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ADDS TO WORRIES
ON CYBER RISK / PAGE 4

In Brief

Aon Hewitt co-CEOs
succeed Russ Fradin

Aon Corp. has named two senior executives at Aon Hewitt Inc.—Kristi Savacool, CEO of benefits administration, and Baljit Dail, CEO of consulting—as co-CEOs of Aon Hewitt following the departure of Russ Fradin. Mr. Fradin is leaving to become CEO of SunGard Data Systems Inc., a privately held software and technology services company. He was chairman and CEO of Hewitt Associates Inc. at the time Aon acquired Hewitt last year in a cash-and-stock deal valued at \$4.9 billion. He continued in that role after the deal was completed in October.

NLRB again sues
over Facebook firing

The National Labor Relations Board has filed a complaint in the firing of five employees who complained on Facebook about working conditions at a

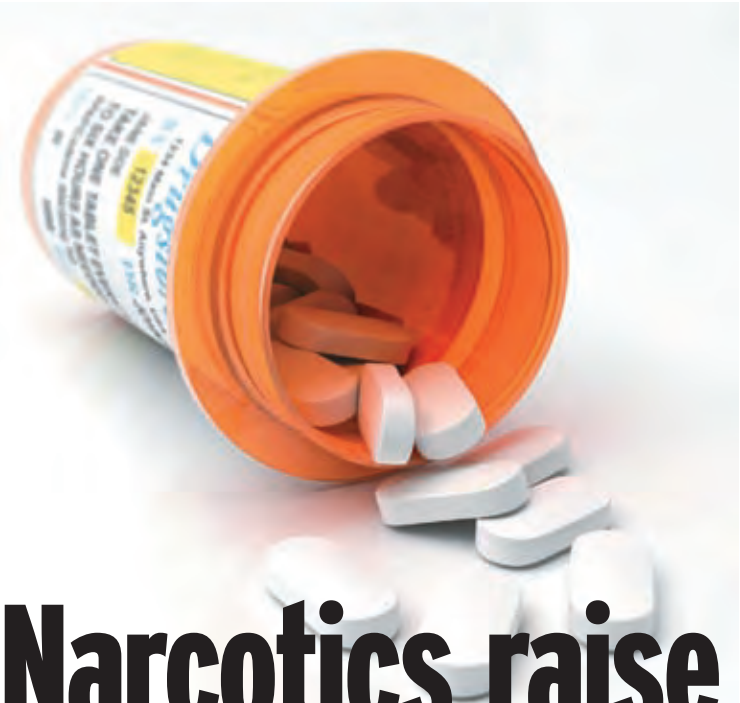
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SPOTLIGHT
INDUSTRY
FINANCIALS:

FIRST-QUARTER
RESULTS

U.S. market weighs catastrophe losses; property/casualty insurers pay catastrophe claims, release reserves; largest brokers grow revenues despite tough economy; low utilization of health care services boosts profits for insurers. **PAGE 10**

WORKERS COMPENSATION



Narcotics raise
comp concerns

By **ROBERTO CENICEROS**

Some workers compensation payers are questioning doctors who prescribe opioids to make sure patients really need such pain medication, and are using urine tests to ensure claimants don't sell the narcotics on the black market. The practices, often part of

broader-based workers comp pharmaceutical management strategies, aim to help ensure that the addictive prescription drugs are not overprescribed by doctors or misused by claimants in workers comp cases.

Those efforts stem from grow-

See **NARCOTICS** page 18

RETIREMENT BENEFITS

Supreme Court decision
curbs pension plan liability

Claimants must show actual harm

By **JERRY GEISEL**

WASHINGTON—A U.S. Supreme Court decision favoring CIGNA Corp. in a dispute over pension benefits communications will ease employer fears that employees might be able to recover damages even if they can't prove they were actually harmed by misleading information about a plan.

The ruling last week in *CIGNA Corp. et al. vs. Janice C. Amara et al.* also says courts do not have the authority to rewrite a plan's terms and conditions when the misinformation comes from benefit booklets known as summary plan descriptions.

But the case is not over. The Supreme Court sent it back to the U.S. District Court for the District of Connecticut to determine the damages, if any, to which plan participants are entitled.

Whatever the lower court finally rules, the high court ruling will make it more difficult for employees to achieve class

WHAT HAPPENED

- The U.S. Supreme Court ruled for CIGNA Corp. in its 1998 conversion of a traditional final average pay plan to a cash balance plan.

WHAT'S NEXT

- The high court sent the case back to a federal judge to determine the damages, if any, to which plan participants are entitled.

action status in similar disputes.

The case involves CIGNA's 1998 conversion of a traditional final average pay plan to a cash balance plan, so named because the benefit is expressed as a lump-sum payment.

Since the first cash balance plan was established by Bank of America Corp. in 1985, more than 1,000 other large

See **CIGNA** page 17

INTERNATIONAL

Ryan Specialty buys Lloyd's insurer Jubilee Group

First such deal since ban was lifted in 2008

By **STUART COLLINS**

LONDON—Ryan Specialty Group L.L.C. last week bought London-based Jubilee Group Holdings Ltd., making Ryan Specialty the first broker to own a Lloyd's of

London underwriting business since a longstanding ban on such relationships was lifted in 2008.

Other brokers are said to be looking at Lloyd's, though only a few are likely to be interested in owning a managing agent at this



Ryan Specialty was launched by former Aon CEO Patrick G. Ryan.

stage, experts say. Neither Ryan Specialty nor Jubilee was willing to discuss the

deal until they receive regulatory approval from the Financial Services Authority and Lloyd's, though the Chicago-based wholesaler said in a statement that Jubilee represents a strategically important acquisition that gives "direct access to the Lloyd's market."

Terms were not disclosed.

If approved, the deal would be the first in years in which a broker has owned a Lloyd's managing agent, which underwrites and manages one or more Lloyd's syndicates.

Broker ownership of managing agents was once common at Lloyd's, said Sean McGovern, London-based director of North America and general counsel at

See **JUBILEE** page 17

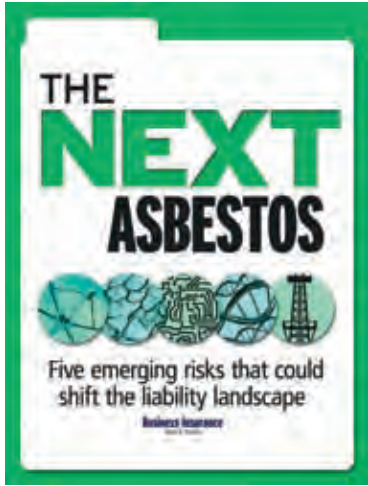
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whitepaper



NEXT BIG LIABILITY EXPOSURE?: A new *Business Insurance* white paper explores five potential liability exposures that could cause grave problems for industry. Go to www.BusinessInsurance.com/whitepapers.

MOST POPULAR STORIES
Week of May 16, 2011

1. Munich Re unit admits producers rewarded with prostitutes in 2007
2. White paper explores risks that could become 'next asbestos'
3. Maximum HSA contribution to rise slightly in 2012
4. Court can't alter CIGNA cash balance plan: Supreme Court
5. EEOC sues Starbucks for firing dwarf from barista job
6. Employee health care deductibles rising: Survey
7. Ryan Specialty acquires Lloyd's insurer Jubilee
8. Nearly 1,400 mini-med plans get health care reform waivers
9. Two execs to head Aon Hewitt as CEO Fradin departs
10. OSHA can subpoena comp insurer for workplace death reports

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UPDATED: *BI* offers updated rules and requirements at health care reform's one-year anniversary. On the Home Page.

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Aon Risk Solutions

Planning or *prepared?*

The Atlantic Hurricane Season begins next week and is expected to be twice as active as the average season, with five major hurricanes predicted.* Flooding in the U.S., the Japanese earthquakes and tsunami, New Zealand earthquakes and additional recent global catastrophes have combined to bring uncertainty to the property market.

Are you prepared to minimize the impact of these events on your premiums? Aon Risk Solutions hosts Property Forums across the nation throughout the year, featuring leading experts in storm mapping, business interruption and market issues as well as case studies to support your planning needs.

Visit aon.com/beprepared to download Aon's Hurricane Preparedness Checklist and contact your account executive to register for the next Property Forum near you.

*Colorado State University, Department of Atmospheric Sciences
Aon Property Symposium 2011



Risk. Reinsurance. Human Resources.

LIABILITY & LITIGATION



AP PHOTO

Rescuers worked last July at the scene of a grain bin accident. A judge ruled that the workers compensation insurer that covered the facility's owner must give federal authorities access to inspection reports.

OSHA wins comp case fight

Insurer ordered to release reports after fatal accident

By JEFF CASALE

ROCKFORD, Ill.—A ruling compelling an insurer to provide safety inspection reports and other documents to a federal agency related to a fatal grain bin accident could chill employers' relations with their workers comp insurers.

In the case, *Hilda L. Solis vs. Grinnell Mutual Reinsurance Co.*, U.S. District Court Judge Philip G. Reinhard upheld a magistrate's recommendation to require the workers compensation insurer to testify and present documents concerning inspections and reports that it had prepared for

'The subpoena for records and inspection documents is a tool that is in OSHA's arsenal and they use it from time to time.'

Ben Huggett, Littler Mendelson P.C.

Haasbach L.L.C.

The case stems from the death of two teens last July when they were engulfed in grain 30 feet deep at Haasbach's Mount Carroll, Ill., site.

The U.S. Department of Labor's Occupational Safety and

Health Administration said the teens, plus a third worker who was injured, were directed to engage in the banned practice of "walking down the corn," or walking on moving grain in a storage bin while a conveyor system evacuated the grain from the bottom.

When one teen began sinking into the corn, the other tried to help, but both became engulfed, according to OSHA.

OSHA, which said the victims did not receive safety training nor did the company provide protective equipment, subpoenaed the insurer seeking more information. While Grinnell objected, the Rockford, Ill., federal judge ruled May 2 that it must comply with the subpoena.

See **OSHA** page 20

PROPERTY/CASUALTY INSURERS

Pricing remains concern for insurer executives

Cost management, maintaining ratings also seen as key

By JUDY GREENWALD

Underwriting discipline and cost-structure management continue to be insurance executives' biggest concerns, but maintaining ratings has joined them as a critical issue, according to a survey Munich Reinsurance America Inc. released last week.

Sixty-three percent of participants in the "CEO Roundtable Survey 2011" cited maintaining underwriting discipline and price adequacy as a critical issue.

"That's the consistent No. 1 answer since we first started asking (the question) in 2003," the first year of the survey, said Gregory Coda, president of national/broker clients at the Princeton, N.J.-based reinsurer.

In addition, 42% of the 150 respondents, who could choose multiple answers, cited managing their cost structure as a major concern.

Some 27% of insurance executives cited "maintaining your rating," which "wasn't something they had ever even responded to" in past Munich Re surveys, Mr. Coda said.

Respondents included executives who did not attend Munich Re America's annual CEO Roundtable gathering as well as those who did. Previously, only CEO Roundtable attendees participated. The broader response this year "just helped reinforce the validity" of the sur-

vey, Mr. Coda said.

Respondents also were asked to indicate three areas where their company has a competitive advantage. The biggest percentage, 61%, cited underwriting capability; which was followed by strong capital position, cited by 48%; and claims processing and management, 46%.

Mr. Coda said for the first time this year, Munich Re asked respondents whether insurance technology is an area where companies needed to improve. Sixty percent indicated it was. Some 29% said improvement is needed in policy processing, while 28% cited marketing.

Last year, the top three areas insurance executive cited as needing improvement were marketing, 43%; strategic focus, 36%; and policy processing, 29%.

Asked to describe the financial outlook for their company during 2011-2012 compared with 2010-2011, 54% said it was

the same.

Another new question Munich Re asked was whether price competition is one of the three most critical issues facing the primary insurance industry today, and 71% said it is. Second was poor economic conditions, cited by 58%; and low interest rates and capital market returns, cited by 30%. Last year, 69% of the respondents cited poor economic conditions, 55% chose low interest rates and 52% said claim cost inflation.

Factors rated as being among the top three critical issues in

See **ROUNDTABLE** page 20

42%
Percentage of 150 insurer executives surveyed who cited managing their cost structure as a major concern.

CYBER RISKS

Risk managers offered more options on cyber risk coverage

By MIKE TSIKOUKAKIS

CHICAGO—Buyers of cyber liability insurance enjoy a competitive marketplace, but risk managers need a complete understanding of their organization's exposures to fully benefit from the coverage, panelists said during the 2011 Harold H. Hines Jr. Memorial Symposium.

Three panelists explored cyber risks facing organizations and ways to manage them effectively during last week's symposium in Chicago, "Cyber Risk: Protecting Your Assets."

Carla Johnson, vp and assistant risk manager at Inland Risk & Insurance Management Services Inc., a unit of Inland Real

Estate Group of Cos. Inc., said Inland's risk management team did not focus on cyber risks initially. But with nearly 500,000 individuals' data and records that the Oak Brook, Ill.-based company maintained, "we did recognize that we had exposures," Ms. Johnson said.

"We decided to purchase the coverage because we have a lot of investors, dealers and brokers that sell our products that were inquiring about us carrying the coverage," Ms. Johnson said.

In the event of a data breach where clients' personal information has been compromised, the notification process—mandated by various state laws—was a major concern for Ms. Johnson when considering



THREE PANELISTS EXPLORED cyber risks facing organizations and ways to manage them effectively during last week's 2011 Harold H. Hines Jr. Memorial Symposium in Chicago, "Cyber Risk: Protecting Your Assets."

the coverage.

"One of the things that our policy is covering that really is a big cost factor is the notification when there's a breach," she

said. "It's a huge cost and that's what we were really looking at."

