard by Va. high court

### Is accident required to trigger insurance?

**RICHMOND, Va.**—As the U.S. Supreme Court weighed the merits of using the tort system to regulate greenhouse gas emissions, the Virginia Supreme Court in Richmond heard oral arguments in what is believed to be the first insurance coverage suit stemming from climate change litigation.

In *AES Corp. vs. Steadfast Insurance Co.*, attorneys for Steadfast, a subsidiary of Schaumburg, Ill.-based Zurich Holding Co. Of America Inc., argued that it has no duty to defend or indemnify Arlington, Va.-based AES because the global warming damage alleged in the underlying suit, *Native Village of Kivalina et al. vs. ExxonMobil Corp. et al.*, was not caused by an accident, which is needed to trigger coverage under AES’ commercial general liability policy.

“The implications of a decision are potentially colossal, especially if the U.S. Supreme Court permits (*American Electric Power Co. Inc. et al. vs. State of Connecticut et al.*) to move forward,” said J. Wylie Donald, a Wilmington, Del.-based partner at McCarter & English L.L.P. who attended the Virginia Supreme Court hearing as an observer because he represents insurers in coverage litigation.

“The court will determine whether liability insurance policies potentially cover unintentional harms caused by intentional releases of carbon dioxide, such as those emitted by fossil fuel-fired power plants. At stake are literally millions and millions of dollars,” Mr. Donald said.

At oral argument, AES’ attorney, L. Steven Emmert of Sykes, Bourdon, Ahern & Levy P.C. in Virginia Beach, Va., used a driving analogy to address whether the intentional release of greenhouse gas emissions meets the definition of “accident” to trigger CGL coverage, citing a situation in which a driver intentionally changes lanes without carefully checking the rearview mirror and then collides with an unnoticed car.

While Steadfast’s attorney, Leah W. Sears of Schiff Hardin L.L.P. in Atlanta, agreed that causing a crash after an intentional lane change might constitute negligence, she denied that it constitutes an “accident” as defined by CGL policies.

The Virginia Supreme Court is expected to issue a decision in June.

—By Joanne Wojcik

## Claims: Job climate linked to workers comp filings

CONTINUED FROM PAGE 1

"I think there were a lot of people who were not reporting claims because they didn't want to...be identified in any way other than for showing up for work and doing their job," said Ken Martino, president and CEO of Atlanta-based third-party claims administrator Broadspire Services Inc. "We were definitely seeing that at the peak of the recession."

Others agree.

"In some cases, employees were hesitant to report some of their injuries," said Bob Simon, vp of workers comp claims for CNA Financial Corp. in Chicago. "They were kind of afraid to lose their jobs, so some of them hung on and tried to treat things on their own."

The National Council on Compensation Insurance says the frequency of workers comp claims typically declines during economic downturns (see box).

However, whether injured employees feared losing their jobs during the weak economy and delayed filing claims is in dispute. Some workers comp observers say they do not believe that occurred to any great extent.

Several risk managers said they did not see such a trend at their companies and some insurers said they either did not experience it—perhaps because of their regional emphasis or their type of industry business—or they did not track such data.

An analysis of 24,300 claims brought by workers at 15 diverse clients of Lockton Cos. L.L.C. in Kansas City, Mo., found no changes in claims filing during the recession's peak.

For each year between 2006 and 2010, 89% to 90% of injured workers reported injuries to their employers within three days. Another 3% to 4% reported injuries within four to six days; about 2% reported injuries within seven to 10 days; and 4% to 5% reported injuries in 11 days or more, according to the Lockton analysis.

Still, other workers comp professionals said workers delayed in reporting claims when the recession deepened.

Clients "did see some delay in claims reporting and they really attributed it to a lot of employees were worried about their jobs and didn't want to report a claim," said Erika James, vp of client services and strategic partners for claims technology provider Mitchell International Inc.'s workers compensation solutions unit in Irvine, Calif.

A lag in reporting claims showed up in Mitchell's managed care and bill review process, Ms. James said. The lag caused a "downstream" increase in medical costs for some claims.

"We saw that that actually resulted in delayed medical treatment, so the severity of the claim ended up being slightly worse than it may have been had it been

## NCCI asks: Do recent filings mirror previous recessions?

The National Council on Compensation Insurance says the frequency of workers comp claims typically declines during economic downturns.

For 2009, the latest data available, Boca Raton, Fla.-based NCCI said the frequency of lost-time claims per 100,000 workers fell 5.5% while the average indemnity cost increased 0.8%, an increase it said likely was held down by widespread manufacturing and contracting layoffs.

"Over the past few years, our research has shown that economic slowdowns put additional downward pres-

sure on claim frequency. And workers compensation claim frequencies have declined in the last four economic downturns," NCCI Holdings Inc. President and CEO Stephen J. Klingel wrote in a report this month.

