BI 05-31-04 rop cover 1 5/27/04 4:33 PM Page 1

Insurance industry CEOs take home more pay / 1

Most buyers see conflict in contingent fees / 1

www.businessinsurance.com

Business Insurance®

May 31, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

$5

Consulting & Outsourcing

BENEFITS MANAGEMENT TAKE-OUT

LARGEST BENEFIT CONSULTANTS

RANKING ON PAGE T4

Best analyzes 34 years of industry solvency / 3

Ohio enacts reform law on asbestos litigation / 3

www.businessinsurance.com

Business Insurance®

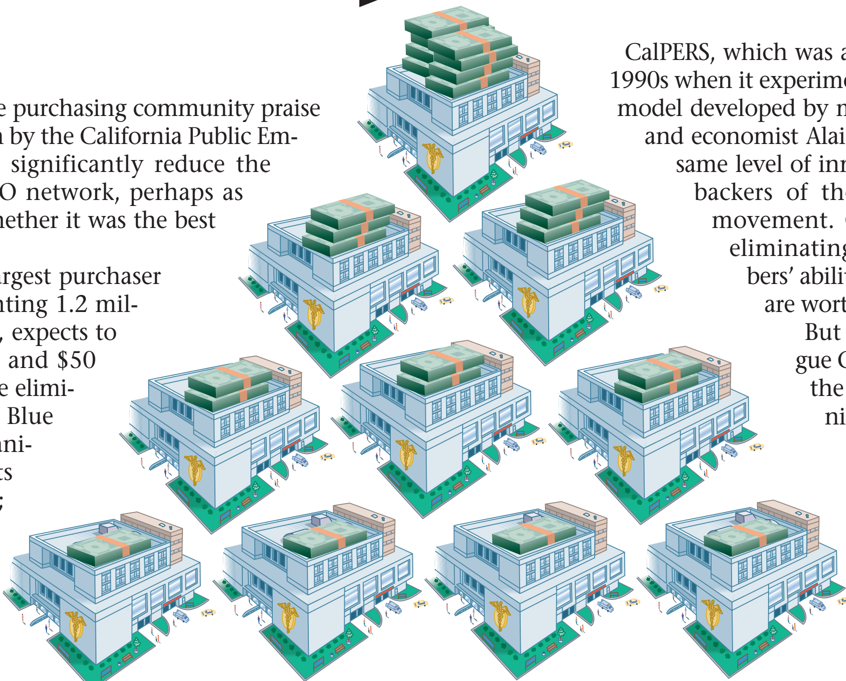
May 31, 2004 $5

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

CalPERS' move raises questions on consumer approach

Tiered health plan hits a wall

By JOANNE WOJCIK



While many in the health care purchasing community praise the bold move earlier this month by the California Public Employees' Retirement System to significantly reduce the number of hospitals in its HMO network, perhaps as many others are questioning whether it was the best approach.

CalPERS, the nation's third-largest purchaser of health care benefits, representing 1.2 million state and public employees, expects to save up to $36 million in 2005 and $50 million a year thereafter with the elimination of 38 hospitals from its Blue Shield health maintenance organization network. Among the cuts were 13 Sutter Health hospitals; five Sharp HealthCare hospitals; five Catholic Healthcare West hospitals; three Daughters of Charity hospitals; and two Tenet Healthcare Corp. hospitals (*BI*, May 24).

CalPERS, which was at the forefront of health reform in the 1990s when it experimented with the "managed competition" model developed by managed care pioneer Dr. Paul Ellwood and economist Alain Enthoven, is not demonstrating that same level of innovation with this action, according to backers of the new consumer-driven health care movement. Consumer-driven plan advocates say eliminating the hospitals takes away plan members' ability to judge whether expensive hospitals are worth the cost.

But some health care industry experts argue CalPERS was in a difficult position given the cost pressures stemming from California's budget woes.

And CalPERS said it tried to adopt one consumerist approach—placing hospitals into a two-tiered network, with the more expensive ones in the upper tier. But the retirement system abandoned the idea after Sutter Health—the largest hospital chain involved in the negotia-

See CalPERS/page 24

Risk managers scrutinizing contingent commissions

By DOUGLAS McLEOD

NEW YORK—The Risk & Insurance Management Society Inc. has formed a task force to review its policy on broker contingent commissions as a new survey reports that a majority of risk managers view the arrangements as a conflict of interest.

RIMS last month formed a subcommittee of its external affairs unit to review the adequacy of the organization's 1999 policy calling for disclosure of contingent commission revenue brokers receive from insurers.

The move came as law enforcement officials and regulators in three states

See COMMISSIONS/page 21

Hard market pays off for industry's CEOs

By SALLY ROBERTS

It paid to be a chief executive officer in the commercial insurance industry in 2003.

Hefty revenue and profit increases last year led to bigger salaries and bonuses for the CEOs at the helm of commercial insurers, brokerages and managed care companies.

The average cash compensation—comprising salary and bonus—of CEOs at 25 of the largest companies in the commercial insurance industry rose 14.8% in 2003, to $3,575,822, according to a *Business Insurance* survey of company reports and Securities and Exchange Commission filings. All but one of the executives on the list was a CEO in 2002.

The sizable pay raises are consistent with the good overall financial performance of the commercial insurance industry in 2003, compensation consultants say.

According to the *BI* survey, 18 of the 25 firms reported double-digit revenue growth, and 21 of the 25 reported double- or triple-digit net income growth in 2003.

"The industry, in general, had a pretty good year," said David Bushley, a Boston-based principal with Mellon's Human Resources & Investor Solutions. "The health care sector had a good year, and the property/casualty industry is coming back from some terrible years in 2000 and 2001," he said.

Among a similar list of 20 insurance industry companies that Mr. Bushley is analyzing, the average CEO's salary and bonus is up 14.3%, he said. "The real issue, I think, is that the median company net income is up 61%, so having salary and bonus up 14.3% seems to be in line," he said.

The biggest pay raise on this year's list went to H. Edward Hanway, CEO of Philadelphia-based CIGNA Corp. Mr. Hanway received a $1.03 million salary and a $2.1 million bonus in 2003, a 206% increase over 2002, when he received no bonus. CIGNA reported a profit in 2003 of $668.0 million, compared with a $398.0 million loss the prior year.

Also receiving a hefty pay increase in 2003 was Brian Duperreault, chairman and CEO of ACE

See CEOs/page 22

Late News

California insurers advised to lower rates

California Insurance Commissioner John Garamendi recommended Friday that workers compensation insurers in the state reduce pure premium rates by 20.9% for policies renewing on or after July 1. The recommendation reflects the impact of reforms signed into law in April by Gov. Arnold Schwarzenegger, as well as reforms adopted by the previous administration in 2003. Mr. Garamendi said the two rounds of reforms should result in cost savings of $7.75 billion. California's insurance commissioner, however, cannot force insurers to lower their rates; he can only recommend they do so.

Mr. Garamendi

Gray team releases hurricane forecast

Tropical storm experts are expecting an above-normal amount of Atlantic hurricane activity this hurricane season, which begins June 1. William Gray, head of Colorado State University's Tropical Meteorology Project, issued a forecast Friday calling for 14 named storms, eight of which will develop into hurricanes, to form during the hurricane season, which ends Nov. 30. The forecast is identical to the one Mr. Gray issued April 2. London-based Tropical Storm Risk also issued its forecast Friday. The TSR forecast calls for 13 tropical storms forming, seven of which will grow into hurricanes.

FERMA adds new members

The Russian and Swedish risk management associations have joined the Federation of European Risk Management Assns. FERMA, based in Brussels, also has accepted four individual members: one each from the Czech Republic,

See LATE NEWS/page 23

Inside

TERMINAL LOSS TRIGGERS CLAIMS

Page 4

International

SHIP SINKS WITH CARS ABOARD

Begins on page 17

BI 05-31-04 A 3 5/28/04 5:53 PM Page 1

Ohio sets medical criteria for asbestos, silica claims

By MARK A. HOFMANN

COLUMBUS, Ohio—Gov. Robert Taft will sign into law two measures that will set minimum medical criteria for claimants in Ohio to pursue damages for asbestos exposure and for exposure to silica and mixed dust.

The two bills are the first of their kind in the nation to establish statewide medical criteria for claims associated with the materials. H.B. 342, the silica and mixed dust measure, won final approval from the Ohio Legislature on May 25, and the asbestos measure—H.B. 292—passed on May 26.

A spokesman for Gov. Taft said enactment of the measures was among the governor's top legislative priorities. "He looks forward to signing them both," said the spokesman, who added that no date had been set for doing so.

The actions drew praise from businesses.

"The asbestos litigation bill is landmark legislation," said David Hansen, chair of the Ohio Alliance for Civil Justice in Columbus.

See **OHIO**/page 23

PHOTO:AP WIDE WORLD

Ohio Gov. Robert Taft made enactment of the reforms one of his top legislative priorities.

Characteristics of insolvent insurers

A.M. Best Co. studied 372 insurers that became insolvent from 1969-1990

Size:	Over 95 % had less than $50 million in policyholders surplus.
Ownership:	Over 70% were stock companies, 16% were mutuals.
Age:	Over 50% were incorporated less than 15 years.
Growth:	Over 80% experienced unusual growth in premium income.
Underwriting:	Over 50% occurred in personal lines during the 1970s.
	Over 50% occurred in commercial or casualty lines during the 1980s.

Source: A.M. Best Co.

Rate of impairments expected to ease among P/C insurers

By JUDY GREENWALD

The number of financially impaired property/casualty insurers recently has risen to levels last seen when the rate of impairments peaked in 1991, according to a report by A.M. Best Co.

But the outlook for the industry is now stable, and the number of impaired insurers should start to decrease, according to the report, which analyzes the period from 1969 to 2002.

An insurer is considered financially impaired at the first official action taken by state insurance regulators, when the insurer can no longer conduct normal insurance operations. Nearly two-thirds of impaired insurers are eventually declared insolvent, noted Best Senior Manager John Lafayette, who contributed to the study, "Best's Insolvency Study, Property/Casualty U.S. Insurers 1969-2002."

Preliminary results for 2003 indicate financial impairments of insurers may have reached a peak in 2002, though improvement is expected for 2003 and 2004. Nevertheless, impairments will remain at high levels compared with the late 1990s, the rating agency said.

"There've been improvements in the underwriting cycle. Now where it goes from here remains to be seen," said John Williams, Best senior business analyst, who contributed to the study, which is an is an update of a study first published in 1991. In the report, the rating agency examined 871 financially impaired property/casualty insurers over the 34-year period.

Mr. Williams said there has been speculation the property/casualty market may be beginning to soften. "Despite stories the underwriting cycle's dead, what we have found is it's very much alive, and you can count on there being future underwriting cycles," he said.

Despite the recent increase, Best says impairments remain relatively rare. During the period studied, they averaged 25.6 companies annually and affected less than 1 in 200 companies in

See **SOLVENCY**/page 20

Employers get more time to issue notices

Labor Department eases rules on COBRA notifications

By JERRY GEISEL

WASHINGTON—Final Labor Department COBRA notification regulations will ease compliance burdens and give employers more time to comply compared to regulations proposed a year ago.

The final regulations, published in the May 26 issue of the Federal Register, detail the timing and content of the notices that employers must provide under the Consolidated Omnibus Budget Reconciliation Act of 1985. Under COBRA, employers have to give employees and their families the opportunity to keep their group health care coverage after events that would otherwise result in a loss of coverage, such as termination of employment, death or divorce.

The final regulations incorporate numerous suggestions made by employers, including the elimination, in certain situations, of providing COBRA notices and paring some of the information that must be included.

"The Labor Department has made a number of changes that will be quite helpful," said Kelly Traw, a senior manager in the HR Services unit of PricewaterhouseCoopers L.L.P. in Washington.

Most significant, the release of the final notice regulations—coming 18 years after Congress passed COBRA—provides the definitive guidance employers have long been seeking.

"Employers will be very glad to have uniform guidance on notification requirements," Ms. Traw added.

Still, there are concerns. The regulations, for example, impose a new requirement for employers to inform beneficiaries in writing when a request for coverage is denied, a requirement some say is unnecessary given that denial notification typically is given immediately when a determination of COBRA eligibility is made.

The regulations involve the two COBRA notices that employers are required to provide employees and other beneficiaries. Employers must furnish a general notice—typically provided when employees become covered under a group health care plan—that explains COBRA continuation coverage and where they can obtain more information about

See **COBRA**/page 6

Inside Business Insurance

Regulators voice concern about U.S. bill

A panel of current and former sate regulators speaks out about proposed federal legislation on regulatory standards. Page 4

Nation's nest eggs may be in jeopardy

The American Benefits Council warns of threats to defined benefit pension plans. Page 4

What's bugging you this summer?

Summer is coming, so it must be time to stay indoors, writes Editor Paul Winston. Page 6

Ohio takes a bold step in asbestos reform

With no success in Congress, the drive to reform asbestos compensation now moves to the states, an editorial says. Page 8

London art warehouse loses contents in fire

A blaze in an East London art storage facility claims numerous works of art by British and other artists. Page 17

Online

- The Datebook calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable directory of employee benefit consultants and outsourcing providers, along with listings of all industry vendors found in *BI*'s Market Sourcebook.
- New Opinion Poll for readers: Have you changed any of your property/casualty insurers due to financial security concerns over the past three years?

Departments

Advertiser Index 24
Between the Lines 16
Business Resources 16
International 17
Letters 8
Opinions 8
Perspectives 10
Products & Services 16
Professional MarketPlace 18
Ticker 23
Paul Winston 6
World Updates 17

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

Business Insurance (ISSN 0007-6864) Vol. 38, No. 22, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance* Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $5 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2004 by Crain Communications Inc.

BI 05-31-04 A 4 5/28/04 5:55 PM Page 1

Group warns of threats to defined benefit plans

ABC offers recommendation to protect plans

By MARK A. HOFMANN

WASHINGTON—The employer-backed American Benefits Council has issued a series of recommendations designed to protect the defined benefit pension system, which the group says could be facing extinction.

The recommendations are contained in a report entitled "Pensions at the Precipice," which was released last week. According to the group, "defined benefit pensions face an unprecedented series of policy and legal threats that endanger their very existence." These threats include attacks on hybrid defined benefit plans, such as cash balance plans, and what the group considers a "flawed pension-funding regime."

Among other things, the report calls on Congress to lift its prohibition on the Treasury Department's completion of age-discrimination regulations—a ban inserted in the Fiscal Year 2004 Omnibus Appropriations Act by opponents of cash balance plans—so that the department can clarify that cash balance plan designs are not age-discriminatory. "Alternatively, Congress must itself clarify the age appropriateness of these designs under current law," the report says.

The report also urges Congress to replace permanently the use of the 30-year Treasury bond interest rate as a means for pension calculations with a corporate bond rate. Congress suspended the use of the 30-year Treasury bond in favor of a corporate bond rate for pension calculations, but only for 2004 and 2005.

In addition, lawmakers "should focus on constructive reforms to the current funding rules to encourage more employers to sponsor defined benefit plans," the report says.

The report also examines problems with the funding regime for defined benefit plans, what the authors consider to be "flawed" proposals for reforming the system and issues surrounding accounting standards.

"For years, the focus has been on cost to explain the decline of defined benefit plans," said James A. Klein, the president of the Washington-based American Benefits Council.

"But that's only part of the story," he said. "One of the major threats to the system is the tremendous uncertainty and volatility caused by unresolved issues. This report articulates looming threats to defined benefit pensions."

"We tried to make a case for how important the defined benefit plan system is," he said.

Mr. Klein said that the impact of the plans on the national economy often goes overlooked.

"It's not only important from the standpoint of providing retirement income security but pensions represents a major source of investment capital that's needed to fuel the economy. Clearly, defined benefit plans, professionally managed, represent a very important element of that investment capital," he said.

The full report can be accessed at *www.americanbenefitscouncil.org*.

PHOTO: REUTERS LIVE

The May 23 collapse of Charles de Gaulle International Airport's Terminal 2E in Paris killed four people and injured others. The cause of the collapse remained under investigation last week.