Cyber liability costs are quite broad and can compound quickly, said Christopher DiIenno, an attorney in the complex litigation group at law firm Nelson Levine de Luca & Horst P.C. in Philadelphia.

Insurers "are starting to realize that this is an untapped market and they want to get this product out there, so they want to show people what it can do," Mr. DiIenno said.

"The appetites of these insurance carriers to modify the forms are also still very strong," said David Garrigus, vp and client

See **HINES** page 20

HEALTH CARE BENEFITS

Employers accelerate health care cost-shifting

More companies use higher deductibles to control spending

By JERRY GEISEL

Employers continue to boost employee deductibles, particularly for out-of-network services, as health care costs show no signs of easing, according to a survey released last week.

Twenty-two percent of employers imposed deductibles of at least \$1,000 this year for in-network services for their health care plans that had the largest enrollment, up from 16% last year and just 8% in 2008, according to PricewaterhouseCoopers L.L.P.

Double that percentage of

employers—44%—imposed deductibles of at least \$1,000 for out-of-network services, up from 29% in 2010. As recently as 2008, only about 20% of employers imposed deductibles of \$1,000 or higher on out-of-network services, according to the survey of more than 1,700 employers.

“The biggest change in the past two years has been the increase in cost-sharing with employees,” said Michael Thompson, a PwC principal in New York. Increased cost-shifting has occurred as increases in health care costs continue to outstrip increases in corporate profits and employee wages, he said.

Rising health care costs add pressure on employers already affected by the difficult economy, but boosting employee cost-shar-

ing may make employees more careful consumers of services, Mr. Thompson said.

At the same time, employers have limited increases in employees’ premiums. For example, 31% of employers required employees to pay less than 20% of the total premium for family coverage this year, virtually unchanged from last year, according to the survey.

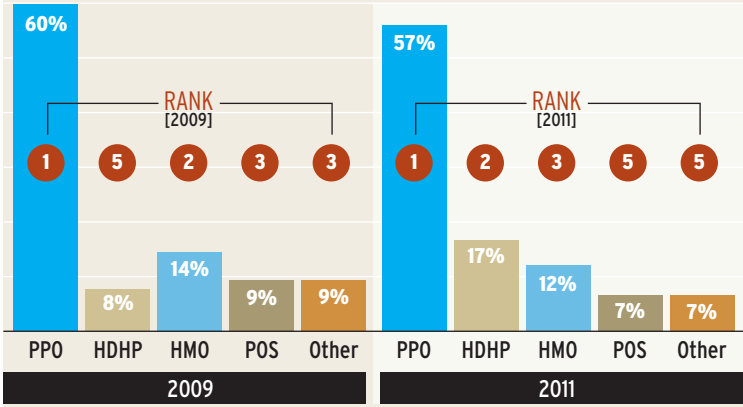
“Employers have been careful not to shift premium costs to employees, but have decided that the better way to shift costs is to require those who use health care services to pay more,” Mr. Thompson said.

The survey also found a surge in employees enrolling in high-deductible, consumer-driven

See **DEDUCTIBLES** page 21

HDHPs GAIN GROUND

While preferred provider organization plans continue to have the highest employee enrollment, according to employers, high-deductible health plans moved from No. 5 two years ago to No. 2 today in employee enrollment.



Source: PricewaterhouseCoopers L.L.P.

CYBER RISKS

Cloud computing increases liability

By SARAH VEYSEY

LONDON—Companies that use and intend to use cloud computing services must be wary of potential legal pitfalls, legal experts warned last week.

While cloud computing offers cost reductions to companies, users must ensure they have rigorous risk management processes in place to avoid potentially harmful data breaches, experts said during last week’s 2011 Communications, Media and Technology Conference hosted by broker Marsh Inc. in London. Differing legal environments across the globe raise difficult liability issues should a data breach occur, the experts said.

See **CLOUD** page 21

WORKERS COMPENSATION

Oklahoma reworks comp system

Fee schedule aims to achieve 5% drop in medical costs

By JEFF CASALE

OKLAHOMA CITY—Oklahoma lawmakers last week passed an extensive workers compensation reform bill that will overhaul the state’s system in an effort to reduce costs for Oklahoma businesses.

The bill—S.B. 878—was approved by the state Senate on a 48-0 vote, and passed the House 88-8. The bill was sent to Gov. Mary Fallin, who is expected to sign it.

Among other changes, the bill establishes reimbursement rates for medical providers who treat injured workers. In addition, it develops a fee schedule that aims to reduce the cost of medical care by 5%.

The bill also requires that independent medical examiners be

specialists in the injuries they diagnose, and mandates that only medical doctors and doctors of osteopathic medicine can serve as independent medical examiners in independent medical reviews.

In addition, the measure attempts to curb so-called doctor-shopping by claimants by limiting when injured workers can switch doctors.

“Oklahoma has needed to

See **OKLAHOMA** page 18

HEALTH CARE REFORM

More firms get ‘mini-med’ waivers

By JERRY GEISEL

WASHINGTON—The Department of Health and Human Services has approved 1,372 one-year waivers—mainly for “mini-med” plan sponsors—from having to meet a health care reform law requirement eliminating annual limits on essential benefits.

The waivers approved to date affect some 3.1 million enrollees, HHS said.

Waiver approvals peaked in December when just more than 500 requests were cleared. Just less than 200 were approved in January, 125 in February, 129 in March and 221 in April.

Well-known employers whose applications for waivers were approved in April include Dillard’s Inc., the Little Rock, Ark.-based department store chain, whose plan has 1,676 enrollees; and McCormick & Schmick’s Seafood Restaurants Inc., a Portland, Ore.-based restaurant chain, whose plan has 966

enrollees.

The waiver affecting the largest group of enrollees was granted last September to the United Federation of Teachers Welfare Fund in New York, whose mini-med plan has 351,000 enrollees, according to its filing.

The waivers are needed because most, if not all, mini-med plans run afoul of federal rules that set a minimum annual dollar amount on essential benefits that health care plans must provide in 2011, 2012 and 2013 under the health care law. The

minimum is \$750,000 in 2011, \$1.25 million in 2012 and \$2 million in 2013.

Starting in 2014, the law bars annual limits for essential benefits.

However, the minimum amounts for essential benefits are greater than the maximum benefits provided through mini-med plans, which typically are offered to low-wage, part-time or seasonal employees.

Under the law, low-wage employees might qualify for government-subsidized coverage that will be available from insurers through new state insurance exchanges starting in 2014, reducing the need for mini-med plans.

Until then, mini-med plan providers can obtain waivers in situations where meeting the minimum annual benefit requirements would result in a significant decrease in access to benefits or a significant increase in premiums, HHS said.

>500

Waiver approvals peaked in December when just more than 500 requests were cleared.

NOBODY WANTS TO TAKE THE FALL FOR A FICTITIOUS CLAIM.



When a patron claimed to take a bad fall outside the entrance of a major retail establishment, the manager first went to her aid, and then came to us. Risk management planning had ensured there were anti-slip mats at the entrance and a surveillance camera, which captured the staged accident. The fraudulent claim was then denied and referred to the local authorities, protecting the customer from unwarranted losses and potential litigation. Whether it's responding quickly, keeping you informed, or helping to mitigate potential losses, our general liability experts are committed to helping you protect your business. That's our policy. For more information, contact your broker or agent or visit libertymutualgroup.com/gl.

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States take different paths toward health care reform

Vermont, Florida exemplify divergent legislative strategies

By REBECCA VESELY

States are taking increasingly divergent paths as they seek to revamp their roles in health care and rein in costs.

Perhaps no two states exemplify the extremes in approaches like Vermont and Florida. In both states, lawmakers in recent weeks have passed sweeping bills that are on opposite ends of the care-delivery spectrum.

The Vermont bill puts the state on the path toward single-payer coverage, where public and private health care dollars would be put in one pot and administered by the state. Democratic Gov. Peter Shumlin is slated to sign the bill today.

system. The bill does not include details on how the program would be financed, and the state would have to obtain waivers from the Centers for Medicare and Medicaid Services to gain flexibility to administer its Medicaid and Medicare programs in a new way.

Ultimately, the idea is to set up a single-payer system called Green Mountain Care that would be available to all Vermonters, perhaps in 2017, regardless of whether residents currently have coverage through Medicaid, Medicare, a private insurer or are uninsured. Medicaid and Medicare reimbursements to providers would be paid out through Green Mountain Care, if federal waivers are approved.

Initially, the bill requires that Vermont set up a health insurance exchange, as mandated in the federal health care reform law, and begin enrolling individuals and employees of small firms by

benefits to their workers. "It's the only way to get the large, self-insured plans on board."

The Vermont Chamber of Commerce has said in testimony that it opposes a tax on employers, and has concerns about cost-shifting medical spending to employers under the plan. The group did not return calls.

Mr. Outterson noted that former Massachusetts Gov. Mitt Romney in a recent policy speech called for a renewed period of federalism in health care. "That's exactly what we are getting now," Mr. Outterson said. "Vermont is pushing hard for single-payer."

Florida

Meanwhile, Florida is planning to privatize most of its low-income population into managed care. "This is a time when we are having tremendous experimentation in the states," Mr. Outterson noted.

The Florida proposal would authorize managed care plans and large health care networks to oversee nearly all of Florida's \$21 billion Medicaid program. Virtually all of the state's 2.9 million Medicaid beneficiaries, including the elderly and disabled, would be moved into private plans, starting in July 2012, at a \$1.1 billion savings the first year, according to the governor's office.

Like Vermont, Florida must get a federal Medicaid waiver to implement the legislation; the CMS has expressed some reservations. The agency urged Florida lawmakers to include a medical-loss ratio requirement that would require managed care plans to spend a certain amount on direct medical care. Instead, lawmakers adopted a profit-sharing formula similar to one in Texas, whereby insurers would rebate profits above 5% back to the state.

Already, 67% of Floridians on Medicaid are enrolled in a managed care plan. The bill would move the rest away from a fee-for-service model. It would also institute \$100 copayments for nonemergency visits to hospital ERs and a \$10 monthly premium.

Consumer advocates fear this approach could hurt patients.

"A lot of these things raise concerns," said Ms. Mahan of Families USA. For instance, if a patient thinks he is experiencing heart attack symptoms, and at the ER is told he is not, Mahan wondered, would he have to pay the \$100 fee? "Is that considered inappropriate care?"

Florida House Speaker Dean Cannon, R-Winter Park, said upon the bill's passage that Medicaid is a "federal entitlement program run amok that has become the single-largest cost driver in our state's budget." He added that the "transformational legislation will

Commentary

A network disruption worth cheering about

Anyone who attended the Risk & Insurance Management Society Inc.'s annual gathering this month will forever remember it as the "I was in Vancouver at RIMS when Osama bin Laden was killed conference."

Like the day we heard the Space Shuttle Challenger had exploded or, for those of us of a certain age, when the school principal announced over a scratchy intercom system that President Kennedy had been assassinated, just like the morning we watched New York's twin towers go down before our eyes, we will recall the spot where we heard the news about the death of the mastermind behind that atrocity.

I was stuck in a hotel near the Denver airport, thanks to bad weather in Dallas and a missed connection, and was told by a gung ho desk clerk about the raid in Pakistan that killed Mr. bin Laden. He bounced around shouting, "They got him, man!" until I could pin him down long enough to find out what had happened.

In Vancouver, British Columbia, word traveled quickly through hospitality suites, parties and functions at the RIMS venue as television stations launched into frenzied reporting.

I'm pretty sure there were no formal surveys done among the risk management and insurance community in town for the conference, but the overall sentiment by the time I got there seemed to be that the death of Mr. bin Laden was a victory for the good guys.

It was heartening to watch the outpouring of emotion that sparked the spontaneous celebrations in Washington, New York and elsewhere. Recalling the celebrations that were broadcast to the world in 2001 of Islamic extremists celebrating the destruction of the World Trade Center, it was wonderful to see our flag in full display and hear choruses of "God Bless America" ringing in the night.

Some folks, though, thought it a bit unseemly to celebrate the death of anyone, even that of an infamous terrorist. Perhaps they would have preferred everyone just stay home and talk quietly among themselves.

Wherever you sit in that debate, if you were in Vancouver, you will always remember



MICHAEL BRADFORD

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discussing it during the RIMS 2011 conference, just as clearly as you remember where you heard the news that the twin towers were burning and crumbling into clouds of debris on a clear September morning.

As the weeks have rolled by since Mr. bin Laden was killed by Navy SEALs we have heard the predictable complaints that his killing was illegal.

If it's OK with everyone, could we just be the good guys this time?

Unsurprisingly, America quickly became embroiled in a debate over whether it was the right thing to do, and that debate soon led some in the U.S. to ask the profound question: "Is this who we are?"

If it's OK with everyone, could we just be the good guys this time? Otherwise, by the time the next RIMS conference rolls around in Philadelphia in 2012, the Navy SEALs will be the villains and we will be apologizing for ridding the world of a guy who truly deserved what he got.

If you're a risk manager, your job may have gotten a little more tense since the head of the al-Qaida snake was cut off. Fear of reprisals has made a lot of companies nervous and extra precautions have been necessary to keep people and property safe. In the long run, though, the terrorist threat is likely to subside somewhat, given the disruption at the top of its network.

That's reason to cheer, no matter how you feel about what happened in Pakistan a few weeks ago.

TALE OF TWO STATES

In Vermont and Florida, lawmakers in recent weeks have passed sweeping bills that are on opposite ends of the care-delivery spectrum.



THE VERMONT BILL puts the state on the path toward single-payer coverage, where public and private health care dollars would be put in one pot and administered by the state.

FLORIDA, BY CONTRAST, plans to move nearly all 2.9 million Medicaid recipients into managed care starting in 2012.