"More recently, some market stakeholders have offered their experience that claims frequency may either not be declining, or may be declining at a slower pace. We will be awaiting and reporting on the countrywide 2010 data to see if, in fact, this recession is any different for most stakeholders," Mr. Klingel wrote.

—By Roberto Cenicerros



REGISTER:

"Best Practices in Workers Compensation Management," *Business Insurance's* free Virtual Advantage 2011 conference, will be held from 10 a.m. to 5 p.m. CDT on June 23. Go online to register at [www.BusinessInsurance.com/VirtualAdvantage](http://www.BusinessInsurance.com/VirtualAdvantage).

reported earlier," Ms. James said. "Some claims that by now could be closed are still open because

(injured workers) missed that early intervention opportunity," she said.

Others saw similar behavior.

"I've seen nonreporting or late reporting" of claims that were delayed "until it became necessary for the employee to seek a lot of medical care," said Mark Noonan, managing principal at Integro Insurance Brokers Ltd. in Boston.

Richard A. Victor, executive director of the Cambridge, Mass.-based Workers Compensation Research Institute, cited a 2010 WCRI study, "Recession, Fear of Job Loss and Return to Work."

The study found that injured workers return to their duties quicker when they fear losing a job during a steep economic downturn. Mr. Victor said he thinks that behavior "has to be analogous" to filing claims, so workers are more likely to hold off reporting injuries when job cuts are more likely.

A former risk manager for a major manufacturing company said she saw similar behavior when the employer began closing plants and laid off more than 20,000 workers during the 1990s.

Before the company announced which locations would be shuttered, workers exhibited increased interest in improving their unit's productivity, product quality and safety records in hopes their plant would be among those spared, said the risk manager, who asked not to be identified.

What people were seeing during the weak economy in 2008 through 2010 "is not that dissimilar from when companies go through plant closures or major changes in workforce," the risk manager said. But "right after we made (announcements about specific plants closing), we would see a slight spike in claims."

## Magna: Improvised crisis management plan saves auto parts maker

CONTINUED FROM PAGE 4

managers and brainstormed options. They started with a worst-case scenario: What if the factory is totaled?

They would have to put the tooling on flatbed trucks and take it...where? Magna has two U.S. plants—in Spartanburg, S.C., and Nashville, Ill.—that make similar products. Magna also has two Mexican plants in Toluca and Saltillo that could accommodate the tooling.

On Wednesday night, Mr. Brownlee ordered all four plants to begin around-the-clock production to build inventories for their customers.

Then, if necessary, Magna could move the Howell plant's tooling into those plants and build parts for Howell's customers.

Next, Mr. Brownlee's managers assembled a reconstruction team. They brought in 20 electricians, plus pipe fitters, millwrights, mechanics, toolmakers and information technology experts.

While the fire smoldered, the reconstruction team gathered in Howell, Mr. Brownlee says. On Thursday night, the fire marshal finally allowed Mr. Brownlee's

team into the damaged factory.

A structural engineer inspected the plant and had some good news.

An interior wall had confined the fire to one portion of the plant. Although the fire had spread to the ceiling—ruining all the electrical cables—most of the plant could be restored.

But 30% of the plant was a lost cause.

Of the plant's four production sectors, Area A was relatively unscathed, Area B and Area C were damaged, and Area D was destroyed.

### Temporary line

Mr. Brownlee ordered Magna's warehouse in Brighton, Mich., to ship some machinery in storage to Saltillo, where a temporary production line was set up to make headliners for GM pickups and SUVs.

On Friday, workers in Howell removed damaged tooling from the rubble and trucked it about 12 miles southeast to Brighton for cleaning and refurbishing.

"We'd pick a piece of the roof up, get underneath and get the machinery out," said Peter Goguen, Magna Exteriors' vp of operations.

Some of the machinery stayed in the Brighton warehouse, which set up a makeshift assembly line. On Saturday, Brighton began producing consoles and package trays.

Mr. Brownlee jokes that some of the refurbished machinery looked like "burned toast," but the tooling was usable.

Meanwhile, the reconstruction team in Howell worked frantically to build a temporary wall and roof to seal off the undamaged portion of the factory, so workers could restart production.

Howell's heating and electrical systems had been destroyed, so Magna brought in a dozen diesel generators to heat and light the factory.

While repairs to the roof continued, production workers in the undamaged portion of the factory inside wore snowmobile suits, mittens and other winter gear to stay warm. They continued to remove debris and clear out damaged inventories as snow flurries fell through the damaged roof.

On Saturday morning, roughly 36 hours after the fire was extinguished, the work teams got a boost when the lights came back on in Area A. That was the least damaged part of the factory,

where Magna produced flooring for Chrysler vehicles.