AXA leads cover for Paris airport's liability exposures

By PETA MILLER

PARIS—Insurance coverage for losses stemming from the collapse of a terminal at France's Charles de Gaulle International Airport was written in the French and London markets.

At least four people were killed and others were injured Sunday in the partial roof collapse at the airport's Terminal 2E. An investigation into the cause of the incident is under way, but terrorism is not suspected, authorities have said.

The facility is operated by Aéroports de Paris, a quasi-governmental entity.

Paris-based insurer AXA S.A. wrote the primary layer of airport operator liability coverage for the terminal, which includes coverage for property damage and bodily injury. Reinsurance on the program was led by Global Aerospace Underwriting Managers Ltd. of London, aviation market sources said. The airport operator policy provides 1.5 billion euros ($1.80 billion) in coverage to Aéroports de Paris, according to market sources.

Representatives of AXA, GAUM and Aéroports de Paris were unavailable for comment.

Terminal 2E opened in June 2003 amid controversy about whether construction on the distinctive new terminal had been rushed.

Air France, which is the main user of Terminal 2E, has told its passengers to expect delays as flights are diverted to other terminals and gates while Terminal 2E remains closed.

The airline could not be reached for comment on whether it expects any business interruption losses arising from the incident.

IMUA 74th Annual Meeting

P/C insurers face challenges to generating better returns

By MICHAEL BRADFORD

SCOTTSDALE, Ariz.—Inland marine insurers are leading the way as the insurance market gathers steam to record an underwriting profit and a respectable return on equity, one economist says.

The hard market has helped insurers' results but underwriting profits for the industry still are elusive, said Thomas Holzheu, senior economist with Swiss Re America in New York. "We don't have the strong support from the investment side that we had in the late 1990s," Mr. Holzheu said, and he noted that there are several other drags on insurer performance.

Making his comments at the Inland Marine Underwriters Assn. annual conference in Scottsdale, Ariz., earlier this month, Mr. Holzheu said that the association's insurer members have been able to distinguish themselves as among the industry's best performers in recent years.

Continued coverage of the IMUA meeting can be found on page 13

"Inland marine's performance has always been better than the average," he said. The inland marine industry consistently records a combined ratio of well below 100%, regularly making it a top performer among major lines of business, according to Mr. Holzheu.

And, inland marine has not recorded wide swings in combined ratios over the years as have other lines of business, he said, making it not only "the most profitable, on average, but it is also one of the most stable lines of business."

As for the insurance market as a whole, "we have come a long way," Mr. Holzheu said of the drive to earn underwriting profits and a respectable return on equity. In 2001, property/casualty insurers recorded a 115.8% combined ratio and a

See MARKET/page 12

AAMGA 78th Annual Meeting

State officials voice concerns on federal regulatory proposals

By DAVE LENCKUS

As Congress finishes drafting a bill that would create federal insurance regulation standards, the measure's potential impact on state regulation has raised serious concerns for a panel of current and former regulators.

The worst-case scenario is that the legislation would lead to the end of state insurance regulation and the beginning of a regulatory system that is far less responsive to consumers, the panelists agreed during the annual conference of the American Assn. of Managing General Agents. The AAMGA held its 78th annual event in Phoenix May 19-22.

The House Financial Services Committee currently is fashioning the insurance regulation bill, which the committee is expected to unveil within a couple of weeks, according to panel moderator Andrew S. Frazier, president and chief executive officer of Western World Insurance Group Inc. of Franklin Lakes, N.J.

While the committee has not disclosed any details of the legislation, "we have a good idea" what part of the bill would cover, Mr. Frazier noted. The bill, he said, likely would address the deregulation of insurance forms and pricing, surplus lines premium taxes and interstate licensing of producers.

At a recent meeting of the National Assn. of Insurance Commissioners, House Financial Services Committee Chairman Rep. Mike Oxley, R-Ohio, stated the bill also would likely include several other reforms. He said the bill would attempt to streamline insurer licensing, improve and better coordinate

See AAMGA/page 19

BI 05-31-04 A 6 5/28/04 5:55 PM Page 1

COBRA: Fewer rule requirements

Continued from page 3

COBRA.

A more-detailed election notice must be furnished when an individual becomes eligible for COBRA coverage. The Labor Department has provided model general and election notices that employers may use, eliminating the need for employers to develop their own notices.

Under the final rules, the general COBRA notice typically would have to be provided to employees within 90 days of becoming covered under the employer's health care plan.

However, in a change from the proposed rules, this general notice would not have to be furnished if an individual became eligible for COBRA within this 90-day period. In that situation, only the detailed COBRA election notice would have to be furnished. The Labor Department had originally proposed that both notices be provided in such situations, a requirement the department now concedes would be duplicative and possibly confusing.

The Labor Department also eliminated an earlier proposed requirement that the general notice identify both the plan and COBRA administrator. The final rule requires that the notice include only the name, address and telephone number of a party or parties who would provide information about the plan and COBRA upon request.

Additionally, the final regulations drop a previously proposed requirement that the general notice include information on how beneficiaries receiving COBRA coverage must notify the employer if a second event occurs that also would entitle them to COBRA. Such information, the department said, would be relevant when an individual actually is eligible to elect COBRA, and not when he or she first becomes covered under a health plan.

"You get into information overload," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

But the department rejected other suggestions that would have made providing the general COBRA notice even easier. For example, under one rejected suggestion, employers could have used "generic" general COBRA notices to eliminate or reduce plan-specific information.

Backers of this suggestion said such "generic" notices would result in cost-savings because the same notice could be used without customization by COBRA administrators for all their clients.

In another change, the COBRA election notice would not have to include information on other health care coverage that might be available to a COBRA beneficiary.

In rejecting that suggestion, the department said beneficiaries need to know the name of the plan and a plan contact name to obtain additional information, if necessary.

The final regulations also ease—compared to the proposed rules—the information employers must include in the COBRA election notices provided to beneficiaries when they become eligible for the coverage.

For example, under the proposed regulations, the election notice would have had to identify by name each beneficiary entitled to elect COBRA coverage.

Under the final regulations, though, the employer has the choice of either naming the beneficiary or the beneficiary's status, such as employee, spouse or dependent child.

Identification by status, the department said, must be "sufficiently detailed" to permit affected individuals to determine whether they are qualified beneficiaries.

Such an option is helpful because some employers or their plan administrators may lack the names of employees' dependents until a health care claim is filed, said Mercer's Mr. Saveth.

In another change, the COBRA election notice would not have to include information on other health care coverage that might be available to a COBRA beneficiary. Such information already is likely to be provided in situations where the beneficiary is given a choice between COBRA and other coverage or at the time COBRA coverage ends.

Aside from the general and COBRA election notices, the regulations detail situations where other notifications are required.

For example, an employer that denies COBRA coverage because it determines the individual is not eligible must provide written denial of the request within 14 days after receiving notice of an event the individual believes entitles him or her to COBRA coverage.

Some question the need for such a requirement, noting that their administrative systems now are set up to provide immediate determination of whether the individual is eligible for coverage.

"This requirement anticipates there is some kind of black hole as far as notification. The reality is there is immediate feedback," said Andy Anderson, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

The final regulations, for most employers, will go into effect Jan. 1, 2005. The proposed regulations had called for a Jan. 1, 2004, effective date.

That fairly lengthy compliance period should give employers sufficient time to revamp the notices they now provide, especially those who began to change their documents last year after the proposed regulations were published, Ms. Traw said.

"You can get it done, but you have to get moving," said Tim Stanton, a partner with Gardner, Carton & Douglas L.L.P. in Chicago.

Seeking the young, extraordinary

BI solicits nominations for 40 under 40 roundup

CHICAGO—*Business Insurance* is seeking nominations for its "40 Under 40: People to Watch" feature, a roundup of men and women who are doing extraordinary work in the commercial insurance industry before celebrating a 40th birthday.

Anyone working in the commercial insurance industry serving the buyers of risk and benefit management services, and whose birthdate falls after Oct. 4, 1964, is eligible for consideration. Candidates may nominate themselves or may be nominated by someone else.

There is no formal nomination form. Simply send a 250- to 300-word statement detailing the nominee's qualifications to: 40 under 40, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Please include a resume, if possible, and be sure to state the candidate's date of birth.

Names also can be e-mailed to *40under40@businessinsurance.com*, as long as "40 under 40" is in the subject line.

The deadline for nominations is Aug. 2. Winners will be featured in the Oct. 4 issue of *Business Insurance* and on *www.businessinsurance.com*.

Paul Winston

You could go buggy over summer risks

As I write this column, a three-day weekend looms for most Americans, in observance of Memorial Day on May 31. Many people regard this holiday as the unofficial start of summer. One can start wearing linen and straw hats again, play hooky on Friday afternoons, apply mosquito repellent and other traditions of summer (unless, like me, you live in one of the many areas of the country where the forecast calls for intermittent storms all weekend).

Summer also brings a host of backyard activities, which also means new risks that must be carefully analyzed and closely managed to ensure the safety of you and your family.

One summer hazard this year in many parts of the country is the return of periodical cicadas, as they noisily awaken from their 17-year slumber.

Paul Winston

This year's crop has been named Brood X, which is an entomological naming convention intended to make the critters—with their blood-red eyes, orange-veined bodies, prickly legs and ceaseless trilling—sound more cuddly.

Billions of these shrill bugs are emerging from their underground beds this time of year to buzz, climb nearby trees, buzz, mate, buzz, lay eggs, buzz, shed their skins, drop on your heads, buzz, scare the wits out of small children, buzz and die. This frenetic phase of their life cycle probably takes only about 15 minutes, but because there are so many of them, it will seem like it lasts for months.

The Internet, an infallible source of accurate and truthful information, offers multiple Web sites with information about the periodical cicadas.

Whether cicadas are a risk depends on which Web site you visit. According to a site maintained by the Insect Division of the University of Michigan's Museum of Zoology, they are a nuisance but won't bite unless you hold them in your hand for a long time, overheating their little exoskeletons and making them thirsty. But their egg-laying can weaken some branches, causing them to fall on the unsuspecting, the site adds.

Another viewpoint is found at Cicadaville.com, which was brought to my attention by the venerable New York Times, so it must be true. Cicadaville.com offers these "facts" about cicadas:

- Cicadas are vicious killers.
- Cicadas prey on children and pets.
- Cicadas are seething with deadly venom and flesh-eating bacteria.
- This year, cicadas will kill more people than snakes, spiders, scorpions and sharks combined!

OK, that definitely sounds like a problem, perhaps severe enough to warrant an upgrade in our national security alert level. Oh, wait a minute. There is some tiny type at the bottom of the Web page, which reads, "Please do not be stupid enough to believe anything you read on this site."

Apart from being unable to walk around barefoot this summer for fear of stepping on cicada husks, you face other bug-related risks that might put a damper on your summer—such as eating.

What would summer be without an outdoor picnic or barbecue? Sounds simple enough, except when you start to notice the frequency of food recalls—including hot dogs and hamburgers—due to problems from microbial contaminants. Last summer, there were 51 federal recalls of food products, including six ground beef recalls and three hot dog recalls, according to the U.S. Food Safety & Inspection Service. Already this year, there have been two federal recalls for hot dogs, as well as three ground beef recalls, the FSIS reports.

Managing this risk by becoming a vegetarian isn't necessarily the answer, though, considering the E. coli-tainted scallions in the news last fall and the numerous current recalls for raw almonds potentially tainted with salmonella.

Food is not the only possible source of summer cookout perils. From the looks of the Consumer Product Safety Commission's recall database, outdoor cooking grills are a potentially hazardous piece of equipment, judging by the number of grills recalled for various equipment malfunctions and potential safety problems. From 2000 to the present, there have been 17 grill-related recalls, the CPSC reports.

You could always just build a campfire and roast salmonella-free marshmallows, but that would probably require matches and they, too, have become the subject of a recall. K-Mart Corp. last week voluntarily recalled its Martha Stewart Everyday Living safety matches, stating: "These matches may ignite upon impact, posing a fire hazard to consumers."

Be safe this summer: Stay indoors.

Editor Paul Winston can be reached at pwinston@businessinsurance.com.

Business Insurance

Vice President/Publisher: Martin J. Ross III (New York)

Editor: Paul D. Winston (*Chicago*)
Editor-at-Large: Jerry Geisel (*Washington*)
Managing Editor: Regis J. Coccia (*Chicago*)
Assistant Managing Editor - Graphics: Kathy L. Barnes (*Chicago*)
Assistant Managing Editor - News: Gavin Souter (*New York*)
Senior Editors: Michael Bradford (*New Orleans*); Meg Fletcher, A.R.M. (*Chicago*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Dave Lenckus (*Tucson*); Douglas McLeod (*New York*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*); Rodd Zolkos—*Industry Focus* (*Chicago*)
Bureau Chiefs: Roberto Ceniceros (*Los Angeles*); Sarah Veysey (*London*)
Associate Editors: Gloria Gonzalez (*New York*); Peta Miller (*London*)
Correspondents: Carolyn Aldred (England); Gerard O'Dwyer (Finland); Elizabeth Fry (Australia)
Copy Desk Chief: Matt Scroggins (*Chicago*)
Copy Editors: Mary B. Nick (*Chicago*); Joe Walker (*Chicago*)
Directory Editor: Kevin P. Edison (*Chicago*)
Assistant Directory Editor: Carrie A. Brittain (*Chicago*)
Assistant Graphics/Online Editor: Amy R. Kepka (*Overland Park*)
Executive Assistant/Reprint Manager: Karen Brown Tucker (*Chicago*)
Editorial Cartoonist: Roger Schillerstrom (*Chicago*)

Advertising Director: Kenneth F. Luker Jr. (*New York*)
Director - Business Development : Robert L. Niesse (*Chicago*)
District Managers: Laura Booth (*Irvine, CA*); Chris Crain (*New York*); Ron Kolgraf (*Boston*); William J. McGuire (Chicago); Robert B. Murray (*New York*); John L. Phillips (*Chicago*)
Classified Advertising Manager: Irais Amleshi (*Chicago*)
Assistant to the Publisher: Pat Ghazvini (*New York*)
Advertising Traffic: Monique Murray (*New York*)
Production Manager: J. Thomas Janka (*Chicago*)

Circulation Manager: Rudolf Von Bartesch (*New York*)
Circulation Coordinator: Craig Bowman (*Detroit*)

Director of Communications: Ronnie I. Drachman (*New York*)
Promotion Manager: Michael Ambrosio (*New York*)
Promotion Coordinator: Barbara O'Brien (*New York*)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-698-7601; London: 44-207-457-1400; Los Angeles: 323-370-2455; New Orleans: 985-871-1090; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200
ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133
SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations: William A. Morrow
Senior Vice President/Group Publisher: Gloria Scoby
Group Vice President/Technology, Circulation, Manufacturing: Robert C. Adams
Corporate Circulation Director: Nina LaFrance
Corporate Director/Production & Manufacturing: Dave Kamis

G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048- 4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-2244; 11133 W. 108th St., Overland Park, Kan. 66210, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, CA 92614-6791. $5 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Rudolf Von Bartesch, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

BPA International

To subscribe, call 888-446-1422, or 313-446-0450 outside the United States.
www.businessinsurance.com

American Business Media

Editorial

Ohio reforms asbestos law

ONE OF THE BEST things about our system of government is that states can take the lead on certain issues when Congress fails to do so.

That's what happened last week in Ohio, where lawmakers approved not one but two first-in-the-nation measures setting minimum medical criteria that must be met by claimants seeking damages for exposure to hazardous substances. One bill sets such threshold criteria for asbestos exposure; the other, exposure to silica and mixed dust.

Republican Gov. Bob Taft made passage of both bills among his top legislative goals and, according to a spokesman, was "looking forward to signing both."

We look forward to the governor signing them as well. One of the biggest problems with determining liability for asbestos-related illness has been that claimants can pursue lawsuits without manifesting any injury. Without some minimum medical criteria for pursuing a claim, the truly ill can be pushed to the back of the compensation line.