Florida, by contrast, plans to move nearly all 2.9 million Medicaid recipients into managed care starting in 2012. The approved legislation would create 11 regions to be administered by private insurers and eliminate the fee-for-service system, at an expected savings of about \$1.1 billion in the first year. Republican Gov. Rick Scott is expected to sign the bill package soon.

"Some states are looking for ways to be more innovative in terms of managing care and delivering care in ways that will be more efficient and better, and others are cutting back," said Dee Mahan, director of long-term services advocacy at Families USA. "Some of these changes are draconian, but some states want to be smarter in the way they deliver care."

Vermont's plan

In Vermont, the focus is on expanding coverage to everyone. The first step is H.B. 202, which would set up a new five-member panel to draft a proposal to move the state to a universal health care

January 2014.

The state hospital and medical associations have stayed neutral on the proposal, taking a wait-and-see approach. The financing details must be developed by January 2013.

"We are cautiously optimistic, and we stress the word 'cautiously,'" said a spokeswoman for the Vermont Assn. of Hospitals & Health Systems. The Vermont Medical Society also is neutral on the bill. Blue Cross & Blue Shield of Vermont, the state's largest insurer, is reportedly supporting the proposal and could play a role in administering the payment system. The not-for-profit insurer did not return calls for comment by deadline.

Kevin Outterson, associate professor of law at Boston University, has been closely following the bill. He said employer financing for single-payer system will take the form of a payroll tax, perhaps 11% on employers and 3% on workers.

"It's called 'pay whether or not you play,'" Mr. Outterson said, meaning that employers would have to pay the tax even if they provide comprehensive health

A man in a dark suit and striped tie stands with his hands in his pockets in front of the Golden Gate Bridge in San Francisco. The bridge's red structure is prominent on the right, and a large rock formation is visible in the water to the left.

in San Francisco, he makes sure **ACE** insures progress

Property & Casualty | Accident & Health | Life

Stephen Meyer is Vice President and Corporate Segment Leader for ACE in San Francisco. He and his team focus on providing innovative insurance solutions for their clients in the Northwest. Steve is one of 16,000 ACE employees worldwide who take on the responsibility of risk so our clients can take on the responsibility of making things happen. We call this *insuring progress*. As we celebrate our 25th anniversary, we invite you to find out how our people can work for you. Visit us at acegroup.com



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Business Insurance OPINIONS

Reform law criticism must be based on facts

IT MAY BE INEVITABLE, but it's nonetheless regrettable that distortions persist about what the nation's health care reform law will and won't do.

Even before the bill passed, there were Sarah Palin's comments in 2009 that the measure would create "death panels" of government bureaucrats who would decide who would get health care services.

There have been many erroneous assertions since then. In the latest, last week reports surfaced that a disproportionate percentage of waivers exempting employers from having to meet the law's required annual spending limits went to employers, especially restaurants, in Rep. Nancy Pelosi's San Francisco district.

Implicit in the reports was the suggestion that political favoritism played a role in approving the waivers.

The facts, though, suggest otherwise. According to the Department of Health and Human Services, about 95% of waivers sought have been approved, making it difficult to see how political favoritism would come into play.

There is another obvious but largely ignored reason why so many waiver applications came from San Francisco employers: the city's unique 2008 law requiring employers to spend a certain amount of money on employees' health care coverage. Some employers meet the requirement by allocating several thousand dollars per employee to health reimbursement arrangements, which employees use to pay for medical services.

That's far less than the minimum \$750,000 limit on health care services that applies in 2011. Hence, the need and approval of the waivers has nothing to do with the California Democrat and everything to do with San Francisco's law.

Criticism of legislation is welcome and necessary, but we hope critics rely on the facts.

Reauthorize NFIP now

THINGS AREN'T exactly moving at warp speed in Washington when it comes to risk management issues.

The Securities and Exchange Commission is still working on rules to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act.

President Obama has yet to nominate an insurance expert to serve as a voting member of the Financial Stability Oversight Council.

And the National Flood Insurance Program is still slated to expire Sept. 30.

Dealing with the last of these issues may be easiest. Earlier this month, the House Financial Services Committee unanimously approved a bipartisan measure that would reform the program, encourage greater private participation in NFIP and extend it through Sept. 30, 2016.

The bill ought to receive a similar positive response when the whole House considers it, although no date has been set for doing so.

As a group of insurance and financial industry trade groups urged in a letter sent last week to the leaders of the Senate Banking, Housing and Urban Affairs Committee, it's time for the Senate to get involved in the process as well.

Given that the old debate over whether the program should be required to offer windstorm as well as flood coverage has dissipated, there's no reason not to move reauthorization legislation forward as quickly as possible to get it on the president's desk long before Sept. 30 arrives.

Implicit in the reports was the suggestion that political favoritism played a role in approving the waivers. The facts, though, suggest otherwise.



WRITE

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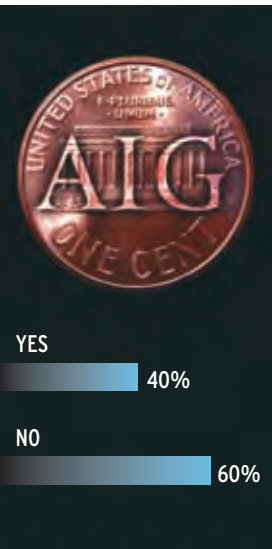
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THIS WEEK'S RESULTS

Will the government make a profit from its bailout of AIG?



NEXT WEEK'S QUESTION

Does broker ownership of insurers present a conflict of interest?

LETTERS

Weigh consequences of adverse selection

TO THE EDITOR: I can't believe how the logic for penalizing—heavily—an employer who does not offer insurance to some of his employees “eludes” you. (“Health Care Penalty Rule Unfair, Needs Revision,” *BI* editorial, May 16) You say that to assess an employer \$2,000 for every employee he has when only one employee is not offered health insurance, but instead sent to the state insurance exchange, is illogical and unfair.

The penalty, if it is to be assessed, you say, “should be calculated on the basis of those who do not have coverage, not those who do.”

Haven't you ever heard of “adverse selection?” Under your logic, an employer who provides health insurance to 45 healthy employees and sends the four oldest or sickest employees to the health insurance exchange should pay a penalty of only \$8,000.

But the employer will save far more than that in annual health insurance

See **LETTERS** page 17

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SPOTLIGHT

**P/C INSURERS
PAY CAT LOSSES,
RELEASE RESERVES**
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**BIG BROKERS
GROW REVENUES
IN TOUGH ECONOMY**
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**LOW UTILIZATION
OF HEALTH CARE
BOOSTS PROFITS**
PAGE 14

U.S. market weighs cat losses

Overall hardening unlikely despite large claims totals

By JUDY GREENWALD

Despite several catastrophes around the world with billions of dollars in losses, an overall market hardening is not imminent for U.S. reinsurance buyers, observers agree.

They disagree, however, about whether losses from earthquakes in Japan and New Zealand, floods in Australia and storms in the United States will have an impact on property catastrophe rates and whether renewals will see at least some increases.

One major unknown is the severity of the upcoming hurricane season.

Observers say the impact of the catastrophes

INDUSTRY FINANCIALS:

FIRST QUARTER RESULTS

on rates will become increasingly apparent over the course of the June, July and January renewals.

Another factor in the insurance rate picture is the new version of Newark, Calif.-based Risk Management Solutions Inc.'s U.S. hurricane model, which was released in February (see related story).

"In part because of the timing of some of these natural catastrophes, both globally and here in the U.S., it's really added to the uncertainty in the marketplace in a couple of areas," said John H. Vasturia, president of the regional clients division of Munich Reinsurance America Inc. in Princeton, N.J. "No. 1, what's pricing going to look like, and No. 2, what capacity will be like in the marketplace?"

"Something to keep in mind is that the impact is probably not going to be across the board," Mr. Vasturia said. "It will probably be different based on where you are in the world, what impact the losses have had on you as an individual company, and the types of business that you write and where the business is written," he said. "There is so much diversity across the industry."

Many moving parts

Aside from the issue of whether the catastrophes will have enough impact on the sector's capital to create a major change in the market, there also are "latent catalysts," including trends around reserves, cash flow and inflation/noninflation, said David Flandro, London-based global head of business intelligence for reinsurance intermediary Guy Carpenter & Co. L.L.C. "There are many, many moving parts out there. We're in a very different world than the one we were in three months ago."

"For the most part, the brunt of these international earthquake losses are being paid for by global reinsurers who are, of course, turning around and increasing pricing on those renewals" in the affected areas, said John DeMartini, Stamford, Conn.-based leader of Towers Watson & Co.'s catastrophe risk management and its U.S. property reinsurance specialty practices.

Observers disagree about the extent to which non-U.S. catastrophes will affect the U.S. property market.

The earthquakes "will have an impact on the

New RMS hurricane model changes outlook on rates

By JUDY GREENWALD

The latest version of Risk Management Solutions Inc.'s U.S. hurricane model is causing a stir in the insurance market, but it is still unclear how big an impact it will have on pricing.

Claire Souch, London-based vp of natural catastrophe and portfolio solutions for RMS, said the RMS Version 11 changes the grading of risk as hurricanes move inland.

While the risk of wind damage still diminishes, "it's now less steep than the previous (model), so the further you go inland, the greater the risk vs. the previous version," she said.

"Companies are somewhat taking the middle ground" with respect to the RMS model, said Amit Kumar, vp of Macquarie Securities Group in New York. During their earnings calls, most companies "suggested RMS was one of the models they used," but also said it "would not be the sole driver of examining their catastrophe exposure," he said.

"I don't know if it has had any tangible impact yet," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va. "I think everyone is still testing it out and feeling their way around," he said of the updated hurricane model that was released in February. "I don't think anybody's using it as a rate-setting or a policy tool at this point."

"You're still looking at a U.S. property market where they have done very well for the last five years," which makes it hard for companies "to tell their customers they should pay more because of the model change" when "the actual, real risk hasn't changed at all," said Cliff Gallant, an analyst at Keefe, Bruyette & Woods Inc. in New York.

"We really have kind of a mixed bag

here," said John DeMartini, Stamford, Conn.-based leader of Towers Watson & Co.'s catastrophe risk management and its U.S. property reinsurance specialty practices. RMS' updated model has "caused a lot of companies to question" whether to use the new version, an older version or blend RMS' model with others that are commercially available, he said.

"We have the RMS model," but "we apply our own viewpoint on top of that," said John H. Vasturia, president of the regional clients division for Munich Reinsurance America Inc. in Princeton, N.J. "In certain areas, we think the exposure is either more or less of what comes out of the model."

Ms. Souch said some insurers use the RMS model exclusively, some use it in conjunction with other models, and some use a stress test or some other form of benchmark.

Ms. Souch said there has been a "progression of reactions" to the revised RMS model.

Initially, "we had some elements of the market seemingly surprised by the magnitude of the changes. They had concerns, for example, about the amount of premiums available to pay for the new view of risk, how it might affect ratings and some issues like that," she said.

Then began requests for more information "about what had really gone into the new models, what were the drivers of change and the validation of the new model itself," Ms. Souch said.

"We've literally had hundreds of meetings since the release," she said. Now, acceptance of the model "is increasing literally week by week," she said. "The vast majority of our client base have installed and are running (version) 11, and a large proportion of those are looking at the results and beginning to use them," Ms. Souch said.

'You're still looking at a U.S. property market where they have done very well for the last five years,' which makes it hard for companies 'to tell their customers they should pay more because of the model change' when 'the actual, real risk hasn't changed at all.'

Cliff Gallant, Keefe, Bruyette & Woods Inc.

places that lost money, so I think property exposures overseas will see higher prices," said J. Paul Newsome, managing partner at Sandler O'Neill & Partners L.L.P. in Chicago. He added, though, "I don't think it will have much of an impact on the U.S. marketplace."

"I don't see that as a big driver of the U.S.

market," James Auden, an analyst with Fitch Ratings in Chicago, said of the foreign catastrophes. While American International Group Inc. "has quite a bit" of coverage in the affected areas, other large U.S. commercial primary

Continued on next page

CONTINUED FROM PREVIOUS PAGE

insurers—including Travelers Cos. Inc., The Hartford Financial Services Group Inc. and CNA Financial Corp.—had very little, he said.

"I think they're putting their capacity out there and writing like they were; and we haven't seen withdrawal of capacity tied to those events in the U.S. market, so I think from a competitive standpoint," things remain unchanged, Mr. Auden said.

Cathy Seifert, an equities analyst with Standard & Poor's Corp. in New York, said insured losses from U.S. storms and floods, which risk modelers have estimated range from \$5 billion to \$7 billion, "could be largely personal, but there still certainly commercial exposure down there."

Some observers do expect some increase in reinsurance rates.

"Between the Japanese earthquake and the RMS model change," it feels like there have been some positive changes for the reinsurers, said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

Mr. Gallant said that three months ago he would have predicted that reinsurance rates for the upcoming renewals would fall by 5% to 10%. Now, he said he expects them to be flat to down 5%. "It's certainly a positive change" for reinsurers, although not a "post-Katrina type of market," he said.

James Eck, New York-based vp at Moody's Investors Service, also said he had expected reinsurance renewals to fall 5% to 10% compared with last year, but now expects rates to be flat to increase by single digits. Reinsurers are "a little bit more optimistic about pricing," he said.

"There seems to be very early indications that there will be some momentum" for price increases in July, said Laline Carvalho, a director at S&P in New York. But, "We won't know the full impact of pricing until Jan. 1 of next year."

Robert DeRose, vp at Oldwick, N.J.-based A.M. Best Co. Inc., said property rates will likely start to stabilize and rates begin to rise in July, "the more dramatic impact might not be felt until January."

"It stands to reason there's going to be some additional catastrophes the balance of the year" due to the upcoming hurricane season and reinsurers "will probably want to see some payoff, and that will probably be reflected at January renewals," Mr. DeRose said.