"That was the turning point, when everyone started to think this was doable," Mr. Brownlee said. "All day Friday, we had been fumbling around in the dark with temporary lights."

### Momentum builds

The momentum of the recovery effort picked up, and on Saturday night—just two days after the fire was extinguished—workers restarted some machinery and test-produced some floor components.

That's when the recovery effort hit a snag. The plant workers encountered glitches each time they restarted the machinery.

Mr. Brownlee's managers still were overseeing the plant's reconstruction as well as efforts to restart machinery. He realized that they were trying to do too much.

On Sunday afternoon, he assembled his senior managers, made each responsible for launching a particular line and told them to hand off other duties, such as the reconstruction effort to subordinates.

Mr. Brownlee said: "Everybody was still running around. So I said, 'You go here, and you go there,

and do nothing else.'"

But simply producing parts wasn't enough. Mr. Brownlee had to prove that components made in Howell met customers' quality standards.

All automaker customers had sent representatives to the Brighton warehouse, where they received daily updates on the Howell plant's progress. As the assembly lines restarted, each automaker signed off on the quality control protocol.

Mr. Brownlee began to relax.

Six days after the fire was extinguished, Howell's 450 employees were operating the plant at 80% of capacity, while the Brighton warehouse made up the difference.

Did Magna have a disaster plan to cope with such an accident? Mr. Brownlee shakes his head. "I don't know if there's a manual for this," he says.

Mr. Brownlee says the Howell plant's quick recovery was driven by management's determination to show customers "we would do whatever it took to get them back up and running."

David Sedgwick is a reporter for *Automotive News*, a sister publication of *Business Insurance*.

## Market Moves

### Hub acquires Canadian brokerages

**EDMONTON, Alberta**—Hub International Ltd. said it has expanded its operations in Canada with the acquisition of two brokerages.

Hub has acquired Phoenix Insurance Group Inc. and Redcliffe Financial Group for an undisclosed amount, the Chicago-based insurance brokerage said in a statement.

Edmonton, Alberta-based Phoenix Insurance Group serves middle-market companies through agencies whose assets were acquired as part of the deal, according to the statement.

Hub acquired four operations of Phoenix Insurance Group, which will become part of Chilliwack, British Columbia-based Hub International Barton Ltd. The purchase did not include Phoenix Risk Management Inc., which will continue operating independently.

North Vancouver, British Columbia-based Redcliffe Financial Group's offerings include group benefits, pension plans and life insurance across various industries with a focus on educational institutions, according to the statement.

Redcliffe Financial Group will become part of Hub International (TOS) Insurance Brokers, according to the statement.

Hub's acquisitions in Canada followed the March purchase of the Las Cruces, N.M.-based operations of Western States Insurance Group.

### Navigators, agency partner on E&O cover

**NEEDHAM, Mass.**—Navigators Management Co. Inc. has partnered with a Needham, Mass.-based insurance agency to provide errors and omissions insurance.

The partnership with Herbert H. Landy Insurance Agency Inc. aims to expand Navigators' professional liability division by providing E&O coverage to real estate agents, brokers and appraisers, the New York-based specialty underwriting unit of Navigators Group Inc. said in a statement.

The E&O program offers enhanced coverage options with increased limit capacity, among others, Navigators said.

The coverage, underwritten by

Navigators and administered by Herbert H. Landy Insurance, will be available nationwide June 1.

### JLT to open office in South Africa

**JOHANNESBURG**—The Financial Services Board of the Republic of South Africa has granted Jardine Lloyd Thompson Group P.L.C. a license to operate in the country.

The license allows JLT Group—which announced early this year its intent to establish operations in South Africa—to operate as a fully independent insurance and reinsurance brokerage in the nation, London-based JLT Group said in a statement.

"We see South Africa as an

increasingly important market for us, as well as being a key hub for our international development," Mark Drummond Brady, international chairman of risk and insurance at JLT Group and chairman of JLT South Africa, said in the statement.

The brokerage will focus on various industries in the region, including construction, power, natural resources, marine, financial risks, life sciences and telecommunications.

The office is at 11 Woodmead Estate, 1 Woodmead Drive, Woodmead Ext. 28, Sandton, Johannesburg, South Africa. A phone number for the office is not yet available, a JLT Group spokesperson said.

### Insurer partners with NER to cut equipment theft

**JERSEY CITY, N.J.**—Amerisure Mutual Insurance Co. has formed an alliance with Jersey City, N.J.-based National Equipment Register.

The partnership, for which terms were not disclosed, will concentrate on decreasing construction equipment theft among Amerisure's policyholders, the Farmington Hills, Mich.-based insurer said in a statement.

NER, a unit of Verisk Analytics Inc., provides proprietary data management services that mark and register equipment in a secure database that can assist law enforcement in tracing and recovering stolen equipment.