Meanwhile, as most primary defendant companies in asbestos cases have been sued into bankruptcy, an unrestrained pool of claimants has cast an ever-widening net to seek damages, targeting for compensation enterprises with only a tangential connection to the manufacture or use of asbestos.

The asbestos liability situation is untenable, but congressional efforts to improve it repeatedly have foundered.

Ohio's action not only provides a way to deal with the existing asbestos problem but also holds some hope of preventing silica exposure liability from growing into a similar mess. No one loses the right to legal recourse under the Ohio measures; all the legislation does is set medical criteria that must be met before a claim can go forward.

Some local jurisdictions throughout the country have used various forms of the "inactive docket"—under which claimants can file an action but cannot pursue it until they actually become ill—to manage asbestos claims. When Gov. Taft signs the asbestos bill, Ohio will become the first to implement this type of reform on a statewide basis.

Absent a major shift of sentiment on Capitol Hill, Congress will not pass asbestos litigation reform this year. And silica litigation reform legislation isn't even on the agenda.

The challenge of dealing with what is truly a national problem has fallen to the states, and Ohio has proved itself up to dealing with that challenge. We can but hope that other states choose to follow Ohio's example, and that eventually Congress will follow as well.

Hurdles to consumerism

MORE EMPLOYERS are embracing health care consumerism to help control rising costs, but this approach won't succeed unless consumers have the right information to make prudent decisions.

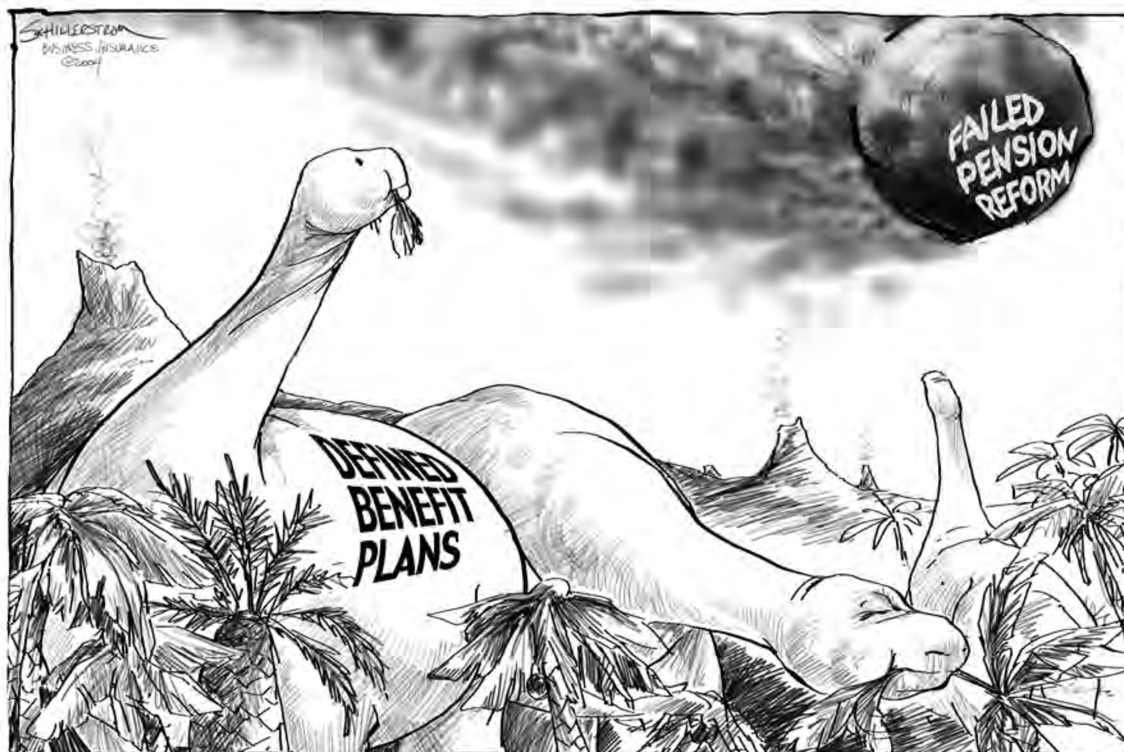
As we report on page 1, the recent move by the California Public Employees' Retirement System to cut high-cost hospitals from its Blue Shield health maintenance organization network is raising questions about the adequacy of quality measures and how much information is available to plan members.

Representing 1.2 million state and public employees, retirees and their dependents, CalPERS should have considerable negotiating clout as a health care purchaser, but not even it was able to get a high-cost group of California hospitals to take part in a tiered network.

The reason is not yet clear, but the Sutter Health hospitals dispute that their charges are out of line with competing providers in the same markets. Further complicating matters is that Blue Shield itself developed a matrix to compare hospitals that found no correlation between hospital cost and quality. Surprisingly, Blue Shield does not make this quality matrix available to its plan members, citing the need to refine it.

If consumer-driven health care is ever going to stand a chance to work, providers must negotiate with payers in good faith, and both providers and payers must work together to develop meaningful data that enable consumers to make the most cost-effective decisions.

Schillerstrom



Letters to the Editor

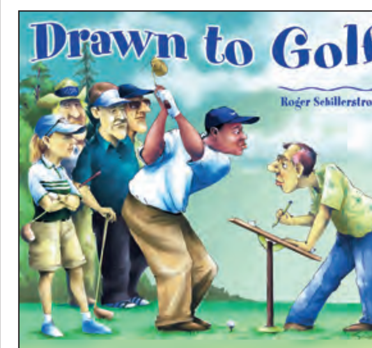
Health plan innovation a patently good idea

To the editor: Necessity is indeed the mother of invention ("Embrace Plan Design Innovations," May 24). Insurance companies need to realize, however, that insurance innovations, including novel health plan designs, can now be protected with patents.

More than 200 patents have been issued in the insurance area in the past five years. Another 500 applications are on file. Many of these patents address novel ways to reduce the costs of insurance products.

The era of freely sharing insurance inventions will soon be over. Many companies are choosing to protect their inventions with patents and are respecting the patents of their competitors. Those that fail to adapt to the new patent reality will find themselves shut out of this emerging marketplace.

Mark Nowotarski
President
Markets, Patents & Alliances L.L.C.
Stamford, Conn.



BI cartoonist swings at golf

Business Insurance cartoonist Roger Schillerstrom recently published a collection of his cartoons that originally appeared in Golfweek magazine, for which he has provided editorial cartoons since 1995.

In "Drawn to Golf," published by Clock Tower Press, Mr. Schillerstrom turns his keen eye and wit to depicting some of golf's more memorable, controversial and comical moments. The collection looks at such golf events as the emergence of Tiger Woods, the death of Payne Stewart, the collapse of Jean Van de Velde at Carnoustie and David Duval's breakthrough at the British Open, among others.

In addition to Golfweek and *Business Insurance*, for which he has served as editorial cartoonist since 1982, Mr. Schillerstrom's work appears in six other magazines published by Crain Communications Inc. Golfweek is a publication of Turnstile Publishing Co., which is owned by Crain President Rance Crain.

Copies of the book can be ordered online for $17.95 each at *www.clocktowerpress.com*.

Mr. Schillerstrom can be reached at *rschillerstrom@crain.com*.

Business Insurance* welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: *pwinston@crain.com

BI 05-31-04 A 10,11 5/27/04 4:34 PM Page 1

Take simple steps to combat 'lasering'

By Bruce A. Roth

Imagine an insurance policy that remains in force only as long as the policyholder doesn't need it. Who would buy such a policy? Nobody, right?

Actually, many self-insured employers with stop-loss insurance that allows their high claims to be "lasered" have unwittingly bought exactly such a policy. If you are involved in the selection of your company's benefit plans, you owe it to yourself to find out about lasering. Below is a short primer on this increasingly common practice that can help prevent you and your company from learning about lasering the hard way.

Lasering is the practice some insurers use to set a higher specific deductible for an individual member of an insured group due to his or her health status. The claims for a lasered person apply to the aggregate stop-loss, but only up to the amount of specific deductible everyone else in the group is subject to.

If the employee or dependent terminates coverage before the group policy renews, no problem. But usually the person is still insured in the group at renewal (either as an active employee or under COBRA), and if the member is lasered, the employer is faced with self-insuring the additional claim amount on top of the usual premiums.

If you are self-insured and have not experienced a high claim, just wait. Statistics show that a company with 100 to 150 employees will, on average, have a claim over $50,000 every year. Those claims could end up costing hundreds of thousands of dollars, and they typically amount to 25% of all claims paid for the year.

At first, lasering may seem like a reasonable alternative to higher premiums. But what makes the practice so insidious is that a claim could end up costing your company hundreds of thousands of dollars or maybe more than $1 million. These staggering amounts are not uncommon for claims for rare medical conditions, premature babies and accidents with severe head trauma, to name a few.

Sometimes an insurer will base your rates on your group's own large claims instead of on the experience of their entire pool. Therefore, one large claim blows your experience out of proportion. If an insurer tells you that it doesn't laser, make sure to ask if it bases your rates on the projected costs of your own large ongoing claims. If so, it is just turning the laser into a guaranteed cost of higher premiums.

The most effective way to combat lasering is to use only insurers that do not engage in it. Those insurers are out there; they are hard to find, but they do exist.

Because experience rating the stop-loss premiums is really just a hidden form of lasering, the term "lasering," as it is used in this article, should be understood to include both of these strategies that stop-loss insurers use to throw unusually high claims back into the employer's lap.

Lasering is an unfair practice. It can leave employers held hostage to their insurance companies because other insurers don't want to insure a large ongoing claim either. That gives the stop-loss insurer control over the group—it can dictate the size of the laser or the rates to charge. For some employers, it can lead to such financial hardship that it may force them to cancel their benefit plans altogether.

As lasering becomes more prevalent, there are some simple steps that each of us can take to combat it.

Get your broker to find out what practices stop-loss insurers engage in before you consider their quotes. Request that they put their underwriting methodology and factors in writing and ask them to agree to give you sufficient notice if they change their practices.

Once you have chosen an insurer, check to make sure it adheres to its agreement from year to year. The most effective way to combat lasering is to use only insurers that do not engage in it. Those insurers are out there; they are hard to find, but they do exist.

Self-insuring medical benefits makes sense for many employers, but only if the proper safeguards are part of the plan. For your own protection, you must be vigilant in identifying and avoiding the insurers that engage in lasering. Only when we refuse to accept these unsound practices will they disappear from the stop-loss insurance landscape.

Bruce A. Roth is president of Roth & Associates Inc., an Atlanta-based financial services and employee benefits consulting firm.

Closely examine demands for retro premiums

By Stephen A. Dvorkin and Robert A. Friedman

Today's risk manager facing a bill for a retrospective premium on an old occurrence-based liability insurance policy may owe the insurer less than is being demanded. At the very least, a closer look at both the policy and the premium demand is warranted before payment.

During the 1970s and 1980s, the computation of the premium for various forms of liability insurance coverage sometimes included a component determined "retrospectively." Pursuant to premium plans accompanying those policies at the time of their issuance, a portion of the premium was paid in the traditional, up-front manner—the "advance premium"—and it was agreed that additional premium could be charged—that the premium would be subject to "adjustment"—on the basis of defense and indemnity claims made under the policies.

In many instances, the relevant retrospective—or "retro"—premium plan applies to a number of separate policies purchased by the policyholder—for example, policies covering workers compensation, automobile liability and general liability. Questions arising today concerning the policyholder's responsibility for retro premium under plans associated with policies issued in the '70s or '80s usually involve general liability policies.

The payment of premium pursuant to retro plans is far less common today than it was 25 years ago, so the terrain is relatively less familiar to today's risk manager. The matter of retro is so arcane that it has become somewhat intimidating. The temptation may be simply to pay the invoice, but that temptation should be resisted—at least until the basis of the retro claim has been examined. It may well be that the insurer is entitled to less retro premium than has been demanded. Indeed, the insurer may be entitled to no additional premium at all.

The relevant general liability policy's coverage is invariably afforded on an "occurrence" basis, meaning that the policy covering a 1975 policy period, say, can be required to respond to a toxic tort or environmental contamination claim (or other long-tail-type claim) asserted in more-recent years. The insurer's claim for retro premium may arise out of defense costs or indemnity that it has paid, or out of reserves against the insurer's estimate of potential future indemnity obligations. But need the policyholder pay those retro invoices?

The policyholder should request and review records maintained by the insurer and its own records, to ascertain the extent to which retro obligations have been satisfied by prior retro payments. Retro plans invariably establish the maximum amount of retro for which the policyholder can be liable, and the policyholder should determine if that maximum amount has already been paid.

Assuming that the retro maximum has not been satisfied, it is incumbent upon the policyholder to examine closely the amount of retro demanded by the insurer. To the extent the retro demanded reflects reserves against projected indemnity obligations, for example, it pays to determine whether the projections are overstated.

The harm (damage or injury) triggering an older policy subject to a retro plan often implicates more than one year. If and when a liability arises out of the relevant underlying claim, the insurer whose policy is subject to the retro plan will undoubtedly seek to allocate indemnity obligations to other insurers or to "self-insured" periods, if the jurisdiction whose law applies supports allocation. In determining the propriety of a retro adjustment based on the insurer's reserves against possible indemnity obligations, the policyholder should not only look at the amount of the projected liability but also should determine whether the adjustment reflects the manner in which actually imposed damages would likely be allocated.

Even if the retro maximum has not been satisfied by prior premium payments, there may well be an issue as to whether the relevant retro plan remains "open" at the time the policyholder is invoiced for a premium adjustment. The standard-form retro plan contains provisions whereunder an adjustment rendered relatively early after issuance of the relevant policy becomes "final," unless the insurer takes certain steps to secure authorization to render further adjustments. There is a good argument that it is not even theoretically possible for insurers to take those steps, consistent with standard-form plan terms, in respect of general liability policies.

Our firm has challenged insurers' right to collect retro premium from policyholder clients on the ground that adjustments rendered decades before recent retro demands were "final" and foreclosed the insurers' right to seek further retro premium under the relevant plans. In each of those cases the retro demand was settled on terms considered favorable by the policyholder. The pattern of settlements has persuaded our firm that insurers take the foregoing arguments seriously and are not sure of their legal footing in pressing their claims for retro premium.

In conclusion, our advice is that policyholders should take a hard look at insurers' demands for retro premium under old occurrence-based liability insurance policies. They may owe less than the insurer has demanded—and may, indeed, owe nothing at all.

Stephen A. Dvorkin is a member of Dickstein Shapiro Morin & Oshinsky L.L.P. Robert A. Friedman is an associate in the firm. Both are based in New York.

How to submit a Perspectives article to *Business Insurance*

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

The section is intended to be a forum for readers' opinions and a forum for the discussion of technical topics that do not lend themselves to news stories. Therefore, Perspectives articles should take a point of view, offer advice and/or explain a technical subject. They should not present case studies or promotional information.

To submit an article for the Perspectives section:

- Send us a letter describing the topic you would like to address. Briefly describe what you want to say and accomplish in the article.
- You will receive from us an acceptance or a rejection of your article idea.
- If accepted, we will respond with comments and request the full article, which generally should be no more than 800 words in length.
- All articles are to be accompanied by a photograph of the author and a brief biography.
- We will notify you of any questions we have about your article and any substantial editing we think is necessary.

All authors must assign the copyright on the article to *Business Insurance*.

To submit a Perspectives article query or for more information, send a note to *biweb@crain.com*.

Use of treatment-outcome data saves money

By Dave Sax and Phil Grosse

What are we to make of the seeming contradiction between falling injury rates and rising workers compensation costs?

Too often, medical providers hold a "blank check" in authorizing treatment for an injured worker. The worker simply enters treatment and stays there until the provider says the treatment is finished. In addition, some providers are given authorization for a certain number of visits and will use these visits whether they are necessary or not.

Many employers believe they have no role during this treatment period. But there are ways that employers can empower themselves to reduce costs and make a difference. That power lies simply in their ability to collect, analyze and act upon treatment-outcome data.