The Japanese quake "is a catalyst and it will firm market conditions," but "not to the extent 9/11 or Katrina did," said Ms. Seifert. "It will not be a dramatic turn."

While the catastrophes are not expected to affect casualty rates, Mr. Eck said some short-tail lines, such as energy and other property coverage, may see some firming, but the trend will not affect long-tail lines, including casualty. "Those still seem to have maybe a little bit of weakness to them, from what we're hearing," he said.

While "the market is starting to improve for property, for casualty reinsurance, there's more uncertainty. There's still excess capacity in the

marketplace," Mr. DeRose said.

"Primary companies continue to retain more exposure. There are still some head winds in the economy. We're not seeing growth in exposure, so our view is the market is bottoming out," but rates will not yet increase over the near term to the extent seen in the property market, he said.

The timing of an overall turn is still hard to predict, say observers.

"There's still sufficient capital in the industry to allow for meaningful competition," said Bryon Ehrhart, chairman of Aon Benfield Inc.'s analytics and investment banking divisions in Chicago. "As long as that exists, you'll continue to have a set of circumstances that'll make it difficult for



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reinsurers to get" material rate increases, he said.

"From some of the companies

we've talked to, they think one big hurricane this year should do the trick. In the absence of a large loss

from hurricane season, we could start to drift downward again," Mr. Eck said.

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Catastrophe losses hit P/C insurer results

Some analysts see rate increases ahead, others still skeptical

By JUDY GREENWALD

Catastrophe losses in the first three months of 2011 pushed down profits for the biggest U.S. commercial property/casualty insurers, but the losses were partially counterbalanced by prior-year reserve releases, allowing the companies to exceed analysts' expectations for profit growth.

Going forward, some analysts expect a more profitable period for the insurers as the overall market shows signs of hardening.

The 10 largest commercial property/casualty insurers posted a 32.9% decrease in net income, which fell to \$3.23 billion. Excluding New York-based American International Group Inc.'s 84.9% decline, the remaining insurers reported just a 2.4% decline in first-quarter net income compared with a year earlier.

Net premiums written increased 7.8% to \$3.57 billion. Excluding AIG, whose results reflect the consolidation of Japanese affiliate Fuji Fire & Marine Insurance Co., net premiums written would have increased 3.7%.

The group had a 104.6% combined ratio vs. 98.4% for the comparable period a year ago.

Mark Dwelle, an insurance analyst with RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va., said the results were generally "in line with, or a little better than expected. That group seemed to be comparatively less affected by the large catastrophes in the quarter, so I think you got a fairly clean read on how their operations were doing."

J. Paul Newsome, managing partner at Sandler O'Neill & Partners L.L.P. in Chicago, said the results were "pretty good," although "they were obviously not perfect." Catastrophe losses affected commercial insurers "and to the extent that some of these companies had Asian operations, they suffered some significant losses," he said.

"First-quarter results for commercial lines insurers were sort of mixed, in that they reflected some of the legacy results for the soft market on the underwriting side," which in some cases combined with catastrophe losses, said Cathy Seifert, an equities analyst with Standard & Poor's Corp. in New York.

"We keep thinking that we've had several years of soft pricing, so reserve releases must be ready to go away, but it doesn't seem to be the case," said Cliff Gallant, an analyst with Keefe, Bruyette &

PROPERTY/CASUALTY INSURERS' FIRST-QUARTER 2011 RESULTS

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

Insurer	Net premiums written 2011	% Increase (decrease) 2011-2010	Net income 2011	% Increase (decrease) 2011-2010	Consolidated revenues 2011	Combined ratio 2011 ¹	Combined ratio 2010 ¹
American International Group Inc.	\$9,166	19.9%	\$269	(84.9%)	\$17,436	119.0%	102.5%
Liberty Mutual Insurance Co.	7,583	5.2	362	14.9	8,381	102.5	102.2
Travelers Cos. Inc.	5,437	3.5	839	29.7	6,278	94.7	96.4
ACE Ltd.	3,446	(3.5)	259	(65.7)	3,808	105.0	92.8
Chubb Corp.	2,859	3.4	509	9.7	3,420	93.7	93.6
Hartford Financial Services Group Inc.	1,645	8.8	511	60.2	6,308	97.5	89.6
CNA Financial Corp.	1,567	5.5	233	(8.8)	2,315	101.9	102.1
W.R. Berkley Corp.	1,083	10.1	116	(1.8)	1,234	96.3	94.1
Cincinnati Financial Corp.	779	3.0	62	(8.8)	929	103.9	102.6
American Financial Group Inc.	584	3.2	83	(21.7)	1,039	92.0	87.0
Cumulative	\$34,149	7.8%	\$3,233	(32.9%)	\$51,148	104.6%	94.4%

¹ Includes dividends.
Source: BI survey, company reports

'First-quarter results for commercial lines insurers were sort of mixed, in that they reflected some of the legacy results for the soft market on the underwriting side,' which in some cases combined with catastrophe losses.

Cathy Seifert, Standard & Poor's Corp.

Woods Inc. in New York.

"The hard-market underwriting years continue to develop favorably and the more recent years are not as conservatively reserved, but we haven't seen strong deficiencies there yet, either," said James Auden, an analyst with Fitch Ratings in Chicago. "There will be fewer reserve redundancies available as the year unfolds relative to the last two or three years."

Analysts also say there are some signs of rate increases.

"You are seeing continued modest premium growth out of companies, so I think that's a good sign as the economy recovers," Mr. Auden said. Although pricing signals vary, "things have

stabilized a little bit" and a few companies are "reporting modest rate increases on renewals in the quarter," he said.

Still, rates that are increasing are seeing only "single-digit increases overall," Ms. Seifert said.

"You still need a meaningful U.S.-based catastrophe loss for the market turn, and we haven't seen that yet," said Amit Kumar, vp of Macquarie Securities Group in New York.

Meanwhile, insurers are investing "smartly," said Jim Amen, managing partner with Philo Smith & Co. in Stamford, Conn. "They're staying short in the fixed-income market and putting more money to work in the equi-

ty markets. I think the balance sheets are pretty strong, and they're investing...wisely and not too conservatively."

Observers, however, differ on the market outlook.

"We have been in a soft market and interest rates are low, so returns are not great...but it's not terrible either," while "the big commercial writers seem to be doing pretty well despite the headwinds," Mr. Gallant said.

Insurers "seemed to be modestly more bullish" on the pricing outlook in light of the support they are getting from an improving economy, said Mr. Dwelle.

"If the glass was half empty previously, now it seems it's half full," Mr. Kumar said. Insurers are "cautiously optimistic that even though overall rates are not turning in every single line, they seem to be no longer falling, and that's an important difference."

Mr. Newsome said there are "small signs of an improving commercial market, and there seems to be an active debate as to whether or not it's just the economy being a little bit stronger, and that's helping exposures, or if there's actually some improvement in the

competitive environment.

"Most analysts and investors remain fairly skeptical" that it reflects an improved competitive environment, said Mr. Newsome, who said he is in that category. "I think that it's probably fairly stable, maybe slightly deteriorating," he said of insurance pricing.

"The outlook is a little more positive (for insurers) than it was a year ago, but I think it may also be dependent on a company-by-company basis, depending on their mix of business, on where they are geographically and product mix," Ms. Seifert said.

"While market conditions have definitely firmed, I'm not sure that at this juncture we will see a wholesale turn," she said.

Mr. Auden said the outlook is for more of the same. The combined ratio is expected to be stable or increase modestly, he said.

With insurers unable to grow organically, Mr. Gallant said "all the pieces are in place" for increased merger and acquisition activity.

Mr. Amen said he expects M&As to "resume after we get out of this period of catastrophes, which has been a distraction."

Economic growth boosts brokers

But outlook unclear with soft market limiting revenues

By SONJA RYST

Global economic growth stimulated the results of publicly traded insurance brokerages, pushing up revenues in the first three months of 2011.

The largest brokerages benefited from their international reach and exposure to faster-growing economies, which helped them beat analyst estimates for revenue growth.

But the outlook for future growth remains uncertain. While corporate insurance buyers need more coverage as their operations expand, rates remain low, likely limiting brokers' revenue growth, analysts say.

"The head winds of the last couple years are becoming tail winds," said Alan Devlin, an insurance analyst in London at equity research firm Atlantic Equities L.L.P.

INDUSTRY FINANCIALS

BROKERS

In an indication that the market thinks brokerages have managed to improve their worth, the companies' values on the Standard & Poor's 500 stock index gained 12.1% during the first quarter of 2011. In contrast, the overall index gained only 5.4% during the same period.

While revenues are increasing, growth remains modest, said Meyer Shields, a director at Stifel, Nicolaus & Co. Inc. in Baltimore.

"The economy isn't as bad as it used to be, but it's not going gangbusters," he said.

Market players continue to speculate about price increases, particularly after recent catastrophes, such as the March 11 earthquake in Japan, but no dramatic changes have happened so far, experts say.

J. Paul Newsome, managing director at Sandler O'Neill & Partners L.P. in Chicago, isn't expecting insurance prices to increase anytime soon. "I think maybe (prices) will be flat at best in commercial insurance," he said.

Rapidly improving economies overseas may boost the U.S. economic recovery and that would lead to improved results for brokers, analysts say.

"I think the likely outcome (for the coming months) is that you'll continue to see gradual improvement," said Adam Klauber, an insurance analyst at William Blair & Co. L.L.C. in Chicago.

Despite the still-difficult economic climate, several brokers beat analysts' expectations when they published their first-quarter results.

New York-based Marsh & McLennan Cos. Inc. reported revenues of \$2.88 billion, up more than 9% compared with the same period last year. Analysts surveyed by the New York business infor-

mation firm Thomson Reuters Corp. had forecast revenues of \$2.8 billion.

MMC's risk and insurance services revenue grew 10% to \$1.63 billion, with retail brokerage unit Marsh Inc. reporting that revenues increased 10% to \$1.28 billion.

President and CEO Brian Duperreault emphasized during MMC's conference call that the company increased revenues in each of its operating companies for three consecutive quarters. "We can continue to achieve revenue growth while maintaining

effective control over operating expenses," Mr. Duperreault said.

Chicago-based Aon Corp. reported revenues of \$2.75 billion during the first quarter, up 45% compared with the same period in 2010. The jump was due largely to Aon's purchase last year of Lincolnshire, Ill.-based human resources and benefits consulting firm Hewitt Associates L.L.C. Analysts had expected revenues of \$2.7 billion, according to Thomson Reuters.

Aon President and CEO Greg

See **BROKERS** next page

FIRST-QUARTER 2011 BROKER RESULTS

Results for the world's largest publicly traded insurance brokers, in millions of dollars.

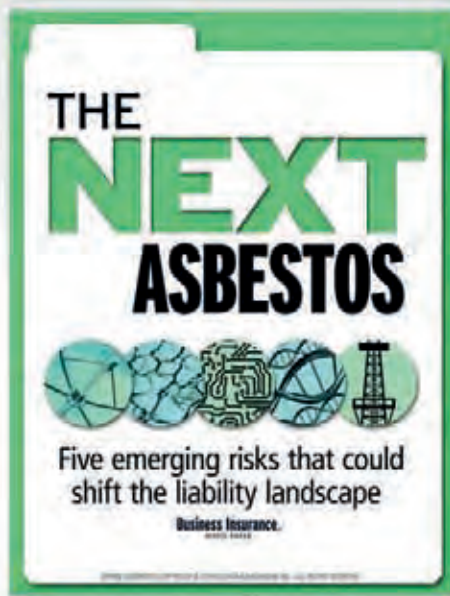
BROKER	TOTAL REVENUES	% INCREASE (DECLINE) FROM 2010	NET INCOME	% INCREASE (DECREASE) FROM 2010
Marsh & McLennan Cos. Inc.	\$2,883	9.4%	\$325	31.0%
Aon Corp.	2,748	45.0	246	38.0
Willis Group Holdings P.L.C.	1,000	3.8	34	(83.3)
Arthur J. Gallagher & Co	447	(7.3)	15	(47.9)
Brown & Brown Inc.	262	3.9	46	4.9

Source: Company reports

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Insurers report higher profits, eye rising costs

Lower utilization of health services not expected to last

By JOANNE WOJCIK

The nation’s largest publicly traded health insurers outperformed analysts’ expectations for the first quarter of 2011 thanks to continuing low health care utilization. Health insurers’ commercial enrollment also appears to be creeping up as employers begin hiring again following the prolonged weak economy. Meanwhile, some insurers are using the extra cash they have on hand to make strategic acquisi-

INDUSTRY FINANCIALS

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tions to diversify their operations and reduce the impact of the health care reform law, analysts note.

But insurers also doubt that current low utilization levels will continue and are building higher health care spending into their pricing and financial performance projections, analysts say.

Observers speculate that the lower utilization levels are linked to plan members minimizing spending in tough economic times.

During first-quarter earnings calls with analysts, Minnetonka, Minn.-based UnitedHealth Group Inc. attributed its healthy financial performance to reduced hospital stays. UnitedHealth’s first-quarter revenues climbed to \$25.43 billion, up 9% compared with the same period last year, and net income leaped 18% to \$1.35 billion (see chart). Philadelphia-based CIGNA Corp. also cited lower-than-expected medical utilization in explaining its first-quarter performance. CIGNA’s net income surged nearly 52% to \$429 million, though revenues rose just 4% to \$5.41 billion.