Under the agreement, Amerisure's contractor equipment policyholders will receive a 20% discount toward NER registration fees and are eligible to receive a deductible waiver of up to \$10,000 per occurrence for theft of equipment registered with NER during the policy period.

#### 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 Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or e-mail [mtsikoudakis@businessinsurance.com](mailto:mtsikoudakis@businessinsurance.com).

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## Questions & Answers

Risk Management Solutions Inc.'s recent upgrade to its U.S. hurricane model incorporates significant new data sets and scientific developments. Business Insurance Associate Editor Jeff Casale spoke with Newark, Calif.-based Ryan Ogaard, senior vp of model product marketing at RMS, about the model and its impact.

# Why RMS updated its hurricane model

### Q: What prompted the upgrade of this model and timing of its release?

It's been a three-year process in developing the model, and you get a buildup of data and information that needs to be given to the clients.... We were targeting February because there is big renewal season for clients coming up in June and July, and we were trying to get this model out well before then.

We last upgraded the hazard model in 2003 and, as you're doing that, information is still rolling in. It takes years to digest storm information and parse it out and understand what happened in any given storm. We upgraded our vulnerability study in 2006 and we still hadn't included information from 2005 hurricanes because there wasn't enough time to do the analysis. There is an ongoing processing of information at RMS, but we decided that we had enough information available that many aspects of the model would be best rebuilt with this added information in.

### Q: What type of data is used in this upgrade and is it different than past hurricane models?

Well, there is certainly a lot more data. There is about 10 times more wind and surge observations from various sources in the study. There is not one single source of information that drives the whole model. Some (information) we buy, some is created by academic or government entities. More information has been gathered about all the recent

storms than there has been in the past, so there's been sort of a sea change in how much granular continuous data you can get from a storm. We've also had (hurricanes) happen throughout our gathering process and, with that, the amount of claims and exposure information on individual buildings. We had \$18 billion in individual claims data that went into the vulnerability function of the model. Through this, we were able to create a much more nuanced set by region and by type of construction and occupancy class of vulnerability functions than we've had in previous models.

The model also differs in the

**READ** an unabridged version of this interview online at [www.BusinessInsurance.com](http://www.BusinessInsurance.com)

order of magnitude of more information. There is more information available now than there ever was by an order of magnitude. I guess one more difference is that there have been different expert solicitations that we had, especially in the building code and construction quality area, where we had outside engineers analyze various construction practices and building code enforcement throughout the nation. We wanted to see how effects from a hurricane would or wouldn't occur throughout the nation.

### Q: Why was it important to understand the way hurricanes deteriorated over land?

We found evidence that certain



kinds of hurricanes in certain areas have wind speeds that go further inland than what we had previously represented in our models. There are a number of types of hurricanes that keep wind intensity longer than we previously registered, and there are a number of sources that point to this. The major source was the largest numerical wind field study, which was something that we sponsored and was one of the largest studies of its kind. It basically takes the physics of hurricanes and runs computer simulations of them. The wind fields in the model now are in that study. We feel this is the best actual representation (of hurricanes) we've ever been able to create. One reason for that, there is a lot more data in these models and the computer power is so much more cost-effective now that you can run supercomputers to do (these simulations). In 2003, this wasn't a practical approach to the model, but technology has made it that way now.

### Q: What kind of impact does the model have on insurance rates?

Once again, the study is just one influence, but it doesn't trump supply and demand. There are lots of sources for good information for reinsurance rates and insurance rates.... The direct connection that a lot of people make between the model and rates really oversimplifies the issue. We're an influence, but we really don't drive the rates per se. I think a lot of people really don't understand that.

## RMS: Cat bonds reviewed

CONTINUED FROM PAGE 4

data it supplies and the science behind the model update. "We think that people will want to use the RMS model for its view of risk, and really the question is: Do they believe the model and that it is unbiased and provides the best science and data possible? That is the real litmus test," Mr. Nakada said.

Reinsurers were already adjusting their hurricane models loss

estimates prior to the RMS upgrade in instances where they thought the numbers were too low, said Karen Clark, president and CEO of Boston-based consultant Karen Clark & Co. and developer of the first hurricane model, knowing there would be changes in damage and exposure estimates.

How rating agencies interpret the RMS model will determine its effect on the market. If pricing

goes up, rating firms will determine whether primary insurers need to cut back on writing coverage in certain areas, buy more reinsurance or put up more capital as a result of the model's updated estimates, she said.

"If rating agencies use the new loss estimates and/or reinsurance prices go up, the model is going to have a big impact on the marketplace," she said. "It's bad if a model dictates underwriting strategy, because models are supposed to support underwriting decisions, not dictate them."