Whether your company is in a state that allows you to direct care or allows the employee to select his or her own provider, every medical provider who treats one of your employees has access to the following information:

- The number and type of musculoskeletal injuries that year.
- Reinjury vs. first-time injury rates.
- Average number of therapy visits per case.
- Average therapy cost per case.
- Average total cost per case.

In addition, your company has the ability to add the following data to the mix:

- Average length of restricted work.
- Lost workday rate.
- Average number of lost workdays.
- Number of cases without lost workdays.
- Number of cases with days of restricted work.
- Replacement labor costs.
- Productivity loss.
- Type of "light duty"—productive vs. nonproductive.

The ability to collect and analyze such work-related outcome data is critical to the development of a plan of action. It may be easier than you think.

Quality medical providers, including many sophisticated physical therapy groups, pride themselves on their ability to improve treatment outcomes. In order to prove their value to the employer and insurer, many of them have incorporated tracking systems that provide valuable outcome information.

Employers should seek out providers that are interested in improving outcomes and, thus, in tracking data. This level of accountability is overdue.

Although usually not tracked or made available to therapy or medical providers, lost-time data could be gathered as part of an employer's routine recordkeeping on injured workers. Alternatively, experienced industry consultants are available to assist businesses in developing processes and procedures that assist in the gathering and analysis of work injury-related data.

Once the information is in hand, employers can be on the lookout for the following red flags:

- Lost workdays are routinely incurred.
- Therapy visits average 10 or more per case.
- Reinjury occurs with frequency.
- Light or modified duty averages four or more weeks per case.
- Employees miss two to three hours during the workday to attend therapy visits.
- Light/modified duty is nonproductive.

Any of these conditions indicates that a discussion with the medical provider or an examination of the employer's return-to-work program is warranted.

Another area worth considering is timeliness. Industry studies have demonstrated that there are significant increases in physician visits, case duration and the duration of restricted work when initial physical therapy treatment is delayed by only a few days.

We suggest employers track the following time lines with respect to an initial injury:

- From injury to initial report.
- From initial report to first physician visit.
- From first physician visit to initial physical therapy visit.
- From initial therapy visit to return to full duty.

A company's first efforts to find solutions to work-related injuries are simple and sensible. The company must know and understand what its costs are and where they are coming from. It must understand treatment outcomes. The gathering and analysis of outcome data will facilitate cost-effective and practical decisions. The selection and control of sophisticated providers that can provide valuable treatment-outcome data is critical. Information provides the power to make good decisions.

Dave Sax is former director of operations and Phil Grosse is director of business development for Salt Lake City-based Jobsite Solutions.

We make your business ours.

We're serious about designing and delivering one-of-a-kind insurance and risk management solutions that work. So while you go about your business, we'll be there, too. Local service, national strength—that's Acordia.

America's Insurance Specialists

1.866.ACORDIA A Wells Fargo Company www.acordia.com

BI 05-31-04 A 12,13 5/27/04 4:36 PM Page 1

Market: Insurers challenged to improve returns

Continued from page 4

2.2% return on equity, according to Mr. Holzheu. At the end of last year, the ratio was down to 100.1% and the return on equity had climbed to 9.6%, he said.

Such a return, while an improvement, still does not impress investors as much as the higher returns from many other industry sectors, Mr. Holzheu acknowledged. "Nobody can really cheer about 9.6%" in a hard market, he said.

Insurers will need to generate a combined ratio of around 95% to notch a return on equity of 10% or higher, Mr. Holzheu said. "Anything above 100% will lead to a disappointing return on equity."

Although the hard market has boosted insurer revenue, there remain plenty of obstacles that can keep insurers from profitable underwriting, Mr. Holzheu said. Reserve deficiencies are among those obstacles and are part of the reason rating agencies have been pessimistic regarding the insurance industry, he said.

While the number of rating agency downgrades of insurers has slowed, it continues to outpace upgrades, Mr. Holzheu emphasized.

"There are other problems," he said, including the acceleration of claims inflation in several lines. "The rate increases that we have seen have failed to keep up with the loss development" in such business segments as excess liability, directors and officers liability and health care coverages, according to Mr. Holzheu.

> **Insurers will need to generate a combined ratio of around 95% to notch a return on equity of 10% or higher**
>
> *Thomas Holzheu*
> *Swiss Re America*

Industry surplus is still an issue affecting the marketplace, though an increase in 2003 of $60 billion indicates a "drastic recovery," Mr. Holzheu said.

Premiums are continuing to outpace insurers' capital base at a worrisome rate, he said.

And while there were no "100-year-type events" in 2003, there were five catastrophes that each cost more than $1 billion, he said. Sufficient capital is needed to back up the possibility of such catastrophic events, Mr. Holzheu emphasized.

Catastrophe risks have heightened, he said, as populations have shifted to wind-prone coastal areas, the terrorism threat has grown and the possibility of class-action litigation continues to loom over businesses.

Mr. Holzheu said he believes the insurance market has learned how to avoid another soft market cycle, partly because underwriters are smarter. Insurers are better equipped to properly price their products, he said. "One of the things that has dramatically changed is the availability of price indices...so that participants in the industry know much better how price trends develop" and can use that information to develop adequate rates, he said.

Are your drug costs leaving a bad taste?

WellPoint Pharmacy Management is an innovative pharmacy benefit manager (PBM) offering the full spectrum of PBM services and quality customer support. We are committed to securing the best solutions and low net costs for our clients.

Whether it's managing drug spend and trend, or maximizing health choices, discover WellPoint Pharmacy Management – a PBM that prides itself on full service and positive outcomes.

WellPoint Pharmacy Management was ranked "Highest in Overall Customer Satisfaction with Prescription Drug Benefits and Services" by J.D. Power and Associates 2003 Prescription Drug Benefits and Services Report℠. Report based on responses from 27,062 consumers in 16 of the top U.S. markets. www.jdpower.com

WellPoint Pharmacy Management.
The Tasteful Solution.

WELLPOINT
PHARMACY MANAGEMENT®

1.800.451.0433
www.wellpointrx.com

WellPoint Pharmacy Management is a Registered Mark of WellPoint Health Networks Inc.

IMUA 74th Annual Meeting

IMUA draws 160 people to Scottsdale

SCOTTSDALE, Ariz.–The Inland Marine Underwriters Assn. gathered at the Fairmont Scottsdale Princess resort May 16-19 for the group's annual conference.

PHOTO: FAIRMONT SCOTTSDALE PRINCESS

Around 160 registrants heard speakers tackle a wide range of inland marine topics that included warehouse legal liability, casino risks, arson prevention and maintenance of communication towers.

Some attendees also braved the 100-degree desert heat to play golf as the conference began the week.

IMUA will hold its 75th annual meeting April 16-19, 2005, at the Hyatt Regency Monterey Resort & Conference Center in Monterey, Calif.

More information on the group and its conference is available by calling 212-233-0550 or writing IMUA at 14 Wall St., Suite 820, New York, N.Y. 10005; *www.imua.org*.

IMUA 74th Annual Meeting

Tower risks ignored: Expert

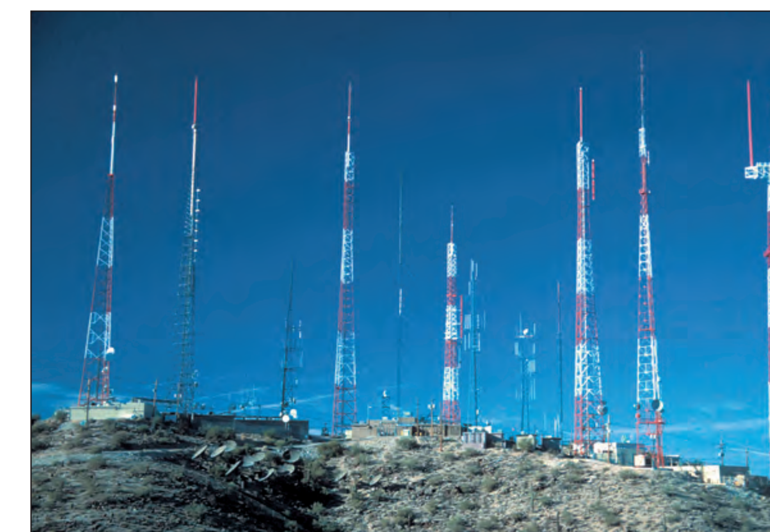


PHOTO: ZUMA

There are an estimated 100,000 communications towers across the country, with the majority used for wireless communications.

By MICHAEL BRADFORD

SCOTTSDALE, Ariz.—Isolated and silent, communications towers that dot the nation's landscape offer a more demanding underwriting challenge than most insurers realize, an executive with a company that maintains the towers contends.

Many underwriters, in fact, have shown little interest in the risk after it is insured, said Dan Ozley, senior vp with Dielectric Communications in Raymond, Maine. "When I have talked to underwriters on this topic before, I have seen a lot of concern, but very little proactivity."

Speaking at the Inland Marine Underwriters Assn. in Scottsdale, Ariz. in May, Mr. Ozley said that underwriters in many cases are "not sure what risk they are insuring, and, it appears to me—an outsider to your industry—that they really don't care. If an accident occurs, they just cancel the guy's policy and don't re-insure it."

"Who cares?" Mr. Ozley asked. "Well, I would suggest that you do."

Towers that are poorly maintained, Mr. Ozley said, can fall, and are subject to the hazards of weather, low-flying aircraft and other perils.

"Wind is an overrated factor," because towers typically are built to "withstand a significant amount of wind," Mr. Ozley said. "Maintenance is a terribly underrated factor."

The towers are built and maintained under a number of federal guidelines and national codes, he said.

"This is a fairly tightly regulated industry," Mr. Ozley said. "That's the good news. The bad news is that compliance typically is left up to the tower owner."

The exposures differ depending on the type of tower, Mr. Ozley said.

Of the around 100,000 towers in the United States, about 95,000 are set up for wireless communications, according to Mr. Ozley. Those wireless towers cost as much as $100,000 and many are in remote areas, so that when they fall, they usually don't "kill or maim," he said.

Business interruption losses generally are not exorbitant if a wireless communications tower is out of operation, according to Mr. Ozley.

On the other hand, the losses can be much greater when a broadcast tower—of which there are around 5,300 in the United States—is damaged. Those multimillion-dollar tower structures pose a substantial business interruption risk if broadcasters cannot transmit, Mr. Ozley said.

Insurers should perhaps treat the risk of tower losses in the same way life insurers assess their exposure, he said. "If you were going to write a $2 million life insurance policy, you would probably require the person you are writing the policy for to have a physical inspection," he said.

"I've talked to a number of underwriters and asked, 'Do you physically go to the site?'" to inspect a tower before insuring it, Mr. Ozley said. The answer in many cases is, "No, we send a form out," that is mailed back by the owner, he said.

Underwriters should be wary of such practices that replace actual on-site inspections, he said.

"Know what you're underwriting," Mr. Ozley urged insurers of the towers. "It's terribly important to make sure that it's properly designed for the load that it's carrying....The insurability physical exam is very important."

Make sure, he said, that inspections called for in regulatory guidelines are carried out and are performed by qualified inspectors. "Three guys in a pickup truck" should be cause for concern when it comes to checking the complex structures, Mr. Ozley said.

"Use competent field inspectors. I talked to one underwriter" that wrote coverage for towers, he said. "He had one inspector. And he didn't climb."

BUSINESS NEEDS CHAMPIONS

Team victory

Working hand-in-hand with Bank One, we helped structure and close its acquisition of Zurich Life. The $500 million deal provides additional life insurance and annuity capabilities to the high-quality financial services of the nation's sixth-largest bank holding company.

We championed that deal. Let us champion yours.

www.lordbissell.com

LORD BISSELL BROOK LLP
ATTORNEYS AT LAW

BI 05-31-04 A 14 5/27/04 4:37 PM Page 1

IMUA 74th Annual Meeting

Extremist groups linked to increased arson risk

By MICHAEL BRADFORD

SCOTTSDALE, Ariz.—Property owners and firefighters can rely only on diligent security and risk management to protect themselves from the terrorist tactics of radical environmentalists, two firefighting experts contend.

"The bottom line is, it's all about security," said Ulises Castellon, director of operations at Fire Cause Analysis, a Point Richmond, Calif.-based fire investigation company.

As for risk management, builders have to use techniques that can temper the destruction should one or more arsonists be able to breach security and attack a property, he said.

Speaking at the Inland Marine Underwriters Assn.'s annual conference in Scottsdale, Ariz., Mr. Castellon and Don Perkins, vp of Fire Cause Analysis, explained that among those building techniques is the practice of "compartmentalizing," or building structures in sections and making each as fire-resistant as possible before moving onto the next section.

In some arson cases, the property that burned was not near an adequate water supply or the agency that responded to the fire was poorly equipped, mistakes that should not have occurred, the speakers said.

"Candidly," said Mr. Castellon, "the only thing that you can do to not go nuts as an underwriter or claims person is say, 'Look, all I can do is have (the radicals) go after somebody else's insured'" by emphasizing comprehensive risk management to prevent arson.

Careful attention to fire prevention is, of course, not limited to protection against environmental terrorist groups, Mr. Perkins noted. There is much more arson, he acknowledged, than that caused by the radicals, even though some of their work has produced huge losses.

The speakers warned, though, that the threat from the radical groups is growing and is hard to prevent.

The extremists are hard to catch because they operate in "decentralized cells" across the United States, said Mr. Perkins. The operations of the Earth Liberation Front, the best known of the environmental extremist groups, are "no different" than those of Al Qaeda and other decentralized terrorist organizations, he said.

The "animal rights" groups were the first to begin carrying out such acts as arson and other types of mayhem in the 1980s, Mr. Perkins said. The extremists became a bigger threat when some animal rights groups, primarily the Animal Liberation Front, merged with ELF, he said.

Mr. Castellon noted that animal rights activists had initially targeted facilities such as laboratories that used animals in the development of cosmetics. But when the two groups banded together, they were able to more forcefully pursue targets in areas they felt were "environmentally sensitive," he said.

With arson as a widely used tool in their arsenal, the extremists have become a deadly threat to property owners and firefighters.

The Earth Liberation Front boasts of damage it has caused on a Web site—*www.earthliberationfront.com*—set up as its press arm. The site also lays out the group's mission.

> **The operations of the Earth Liberation Front, the best known of the environmental extremist groups, are 'no different' than those of Al Qaeda and other decentralized terrorist organizations.**
>
> *Don Perkins*
> *Fire Cause Analysis*

"The ELF realizes the profit motive caused and reinforced by the capitalist society is destroying all life on this planet," the group says on the site. The only way to "stop that continued destruction of life is to, by any means necessary, take the profit motive out of killing."

The ELF site claims the group was responsible for the fire at a West Covina, Calif., automobile dealership last August that damaged and destroyed scores sport utility vehicles and Hummer H2s. The group also touts its work in what it calls the "largest act of environmental sabotage in U.S. history," a $50 million fire set to protest "urban sprawl" that destroyed an unfinished condominium complex last year in San Diego.

The stakes have grown in the battle against environmental terrorists, Mr. Perkins said, because they are more often targeting firefighters and investigators working to stop the destruction.

Sophisticated devices such as plastic explosives are being used to destroy property, as are "secondary devices" that are set to detonate after firefighters have arrived, he noted. "So, they're going after us as well," Mr. Perkins said.

BI 05-31-04 A 16 5/27/04 4:38 PM Page 1

Between the Lines

Compiled by Joanne Wojcik

Accenture could be watching you

Accenture, the Bermuda-based management consulting, technology and outsourcing firm formerly known as Andersen Consulting, is bidding on a contract to create a Big Brother-like system for the government to monitor the activities of foreign tourists before they set foot on U.S. soil.

Also in the running for the $15 billion contract with the Department of Homeland Security are Bethesda, Md.-based Lockheed Martin Corp. and El Segundo, Calif.-based Computer Sciences Corp.

The "US-VISIT" project is the brainchild of the Pentagon, which developed the idea after the terrorist attacks of 2001. It would create high-tech "virtual borders" using computer databases and biometric sensors to identify non-U.S. citizens seeking visas.