MAJOR U.S. HEALTH INSURERS' FIRST-QUARTER 2011 RESULTS									
Largest publicly traded U.S. health insurers ranked by reported revenues, in millions for dollars and enrollment.									
Insurer	2011 revenue	2010 revenue	% increase (decrease)*	2011 enrollment	2010 enrollment	% increase (decrease)*	2011 Net Income	2010 Net income	% increase (decrease)*
UnitedHealth Group Inc.	\$25,432	\$23,193	9.0%	38.7	36.8	5.2	\$1,346	\$1,191	18.0%
WellPoint Inc.	14,894	15,073	(1.2)	34.2	33.8	1.1	927	877	5.7
Aetna Inc.	8,388	8,622	(2.7)	17.8	18.7	(4.8)	586	563	4.2
Humana Inc.	9,191	8,380	9.7	10.9	10.5	4.3	315	259	21.8
CIGNA Corp.	5,413	5,205	4.0	12.5	12.0	4.9	429	283	51.6
Health Net Inc.	3,527	3,416	3.2	2.9	3.0	(0.1)	(108)	16	N/M
Coventry Health Care Inc.	3,049	2,859	6.6	4.6	4.8	(6.0)	110	97	13.3
N/M-not meaningful. *Percentage change reflects unrounded figures Source: Company reports									

Although revenues fell 1.2% to \$14.89 billion for the first three months of 2011 at WellPoint Inc., the Indianapolis-based company posted a 5.7% gain in net income, which rose to \$926.6 million. Meanwhile, Louisville, Ky.-based Humana Inc. reported a nearly 22% jump in first-quarter net income, which increased to \$315.2 million. Six of the largest publicly traded health insurers increased their profit in the first quarter of this year vs. the same period last year. The seventh, Woodland Hills, Calif.-based Health Net Inc., suffered a \$108.2 million loss as a result of settling litigation that

arose from the sale of three health plans offered by a former subsidiary to AmCareco Inc. in 1999. In recent months, the Louisiana Supreme Court rendered a decision in the AmCareco litigation. The charge recorded in the first quarter represents the company’s final assessment of the compensatory and punitive damages and judicial interest to be paid in connection with the judgment as of April 1. Judicial interest will continue to accrue on the judgment until it is paid. But “if you take out the litigation charge, Health Net would have posted a 2% net margin,” noted Stephen Zaharuk, senior vp

at Moody’s Investors Service in New York. “The bigger challenge, though, is medical utilization is down, and the big question is when does it change? Every company said (during earnings calls that) this level of utilization is not sustainable. Trend is down in all segments of the business. It’s going to change at some point,” Mr. Zaharuk said. “Over the years, there has been more and more cost-shifting” to plan members by employers and insurers, said Sally Rosen, managing senior financial analyst at A.M. Best Co. Inc. in Oldwick, N.J. “This has had a dampening effect on utilization.”

In terms of commercial enrollment, first-quarter growth among the largest health care insurers also was better than analysts had expected as the effects of the weak economy begin wearing off, analysts noted. UnitedHealth reported the largest gain with membership increasing 5.2% to 38.7 million. Other insurers boosting membership in the first quarter included CIGNA, whose roster grew 4.9% to 12.5 million members; Humana, whose plan member count grew 4.3% to 10.5 million; and WellPoint, which gained

See **HEALTH** page 16

Brokers: Economic growth boosts results, revenue outlook unclear

CONTINUED FROM PREVIOUS PAGE

Case expressed confidence about the year. “We are firmly on track to deliver growth in both of our segments (retail brokerage and consulting services) in 2011, our restructuring programs are delivering cost savings and we have solid financial flexibility,” he said in a statement. Aon reported a 4% revenue increase, which rose to \$1.65 billion, for its brokerage and risk management unit, Aon Risk Solutions. Brokers with extensive international operations benefited from

their exposure to rapidly growing economies. For example, Marsh had revenue growth of 27% in the Asia-Pacific region and 17% in Latin America during the quarter. Meanwhile Aon said it had double-digit growth in Asia, Africa, Canada, France, Italy and New Zealand. London-based Willis Group Holdings P.L.C. said it had double-digit revenue growth in Asia, Africa, Eastern Europe and Latin America. Willis Chairman and CEO Joe Plumeri said in a conference call that the brokerage is seeking to “to fuel a wonderful fire that is

going on in our international operation” and that Willis had added 150 staff to its international operations during the past year. Willis reported revenues of \$1 billion for the first quarter, up nearly 4% compared with the same period of 2010 and slightly higher than analysts’ expectations. Arthur J. Gallagher & Co. also is seeking to grow its international business. Earlier this month, the Itasca, Ill.-based brokerage said it had acquired London-based Heath Lambert Ltd. The deal is expected to add about \$150 million in annual revenue for Gallagher.

In the United States, subsidiary Gallagher Bassett Services Inc. bought the third-party administrator and managed care businesses of GAB Robins North America Inc. for an undisclosed amount. “While our results for first-quarter 2011 are difficult to compare to last year” given factors that include integration costs, “our business posted strong results,” Mr. Gallagher said in a statement. The broker’s revenues fell 7.3% in the quarter compared with a year earlier, declining to \$447.4 million. Analysts had expected \$437.54 million. Meanwhile, Brown & Brown

Inc. remained dogged by its mainly U.S. exposure, including regions battered by the housing market bust, such as California, Florida and Nevada. The Daytona Beach, Fla.-based brokerage generated \$262.2 million in first-quarter revenue, up 3.9% compared with the same period of 2010 but below analyst forecasts of \$267.5 million. President and CEO J. Powell Brown said in a statement that many of his firm’s clients continue to experience pressure on their businesses. “We are pleased with the continued incremental improvement in our operating results,” he said.

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Health: Insurers report higher profits, eye costs

CONTINUED FROM PAGE 14

1.1% in membership to rise to 34.2 million. However, several other insurers recorded membership losses, led by Bethesda, Md.-based Coventry Health Care, whose rolls declined 6% to 4.6 million, and Hartford, Conn.-based Aetna Inc., which saw its membership decline 4.8% to 17.8 million members. The challenge facing health insurers this year will be meeting new minimum medical loss ratio requirements set by the Patient Protection and Affordable Care Act and proving to regulators the need for rate increases to meet growing medical utilization, the analysts said. Under the health care reform law, since Jan. 1, insurers must spend at least 80% of premiums in the individual and small-group markets and 85% of premiums in the large-group market on medi-

cal care or pay rebates to policyholders. In addition, health insurers in the individual and small-group markets must justify rate increases of 10% or more on all rate filings after July 1. “The MLRs were a big discussion on earnings calls,” Mr. Zaharuk said. “We saw some companies move out of some markets” where they did not think they could meet the requirements. **Utilization levels** Another concern is whether regulators will allow insurers to price for normal levels of utilization, which many expect will occur in the next 12 months, he said. Insurers will likely seek premium increases based on historic levels of utilization rather than the levels that occurred during the recession, Mr. Zaharuk said. Some insurers are investing cash generated by lower utiliza-

tion in lines of businesses that are less likely to be negatively affected by health care reform. “They are making strategic buys...operations that are companion to the insurance business such as health information technology, network management, physician support services,” said Joseph Marinucci, primary credit analyst at New York-based Standard & Poor’s Corp. “There’s a little more diversification going on. We have seen companies buying operations that support their business, whether it be disease management companies or ancillary businesses,” said Ms. Rosen. “It’s about doing it yourself vs. outsourcing to a vendor.” For example, Aetna recently said it is buying New York-based Prodigy Health Group, a benefits third-party administrator. Last year Aetna acquired Medicity, a health care technology firm. Also last year, CIGNA acquired Belgium-based Vanbreda International, a provider of expatriate benefits, and Humana bought Concentra Inc., a provider of urgent and occupational care.

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To all persons or entities interested in the affairs of
ATLANTIC MUTUAL INSURANCE COMPANY AND CENTENNIAL INSURANCE COMPANY
Notice is Hereby Given:
I. James J. Wrynn, Superintendent of Insurance of the State of New York ("Superintendent"), has been appointed by orders of the Supreme Court of the State of New York, New York County ("Court"), entered April 27, 2011 (the "Liquidation Orders"), as the liquidator (the "Liquidator") of Atlantic Mutual Insurance Company ("AMIC") and Centennial Insurance Company ("Centennial") (collectively, the "Companies") and, as such, has been: (i) vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 74, in addition to the powers and authority set forth in the respective Liquidation Orders; (ii) vested with title to AMIC's and Centennial's respective property, contracts, rights of action and books and records, wherever located, as of the date of entry of the Liquidation Orders; and (iii) directed to liquidate AMIC's and Centennial's respective business and affairs in accordance with Insurance Law Article 74. The Liquidator has, under Insurance Law Article 74, appointed Dennis J. Hayes, Special Deputy Superintendent (the "Special Deputy") as his agent to liquidate the respective business of AMIC and Centennial. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038.
II. The Liquidator may deal with AMIC's and Centennial's respective property and business in their respective names or in the name of the Liquidator.
III. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of the Companies and all other persons other than the Liquidator and his agents are enjoined and restrained from: (i) wasting or permitting to be done any act or thing that might waste AMIC's and Centennial's respective property; (ii) transacting the respective business of the Companies or disposing of the Companies' respective property, except as authorized by the Liquidator; (iii) interfering with the Liquidator in the possession, control and management of AMIC's and Centennial's respective property or in the discharge of his duties; and (iv) disclosing the name, address or contact information of the Companies' policyholders, or any other information that is proprietary to the Companies' or not in the public domain, except as authorized by the Liquidator.
IV. All persons are enjoined and restrained from commencing or prosecuting any actions or proceedings against AMIC, Centennial, the Liquidator or the New York Liquidation Bureau, their present or former employees, attorneys or agents, with respect to any claims against the Companies.
V. All persons are enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against AMIC's and Centennial's respective assets or any part thereof.
VI. All parties to actions, lawsuits and special or other proceedings in which AMIC or Centennial is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including but not limited to conferences, trials, applications for judgment or proceedings on settlement or judgment and the making of all liens, levies or other efforts to execute or collect on debts or judgments for a period of 180 days from the date of entry of the respective Liquidation Orders.
VII. All persons who have first-party or New York Comprehensive Automobile Insurance Reparation Act (No Fault) policyholder loss claims against the Companies are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of the respective Liquidation Orders.
VIII. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or securities, and any real or other property of the Companies at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of the Companies, and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments.
IX. The Liquidator is vested with all of AMIC's and Centennial's respective rights under all its contracts and agreements not previously terminated, including all leases, tax sharing agreements and employment contracts of the Companies, however described, unless the Liquidator expressly terminates any such contracts and agreements, in which case all liability under such contract or agreement shall cease and be fixed as of the date of termination.
X. All existing insurance policies of the Companies shall terminate within 45 days of the entry of the respective Liquidation Orders.
XI. AMIC, Centennial and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property and/or information, including, but not limited to, business records, insurance policies, claims files (electronic or paper), software programs, bank records and/or any tangible or intangible items of value, belonging to or relating to the Companies, shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator or his designees.
XII. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to the Companies shall maintain and preserve all information in its possession relating in any way to the Companies, wherever located, including, but not limited to, all documents, data, electronic files and records, computer equipment (i.e., servers and printers), software programs and software licenses owned or leased by the Companies and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees.
XIII. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control of any of AMIC's and Centennial's respective funds, accounts or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; (iii) change the name of such accounts to the name of the Liquidator; (iv) withdraw funds from such bank, savings and loan association or other financial institution; or (v) take any lesser action necessary for the proper conduct of the liquidation proceeding.
XIV. In accordance with Insurance Law Section 7432(b), all claims against AMIC and Centennial, respectively, must be presented to the Liquidator within four months of the date of entry of the respective Liquidation Orders.
XV. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.
XVI. Immunity is extended to the Superintendent in his capacity as Liquidator and his successors in office and their agents and employees and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with the Liquidation Orders, or in the performance of their duties pursuant to Insurance Law Article 74.
XVII. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit.
XVIII. The Court shall retain jurisdiction over this matter for all purposes.
XIX. All communications relating to AMIC, Centennial and to the liquidation thereof should be addressed to: New York Liquidation Bureau, 110 William Street, New York, New York 10038, (212) 341-6560.
JAMES J. WRYNN, Superintendent of Insurance of the State of New York as Liquidator of Atlantic Mutual Insurance Company and Centennial Insurance Company
DENNIS J. HAYES, Special Deputy Superintendent of Insurance and Agent for the Superintendent as Liquidator of Atlantic Mutual Insurance Company and Centennial Insurance Company

REQUEST FOR PROPOSAL

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The RFP is available on the Department of Administration, Human Resources Division's website at www.hr.doa.guam.gov at no charge.
All written inquiries regarding the RFP should be submitted to the Director of the Department of Administration, as identified in the RFP no later than 2:00 p.m., May 30, 2011, Guam time.
All proposals, proposal modifications, or late withdrawals must be received no later than 4:00 p.m., June 15, 2011, Guam time.
Should you have any questions regarding this RFP, please call the Human Resources Division, Department of Administration at (671) 475-1179/1296.
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Comings & Goings

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NEW JOB TITLE: King of Prussia, Pa.-based chief growth officer of MedRisk Inc.

PREVIOUS POSITION: Marlton, N.J.-based senior vp of sales and marketing, Hartford, Conn.-based Specialty Risk Services L.L.C.

GOALS FOR NEW POSITION: MedRisk is the industry leader in the development of physical medicine treatment strategies. We have experienced very strong growth since our inception. My primary goal will be to accelerate that growth even further.

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FIRST MARKET EXPERIENCE: I have spent my entire career in the insurance industry. My first year in the business was with Liberty Mutual on the claims side where, like many at the time, I was fortunate enough to have received the extensive new-hire training that Liberty provided.

ADVICE: Find a job you love, live well and the rest will take care of itself.

OUTSIDE THE INDUSTRY, A DREAM JOB: I went to college with the intention of going into this industry, so this is a difficult question for me. I would probably have to say a teacher.

HOBBIES: Coaching my children in youth sports.

ON A SATURDAY AFTERNOON: Coaching all day and then, having friends over for entertainment.