## Chartis: Asbestos liabilities offloaded to Berkshire unit

CONTINUED FROM PAGE 1

said the transaction, which is subject to regulatory approval and other conditions, will be accounted for as retroactive reinsurance in Chartis' consolidated financial statements.

The reinsurance deal is one of several moves AIG has made recently to bolster Chartis as AIG prepares to emerge from federal government control. AIG was rescued from near-collapse in September 2008 with federal aid totaling roughly \$180 billion, much of which has been repaid. As a result, the federal government ended up owning nearly 80% of AIG.

Last September, AIG, the Treasury Department and other federal entities involved in the AIG rescue said they had reached an agreement to accelerate AIG's repayment of government assistance, a deal that had Treasury swapping preferred AIG stock for more than 92% of AIG's common stock, with an eye to selling that stock when market conditions warrant.

A spokesman for AIG declined to comment on whether AIG had been meeting with investors about a possible equity offering.

In February, AIG said it was boosting Chartis' reserves by \$4.6 billion, primarily for four long-tail lines of business that included asbestos. At the end of March, AIG named Mr. Hancock CEO of Chartis, replacing Kristian P. Moor, who had been denied his full 2010 incentive bonus for "underachievement of certain financial metrics." Mr. Moor was named vice chairman of Chartis.

The latest move makes sense in the context of Chartis' previous actions, analysts say.

"It seems to me like it's part of ongoing scrubbing of the AIG balance sheet in preparation for whenever they decide to re-IPO the government shares," said Mark Dwelle, insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va.

He said AIG is "systematically picking off" any reasons that might lead an investor to say, "I'm not going to look at that." He cited the reserve boost and the management shake-up as other examples of that approach.

"The biggest challenges for Chartis since the financial crisis have been reserve volatility and weak profitability," said Bruce Balleline, a vp and lead analyst for AIG and Chartis at New York-based Moody's Investors Service. "This transaction we believe will remove some of that reserve volatility."

"I think of it as an incremental positive," said J. Paul Newsome, managing partner at Sandler O'Neill & Partners L.P. in Chicago. "It's part of a larger plan to simplify the company and to reduce earnings volatility. For example, look at the sale of their railcar leas-

ing business, which is a \$600 million deal."

AIG last week said it reached an agreement to sell AIG Rail Services Inc. to an affiliate of Perella Weinberg Partners.

"This is a company that appears to be trying to hone its business down to the core property and casualty and life business, and to make those core businesses less volatile than they have been in the past," said Mr. Newsome.

"Even going back a few years, they have been reducing their premium volumes in the challenging business lines of excess casualty and workers compensation, which also have caused reserve volatility," said Moody's Mr. Balleline.

"This is a good transaction for AIG," said John Ward, CEO of Cincinnati Partners L.L.C. in

### KEY POINTS

Highlights of the Chartis Inc. and National Indemnity Co. asbestos liability reinsurance agreement.

- American International Group Inc.'s Chartis pays about \$1.65 billion to Berkshire Hathaway Inc.'s National Indemnity unit for a retroactive reinsurance agreement with an aggregate limit of \$3.5 billion.
- Asbestos exposures Chartis said it believes "have already been reserved to their limit of liability" as well as certain other "ancillary" asbestos exposure assumed by Chartis affiliates are not covered by the transaction.
- National Indemnity assumes responsibility for handling asbestos claims subject to the reinsurance agreement.
- National Indemnity also assumes responsibility for collecting third-party reinsurance, which totals about \$2.8 billion.
- The agreement is retroactive to Jan. 1.

Source: American International Group Inc.

Cincinnati. "Removing this significant uncertainty from AIG's balance sheet will unlock more equity value for the upcoming re-IPO."

"This is a financial transaction consistent with the recently announced management changes, and I would expect to see more balance sheet cleanup moves as the re-IPO comes closer to being a reality," Mr. Ward said.

"I think AIG needs to float some equity and I think that the bulking up of the reserves and the change of senior management at Chartis are indicating that the market is eliciting some doubt from potential buyers," said Clark Troy, research director at Aite Group L.L.C. in Chapel Hill, N.C. "They are trying to take the risk off their books and transfer some risk out and improve their prospects of having a successful float."

# News In Brief

CONTINUED FROM PAGE 1

International Corp. in U.S. District Court in New Orleans last week for costs related to the accident that already have reached into the billions of dollars.

## Shareholder sues Buffett, Berkshire Hathaway

A Berkshire Hathaway Inc. shareholder sued the company and its managers last week, alleging that 13 individuals including CEO Warren Buffett breached their duties. Former executive David Sokol, who resigned from Berkshire in March, allegedly bought a stake in Lubrizol Corp. before recommending that Berkshire acquire the chemical company. Investor Mason Kirby sought repayment of unlawful profits and recovery for damages caused to Berkshire related to the allegations, according to the suit.