It's the computer's fault, soldier

Some auto insurers are denying reinstatement, refusing to write coverage or are raising premiums for members of the armed forces returning from Iraq because they could not demonstrate continuous insurance coverage, according to the North Dakota Department of Insurance.

Such underwriting requirements "are inappropriate and should be waived" in the case of returning U.S. soldiers, asserted North Dakota Insurance Commissioner Jim Poolman in a bulletin issued last month, after the department received numerous complaints from agents. "These servicemen and women, who have risked their lives on behalf of and in defense of our country, should not be penalized for their service," he said in the bulletin.

Automation may be partly to blame, suggested an insurance department spokeswoman. With so many insurers using computerized underwriting systems today, they may be unable to identify which policyholders are members of the armed forces and which are not, she theorized.

At least one of the insurers began addressing the problem as soon as it was brought to its attention, according to a spokeswoman for Seattle-based SAFECO Corp.

"We have a policy in place to make sure our active-duty military customers can temporarily discontinue coverage and restart their coverage without penalty. The rate that returning soldiers pay is the same as if they never changed their coverage. They simply need to let their agents know about their military status," she said.

SAFECO's policy has been in place since April 2003, the spokeswoman added.

Virtual visit, actual payment for health care

Blue Cross & Blue Shield of Massachusetts will start paying primary care physicians at some participating hospitals for "Web visits" conducted via the Internet.

Patients will be able to see their doctors online by sending them e-mail requesting nonemergency medical care. The insurer will pay the doctor $24 for such visits, with plan members contributing $5 of that amount in the form of a copayment.

The insurer's objective is to save time for both the doctors and their patients, especially when minor ailments are involved.

But with the deluge of e-mails most Internet users get every day, one has to wonder whether doctors will have any time left over to see patients "live" after they've cleared their inboxes.

In fact, one doctor already receiving e-mail as part of a pilot project with the insurer told the Boston Globe recently that he had averaged 10 e-mails a day in April, and that many of the patients did not have a legitimate medical reason for corresponding with him.

Sounds just like some office visits, doesn't it?

Tips and feedback from readers are welcomed. Please send information to jwojcik@businessinsurance.com.

Products & Services

MGU Target adds pair of specialty programs

AVON, Conn.—Target Insurance Services has launched two new coverage programs for management consultants and staffing firms.

The Management Consultants Program is available for a range of consultants, excluding those in the financial services industry. Errors and omissions liability and employment practices liability coverage are included. The program features deductibles starting at $2,500, with E&O limits up to $5 million and EPLI limits up to $250,000. This program is available to consulting companies with revenues up to $25 million.

The Staffing & Recruitment Professionals Program provides coverage for staffing firms and executive recruiters. Its aim is to protect companies from exposures such as lawsuits stemming from the placement of poorly performing employees. The coverage includes E&O liability, EPLI and personal injury. The program also features first-party and third-party crime coverage, which covers crimes committed by the firm's in-house employees and temporary employees sent to clients. The Staffing & Recruitment Professionals Program is available to companies of all sizes, and there is no minimum premium. A combined E&O and EPLI policy has a limit available up to $25 million; first-party crime has a limit available up to $5 million; and third-party stand-alone crime has a limit available up to $3 million.

Target Insurance Services is an Avon, Conn.-based managing general underwriter. Insurers that underwrite its programs include Chubb Corp., Lexington Insurance Co. and The Hartford Financial Services Group Inc. For more information, contact Valerie McDonald, chief underwriting officer, at 888-888-1613, ext. 244, or at *vmcdonald@target-capital.com.*

AmEx offers 401(k) plan administration services

MINNEAPOLIS—American Express Retirement Services is offering a bundled 401(k) product for employers.

The suite of retirement plan services, NEXTPlan, is designed to help employers streamline the administration of their defined contribution plans. The NEXTPlan features multiple vesting options, online enrollment, plan payroll services and online customized reports, among other administration features. The program also provides retirement assistance for employees, including financial educational programs and investment advice and guidance.

More information on the NEXTPlan can be found at *www.americanexpress.com/sponsors.*

Arch program covers environmental risks

NEW YORK—Arch Insurance Group, a division of Bermuda-based Arch Capital Group Ltd., is offering environmental contractors and consultants a new liability insurance program.

The program, Environmental Multi-Line Policy, provides commercial general liability, errors and omissions liability and contractors pollution liability coverage. The program is intended for environmental contractors, consultants, project managers and engineers, among others. Limits are available up to $25 million and include options for individual or combined aggregate limits.

For more information, visit New York-based Arch Insurance's Web site at *www.archinsurance.com.*

ACE USA launches health care division

PHILADELPHIA—ACE USA, a division of Bermuda-based ACE Ltd., has created a new health care unit to offer specialized insurance, claims and loss prevention services.

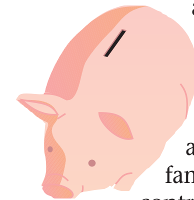
The Philadelphia-based ACE USA Healthcare Practice will offer risk management and claims management services to the health care industry, particularly hospitals and biotechnology firms. It will also offer a variety of liability insurance products, including general liability, excess liability, workers compensation, directors and officers, accident and health and captives, among others.

For more information, contact Ross Bertossi, senior vp of medical risk for ACE Professional Risk, at 646-458-6962, or visit ACE USA's Web site at *www.ace-ina.com.*

New HSA option offered by venture

BLOOMINGTON, Minn.–HealthPartners, a group of nonprofit health care organizations throughout Minnesota, and Wells Fargo Institutional Trust Services have formed a partnership to offer a health savings account to employers.

The program, Empower Health Savings Account Plan, allows employees to manage their own health care spending and make tax-free contributions toward their accounts.



An individual can contribute up to $2,600 toward an account, and a family can contribute as much as $5,150. Employer contributions are optional. The health savings account can be rolled over for future use, and employees can set aside money for retirement health care expenses as well. The product will be available to Minnesota employers starting July 1.

For more information on the HSA product, contact Bloomington, Minn.-based HealthPartners at 952-883-6000 or visit the company's Web site at *www.healthpartners.com.*

Business Resources

To place your ad, contact ***Irais Amleshi*** *at (312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@BusinessInsurance.com*
Business Insurance, Business Resources, 360 N. Michigan Ave., Chicago, IL 60601-3806.

benefitsCONNECT
Your complete employee benefits enrollment and management solution
Visit our website to learn about our **$475 QuickStart** program. Enter Discount Code: *2004BI* and your 1st month will be **FREE!**
www.benefitsconnect.net
877-944-6785 (toll free)

WLT Software of Florida, Inc.
Windows Based Claims Management
Call 1-877-807-4730
www.wltsoftware.com
Insurance Software Specialists

Risk/Actuarial Services
HSA Cost Modeling
Full range of such services offered to all parties involved with self-funded health care plans. Of current interest are Monte Carlo generated projections determining employer HSA contributions so as to achieve targeted plan costs.
Self-Funding Actuarial Services, Inc.
Carlton Harker, Principal
Harker2@earthlink.net
www.self-fundhealth.com
www.hsaplanning.com
(336) 759-2035

CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates
You'll learn more faster and you'll pass the first time or your money back. Guaranteed!
www.BurnhamSystem.com
Call 1-888-BURNHAM Now!

Mind Your Business!
Advertise in *BI's*
Business Resources
Call (312) 649-5340
Business Insurance

BI 05-31-04 A 17,18 5/28/04 5:57 PM Page 1

Asian ship collision to hit multiple lines

By PETA MILLER

SINGAPORE—The collision of a car carrier and oil tanker in the Strait of Singapore is expected to result in large claims on cargo, hull and protection and indemnity policies.

The incident also may spark a legal fight over liability, sources say, as cargo and hull insurers consider subrogating claims against the vessels' third-party liability insurers.

Late Saturday, the Panama-registered tanker MT Kaminesan, weighing 159,813 gross tons, and Panama-registered car carrier MV Hyundai No. 105, weighing 40,772 gross tons, collided as they were heading in opposite directions in the narrow Strait of Singapore between Singapore Island and Indonesia. No one was injured in the incident, which is under investigation by the Maritime & Port Authority of Singapore.

Despite damage to its port bow and forepeak tank, the tanker did not spill the approximately 82 million gallons of crude oil it was carrying. The tanker is owned by Tokyo-based Mitsui O.S.K. Lines Ltd.

The car carrier, though, had a hole measuring about 165 feet by 66 feet in its port side and sank Sunday after it was towed out of shipping lanes. Its cargo of 4,191 cars, which was bound for Europe, was worth about $40 million, according to the ship's operator, Seoul, South Korea-based Eukor Car Carriers Inc.

The U.K. Mutual Steamship Insurance Assn. Ltd., based in Bermuda, covered the MV Hyundai No. 105 for third-party liability.

A spokesman for the UK P&I club said last Thursday that divers from Svitzer Wijsmuller Salvage, a marine salvage company, had been inspecting the wreck, which is lying on its side in about 148 feet of water, and making preparations to remove the bunker fuel from the ship's tanks.

Although there was what he described as a "very minor leakage" after the ship first went down, the spokesman said the Singapore authorities dealt with this and there have been no reports of pollution since.

A decision about whether to remove the wreck to avoid obstructing shipping lanes will not take place until the salvage company has reported more fully on the wreck and all bunker fuel has been removed, he added.

PHOTO: AFP

The Panamanian tanker MT Kaminesan after the collision.

Eukor said in a statement it would "go to any lengths" to prevent any environmental damage as a result of the collision and said it had the full support of its insurance companies to do so.

The Norwegian Hull Club, based in Bergen, Norway, insured the car carrier's hull at a value of $12 million, said Hogne Nesse, a claims manager in the club's Oslo office. "It is very likely it will be a total loss. Nobody can take the vessel out in one piece from those depths and with all the cars on board," he said.

Insurance for the MV Hyundai No. 105's cargo was arranged by companies importing the cars to Finland and Germany, according to Russelsheim, Germany-based Hyundai Motor Europe.

Britannia Steamship Insurance Assn. Ltd., based in Hamilton, Bermuda, covered the tanker for third-party liability risks but said no oil is escaping from the vessel at the moment. Liability is under investigation and it is too early to predict, the P&I club said.

PHOTO: EPA

Momart Ltd.'s warehouse for storing fine art was destroyed, along with many works of art, in a May 24 blaze at this industrial complex in East London, England.

Stored art works lost in blaze at London facility

By PETA MILLER

LONDON—Insured losses of fine art from a London warehouse fire are expected to cost up to £50 million ($91.7 million) and will be spread among underwriters in the London company market and Lloyd's of London.

A fire that broke out early May 24 and took three days to extinguish devastated multiple units of an industrial site in London's East End that included an art storage warehouse owned by London-based Momart Ltd.

As of Friday, the cause of the fire was still unknown, but police were investigating a site at the opposite end of the industrial complex late last week. Businesses in the other 35 units of the site included antique furniture and art restorers as well as auto repair garages, a spokesman for Momart said.

It is not yet clear what art works were in storage at the time of the fire, but numerous British modern and contemporary

See MOMART/next page

U.K. insurers urge employer assessment of workplace stress

By SARAH VEYSEY

LONDON—Risk assessments of workplace stress can help U.K. employers to better manage stress-related ailments and obtain lower employers liability premiums, insurance executives say.

As employers liability premiums soar, underwriters will likely offer reduced premiums to employers that can demonstrate efforts to minimize stress-related exposures, the insurers add.

However, as the incidence of workplace stress claims increases, employers should also have a process for dealing with the claims as they arise, a legal expert noted.

Insurers generally require evidence that companies have assessed workplace stress risks before they offer a quote for employers liability or employment practices liability coverage, said Helen Hatchek, an underwriting manager at Royal & SunAlliance Insurance Group P.L.C. in London. She made her remarks at an RSA-sponsored seminar held last week in London.

U.K. employers are required by law to purchase employers liability insurance, which covers a range of employee injuries. And as underwriters face an increase in stress-related employers liability claims, they are seeking to assess whether stress has been recognized as a health and safety issue by policyholders' top management and whether a stress management policy has been implemented, among other things, Ms. Hatchek said.

In addition, insurers frequently request information on absence figures and staff turnover when assessing the risk of stress-related claims, she added.

And underwriters will likely look favorably on companies that have employee assistance programs to offer help and counseling to employees suffering from work-related stress, she noted.

A workplace stress risk assessment should be the principal means of determining the overall level of workplace stress at an organization, said Margaret Shaugnessy, the people risk manager within RSA's human resources department.

The management of stress has been a particular focus for RSA in recent years, she noted. Besides analyzing absence data, RSA provides employees with surveys and questionnaires to gauge the perceived level of workplace stress, she said.

A recent spate of high-profile cases and large awards in the United Kingdom has raised employers' awareness of workplace stress risk, the experts noted.

Still, there are criteria that must be met for a stress-related injury claim against an employer to be successful, said Stephen Walsh, a partner at London-based law firm Plexus Law.

See STRESS/next page

World Updates

Willis acquires Argentine broker

Willis Group Holdings Ltd. has acquired a majority stake in Argentine broker Herzfeld & Levy. Willis finalized the purchase of another 20% stake in the Buenos Aires-based retail broker, bringing its share to 60%. Joseph Plumeri, Willis' chairman and chief executive officer, said, "We have ambitious expansion plans for Latin America as a whole."

Munich Re posts first-quarter profit

Munich Reinsurance Co. recorded a profit of 534 million euros ($656.2 million) for the first quarter of 2004, up from a loss of 557 million euros ($607.8 million) for the comparable period last year. Munich Re said the first-quarter 2003 result stemmed largely from an investment loss of 812 million euros ($886.1 million), which has been restated under International Accounting Standard 39. For the first quarter of 2004, Munich Re recorded investment income of 1.85 billion euros ($2.27 billion). Gross written premiums fell 4.3% to 10.4 billion euros ($12.78 billion), reflecting efforts to reject unprofitable business, a spokesman said.

Survey: U.K. companies plan pension changes

Many large U.K. companies say they plan to change their pension offerings within the next three years. In a study of 186 FTSE 350 companies—the largest 350 publicly listed companies in the United Kingdom—45% said they would make a significant change to their pension arrangements over that three-year period. Of those that expected a change, 51% said they planned to integrate pensions into a wider flexible benefits program. The survey, conducted by Towers Perrin in London, also found that 24% of respondents are considering, or would consider, offering employees a cash alternative to pension benefits. The survey also noted that only 27% of respondents now offer defined benefit pension plans to new hires compared with 58% in 2002.

Howden opens unit in India

Lloyd's of London broker Howden Insurance Brokers has opened an India division, Mumbai-based Howden Insurance Brokers India Private Ltd. Howden, part of London-based Hyperion Insurance Group, received a license from the Indian Insurance Regulatory & Development Authority to operate as a composite insurance broker in the country.

Stress: Assessment

Continued from previous page

Claims must be filed within three years, he noted, advising risk managers to maintain all documentation relating to potential claims. And employers should be aware that anything that has been entered into a claimant's personnel records could be used as evidence against the employer in some cases.

Claimants must prove that the stress resulted in a recognized psychological disorder, he noted. They must also prove that their illness was reasonably foreseeable and that employers should have recognized that the claimant was vulnerable and that there was "impending harm to health," Mr. Walsh said.

In addition, employers owe a duty of care to employees, and they could be held "vicariously liable" for stress-related illness suffered by employees as a result of bullying or harassment by another employee, he added.

But while maintaining a stress risk management assessment is vital to dealing with the exposure, it is unlikely to be useful as a defense in court, Mr. Walsh noted.

Risk management programs cannot be used as a successful defense, as most stress claims are prompted by a failure at line-management level and affect individuals, he said.

The seminar was moderated by James Peace, director-broker services and development in RSA's risk solutions division.

Momart: Art works lost in blaze

Continued from previous page

pieces were likely destroyed in the blaze, according to statements by their owners. The stored art belonged to personal collectors—including British advertising executive Charles Saatchi— public and private galleries and art dealers.