FAVORITE MEAL: I would have to say a Philadelphia cheese steak.

EMAIL OR PHONE, AND WHY: Phone. (Technology) continues to evolve and increase efficiency, yet I don't think we'll ever be able to replace having a conversation with someone.

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Jubilee: Ryan Specialty buys Lloyd's company

CONTINUED FROM PAGE 1

Lloyd's. But concerns arose over how conflicts of interest were managed, and the Lloyd's Act was enacted in 1982 prohibiting brokers from owning managing agents and vice versa.

That ban remained until changes to the Lloyd's Act were enacted in 2008.

The ban was lifted because it "had become an anachronism" that "placed restrictions on Lloyd's that did not exist outside the market in the United Kingdom or elsewhere in the world," Mr. McGovern said.

Conflicts of interest now are better managed, according to the Lloyd's general counsel. Unlike the 1980s, the FSA now regulates insurance brokers, including Lloyd's brokers. Insurers also are subject to higher standards of regulation today, he said.

Allowing cross-ownership of brokers and managing agents could mean more business is brought to Lloyd's in the long term, said Mr. McGovern. The move also could give the market access to additional sources of capital, he said.

Since changing the rules, several brokers have expressed interest in acquiring operations in the

Lloyd's market, particularly U.S. brokers. "We have seen interest, but it is still early days since changing the rules, and market conditions are likely to be a significant drag on such transactions," said Mr. McGovern, referring to the prolonged soft market and other factors that have held down the values of companies.

Few followers likely

Indeed, the appetite of other brokers to follow Ryan Specialty's example is likely to be limited, said Nick Johnson, insurance analyst at stock broker Numis Securities Ltd. in London.

"Most brokers do not wish to carry underwriting risk on their balance sheets," Mr. Johnson said. Instead, there has been a trend "toward brokers buying MGAs, where they can earn fees but not take on the risk of an insurer."

U.S. brokers could use a Lloyd's managing agent to place client retentions or take a slice of the business they place.

"Brokers sometimes want to have some skin in the game, and the Lloyd's structure may give them the opportunity to do that—provided there is a credible business plan and conflicts are managed," Mr. McGovern said.

Under Lloyd's rules, Ryan Spe-

cialty will be limited in how much business it can put into Jubilee; a managing agent can take on a maximum of 20% of its business from the owner-broker.

Ryan Specialty also is unlikely to make quick changes in Jubilee's strategy. Any departure from Jubilee's business plans for 2011 would need Lloyd's approval.

Jubilee, which underwrites personal lines, life and commercial

international expansion, but what this means for Jubilee's existing operations is only likely to be clarified once the acquisition is approved," said Robert S. Smith, director-insurance at Moody's Analytics in London.

International reach

Still, the deal appears to be "a good fit for both companies as it sorts out the issue of ownership

'Given Ryan Specialty's size and footprint, it's only natural for them to want to have a presence in the London marketplace, as much of the (excess and surplus lines) business gets placed in that market. In addition, 'being a principal rather than a correspondent relationship has some advantages.'

John W. Wicher, John Wicher & Associates Inc.

property insurance through three Lloyd's syndicates, appointed JLT Advisory in February to review the business. The company was sold by Travelers Cos. Inc. to management and Caribbean insurer Guardian Holdings in 2005.

Analysts said the deal makes sense for both companies.

"We have yet to see exactly what Ryan Specialty's strategy is for Jubilee. The company says that they want to use it as a vehicle for

for Jubilee and gives Ryan Specialty access to Lloyd's international licenses," Mr. Smith said.

Ryan Specialty Group was formed in 2010 by Patrick G. Ryan, retired executive chairman of Aon Corp., with the intention of providing specialty insurance services to retail agents and brokers globally. It has made several acquisitions since then and now is a global holding company for wholesale brokerage, managing

general agent and managing general underwriter operations as well as other specialty services for agents, brokers and insurance companies.

"Given Ryan Specialty's size and footprint, it's only natural for them to want to have a presence in the London marketplace, as much of the (excess and surplus lines) business gets placed in that market," said John W. Wicher, principal at John Wicher & Associates Inc. in San Francisco. In addition, "being a principal rather than a correspondent relationship has some advantages."

Given current weakness in the E&S market, it probably was a good time for Ryan Specialty to make the acquisition, Mr. Wicher said. As markets harden there will be increased demand for E&S lines and the services of managing general agents.

When that turn occurs, "being a principal in London is going to be an advantage," Mr. Wicher said.

"It's an opportune time to get a transaction like that completed," he said, predicting that it will become more difficult to do such deals in 2012 and 2013, and that valuations for acquisition targets in the London E&S market also will change when the market turns.

"There's a whole chorus of people that see no relief in rates," Mr. Wicher said. "But at some point, the future is now."

Special Projects Editor Rodd Zolkos contributed to this report.

CIGNA: Court curbs pension suit liability

CONTINUED FROM PAGE 1

employers have adopted them. Like CIGNA, most converted an existing pension plan to a cash balance plan.

A group of CIGNA employees sued the Philadelphia-based health insurer in 2001 alleging that the summary plan description did not properly explain how the new plan would work, particularly failing to explain that the new plan was less generous in some ways than the prior plan.

Following other rulings in the case, federal judge Mark Kravitz ruled in 2008 that CIGNA's failure to accurately communicate the new plan caused "likely harm" to plan participants and entitled them to damages. He also rewrote certain plan provisions.

The 2nd U.S. Circuit Court of Appeals later affirmed the judge's ruling.

More proof needed

However, the nation's highest court ruled 8-0 last week that demonstrating likely harm from the benefit information miscommunications is not enough to collect damages. Justice Sonia Sotomayor recused herself from the case.

"We believe that to obtain relief...a plan participant must show that the violation injured him or her," the high court said in an opinion written by Justice

Stephen Breyer.

"Harm has to be shown on an individual basis," said Myron D. Rumeld, a partner with Proskauer Rose L.L.P. in New York, who was not involved in the case.

"There has to be a showing of actual individual harm," which will make it more difficult for plaintiffs to win certification for class actions, said Mark Schmidtke, a shareholder in the Valparaiso, Ind., office of Ogletree,

'The Supreme Court rejected the proposition that the language of a summary plan description can be enforced as though it were the language of a plan document.'

Thomas Cabbage, Covington & Burling L.L.P.

enforced...as the terms of the plan itself," Justice Breyer wrote. "The Supreme Court rejected the proposition that the language of a summary plan description can be enforced as though it were the language of a plan document," said Thomas Cabbage, a partner with Covington & Burling L.L.P. in Washington.

Crucial ruling

That rejection is crucial, benefit experts say. Rather than succinctly trying to summarize plan benefits, employers—for fear of liability—would prepare summary plan descriptions that essentially duplicate the dense, often huge official plan documents.

That would increase the likelihood that employees would not understand their benefits. Plan participants interests are not "advanced if you treat SPDs like plan documents," Mr. Rumeld said.

Still, to avoid misunderstanding and perhaps litigation, employers always should fully communicate the positive and negative aspects of plan design changes, said Tom Meagher, a senior partner with Aon Hewitt Inc. in Somerset, N.J.

CIGNA said in a statement it "is pleased that the U.S. Supreme Court has ordered the lower court to reconsider its initial decision and undertake further proceedings in the case."

In 2009, CIGNA froze the cash balance plan and enhanced its 401(k) plan.

Deakins, Nash, Smoak & Stewart P.C..

In addition, the justices said the trial judge lacked the authority under the Employee Retirement Income Security Act to rewrite terms of the plan.

"The statutory language speaks of enforcing the terms of the plan, not changing them," Justice Breyer wrote.

"We have found nothing suggesting that the provision autho-

ner with McDermott Will & Emery L.L.P. in Chicago.

The high court also rejected an argument raised by the U.S. Solicitor General, which filed a brief in the case, that the federal judge simply was enforcing the summary plan descriptions that are plan terms.

"We cannot agree that the terms of statutorily required plan summaries (or summaries of plan modifications) necessarily may be

Letters

CONTINUED FROM PAGE 8

costs if he can dump his high-cost employees on the exchange and buy a small-employer policy for his healthy employees from an insurer outside the exchange.

If all or most employers did the same thing, the insurers offering policies through the exchanges would end up with all the highest-cost risks and would be unable to compete with policies offered outside the exchange.

No employer should be allowed to cherry-pick which of his employees is allowed to participate in the company health insurance plan. That would defeat the entire purpose of the (Patient Protection and) Affordable Care Act, which is to ensure that all Americans have access to reasonably priced health insurance, regardless of their age or medical condition. A hefty fine—one that would cost more than the employer would save by gaming the system—is needed to deter such behavior.

Lawrence Mirel

Wiley Rein L.L.P.

(The author was commissioner of insurance, securities and banking for the District of Columbia from 1999 to 2005.)

Narcotics: More comp concerns

CONTINUED FROM PAGE 1

ing awareness that in addition to paying for prescription pain medications that may not be appropriate in some cases, workers comp payers—namely employers—may have to fund detoxification programs, drug overdose claims and treatment for side effects caused by the long-term drug use, several sources said.

“There is overwhelming medical evidence today that shows that will happen,” said Jim Andrews, senior vp of pharmacy services for Healthcare Solutions Inc., a Duluth, Ga.-based pharmacy benefit manager.

Payers stress that they are not attempting to prevent doctors from prescribing specific therapies when they are medically necessary for treating severe pain. But they say they do want to improve the quality of care and prevent additional problems that could arise from abuse and inappropriate prescribing of medications that are addictive.

Insurers, employers, doctors and claimants need to work together to ensure abuse does not occur, several sources said.

Usage growing

Meanwhile, an increasing body of evidence shows that pain medications meant for cancer and end-of-life care often are prescribed for common workers comp problems, such as back strains

In April, the California Workers' Compensation Institute released a study that found that among 16,890 claims involving prescriptions for narcotic pain relievers, more than 20% included prescriptions for fentanyl.

Among other findings, CWCI researchers said “there was no evidence of cancer-related illness or injury among any of the injured workers in the study sample, indicating that off-label use of fentanyl lozenges or tablets, which are only FDA-approved for breakthrough, chronic cancer pain, has become an issue in the California (workers compensation) system.”

While CWCI's research focused on California, similar workers comp claim patterns have emerged in other states, said Gregory L. Johnson, a health care management consultant who worked on the CWCI study.

“There is an increase in medical costs as a percentage of all claims, there is an increase in pharma as a percentage of all medical costs and there is an increase in opioids as a percent-



age of pharma,” Mr. Johnson said. “So it’s driving a lot of overall loss results in workers comp.”

Research released in December 2009 by Boca Raton, Fla.-based NCCI Holdings Inc. found that narcotics account for nearly one-quarter of all workers comp prescription drug costs nationwide.

“Few members of the medical community would object to the use of narcotics to treat severe, chronic, cancer-related pain,” NCCI said in the research. “However, the medical community seems divided over the suitability of narcotics to treat other forms

administration said in a statement.

The government estimates that 33 million U.S. residents misused long-acting opioids during 2007, up from 29 million in 2002. In 2006, the government said, nearly 50,000 emergency room visits were related to opioid use.

Meanwhile, payers increasingly are asking PBMs and third-party administrators to mine prescription data to identify claims and alert them when doctors prescribe opioids.

Becky Robinson, assistant vp risk management for Hobby Lobby International Inc. in Oklahoma City, said she enlisted her TPA to help develop new protocols to identify workers comp network doctors who prescribe potentially problematic medications to claimants.

The next step is to ask those doctors why they prescribed specific drugs and whether they have plans to wean the claimants off of them, Ms. Robinson said.

If a claimant has a serious health condition, the goal is to apply the right medical treatment, not merely mask it with “heavy-duty narcotics” that could exacerbate the original claim, Ms. Robinson added.

Another goal is to require urine tests to ensure claimants who actually need the medication are taking the prescribed medications and not diverting them, Ms. Robinson said.

“More and more clients want to confirm what we refer to as therapy adherence,” said Jennifer Kaburick, director of workers comp product management for St. Louis-based PBM Express Scripts Inc. “They want to make sure that...a person is actually

taking that medication vs. diverting it elsewhere.”

Julie A. Fortune, senior vp and chief claim officer of Arrowpoint Capital Corp. in Charlotte, N.C., said she asked her PBM, Tampa, Fla.-based PMSI Inc., to identify claims where doctors have prescribed fentanyl.

The narcotic is “really expensive” and it destroys teeth, so employers could have to pay the original claim costs plus dental work, Ms. Fortune said.

Arrowpoint purchased the U.S. insurance operations of RSA Insurance Group P.L.C. in 2007, so Ms. Fortune is closing out many older claims filed by workers with chronic pain issues.

PMSI identified 137 of Arrowpoint Capital's 2,764 claimants nationwide with prescriptions for fentanyl or Actiq as of Jan. 1, Ms. Fortune said. That information will help her focus utilization review and doctor peer review measures to determine whether the medications are reasonable for those claims.

Peer reviews

Review determinations can be submitted in claims hearings to contest the payment for such drugs. She also could ask a peer review doctor to discuss specific cases with the treating physicians and ask whether the claimants' doctors have administered urine tests.

The tests can determine “whether or not the drugs are truly in the body,” Ms. Fortune said.

The need for such measures goes beyond costs, Mrs. Fortune and other sources said. Injured workers' lives may be at stake if they cannot get off the drugs.

Urine testing to periodically monitor pain management patients is not new to doctors, Mr. Andrews added. But there is a growing trend of payers wanting to learn the results of such tests, he said.

Oklahoma: Comp law revamped

CONTINUED FROM PAGE 4

make changes to its workers compensation system for a while, as they've been competing with Arkansas and Texas for business,” said Joe Woods, Austin, Texas-based vp of state government relations for the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America. “They didn't move it to a completely administrative system, but it was a step in that direction.”