## Kansas enacts comp reforms

Kansas Gov. Sam Brownback signed legislation into law that his office called "the first significant reform to workers compensation laws in our state since 1993." According to the governor's office, the new law ends payment of unwarranted claims by raising the threshold required for an incident to be compensable, overturns court decisions that eroded the workers compensation system, clarifies that employers are entitled to a credit for pre-existing conditions, and increases benefit caps for injured workers who have lost the capacity to work.

## FSOC insurance expert may be named soon

An insurance expert should be named to the Financial Stability Oversight Council "quite soon," a Treasury Department official said. The Dodd-Frank Wall Street Reform and Consumer Protection Act requires that a voting member with insurance expertise be named to the body, which will determine whether nonbank financial institutions, such as insurers, present systemic risks to the economy and are subject to heightened regulation. Insurers and lawmakers alike have expressed

frustration over the fact that the position remains vacant.

## Vermont reports captives growth

Vermont licensed seven new captives during the first quarter this year and has potential formations in the pipeline, including some ready to form as soon as amendments to the state's captive law are enacted, a Vermont official said. Among other things, the legislation would allow formation of incorporated protected cell companies.

## Obama signs bill repealing health care vouchers

President Barack Obama has signed into law a bill that repeals a health care reform law provision that would have required employers to offer low-wage employees company-paid vouchers to buy coverage in state health insurance exchanges.

## Allied World launches inland marine division

Allied World Assurance Co. Holdings A.G. said Allied World U.S. is expanding its property/casualty operations with the launch of a new inland marine division. The segment will target all filed and nonfiled classes of inland marine business in the United States, with a focus on construction.

## Reinsurer capital strong despite cats: Aon Benfield

Reinsurers' capital remains strong despite a series of natural catastrophes this year, according to an analysis by Aon Benfield Inc. At the start of the year, international reinsurers' capital was a record high \$470 billion, and natural catastrophes that struck during the first quarter likely will hit reinsurers' earnings but not their capital. The 28 largest reinsurers Aon Benfield analyzed in its report had capital of \$248 billion at the end of 2010, up 18% from the end of 2009.

## Aon Risk Solutions names captives exec

Aon Risk Solutions named Peter Mullen as CEO of Aon Global Risk Consulting's captive and insurance management operations. Mr. Mullen also will join the global board of Aon Global Risk Consulting, assume responsibility for Aon Global Risk Insight Platform Solutions in Bermuda and, on an interim basis, lead Aon Insurance Managers in Bermuda.



AP PHOTO

A Lowe's Cos. Inc. store in Sanford, N.C., was heavily damaged when a tornado hit the area on April 16. The storm was the deadliest in North Carolina in nearly 30 years.

# Twisters: Tornado losses may hit \$200 million

CONTINUED FROM PAGE 3

the deadliest to strike North Carolina in nearly 30 years. "We still have assessment teams trying to go through all the counties and figure it all out," the spokeswoman said.

Multiple deaths and dozens of injuries also were recorded in Alabama, Arkansas, Oklahoma and Virginia. More than 320 homes and 30 businesses were destroyed or badly damaged in Mississippi.

In all, witnesses in 16 states reported 320 tornadoes during the three-day outbreak. However, a National Weather Service spokesman said the actual number of tornadoes is likely to be lower once storm reports are examined.

Total insured losses resulting from the storms are likely to exceed \$100 million, according to Oakland, Calif.-based catastrophe modeler EQECAT Inc.

Dave Finnis, Atlanta-based executive vp and national property practice leader at Willis North America, said insured losses from the storms could reach as high as \$200 million.

Oldwick, N.J.-based rating agency A.M. Best Co. Inc. said in a report that it expects "significant" insured losses resulting from the storms. In a statement, Boston-based catastrophe model-

# \$35M

North Carolina Farm Bureau Insurance Co., the state's largest local insurer, has received approximately 5,000 home and auto damage claims, for an estimated loss of \$35 million, according to a senior claims executive.

er AIR Worldwide Corp. also said it expects "significant" insured losses from the storms. Neither firm provided a damage estimate.

So far, 2011 has been "an extremely active year" for tornadoes, EQECAT said. "The convective storm activity to date in 2011 is about double the long-term average," it said in a statement.

Typically, according to the New York-based Insurance Information Institute, about 1,200 tornadoes occur a year in the United States. Damage from convective storms—tornadoes, hail and straight winds—is estimated

to exceed \$6 billion a year, according to EQECAT.

The most active year on record was 2004, when more than 1,800 tornadoes occurred nationwide, according to the National Oceanic and Atmospheric Administration.

Among major North Carolina insurers in the mid-April storms, several hundred claims had been filed for commercial property damage.

Bloomington, Ill.-based State Farm Mutual Automobile Insurance Co. had received about 200 commercial claims as of late last week, but had already received more than 2,200 claims for damaged or destroyed residences and 1,250 claims for personal auto damage.