Annabelle Fell-Clarke, fine art underwriter with Reith Syndicate 1414, managed by Ascot Underwriting Managing Agency, said Ascot has "a fair share" of the loss and confirmed that Ascot covered Momart for liability for physical loss or damage to stored items. However, the coverage will not be triggered unless Momart is found to have be grossly negligent, she added.

"While it is a catastrophe, it is not a total catastrophic loss of hundreds of million pounds," Ms. Fell-Clarke said. The ultimate loss to the insurance market will likely be around £30 million ($55 million), she said.

Robert Read, fine art underwriter for Hiscox P.L.C.'s syndicate 33 at Lloyd's, estimated the loss at about £50 million ($91.7 million), but said that it will not likely lead to increased rates in the fine arts market.

The loss will be spread throughout the market and individual underwriters will likely not face large losses, said Daniel Wood, fine art underwriter at ACE Global Markets in London.

"We have a lot of clients that use Momart and who we know had things in warehouses but we don't know how much of that has been damaged," said a spokeswoman for AXA Art Insurance based in Cologne, Germany.

PHOTO: NYTIMES

Tracey Emin's "Everyone I Have Ever Slept With 1963-1995," a tent filled with embroidered names, was among the art lost in the Momart warehouse fire.

Professional MarketPlace

*To place your ad, contact **Irais Amleshi** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@BusinessInsurance.com*

Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

HELP WANTED

HELP WANTED

MORE CLASSIFIEDS ONLINE! www.businessinsurance.com

REQUEST FOR PROPOSALS

Washington State Ferries

THIRD PARTY ADMINISTRATOR CONTRACT FOR MARITIME JONES ACT CLAIMS

Washington State Ferries (WSF), a division of the Washington State Department of Transportation, operates the largest ferry fleet in the U.S. WSF is seeking Third Party Administrator (TPA) services for the following types of claims: (i) Incident Only Claims; (ii) Cure Only Claims; (iii) Maintenance and Cure Claims; (iv) Assumed Claims; and (v) assistance with Tort Claims, as assigned. WSF requests proposals from firms who have: (i) experience in providing Jones Act claims administration services; and (ii) a local office in Puget Sound, Washington.

The proposal due date/time is 3:00 p.m. on July 7, 2004. On or after June 8, 2004, the RFP Package will be available upon request to the following office for the **non-refundable** fee of $25.00. The RFP will also be posted at **www.wsdot.wa.gov/ferries/contracts** on or after June 8, 2004.

Legal Services and Contracts Department
Phone: 206.515.3606 (recording)
Washington State Ferries
Fax: 206.515.3605
2911 2nd Avenue, Seattle, Washington 98121-1012

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Board of Directors of
AVIATION & GENERAL INSURANCE COMPANY LIMITED,
Debtor in a Foreign Proceeding.

In a Proceeding Under Section 304 of the Bankruptcy Code
Case No. 04-B-13499 (SMB)

NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on May 21, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), with respect to **Aviation & General Insurance Company Limited** (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued an Order to Show Cause for Preliminary Injunction, dated May 21, 2004 (the "Order"), pursuant to which a hearing will be held on **June 3, 2004 at 10:00 a.m.** before the Honorable Stuart M. Bernstein in Room 723 of the Bankruptcy Court, One Bowling Green, New York, New York (the "Hearing"), to consider the Petitioner's Request for a Preliminary Injunction on the terms as substantially set forth below:

1. enjoining all Scheme Creditors (as defined in the Order) from: (a) seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property; (b) commencing or continuing any action or legal proceeding in connection with any Claim (as defined in the Order) (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim, against the Company or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award obtained in connection with any Claim against the Company, and commencing or continuing any act or action or legal proceeding in connection with any Claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company, or any of the Company's property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (d) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever); (e) drawing down any letter of credit established by or at the request of the Company in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (f) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the trust, escrow or similar arrangement;

2. requiring all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, to turn over and account for such property to the Petitioner or Scheme Advisors;

3. requiring all Scheme Creditors that are beneficiaries of letters of credit established by, on behalf or at the request of the Company, or parties to any trust, escrow or similar arrangement in which the Company has an interest, to (a) provide notice to the Petitioner's United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Petitioner to assess the propriety of such drawdown, withdrawal, setoff, or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff, or other application, and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff or other application, was made and provide such notice and other information contemporaneously therewith; and (b) turn over and account to the Petitioner for all funds resulting from such drawdown, withdrawal, setoff or other application, in excess of amounts expressly authorized by the terms of any contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established;

All parties-in-interest opposed to the Petitioner's Request for a Preliminary Injunction must appear at the Hearing at the time and place set forth herein. All papers submitted for the purpose of opposing the Petitioner's Request for a Preliminary Injunction shall be filed with the Bankruptcy Court with a copy to Chambers of the Honorable Stuart M. Bernstein and served on Chadbourne & Parke LLP (Attn: Howard Seife, Esq.) so as to be received on or before June 2, 2004 at 12:00 Noon, New York time. The Order and supporting papers will be made available upon request at the offices of the Petitioner's United States counsel at the address below:

CHADBOURNE & PARKE LLP
Attorneys for the Petitioner • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100 • Attn: Howard Seife, Esq.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Gareth Hughes and Anthony Joaquin, as Joint Provisional Liquidators of the Bermuda Fire & Marine Insurance Company Limited,
Debtor in Foreign Proceedings

In Proceedings Under Section 304 of the Bankruptcy Code
Case No. 93-B-46013 (PCB)

NOTICE OF MOTION FOR MODIFICATION OF PERMANENT INJUNCTION PURSUANT TO BANKRUPTCY CODE SECTION 304(B) IN AID OF AMENDING SCHEME OF ARRANGEMENT

PLEASE TAKE NOTICE that pursuant to an order of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), a hearing will be held on June 23, 2004 at 2:30 p.m., or as soon thereafter as counsel may be heard, before The Honorable Prudence Carter Beatty in Room 701 of the Bankruptcy Court, located at The Alexander Hamilton Customs House, One Bowling Green, New York, New York 10004, to consider the motion (the "Motion") of the Liquidators of The Bermuda Fire & Marine Insurance Company Limited (the "Company") for entry of an order pursuant to 11 U.S.C. §§ 105(a) and 304(b) modifying the Bankruptcy Court's Permanent Injunction Order, dated January 7, 1997 (the "Original Section 304 Order"), in order to encompass within its terms, and thereby give full force and effect in the United States to, the proposed Amending Scheme of Arrangement, dated April 15, 2004 (the "Amending Scheme") between the Company and its respective Scheme Creditors, comprising General Scheme Creditors and Protected Scheme Creditors (as those terms are defined in the Amending Scheme).

The Company is currently subject to a scheme of arrangement (the "Original Scheme"), dated October 2, 1996 and effective January 14, 1997. The Liquidators have proposed certain amendments to the Original Scheme, through the operation of an Amending Scheme pursuant to Section 99 of the Companies Act 1981 of Bermuda and Section 425 of the Companies Act 1985 of Great Britain. At separate meetings of General Scheme Creditors and Protected Scheme Creditors for the Company, held on May 18, 2004, the requisite statutory majorities of each of those classes of Scheme Creditors approved the Amending Scheme, and a hearing to sanction the Amending Scheme is scheduled to be held before the Bermudian Supreme Court and the High Court of Justice of England and Wales on June 18, 2004. If sanctioned and implemented, the Amending Scheme will make certain amendments to the Original Scheme that would affect the rights and obligations of the Company's Scheme Creditors, including the manner in which Scheme Creditors' disputed claims will be adjudicated.

By the Motion before the Bankruptcy Court, the Liquidators seek to modify the Original Section 304 Order so as to extend its permanent injunction in order to implement the provisions of the Amending Scheme in the United States. Copies of the Motion and the proposed Order granting the Motion, as well as copies of the Amending Scheme and the accompanying Explanatory Statement, including the proposed changes to the Original Scheme, are available to review and download from the Company's website at www.bfmic.bm. These documents also may be obtained by fax or written request to the Liquidators' attorneys at the address listed below.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be made in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the local rules of this Court, be filed with the Bankruptcy Court electronically in accordance with the General Order M-242 by registered users of the Bankruptcy Court's case filing system preferably in Portable Document Format (PDF), WordPerfect or any other Windows-based word processing format, with a hard copy delivered to the Chambers of The Honorable Prudence Carter Beatty, and served in accordance with General Order M-242 upon Clifford Chance US LLP, 31 West 52nd Street, New York, New York 10019-6131 (Attention: Madlyn Gleich Primoff, Esq.), attorneys to the Liquidators so as to be received by 4:00 p.m., New York time, on June 18, 2004.

Dated: New York, New York • May 25, 2004

CLIFFORD CHANCE US LLP
Madlyn Gleich Primoff (MP-1701) • Amy E. Halpert (AH-8538)
31 West 52nd Street, New York, New York 10019-6131
Telephone: (212) 878-8000, Fax: (212) 878-8375
Attorneys for Gareth Howard Hughes, Leon Anthony Joaquin and John Christopher McKenna as the Joint Liquidators

BI 05-31-04 A 19 5/28/04 5:58 PM Page 1

AAMGA: State officials voice concerns on proposals

Continued from page 4

market-conduct oversight, and improve the federal-state partnership to coordinate policy and promote uniformity of regulation (*BI*, March 22).

While uniform regulation in those areas would appear to be an appealing prospect, it also is fraught with potential problems, the panelists noted.

For example, Louisiana Insurance Commissioner Robert Wooley commented that total form deregulation probably would not be attractive to insurers.

He said that insurers like having regulatory approval of their forms because that official signoff is a legal benefit for them during litigated coverage disputes.

He noted, though, that Louisiana is moving away from a prior-approval system to a file-and-use system, and "that's where I think Congress is headed."

Mr. Wooley also expressed concerns about how the surplus lines industry might fare under federally mandated regulations.

The nonadmitted market is a market of last resort for some buyers and certain classes of business and often serves as an incubator for new coverages that buyers want but admitted insurers will not write. Regulators give surplus lines insurers the flexibility to respond to buyers' needs by subjecting the market to much less regulation than admitted insurers face.

Mr. Wooley said "the federal government already has shown its lack of knowledge" about insurance and that he has doubts whether Congress can understand the value of the surplus lines market and how it is regulated.

> **'If you think the NAIC has been slow, think about dealing with Congress.'**
>
> *Kevin McCarty*
> *Florida Office of Insurance Regulation*

Mr. Frazier said surplus lines insurers should continue to have regulatory freedom under federally mandated insurance regulations. He also said that if admitted market forms are deregulated, then wholesale brokers no longer should be required to search the admitted market for coverage before placing coverage with nonadmitted insurers.

Mr. Frazier, though, said he would like to see Congress create a central office to collect surplus-lines premium taxes. Such a facility is one idea for replacing the current premium tax-collection system, which many surplus lines brokers say is confusing and can lead to over- or undercollection of taxes.

But Mr. Wooley said he opposes such a facility, arguing that it could result in reduced tax revenues for some states at a time when all states face budget problems. "If you give up that income, where do you fill that hole?" he asked, noting that Louisiana collects nearly $18 million in surplus lines premium taxes annually.

A couple of panelists also expressed concerns that a federal regulatory system would be extremely slow in responding to market issues and consumer complaints.

"If you think the NAIC has been slow, think about dealing with Congress," said Kevin McCarty, the director of the Florida Office of Insurance Regulation.

Paula Davis, a deputy insurance commissioner in Louisiana, noted that that state's Insurance Department is committed to a 90-day turnaround on consumer complaints. "What will that mean with federal regulation?" asked Ms. Davis, expressing doubt that a federal system could be so nimble.

Former Arizona Insurance Director Charles R. Cohen said he feared that federal regulation could mean the "obliteration of state regulation." Mr. Cohen, who left the Insurance Department last October and now is an attorney with Ridenour, Hienton, Harper, Kelboffer Lewis & Garth P.L.L.C. of Phoenix, promoted the creation of a "multilayered" regulatory system.

> **'What other area of regulation is constantly absorbed with debates of what kind of system we should have? It's because we don't have the system we should have.'**
>
> *Charles R. Cohen*
> *Ridenour, Hienton, Harper, Kelboffer Lewis & Garth P.L.L.C.*

"What other area of regulation is constantly absorbed with debates of what kind of system we should have?" he asked.

"It's because we don't have the system we should have," explained Mr. Cohen, calling the current system "anachronistic."

"We have local, national and international markets, and we should have a regulatory system that has local, national and international elements," he argued.

Other panelists agreed.

Mr. McCarty asserted that there is "no reason" for separate state regulation of life products, because they are similar and do not vary from state to state.

But with the property/casualty insurance market, a "single-state market" with single-state regulatory oversight "makes sense," because each state has its own distinct market needs.

The NAIC has endorsed the concept of developing an interstate compact under which states would adopt national product standards and provide a central point for insurer filings.

According to the NAIC, six states so far have signed a compact for life products, and 24 other jurisdictions are considering it. The signatories are Colorado, Iowa, Maine, Utah, Virginia and West Virginia. To take effect, 29 jurisdictions must sign the compact.

Even if 29 states ratify the compact, its value would be limited if the six largest states do not become signatories, Mr. McCarty suggested.

Louisiana rejected the compact because it fails to establish certain standards, Mr. Wooley noted.

The sourcebook you won't want to share.

Business Insurance's
2003/2004 Market SourceBook:

Print Edition $50	CD-ROM $50

Entire contents copyright © 2003 by Crain Communications Inc. All rights reserved.

Think about it. If you want to buy or sell products or services in the marketplace, they have to be where your customers can find them.

And for the commercial insurance industry, everyone knows that place is the new *Business Insurance* **2003/2004 Market SourceBook.**

In convenient magazine-size format, *BI's* new Market SourceBook is the most comprehensive compilation of product and service providers. With nine tabbed sections containing more than 30 directories – covering Agents & Brokers, Alternative Risk Financing, Benefit & Claims Services, Insurers & Reinsurers, Risk Management Services, Technology Providers and Work/Life Services–and exclusive charts and rankings, this is the ultimate resource in the marketplace. And no one will want to share their copy.

Call today to purchase your own copy of *BI's* 2003/2004 Market SourceBook. Available in a print edition or PDF version on CD-ROM for the same cost.

www.businessinsurance.com
Business Insurance®
Crain Communications, Inc., Subscriber Services, 1155 Gratiot Avenue, Detroit, MI 48207-2912

To order, call: **888-446-1422**
Outside the US: **313-446-0450**
E-Mail: **subs@crain.com**

BI 05-31-04 A 20 5/28/04 5:39 PM Page 1

Solvency: Rate of impairments expected to ease

Continued from page 3

more stable times, and 1 in 50 in more difficult periods, the study found.

"The common denominator among property/casualty company impairments is diminished operating environment, with impairment peaks often triggered or exacerbated by external factors affecting underwriting or investment results," says the report.

Sudden and unexpected major events can push "already vulnerable companies beyond the brink," it says. "Those events can range from massive catastrophe losses to abrupt, negative shifts in the financial markets."

The years 2002 and 2001 were particularly difficult for the industry, with annual impairment frequencies hitting successive, multiyear highs," the report says. "The culprit, however, was not just the unprecedented catastrophic World Trade Center loss and the resulting near-term high of 116% in the 2001 combined ratio.

"Rather, it was the accumulation of years of inadequate pricing and loss reserving that emerged rapidly and caught up with the insurers' weak balance sheets," the Best report says.

Best found that of the 562 companies where the primary causes for the impairment had been identified, the lead cause was deficient loss reserves/inadequate pricing.

This accounted for 37.2% of the impairments over the entire 34-year period studied, but 66% of the total in 2000 and 2001, and 88% of 2002 impairments.

"When loss reserves are found to be deficient, the insurer must increase reserves, thereby depleting the company's capital and surplus—the margin between solvency and insolvency," according to the study.

Rapid growth was the second major cause of impairments, accounting for 17.3% of the total over the period of the study.

"Diminished capital strength becomes a greater probability for insurers that embark on long-term aggressive expansion strategies, particularly when new lines of business and a lack of related underwriting experience are involved," says the study.