“Those who put this bill together did an admirable job, but I think they recognize that this is not a panacea...it's not an end to the reform,” said Bruce Wood, associate general counsel and director of workers compensation for the Washington-based American Insurance Assn. “I think what this has shown is that it's very difficult to develop legislation that does what it's intended to do and meet the expectations of proponents. There is still a lot in this bill that isn't measurable.”

State lawmakers said the reform was a step in creating a favorable business climate in Oklahoma and allowing workers to get back to work more quickly.

The Oklahoma State Chamber of Commerce agreed that the passage of the bill is a step toward keeping workers compensation costs down and offers better protection for workers, but it acknowledged there is still work to be done.

“We must go beyond rewriting our existing laws and work toward developing a 21st century approach to protecting our workers at the lowest possible cost,” Fred Morgan, president of the state chamber, said in a statement.



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Market Moves

Cooper Gay restructures U.K. into three units

LONDON—Cooper Gay Swett & Crawford Ltd. has restructured its U.K. business into three units.

London-based wholesale insurance and reinsurance brokerage Cooper Gay & Co. Ltd. has been divided into three units—reinsurance, international and specialty, the brokerage said in a statement.

The restructuring aims to “form a stronger and more streamlined platform for growth,” Cooper Gay said in the statement.

The reinsurance unit is led by CEO Andrew Hitchings; the international unit, which incorporates nonmarine, energy, and underwriting and distribution management, is led by CEO Chris Butcher; and the specialty unit, which includes marine, aerospace and professional lines, is led by CEO Stephen Barton.

Also, Messrs. Barton and Hitchings have been added to Cooper Gay’s management board pending approval from the Financial Services Authority, the company said.

All three units report to Cooper Gay & Co. CEO Shaun Hooper.

“Driving growth, enhancing leadership and delivering effective corporate governance are vital elements of Cooper Gay’s development strategy that we believe will be best delivered through the formation of three streamlined trading units,” Mr. Hooper said in the statement.

Integro expands with purchase of Argo

PLEASANT HILL, Calif.—Integro Insurance Brokers Ltd. has acquired San Francisco Bay Area insurance brokerage Argo Insurance Brokers Inc.

The acquisition is intended to bolster Integro’s existing operations in the Bay Area, the New York-based brokerage said in a statement.

Pleasant Hill, Calif.-based Argo Insurance Brokers will continue to operate under its current leadership and staff at its locations in Pleasant Hill and Anaheim, according to the statement.

The brokerage also will keep its name, but now will be an Integro company, said a spokesman for

Integro.

Argo offers commercial insurance, employee benefits, specialty insurance and workers compensation programs, among others.

Terms of the acquisition were not disclosed.

FM Global’s Spain office begins underwriting

MADRID—Factory Mutual Insurance Co., which does business as FM Global, has opened a branch in Spain.

FM Global, which has provided loss-prevention engineering services to companies in Spain for 30 years, now writes local business through its Madrid office, the Johnston, R.I.-based insurer said

in a statement.

The office will serve a growing client base in the region, FM Global said in the statement.

The Madrid office is located at C/Serrano Galvache, 56, Edificio Encina, 2a Planta, Madrid 28033, Spain. The telephone number is +34-91-766-4433.

Ohio broker builds construction business

BEACHWOOD, Ohio—Brokerage Oswald Cos. has acquired Selvaggio Teske & Associates Inc.

The acquisition, for which terms were not disclosed, strengthens Oswald Cos.’s growth strategy by providing additional construction risk management

services, the Cleveland-based brokerage said in a statement.

Beachwood, Ohio-based insurance agency Selvaggio Teske & Associates specializes in the design and build industry, including architects, engineers and environmental consultants, according to the statement.

“The expansion of services addresses the growing need to support clients throughout the entire construction process—from design to build—and dovetails our current line of construction and surety bond services,” said David Jacobs, president and chief operations officer at Oswald Cos., in the statement.

Selvaggio Teske & Associates and its employees will operate at

its current location as a division of Oswald Cos., according to the statement.

TO SUBMIT ITEMS

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Roundtable: Pricing still a concern

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previous years that did not make the top three this year include natural catastrophes, the ability to file and use adequate rates due to state regulation, and restrictive state regulation.

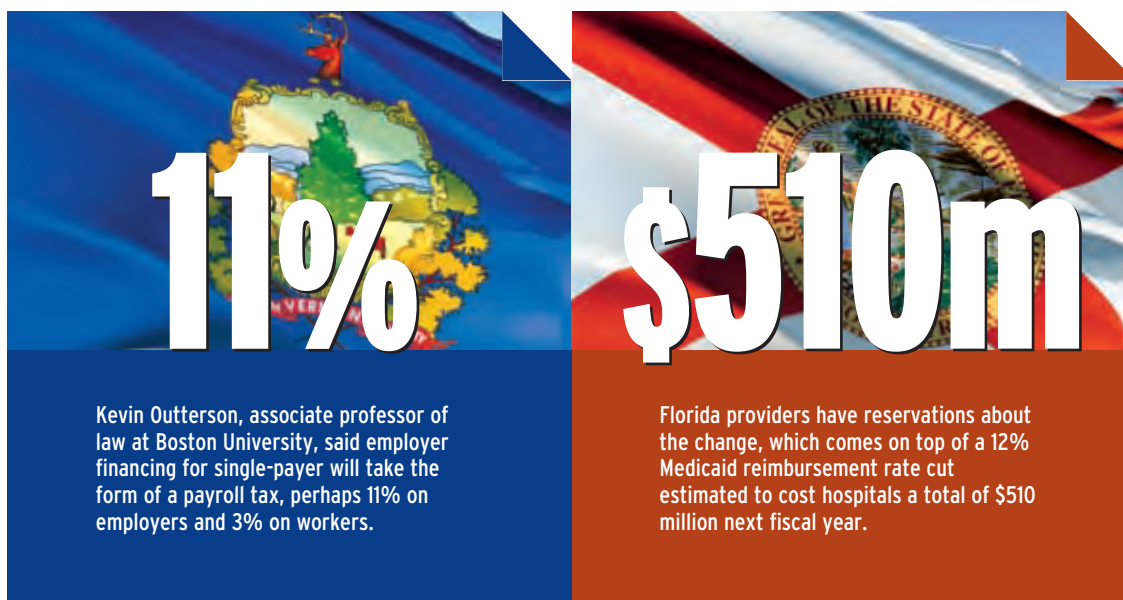
Forty-four percent of the executives said they expect flat commercial rates over the next six months, while 23% said they expect rates to increase 1% to 4%. Five percent said they expect hikes of 5% to 10%, and 1% said they expect rates to increase more than 10%.

Another 22% said they expect commercial rates to decline 1% to 4%, and 5% anticipate declines of 5% to 10%.

Pointing to the sizable proportion that expect rates to be flat, Mr. Coda said, "Within the industry, it's a barometer for a general acceptance that this is the market environment that we're in."

Participants also were also asked about anticipated merger and acquisition activity during 2011-2012 compared with the year-earlier period. Of 39% who identified themselves as an acquirer, 48% said they anticipate more activity, while 45% said it would be about the same. Among those who described themselves as a nonacquirer, 65% said they anticipate M&A activity will be about the same and 26% said they expect it to increase.

Asked to rank the priority order in which Congress needs to act on listed issues, general tax reform ranked first. Medical liability and health care reform tied for second, followed by federal regulation of insurance, federal "systemic risk" regulation of insurers and federal involvement in catastrophe risk management.



States: Different paths to health reform

CONTINUED FROM PAGE 6

reform our state's broken Medicaid system."

Florida providers have reservations about the change, which comes on top of a 12% Medicaid reimbursement rate cut estimated to cost hospitals a total of \$510 million next fiscal year.

Provider service networks would be able to compete with managed care firms for the contracts in the 11 Medicaid regions carved out. And a proposal that would have required every hospital to sign a contract with every Medicaid managed care plan in its region failed.

Florida is continuing a trend of other states of expanding risk-based Medicaid managed care, where insurers take on the risk of the population for a set amount paid by the state, said Julia Paradise, associate director of the Kaiser Family Foundation's Commission on Medicaid.

"Until now, states have largely enrolled children and families into managed care," Ms. Paradise said. "What's increasingly changing is states are also enrolling different populations into managed care, including seniors and people with chronic illnesses and disabilities."

This is happening because people with chronic conditions make up the majority of Medicaid spending, she said. "There's a lot

of potential to do it well, but if it is not done well, there is equally a lot of potential jeopardy."

As of 2008, 21.7 million Medicaid beneficiaries were enrolled in 307 full-risk managed care plans in 34 states, according to the Kaiser Family Foundation.

The Medicaid managed care

'I think the Obama administration can send a clear signal by giving Vermont and Florida the permission they need to move forward. And in five or 10 years we'll see how it turns out.'

Kevin Outterson, Boston University

industry generates about \$60 billion in revenue today, said Carl McDonald, a managed care analyst at Citi Investment Research. Between the state and federal Medicaid expansions happening through 2014, Mr. McDonald estimates overall revenue growth for the sector at \$40 billion.

Insurers that previously stayed out of the fray are jumping in. Blue Cross & Blue Shield of Florida, the state's largest insurer, announced that it would seek to provide managed care for the Medicaid population. A spokesman for the not-for-profit insurer said it is "still assessing the most effective market strategy entry."

Bruce Rueben, president of the Florida Hospital Assn., said he sees the goal of the managed care expansion to reduce Medicaid costs and make those costs predictable.

"We are interested in seeing standards in transparency and accountability for patients and taxpayers," he said. "If they (the Legislature) were concerned with quality of care, they would have gone with the medical-loss ratio requirement," he said.

Mr. Outterson of Boston University said he would not be surprised if Florida and Vermont are given the green light by the federal government to proceed with their visions.

"I think the Obama administration can send a clear signal by giving Vermont and Florida the permission they need to move forward," he said. "And in five or 10 years we'll see how it turns out."

Rebecca Vesely is a reporter for Modern Healthcare, a sister publication of Business Insurance.

Hines: Cyber risk coverage

CONTINUED FROM PAGE 3

adviser at broker Marsh USA Inc. in Chicago. "As such, they are very willing to work with you, for the most part, on modifying the coverage to work in the way you need it to work."

To gain the full benefit of the insurance, risk managers need to construct the policies around their organization's risk, the panelists said.

"Understanding the various components of the policy, which can or cannot be included depending on the needs of the organization, is critical," Mr. Garrigus said. Policies need to be structured so they are "consistent with the organization and its priorities," he said.

The first steps, Mr. DiIenno said, are for an organization to understand what kind of data it collects, how long it is kept and how it is destroyed. Also, if a breach occurred, organizations would need to assess whether or not data was exposed and implement a process to respond.

Once these questions are answered, organizations can tailor a policy that fits their cyber exposures, he said.

Once the policy is purchased, insurers often offer a suite of risk management services, such as access to various professional organizations or third-party audits, to assess cyber exposures, Mr. Garrigus said. "Part of the value of this type of insurance policy is that service value. It's gaining access to all of these resources which you might not otherwise have access to or, frankly, might not have budgetary resources to fund."

Initially, Ms. Johnson said Inland Risk & Insurance Management Services purchased small limits and minimum cyber risk insurance. But after re-evaluating their exposures, she increased those limits and coverage at minimal cost.

At the most recent renewal, "we were able to get a lot of things negotiated for very little cost increases," Ms. Johnson said. Insurers "are willing to work with you and add on coverages and make the form more compatible with your business."

The annual Hines Symposium—honoring the late Harold H. Hines Jr., former president and CEO of Rollins Burdick Hunter Co., a predecessor company to Aon Corp.—was presented by the Chicago chapter of the Risk & Insurance Management Society Inc. and *Business Insurance*.

Gavin Souter, editor of *Business Insurance*, moderated the panel.

OSHA: Agency can subpoena workers comp insurer

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"The subpoena for records and inspection documents is a tool that is in OSHA's arsenal and they use it from time to time," said Philadelphia-based attorney and shareholder Ben Huggett of Littler Mendelson P.C., who represents employers in labor- and OSHA-related matters. "What this order of enforcement highlights is that OSHA is aware there are communications between the insurer and insured and that those communications are not privileged—they are not confidential or protected information."

Grinnell argued that enforcing the OSHA subpoena would have a "chilling effect" of discouraging businesses from allowing insurers to conduct safety inspections if the resulting reports can be used against the businesses during litigation or enforcement proceedings.

Mr. Huggett agreed. Employers and insurers will have "chilled" discussions, knowing that records of such discussions and inspections could be used against them.

"I tell employers to carefully consider the insurer's inspections and recommendations," Mr. Huggett said. "The employer needs to address those recommen-

dations in one form or another. They can either accept them or make a compromise on what has been suggested, but employers need to address them in some way and be aware that a document is being created."

The Iowa-based insurer must produce documents and reports from March 12, 2008, through June 23, 2010, and provide them to OSHA by late this month, according to court order.

Grinnell's general counsel, Dennis Day, said that the company will comply with the order and will not appeal, but it will attempt to keep certain materials from being made public.

"The court affirmed OSHA's authority to obtain relevant information from an employer's workers compensation insurance company," OSHA Assistant Secretary David Michaels said in a statement. "This is not surprising legally, but it does illustrate that workers compensation and OSHA are not separate worlds divorced from each other."

Following an investigation, OSHA issued 25 citations to Haasbach and fined the company \$555,000. Since then, OSHA has conducted 61 inspections of grain operations in Illinois, Ohio and Wisconsin and has issued 163 violations.