"This is a tough one, because tornado damage is usually only in one place," said Kim Conyers, a State Farm public affairs specialist in Charlottesville, N.C. "This storm damage is all over the place, and that's made it really challenging to get information and to know where to deploy your resources."

Erie Indemnity Co., which operates under Erie, Pa.-based Erie Insurance Group, also had received about 200 commercial claims. A company spokeswoman said it had received more than 100 new home, auto and commercial claims a day since the storms hit.

At the Raleigh-based North Carolina Farm Bureau Insurance Co., the state's largest local insurer, a senior claims executive said the company had received about 5,000 home and auto damage claims with estimated insured losses of \$35 million. Steve Carroll, executive vp and general manager, said reinsurance will help protect the company's balance sheet.

"We've got a strong reinsurance program in place that helps us with severe catastrophe losses," Mr. Carroll said. "This storm was well within our ability to handle" such losses.

As devastating as the mid-April storms were, it is only the start of the season for tornado-prone central and southern states.

National Weather Service meteorologist Greg Carbin said severe weather is all but assured as the tornado season moves toward its peak in late May or early June.

"You only hope people can get up and recover from this, because there will be other storms on the way," Mr. Carbin said.



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## Hurt worker's veiled excuse falls short

A woman who lost money awarded in a divorce settlement when her ex-husband spotted online photos of her belly dancing says she was only posing.

"I wasn't really belly dancing in them," Dorothy McGurk, 43, told the New York Daily News. "I was posing. In some of them I was moving a veil around with my arms, but I wasn't belly dancing."

The woman had been receiving \$850 a month in a divorce settlement she received after persuading the court that injuries she sustained in a 1997 car accident prevented her from working.

But after ex-husband Brian McGurk saw a blog in which she posted photos and boasted of dancing "every day for three years," he petitioned a Richmond County, N.Y., Supreme Court judge to rescind the award.

In addition, the judge ordered the woman to move out of the couple's home and pay her ex-husband 60% of its value. She also was ordered to pay \$5,000, plus interest, for her ex-husband's legal fees related to the divorce.

In court, Ms. McGurk argued that her doctor prescribed belly dancing for her injuries, but that two rods and screws surgically implanted in her spine after the 1997 accident prevented her from doing so.

"I wish I could be a professional belly dancer, but it's just not possible," Ms. McGurk told the court. "The only thing I do are gentle exercises," she said. "One of them is undulating. What you do is suck in and flex the muscles of your belly."



# Business Insurance END PAGE

This week's royal wedding has created a fight over red tape concerning insurance coverage for block parties.



## Safety enforcers labeled party poopers

British subjects keen to celebrate Prince William marrying Kate Middleton have complained about health and safety requirements for block parties.

Some 4,000 applications to hold block parties have been filed with local councils and about 2 million people are expected at local events celebrating the April 29 royal wedding.

But after complaints from party organizers that councils were being too bureaucratic, Prime Minister David Cameron urged a reduction in red tape.

"To those councils that are asking small groups of neighbors for licenses, insurance and other bureaucracy, my message is clear: Don't interfere. Let people get on and have fun," he said in a speech.

The U.K. Health and Safety Executive also said councils should not use health and safety as an "unfounded excuse not to hold local celebrations."

"The royal wedding will be one of the

highlights of the year for many people and we want to pre-empt the 'fun sponges' who will try to use 'health and safety' as an excuse to hide behind," HSE Chair Judith Hackitt said in a statement.

But local councils apparently have not adopted that approach. Hayley Mills told the Daily Mail that she received a 30-point plan from her local council after she applied to hold a street party and was told she would need public liability insurance limits of £5 million (\$8.1 million).

Zurich Financial Services Group is among insurers offering "street event" insurance. For £63.60 (\$103.64), it covers public liability for events attended by up to 200 and includes an all-risk coverage option.

There has been interest in cancellation and contingency coverage from businesses with a financial interest in the wedding, Zurich said. For example, pubs and merchandise sellers were inquiring about insurance should the royal wedding be postponed or canceled.

Contributing: Jeff Casale, Mike Tsikoudakis, Sarah Veysey, Joanne Wojcik

## Health warnings may come with Hawaii travel tips

Authors and publishers of travel guidebooks in Hawaii could be held personally liable for injuries or deaths at sites they recommend to visitors.

Legislation proposed in January is intended to curb travel guide descriptions of risky attractions to tourists, the Wall Street Journal reported.

Andrew Doughty, author of "The Ultimate Kauai Guidebook: Kauai Revealed," told the newspaper that the proposal has become a First Amendment issue.

His book describes remote attractions on Kauai where officials say accidents increased since the book was published in 1994.