Other causes of impairment included: alleged fraud, overstatement of assets and catastrophe losses. All of the primary causes of impairments in the study, with the possible exception of catastrophes, "were related to some form of mismanagement," the report states.

Mr. Williams said one of the themes that emerges from the study is that "insolvencies, excluding problems with the catastrophes, are due to mismanagement, and a lot of that falls into the area of bad underwriting and what we call the cash-flow underwriting cycle."

Property/casualty insurers are able to subsidize their underwriting revenues with investment income when interest rates are high or there is a very strong equity market "until something happens," such as declining interest rates, and they "find themselves in trouble," said Mr. Williams.

Based on premium volume, most impaired companies were small. They most frequently wrote commercial lines, which experienced more volatile underwriting results and lower profitability, particularly during the 1980s and 1990s, says the study.

The financially impaired property/casualty insurers tended to be stock companies, which most frequently wrote commercial lines business, particularly during those years. Although they represented 51% of the industry's premium volume, on average, these companies accounted for 74% of the industry's financially impaired companies, the study says.

More than half of the insurers were in business less than 15 years, said Mr. Lafayette.

The Best study also included an analysis by state of domicile. New York had a high impairment count of 64 over the period studied, but given the large number of insurers in the state that resulted in an average annual impairment frequency of 0.9%, which is close to the national average. In contrast, Louisiana had an impairment count of 40, but because of the relatively low population of insurers it resulted in the highest frequency of any state or territory, at 4.2%.

The study found no correlation between a state's regulatory resources and its impairment frequency. "Higher state budgets do not necessarily result in fewer company impairments," says the study.

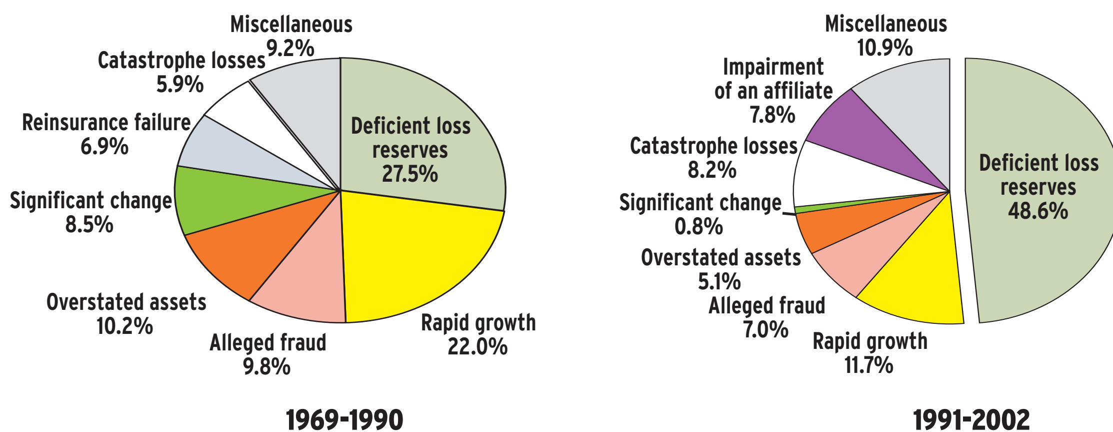
More significant, says the study, are catastrophes and factors unique to local markets. California and Florida both have higher-than-average impairment frequencies but are also subject to natural catastrophes and may require greater resources for regulatory oversight, says the study.

The study also suggests that Best has done a good job of pinpointing troubled companies in its ratings. Best followed more than two-thirds of the 871 financially impaired insurers covered by the study for at least one year before impairment and identified nearly all of those that were approaching impairment by either significantly lowering or eliminating their rating.

Electronic copies of the report can be downloaded for $250 from www.ambest.com. There is no charge for BestWeek subscribers.

SHIFT IN CAUSES OF FINANCIAL IMPAIRMENT

Loss reserve deficiencies were a greater factor in property/casualty insurer impairments in recent years, compared with the period from 1969 to 1990, A.M. Best Co. found.



Source: State insurance departments, A.M. Best Co.

Panel offers tips on finding a secure P/C insurer

Hines Symposium panelists address risk manager concerns, questions on solvency

By REGIS COCCIA

CHICAGO—Corporate policyholders concerned about the financial stability of their insurers should look for early warning signs, a panel of insurance industry experts suggested.

Discussing the theme "Insurer Security: Can You Pick a Survivor?" at the 2004 Harold H. Hines Jr. Memorial Symposium last week in Chicago, the panelists advised policyholders to examine financial reports and other publicly available information rather than rely solely on rating agency insurer financial strength ratings.

One of the "problems with ratings is that, while it may say you're secure, you can't operate in the marketplace with a rating below A-," said Paul F. Sherbine, managing director in the Market Information Group of Marsh Inc. in New York. Mr. Sherbine noted that while A.M. Best Co.'s B++ financial strength rating is considered "very good," brokers generally will not seek quotes from any insurer rated below the A level, which can keep a lower-rated company from growing its business.

Other "flags" of potential trouble, Mr. Sherbine said, include slow-paying reinsurers, which can create cash-flow problems. Also, "rapid expansion and significant attachment of debt to the balance sheet" can adversely affect an insurer, which was one of the problems afflicting the now-defunct Reliance Insurance Co. and which precipitated the rapid downfall of Kemper Insurance Cos., he said.

Also, frequent management changes and "significant differences in pricing" from that offered by competing insurers could signal impending trouble, Mr. Sherbine warned. "If the deal looks too good to be true, it probably is," he said.

Reserving practices can also be indicators of future problems, other panelists noted.

"Over half of insolvencies come from loss-reserving problems," said Steven A. Coombs, president of the risk management consulting firm Risk Resources Inc. in Elmhurst, Ill.

"Brokers know what's going on with reserves. Companies go insolvent often after rapid growth" in which reserves do not keep pace with the risks assumed, he said.

Nathaniel S. Shapo, former director of the Illinois Department of Insurance and now a partner at Sonnenschein, Nath & Rosenthal in Chicago, agreed that "the reserve issue is often a big-ticket item" in insurers' financial health.

Another factor delaying the recognition of problems is "lag time in rating actions," he said. "It takes a long time to do a thorough analysis," and insurers use "confidentiality agreements during this analysis with rating agencies" until reviews are completed.

Even state regulators, who are responsible for monitoring insurer solvency, have limited resources, Mr. Shapo said. "Budget problems frustrate state insurance departments. In theory, we wouldn't see that in a federal system" of insurance regulation, he said.

Although a "pseudonational system" of state insurance department accreditation has been developed by the National Assn. of Insurance Commissioners, it is "not a perfect system," and "regulators can't be everywhere at once," Mr. Shapo said.

Ultimately, even insurers that carry high ratings can fail, the speakers warned. "Statistically, P/C companies rated A or A- are 40% more likely to fail than somebody who's A++. B+ rated companies are 80% more likely (to fail), and so on. There's a definite disparity" in the financial strength of insurers, Mr. Coombs said.

He acknowledged that, given the pressure to control rising costs, some risk managers might be tempted to consider coverage from a lower-rated insurer for less premium.

"It's more than just ratings," he said. "We all have a tendency to want to hit a home run and bring it home to our manager."

Marsh's Mr. Sherbine cautioned against settling for lower-cost coverage in the short term.

"You're not going to get all three" desired qualities from one insurer—high rating, favorable coverage terms and low price, he said. "If you have (high) ratings and coverage, you're going to get hit on price."

Mr. Sherbine said he advises clients to take a longer-term approach for all lines of insurance coverage. "A lot of people think property is a short-tail line. We had a client that had an eight-year arbitration on a 1995 property claim," he said, adding that the World Trade Center insurance coverage dispute is still being resolved, even though the trade center was destroyed nearly three years ago. "There are no short-tail lines of business anymore."

The Hines symposium was presented by the Chicago chapter of the Risk & Insurance Management Society Inc., the Insurance School of Chicago and *Business Insurance*. Paul Winston, editor of *Business Insurance*, moderated the panel.

BI 05-31-04 A 21 5/28/04 5:59 PM Page 1

Commissions: Broker pay under scrutiny

Continued from page 1

launched investigations into the arrangements and amid "quite a bit of discussion" of the issue among RIMS members on the group's Web site, said Nancy Chambers, RIMS president and risk manager for the Waterloo Region Municipalities Insurance Pool in Kitchener, Ontario.

No deadline has been set for the five-member subcommittee's review, but a report is expected in the near future, Ms. Chambers said.

One of the things the task force will look at, a RIMS spokeswoman added, is a survey by New York-based information services provider Advisen Ltd. that found a majority of risk managers view the arrangements as a conflict and feel they are not getting adequate disclosure of contingent commissions from their brokers.

Of 330 risk managers responding to the survey, 69% said the commission arrangements are a conflict—though not all advocated eliminating them—and less than 20% said they are getting fully adequate disclosure, Advisen reported last week.

While numerous risk managers have said publicly that they do not consider contingent commissions to be a major issue, the survey—which guaranteed anonymity—shows that many risk managers privately express a greater level of concern over the practice, Advisen noted.

"Risk managers were pretty reluctant to go on the record criticizing these," said David Bradford, an Advisen executive vp.

Reacting to the survey, Ken Crerar, president of the Washington-based Council of Insurance Agents & Brokers, said the buyers must demand disclosure from their brokers and hold brokers accountable for failing to provide the information.

"Our position from day one has been disclosure, disclosure, disclosure," Mr. Crerar said. "If (risk managers) are asking the question and not getting the answer, there's a problem, and they can take their business somewhere else."

Under contingent commission arrangements, also known as placement service or market service agreements, brokers receive additional commissions from insurers based on volume of business produced or profitability.

The practice provoked widespread debate in the late 1990s. The New York Insurance Department in 1998 told brokers they must disclose the arrangements, and RIMS in 1999 reached an agreement with Marsh & McLennan Cos. Inc. on the level of disclosure required for clients who requested it.

The issue appeared dormant until earlier this year, when the Washington Legal Foundation, a free-market oriented public policy group, complained about the arrangements' potential for conflicts of interest in letters to insurance commissioners and attorneys general in New York and California.

Since then, investigations into contingent commission deals have been launched by New York Attorney General Eliot Spitzer, California Insurance Commissioner John Garamendi and Connecticut Attorney General Richard Blumenthal. Mr. Spitzer has issued subpoenas to several brokers and insurers, including Marsh, Aon Corp., Willis Group Holdings Ltd., Kaye Insurance Associates and Chubb Corp.

Amid the renewed discussion, Advisen conducted a telephone and e-mail survey of 2,500 risk managers in 30 states, receiving 330 responses. The respondents were largely from public companies, but also included officials of private companies, not-for-profit groups and government entities, Mr. Bradford said. Respondents were typically large companies, with a median of $10 million in annual insurance premiums and risk management expenditures, he said.

Overall, 69% of those responding said contingent commissions represent a conflict of interest for brokers. Unsolicited comments from these respondents suggested that they fall into two camps: a smaller group that said the conflict is inherently unacceptable, and a larger group that found the conflict acceptable as long as a broker discloses commissions to its client, Advisen reported.

At the same time, a majority of the surveyed risk managers—56%—said their broker does not disclose contingent commission agreements in all cases, and 82% reported that the level of disclosure they get from brokers is less than fully adequate, the survey found.

"They are not very happy with the amount of information they're getting from their brokers about these agreements," Mr. Bradford said.

A "surprisingly large" number of respondents, however, volunteered that they have never asked their brokers for the information, in some cases because of a conviction that the broker has the company's best interests in mind, Advisen reported.

Several other risk managers said they get general disclosures about the existence of agreements but not the amount of commission related to their own account. "The reason always given is that the contingent commissions are on the overall book and splitting them out by individual clients is not possible," Advisen quoted one risk manager explaining.

Advisen also found that a large number—23%—of those who said contingent commissions are a conflict also gave their brokers top marks for disclosure. This suggests that those most concerned about the issue are also the loudest in demanding detailed information, Advisen concluded.

Meanwhile, risk managers were divided on the question of how an elimination of contingent commissions would affect insurance costs. A majority—56%—said there would be no change in costs, while the remaining 44% were evenly split between those who thought costs would rise and those who thought they would fall.

Some risk managers said they believe brokerage costs would increase and premiums would drop. While the result might be a "wash at the end of the day, it would put the costs where they belong…and remove the conflict of interest," Advisen quoted one risk manager saying.

The fact that 78% of the respondents said costs would stay the same or rise, though, may indicate why few have raised a fuss about contingent commissions in recent years.

"The vast majority does not see any bottom line benefit to themselves in pushing the issue," Mr. Bradford said.

eBC Call for Entries

Now in it's 32nd year, the Employee Benefits Communication Awards acknowledge excellence in communicating employee benefit programs.

The EBC competition couldn't be more timely as the impact of rising healthcare costs demands even more effective and efficient use of employee benefits.

This competition judges the effectiveness of the benefits communication effort and no value is placed on the actual benefits offered by a particular company.

- Winners will be selected from a variety of caetgories.
- All companies in the U.S. and Canada are eligible to enter their own benefit communication programs.
- There are no restrictions as to the size of company or cost involved in the preparation of the benefit programs.
- No generic programs are accepted.
- Consulting firms are invited to submit programs on behalf of their clients.

The deadline for completed entries is July 26.
To download the EBC rules and entry form, go to www.businessinsurance.com
or for an electronic version, **e-mail: bobrien@crain.com**

www.businessinsurance.com
Business Insurance

BI 05-31-04 A 22 5/28/04 5:59 PM Page 1

CEOs: Pay increased in 2003

Continued from page 1

Ltd. He took home more than $5.0 million in salary and bonus, a 129.4% increase over 2002, making him the sixth-highest-paid CEO. Mr. Duperreault, who stepped down this month as ACE's CEO but will remain chairman, saw his bonus nearly quadruple last year, to $4 million. ACE's 2003 revenues grew 50.1%, to $10.69 billion, while profits soared to $1.42 billion from $76.5 million in 2002.

Evan G. Greenberg, formerly ACE's president and chief operating officer, succeeded Mr. Duperreault as chief executive (*BI*, March 15). In 2003, Mr. Greenberg took home a $975,000 salary and a $2 million bonus, which would have made him the 16th-highest-paid CEO on *BI*'s list.

Patrick G. Ryan, CEO of Chicago-based Aon Corp., also saw his cash compensation more than double in 2003, to nearly $2.4 million, making him the 18th-highest-paid chief executive. Although his $1.1 million salary remained unchanged in 2003, he received a $1.25 million bonus, after forgoing bonuses in 2002 and 2001. Aon's revenues increased 11.4% in 2003, to $9.81 billion, and its profits increased 34.8%, to $628.0 million.

"If you step back and look at the big picture, 2000 and 2001 were some difficult years for the insurance industry," said Mike Garelik, a Philadelphia-based practice leader with Watson Wyatt Worldwide.

While those years were bad, "you had some pretty good years in 2002 and 2003," he said. "So what you're seeing…is, to some degree, a little bit of a catch-up where boards felt they needed to do something because of the couple of years where things were difficult."

While this was the case at many companies in the commercial insurance industry, "there were still some companies where (cash compensation) didn't go up quite as much or didn't go up at all," Mr. Garelik said. "You have to look at what's happening at each individual company."

Indeed, while a vast majority of the 25 companies surveyed by *BI* reported strong 2003 results, other companies had a difficult year and their CEOs felt it in their wallets.

On the heels of Bermuda-based XL Capital Ltd.'s 6.1% drop in 2003 profits, to $317.7 million, for example, CEO Brian O'Hara received no bonus for the year—taking home a salary of only $1 million, or 50% less than in 2002. The insurer's proxy statement attributed Mr. O'Hara's lower compensation to the company's failure to meet internal goals for operating earnings and return on equity due to a net increase in reserves for prior years' business.