News In Brief

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nonprofit that provides social services to low-income clients. The NLRB's Buffalo, N.Y., regional office filed a complaint May 9 alleging that Hispanics United of Buffalo unlawfully discharged five employees after they criticized working conditions, including workload and staffing issues, in Facebook postings. The agency filed a similar suit last year against American Medical Response of Connecticut Inc. The NLRB argues that the Facebook discussion in the latest case is a protected concerted activity under Section 7 of the National Labor Relations Act since it involved a conversation among co-workers about their terms and conditions of employment.

Supreme Court limits whistle-blower claims

The U.S. Supreme Court ruled last week that information obtained through a Freedom of Information Act request is a "report" and therefore cannot be used to launch a False Claims Act lawsuit. The case—*Schindler Elevator Corp. vs. Kirk*—involved a former Schindler employee who sued on behalf of the government, claiming that documents obtained through a FOIA request showed that Schindler had not complied with reporting requirements concerning the employment of Vietnam veterans. But the high court held that although the False Claims Act does not define "report," information gained under the FOIA constituted a covered report and thus blocked the suit.

2011 storm season likely active: NOAA

The 2011 Atlantic hurricane season will be "above normal," producing as many as six major hurricanes, the National Oceanic and Atmospheric Administration said last week. In its first forecast for the year, NOAA predicted six to 10 hurricanes will develop over the Atlantic Ocean, and as many as six of them could swell to Category 3 or above.

Max HSA contribution to rise slightly in 2012

The maximum contributions that

can be made to health savings accounts in 2012 will rise slightly, the Internal Revenue Service said. The maximum contribution is \$3,100 for employees with single coverage, up from \$3,050 this year; the maximum for those with family coverage will be \$6,250, up from \$6,150 this year. The maximum out-of-pocket employee expense, including deductibles, will rise next year to \$6,050 for single coverage, up from \$5,950 this year. For family coverage, it will increase to \$12,100 next year from \$11,900 this year. Increases in the HSA limits are tied to changes in the cost of living.

West Virginia, Maine regulators to depart

West Virginia Insurance Commissioner Jane L. Cline says she plans to retire from the post she's held the past 10 years, effective June 30. No replacement was named. Meanwhile, Mila Kofman, Maine's insurance superintendent, said she will step down at the end of May, citing a difference of opinion with the state's governor over how to provide affordable health coverage in the state.

Lancashire sets up reinsurance sidecar

Specialty insurer and reinsurer Lancashire Holdings Ltd. has established a sidecar, Accordion Reinsurance Ltd., to provide up to \$250 million in additional property catastrophe capacity. Accordion will reinsure worldwide property retrocession business of Hamilton, Bermuda-based Lancashire's subsidiary, Lancashire Insurance Co. Ltd., and share losses based on a proportional basis. The \$250 million, including \$50 million from LICL and the rest from unidentified investors, will be deployed on a draw-down basis once attractive business materializes, Lancashire said in a statement.

Insured tornado losses may hit \$6 billion: RMS

Tornadoes that struck the U.S. Midwest and Southeast last month likely will result in insured losses of \$3.5 billion to \$6.0 billion, according to catastrophe modeling firm Risk Management Solutions Inc. The outbreak may be the costliest U.S. severe convective storm event ever recorded, RMS said. Earlier this month, AIR Worldwide Corp. and EQECAT Inc. both estimated insured losses from the series of tornadoes could range from \$5 billion to \$7 billion.

Cloud: Internet-based services boost liability

CONTINUED FROM PAGE 4

Cloud computing enables companies to outsource database or software hosting to third parties, which store it on servers accessed via the Internet.

While this can produce large cost savings because companies do not have to build their own IT infrastructure, a lack of certainty about where data is being stored and how it is protected can spark legal challenges, experts say.

Companies that provide cloud computing services often store data on multiple servers in different countries. Should there be a breach, a company could be subject to the laws of the country where the data is physically stored, the experts said.

Laws governing data privacy vary widely.

For example, there is no single, comprehensive data privacy law in the United States, said Milton Whitfield, a partner at law firm Haynes & Boone L.L.P. in Washington. But several federal laws contain provisions on data privacy, he said. In addition, various states have their own privacy laws.

Federal laws with data privacy sections include the Health Insurance Portability & Accountability Act and the Health Information

Technology for Economic & Clinical Health Act, which contain rules governing the privacy of health-related information, and the Gramm-Leach-Bliley Act, which contains provisions on data privacy for financial services firms, he said.

In addition, at least five bills pending in U.S. House and Senate committees that would affect data privacy, he said. Risk managers should closely follow the progress of the Commercial Privacy Bill of Rights Act of 2011, which is extremely comprehensive, he said.

Companies that use cloud computing need to consider what sort of data will be stored "in the cloud" and ensure, for example, that certain types of data, such as health information, are encrypted, Mr. Whitfield said.

Companies also must ensure their privacy policies are thorough, he said.

In the European Union, data protection rules also differ, panelists said.

While there is no legal requirement for a data controller—an organization that collects and stores personal data—to inform companies or individuals about data breaches, that is to change this month with reforms to the

E.U. Directive on Privacy & Electronic Communications, said Nick Pantlin, a partner at law firm Herbert Smith L.L.P. in London.

From May 25, data controllers such as telecommunications companies will be required "without undue delay" to inform national authorities, such as information commissioners, of data breaches. If the breach is likely to "adversely affect an individual's data," the person must be informed, he said.

Companies need to consider what, for example, would constitute "adversely affecting" an individual under the broadly worded directive and fines can emanate from more than one source, he said.

For example, Mr. Pantlin said, Zurich Insurance Services P.L.C., a unit of Zurich Financial Services Group, was fined more than £2 million (\$3.28 million) by the Financial Services Authority last August for data security failings.

One cloud computing service provider is set to launch a service guaranteeing that users' data would be stored in the European Union, thus making the treatment of that data subject only to E.U. laws, Mr. Pantlin said.

From an insurance standpoint, until a claim is made it is very difficult for insurance buyers and underwriters to know what in what jurisdiction a claim will be filed, said Paul Skinner, technology and casualty class underwriter at Chubb Group of Insurance Cos. in London.

Deductibles: Employers accelerate cost-shifting

CONTINUED FROM PAGE 4

health care plans (see chart, page 4).

This year, 17% of employers reported that their greatest employee enrollment was in high-deductible plans, up from 13% in 2010 and 8% in 2009. By contrast, 57% of employers reported that traditional preferred provider organization plans had the highest enrollment this year, down from 63% last year and 60% in 2009.

Meanwhile, PwC projects that medical costs will go up 8.5% in 2012, up from an estimated 8.0% this year and 7.5% in 2010, with several factors boosting costs.

Health care plans and employers say utilization of medical services is rebounding after "surpris-

ingly low growth" last year and will continue to do so next year as "a result of the release of pent-up demand during the recession," PwC noted.

Continuing health care provider consolidation also will boost costs in the year ahead, PwC said.

On the other hand, a factor that will help to prevent costs from climbing even more is the upcoming loss of patent protection for costly brand-name drugs, allowing the substitution of lower-cost generics. On average, generics cost about 30% of the price of the brand-name drug drugs.

This year, nearly \$23 billion in drugs—including Lipitor, the world's best-selling prescription drug—go off-patent. Another \$28 billion in drugs go off-patent in

2012, according to PwC.

In the area of health care reform, more than 90% of employers said they have felt the financial impact of a provision in the federal law that requires extending coverage to employees' adult children up to age 26. For most employers, that provision went into effect Jan. 1. Nearly all employers had to amend their plans to comply.

Down the road, a fairly high percentage—about 35%—of employers expect a significant financial impact from a health care reform law provision that will impose a 40% excise tax on the most costly group plans, according to the study.

That tax, to be paid by insurers and third-party claims administrators—but almost certainly passed on to employers—will apply to premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage. The tax will begin in 2018.

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Overtime app rings up fears for employers

The Department of Labor is getting into the app business, which employment attorneys warn could spell trouble for employers.

Labor recently launched its first smartphone app, a time sheet it says will help employees independently track the hours they work and determine the wages they are owed.

The announcement says users “conveniently can track regular work hours, break time and any overtime hours for one or more employers,” as well as add comments on any information related to their work hours, view a summary of work hours in daily, weekly and monthly format and email the summary of work hours and gross pay as an attachment.

“The new technology is significant because, instead of relying on their employers’ records, workers now can keep their own records,” Labor said in a statement. “This information could prove invaluable during a Wage and Hour Division investigation when an employer has failed to maintain accurate employment records.”

The app has employment attorneys worried. Martha J. Zackin, of counsel to law firm Mintz Levin Cohn Ferris Glovsky & Popeo P.C. in Boston, said Labor’s statement on the new app “sounds to me like there’s a presumption that employers are not keeping accurate records and there’s going to be a discrepancy, and of course, the employee’s going to be right.”

“There’s a lot of potential here for mistakes and misunderstandings on the part of employees who do not know how to record hours worked, but there’s also the possibility for outright mischief” because “these are basically secret time records” and “down the road there could be disputes,” said Lawrence S. McGoldrick, of counsel at Fisher & Phillips L.L.P. in Atlanta.



U.S. DEPARTMENT OF LABOR

The Labor Department’s smartphone app would allow workers to keep their own time sheets.

Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Rodd Zolkos



Wrestler Hulk Hogan, show during a 2010 Comedy Central appearance, has settled a lawsuit he brought against Wells Fargo concerning a 2007 crash involving his son.

Judge throws Hulkster’s suit

A Florida circuit court judge in Pinellas County has body slammed professional wrestler, actor and personality Hulk Hogan’s lawsuit against his insurance broker.

Earlier this month, Judge Douglas Baird dismissed the suit in which the Hulkster—whose real name is Terry Bollea—claimed that Wells Fargo Insurance Services Southeast Inc. had failed to advise him to purchase an excess/umbrella liability policy to adequately cover his assets, leaving him underinsured when his son was in a 2007 car accident that severely injured a passenger.

Mr. Bollea reportedly settled claims against him stemming from the accident for an undisclosed amount.

Wells Fargo had argued that the case was without merit and that it had on several occasions recommended additional coverage to Mr. Bollea’s then-wife and business manager, Linda, who handled his insurance matters. Mr. Bollea argued that Wells Fargo should have approached him personally about the possibility of additional coverage.

According to reports, Mr. Bollea passed on the opportunity to climb back into the ring with Wells Fargo by filing a new suit—exposing him to responsibility for the broker’s attorney fees and costs if he lost the case—instead agreeing to a Wells Fargo proposal to settle the matter for a “nominal amount.”



Climate-change activists created a bogus website that looked like Koch Industries’.

Spoof website spooks firm

Score one for the climate activists taking on an industrial conglomerate.

A federal judge in Utah shot down an effort by Wichita, Kan.-based Koch Industries Inc. to unmask a group of anonymous climate activists who reportedly spoofed the company in a mock press release about its stance on pollution and climate change last December.

The activists devised a bogus website that replicated Koch Industries’ own and posted a press release claiming that the company whose businesses range from refining fuel to pollution control equipment to raising cattle had realized that its actions were polluting the environment and causing climate change issues, according to reports.

In turn, Koch sued for misappropriation of its intellectual property and impersonation of the company to deceive the public and promote the defendants’ agenda. It also accused the defendants of “trademark infringement, cyber squatting and unfair competition.”

The defendants, represented by the advocacy group Public Citizen, sought to have the subpoenas quashed, with the identities of the activists responsible protected. They also requested that the lawsuit and the claims associated with it be dismissed.

The judge, saying that Koch’s complaint did not “state any claims upon which relief may be granted,” dismissed the actions. He also said the bogus release “addressed only Koch’s views on political issues it did not address Koch’s commercial goods and services.”

Focusing on the picture of good health, safety

A picture is worth 1,000...days without a lost-time accident.

The Occupational Safety and Health Administration is challenging anyone with a passion for photography to capture an image of workplace safety and health at their places of employment and share it with the agency as part of its nationwide contest, “Picture It! Safe Workplaces for Everyone.”

The contest by the arm of the U.S. Department of Labor is part of a national effort to raise awareness about workplace safety and health. It runs through Aug. 12 and is open to

members of the public 18 and older. Photographers can interpret an “image of workplace safety and health” in any way they choose, OSHA said in a statement.

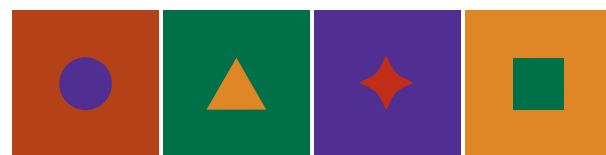
An expert panel of judges, which includes professionals in workplace safety and photography, will determine the winners.

All winning and finalist photographs will be displayed on the OSHA photo contest web page, and the winner will receive a framed congratulatory letter from Labor Secretary Hilda L. Solis. The three winning photos will be framed and hung in OSHA’s national office in Washington.



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Health Care Reform: Impact on Firms		
Special Report: Alternative Risks	Sept 5	Aug 24
Case Study: EPL Best Practices	Sept 19	Sept 7
Pharmacy Benefit Management		
Case Study: D&O Best Practices	Oct 17	Oct 5
Professional Liability	Oct 31	Oct 19
Case Study: Product Liability Best Practices	Nov 7	Oct 26
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9

▲ Brokers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
London & Lloyd's Market Report	Aug 1	July 20
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 24
Middle-Market Risks	Oct 3	Sept 21
Excess & Surplus Lines Report	Oct 10	Sept 28

▲ Brokers (continued)

Feature	Issue	Close Date
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

◆ Insurers/Reinsurers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
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Case Study: E&O Best Practices	July 25	July 13
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Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 24
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Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16

◆ Insurers/Reinsurers (continued)

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Women To Watch	Dec 5	Nov 22
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■ Middle Market

Feature	Issue	Close Date
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 17
Workers Comp and Safety Management	Sept 12	Aug 31
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Middle-Market Risks	Oct 3	Sept 21
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Special Report: Construction Risks	Nov 14	Nov 2
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