"This has never been about First Amendment rights; it has always been about safety," state Sen. Ronald Kouchi, D-Kauai-i-Ni'ihau, told the newspaper.

"Authors or publishers of visitor-guide publications describing attractions have a duty to warn the public of dangerous conditions," state

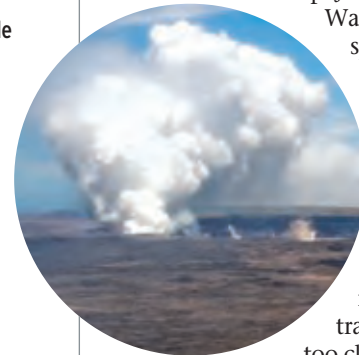
Rep. James Tokioka, D-Wailua-Koloa, who sponsored the liability bill, told the WSJ.

In 1997, Mr. Doughty faced criticism for another book, "Hawaii the Big Island Revealed," for encouraging travelers to venture too close to lava vents.

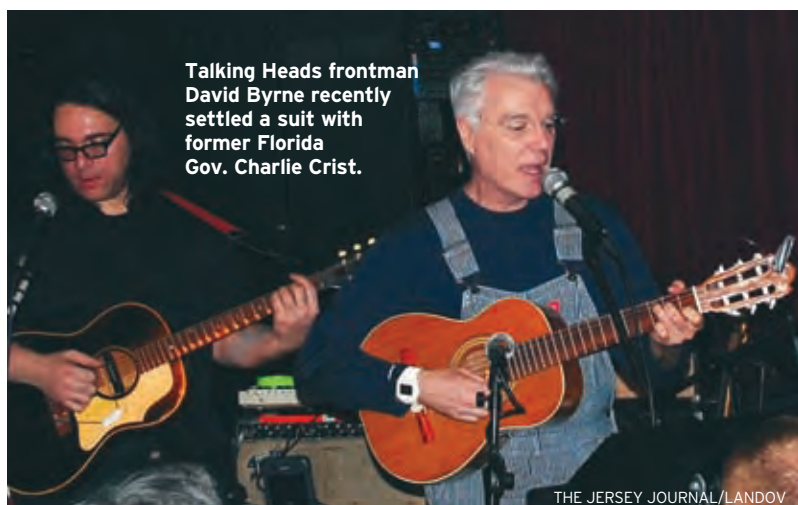
"You have to use your own judgment and eyeballs," he said.

Mr. Doughty, who met with Kauai Visitors Bureau officials this month, said he is considering removing some attractions and adding stronger warnings for other dangerous sites in his guides.

For now, the liability bill has been tabled, calling only for a task force. But backers vow to revive it if guidebook writers don't curb their enthusiasm for risky places.



## CRIST SINGS PRAISES OF TALKING HEADS STAR AFTER SETTLING LAWSUIT



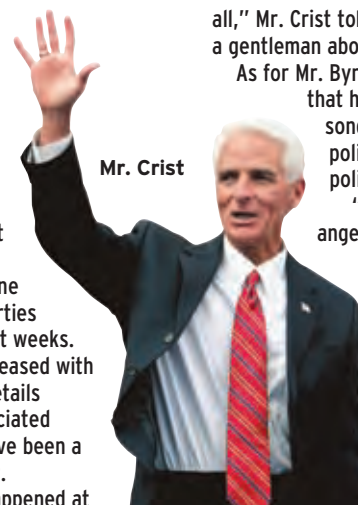
Talking Heads frontman David Byrne recently settled a suit with former Florida Gov. Charlie Crist.

Former Florida Gov. Charlie Crist may have realized he was on the "Road to Nowhere" in battling musician and songwriter David Byrne in court over use of a Talking Heads song.

The Talking Heads frontman sued Mr. Crist for using "Road to Nowhere" without permission or licenses during an online campaign ad last year as part of his unsuccessful bid for U.S. Senate. Though Mr. Crist pulled the ad, Mr. Byrne still was seeking \$1 million until the parties reportedly settled the dispute in recent weeks.

Mr. Crist said last week that he is pleased with the terms of the settlement, though details were not released, according to the Associated Press, and that Mr. Byrne "couldn't have been a better guy" when the two actually met.

"As I told him, I was sorry it ever happened at



Mr. Crist

all," Mr. Crist told the AP. "He couldn't have been more of a gentleman about it."

As for Mr. Byrne, he said in a statement on his website that he was "shocked" to find out that use of songs without permission is widespread in political ads. He said he hoped his suit made politicians think twice before using a song.

"Other artists may actually have the anger but don't want to take the time and risk the legal bills. I am lucky that I can do that," Mr. Byrne said in the statement. "My hope is that by standing up to this practice, maybe it can be made to be a less common option, or better yet an option that is never taken in the future."

The website even features a videotaped apology from the former governor.

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