Although Marsh & McLennan Cos. Inc. reported double-digit revenues and profits for 2003, CEO Jeffrey W. Greenberg saw a 17.5% drop in his compensation for the year, to $4.7 million. According to the company's proxy statement, the compensation committee considered the effects of the mutual fund scandal that took place at MMC's investment management subsidiary Putnam Investments and decreased Mr. Greenberg's annual incentive award by $1 million.

These are just two examples of what executive compensation consultants say is a growing trend among boards of directors linking pay with company performance.

Although section 162(m) of the Internal Revenue Code denies a publicly traded company a tax deduction for executive compensation in excess of $1 million unless the excess amount is based on performance, boards are under even more pressure today to justify executive compensation due to all the corporate governance issues, consultants say.

"There's a great deal more rigor on the part of compensation committees in making sure that performance and pay are linked, much more than ever before," said Richard Furniss, a New York-based principal and specialist in insurance industry executive compensation for Towers Perrin.

"In line with all the governance issues companies have had…they are putting more time and energy" into executive compensation, agreed Alan Johnson, managing director of Johnson Associates, a New York-based executive compensation firm.

Despite these efforts, not all pay followed profit trends, *BI*'s survey found.

The Hartford Financial Services Group Inc., for example, reported a $91 million loss for 2003, compared with a $1 billion profit the prior year, but gave CEO Ramani Ayer a 16.5% pay raise, to $3.3 million.

According to the Hartford, Conn.-based insurer's proxy statement, though, Mr. Ayer's $2.2 million incentive award in 2003 was based on achieving certain financial goals established at the beginning of the year and excluded unusual or nonrecurring items such as reserve increases. The Hartford took an aftertax charge of $1.7 billion in 2003 to increase its asbestos reserve, which contributed to its net loss.

"To the extent that unforeseen events outside the control of the company affect the calculation of operating earnings for financial accounting purposes, the committee believes it is consistent with the purpose and intent of these programs to exclude the impact of these events from the calculation of operating earnings for incentive compensation purposes, so that the compensation payable to management employees is not reduced or enlarged as a result of such events," the company's proxy statement said.

In terms of cash compensation, the managed care industry shelled out the biggest bucks last year.

Dr. William W. McGuire, CEO of UnitedHealth Group Inc., was the highest-paid CEO on *BI*'s list, with a $7.55 million salary and bonus in 2003, a 5.2% increase over 2002.

He barely edged out Leonard D. Schaeffer, CEO of competitor WellPoint Health Networks, who took home $7.35 million in compensation in 2003, making him the third-highest-paid CEO on the list.

Maurice R. Greenberg, CEO of American International Group Inc., was No. 2, with 2003 cash compensation of $7.5 million, a 25% increase.

Compensation consultants point out that salary and bonus make up only a portion of a CEO's compensation package. Long-term incentive awards, including stock options and restricted stock awards, also are given to CEOs annually as part of their total compensation package.

But while stock options have been the most popular long-term incentive award for executives in the past, more companies are awarding restricted stock today, consultants say. Part of the reason, they note, is due to new accounting rules taking effect in 2005 that require companies to expense options.

"This year, in particular, I've seen a lot of shifting into the restricted stock realm," said Diane Posnack, managing director of Pearl Meyer & Partners, the New York-based executive consulting unit of Clark Consulting. "There used to be a much heavier emphasis on options," she said, but, under the new accounting rules, it's become less economic to provide them.

With restricted stock, executives are granted shares at the current stock price but must meet some vesting period before they can actually own the stock. Consultants say that while restricted stock has generally been used as a retention device, many companies are adding performance goals to the grants as well.

HIGHEST-PAID INSURANCE INDUSTRY CEOS

Name, Age	Company	2003 cash compensation	2002 cash compensation	% change	2003 total revenues	% change	2003 total net income(loss)	% change
Dr. William W. McGuire, 55	UnitedHealth Group Inc.	$7,546,154	$7,171,154	5.2%	$28,823,000,000	15.2 %	1,825,000,000	35.0%
Maurice R. Greenberg, 78	American International Group Inc.	7,500,000	6,000,000	25.0	81,303,000,000	20.5	9,274,000,000	68.0
Leonard D. Schaeffer, 58	WellPoint Health Networks [1]	7,347,031	6,937,071	5.9	20,359,691,000	17.4	935,229,000	33.0
William R. Berkley, 58	W.R. Berkley Corp.	5,933,562	6,036,000	-1.7	3,630,108,000	41.5	337,220,000	92.6
Jon A. Boscia, 51	Lincoln National Corp.	5,097,571	2,784,855	83.0	5,288,900,000	14.0	511,900,000	949.0
Brian Duperreault, 56	ACE Ltd.	5,030,000	2,192,500	129.4	10,689,742,000	50.1	1,417,482,000	1,751.7
Jeffrey W. Greenberg, 52	Marsh & McLennan Cos. Inc.	4,700,042	5,700,040	-17.5	11,588,000,000	11.0	1,540,000,000	12.8
Robert H. Benmosche, 59	Metropolitan Life Insurance Co.	4,500,000	4,580,769	-1.8	36,283,000,000	6.7	2,217,000,000	38.1
Joseph J. Plumeri, 60	Willis Group Holdings Ltd.	4,500,000	3,800,000	18.4	2,076,000,000	19.7	414,000,000	97.1
John D. Finnegan, 55 [2]	Chubb Corp.	3,465,000	NA	NA	11,394,000,000	24.7	808,800,000	262.9
Larry C. Glasscock, 55	Anthem Inc.	3,351,845	3,332,000	0.6	16,771,400,000	26.3	774,300,000	41.0
Ramani Ayer, 56	Hartford Financial Services Group Inc.	3,300,000	2,833,750	16.5	18,733,000,000	14.1	(91,000,000)	NM
Dr. John W. Rowe, 59	Aetna Inc.	3,242,146	3,500,000	-7.4	17,976,400,000	-9.6	933,800,000	NM
H. Edward Hanway, 52	CIGNA Corp.	3,130,000	1,021,900	206.3	18,808,000,000	7.5	668,000,000	NM
Jay S. Fishman, 51	St. Paul Travelers Cos. [3]	3,000,000	2, 125,000	41.2	8,854,000,000	1.9	661,000,000	203.2
Stephen W. Lilienthal, 54	CNA Financial Corp.	2,886,538	2,022,885	42.7	11,716,000,000	-4.6	(1,433,000,000)	NM
Michael S. McGavick, 46	SAFECO Corp.	2,850,000	2,755,000	3.4	7,358,100,000	4.1	339,200,000	12.7
Patrick G. Ryan, 66	Aon Corp.	2,375,000	1,125,000	111.1	9,810,000,000	11.4	628,000,000	34.8
Thomas R. Watjen, 49	UnumProvident Corp.	1,758,500	1,023,750	71.8	9,991,600,000	39.7	(386,400,000)	NM
A.C. Zucaro, 64	Old Republic International Corp.	1,698,034	1,289,137	31.7	3,285,800.00	19.2	459,800,000	17
J. Hyatt Brown, 66	Brown & Brown Inc.	1,557,764	1,385,963	12.4	551,040,000	20.9	110,322,000	32.7
Carl H. Lindner, 84	American Financial Group inc.	1,415,000	1,940,000	-27.1	3,360,000,000	-10.3	293,815,000	247.1
J. Patrick Gallagher Jr., 52	Arthur J. Gallagher & Co.	1,350,000	1,133,300	19.1	1,263,800,000	19.2	146,200,000	12.5
Brian M. O'Hara, 55	XL Capital Ltd.	1,000,000	2,000,000	-50.0	8,017,008,000	21.9	317,700,000	-6.1
Martin L. Vaughan III, 57	Hilb, Rogal & Hobbs Co.	861,355	1,057,266	-18.5	563,647,000	24.5	74,954,000	15.1
Average		**$3,575,822**	**$3,114,015**	**14.8%**				

1. Merger pending with Anthem Inc. 2. Mr. Finnegan was named Chubb's CEO in December 2002. 3. Numbers represent St. Paul Cos. Inc. before late 2003 merger with Travelers Property Casualty Corp.
Source: Securities and Exchange Commission filings and company reports

Late News

Continued from page 1

Poland, Canada and the United States. Individual membership is open to risk managers from countries that do not have a FERMA member association. The addition of the Russian and Swedish organizations brings the total number of risk management associations in FERMA to 13.

PHOTO: PHOTOGRAPHER SHOWCASE

Norvir is Abbott Laboratories' brand of ritonavir.

Aetna abandons HIV drug lawsuit

Aetna Inc. has abandoned its class action antitrust lawsuit against Abbott Laboratories over the increased price of the HIV drug Norvir. Aetna did not give a reason for its decision. The complaint alleged that Abbott raised the wholesale price of Norvir, its brand of the generic drug ritonavir, which is used in combination with drugs produced both by Abbott and its competitors. According to the complaint, the increase drove up the price of the combined medication produced by Abbott's competitors and enabled Abbott to produce the least-expensive combined medication on the market. Abbott is the sole maker of Norvir. An Abbott spokeswoman said the company is willing to discuss the price increase with Aetna officials.

Ohio top court strikes down subrogation law

A state subrogation law requiring employees who win work-related third-party lawsuit awards to reimburse their employers for workers compensation benefits is unconstitutional, Ohio's Supreme Court ruled. The law discriminates against plaintiffs who win jury awards by not applying that same standard to plaintiffs who settle, the court ruled. The law has since been amended so the ruling will apply only to workers comp claims filed before April 9, 2003.

Reinsurers report lower combined ratio, premiums

U.S. reinsurers reported a 94% combined ratio for 2004's first quarter, compared with the 96.4% combined ratio reported by a comparable group for the same period a year ago, according to a survey by the Washington-based Reinsurance Assn. of America. The combined ratio reported by the 28 reinsurers included in the recent survey reflects a 67.6% loss ratio and a 26.4% expense ratio. The reinsurers reported $7.82 billion in first-quarter net premiums written, an 8.3% decline from the year-earlier period.

Vermont adopts workers comp reforms

Vermont Gov. James Douglas has signed a workers compensation reform measure that shortens the state's statute of limitations for filing a claim to three years from six. The new law also requires Vermont's commissioner of labor and industry, Michael Bertrand, to establish a new medical fee schedule by Feb. 1, 2005. Vermont's current fee schedule is so generous that some doctors have encouraged patients to file workers comp claims rather than bill their health insurers, according to Rep. Joyce Errecart, R-Shelburne. Ms. Errecart was one of the sponsors of the measure, H.B. 632.

Study rebuts some mold disease claims

PHOTO: KRT

The Breidinger family of Deltona, Fla., claims the mold on their front porch forced them to abandon their home.

Insurers are welcoming a new study that concludes that while indoor mold and dampness can cause respiratory diseases, they cannot be linked conclusively to other health disorders. The National Academy of Sciences' analysis found no evidence that exposure to mold or dampness causes chronic fatigue, neuropsychiatric problems or other maladies. "The new study reinforces what PCI has been saying for years and what other studies by the Centers for Disease Control have said—that mold poses no significant health problems to the vast majority of the population," said a spokeswoman for the Property Casualty Insurers Assn. of America.

St. Paul Travelers settles asbestos suits

The St. Paul Travelers Cos. Inc. has agreed to pay $90 million to settle a group of lawsuits related to its coverage of asbestos producer

Johns-Manville Corp. and alleging the insurer had a common-law duty to disclose the hazards of asbestos to the public. Under the settlement, which requires court approval, claimants allegedly injured by Manville products who filed so-called "direct actions" against Travelers Property Casualty Corp. will share in a $70 million fund to be set up by the insurer. St. Paul Travelers will pay up to an additional $20 million to cover legal fees in the cases, the insurer announced. The St. Paul Cos. Inc. and Travelers completed their merger April 1. The St. Paul, Minn.-based insurer said it will fund the settlement out of unallocated asbestos reserves and does not expect to take a charge against earnings.

Mercer refunds NYSE actuarial fees

Mercer Human Resource Consulting, a unit of Marsh & McLennan Cos. Inc., has returned $440,275 in fees for actuarial services that it provided to the New York Stock Exchange as part of settlement negotiations with Eliot Spitzer, the New York attorney general. Mr. Spitzer is suing the NYSE and its former chairman and chief executive officer, Richard Grasso, over Mr. Grasso's $187.5 million compensation package. Mr. Spitzer alleges that Mercer provided the NYSE board with information that contained "inaccuracies and omissions."

Briefly noted

Connecticut Gov. John Rowland has signed legislation that allows insurers to use an exclusion for fire losses that result from terrorist attacks. The fire-following exclusion contained in H.B. 5200 can be applied to Connecticut's standard fire policy....A Canadian government task force is exploring the impact of the reimportation of prescription drugs into the United States, including whether the practice could lead to drug shortages in Canada. The task force is made up of the deputy health ministers of each Canadian province and territory....The Illinois House of Representatives has overwhelmingly rejected a Democratic medical malpractice reform bill that would have encouraged the use of arbitration to settle medical malpractice disputes but that did not cap noneconomic damages. ...Oklahoma Gov. Brad Henry has signed legislation, H.B. 2141, that permits the formation of captive insurers in the state. The measure establishes liberal capital and surplus requirements for captives.

Check out BusinessInsurance.com

Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com.* Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.

Online Poll

[5/24 - 5/28]

Do you think the rates hospitals charge for services are:

89.8% too high

1.1% too low

7.9% about right

1.2% do not know

BI Stock Index

[5/24 - 5/28]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.*

Percentage change of *BI* Stock Index vs. key indicators

Indicator	Value	Change
BI Stock Index	2258.85	2.67
Dow Jones	10188.50	2.22
S&P 500	1120.68	2.48

Largest gains

Company	Change
PacifiCare Health Systems	8.46%
Humana Inc.	7.83%
AEGON N.V.	6.91%
Zenith National Insurance	6.37%
Lincoln National	6.19%

Largest losses

Company	Change
Trenwick Group Ltd.	-20.00%
Vesta Insurance Co.	-4.80%
American Safety Insurance	-4.29%
Argonaut Group	-3.61%
Meadowbrook Ins. Group	-2.88%

Weekly change by market segment

Segment	Change
Brokers	2.58%
Insurers/Reinsurers	1.71%
Managed Care Organizations	4.64%

Source: FinancialContent Inc. (*http://financialcontent.com*)

Ohio: Law sets criteria for asbestos claims

Continued from page 3

"At the federal level, they've been talking about getting this done for 20 years and they haven't gotten it done, and here's a state that's got it done," said Mr. Hansen, who is also managing director of the Ohio Manufacturers' Assn. in Columbus.

Members of Congress "may find themselves with four or five states now acting to pass asbestos reform in the vacuum created by the lack of federal action," predicted Mr. Hansen.

He praised state lawmakers and Gov. Taft for pushing the silica reform, saying that they were "actually anticipating a problem before it happened."

"As an attorney who is involved in asbestos-related issues, it's significant in a couple of respects," said Mark Behrens, a partner in the Washington office of the Kansas City, Mo.-based law firm of Shook, Hardy & Bacon L.L.P. "One is the significance the new legislation will have in Ohio cases. It will improve the litigation environment in a very large and important state for impaired claimants, for defendants and the court system."

The bills, Mr. Behrens said, likely will serve as models for other states; Ohio is the first statewide jurisdiction to legislatively establish medical criteria to manage asbestos cases.

The legislation is also significant because Ohio addressed "silica concurrent with asbestos," said Mr. Behrens. "One of the trends we're seeing—particularly in Texas, Mississippi and Ohio—is that some of the asbestos personal-injury lawyers seem to be diversifying their litigation portfolio into silica. For Ohio to resolve both issues together will avoid a situation where addressing one source of litigation may augment the other," he said.

Insurance industry representatives also hailed the actions of the Ohio Legislature.

"The Legislature's passage of H.B. 342 is an essential step in making sure that truly sick victims of silica and mixed-dust exposure receive priority in any litigation-based redress efforts," said Steve Schneider, the Chicago-based vp of the American Insurance Assn.'s Midwest region, in a statement released after the vote.

"Both bills aim to help the most severely sick workers by removing barriers that could potentially prohibit them from receiving fair legal and financial remedies," said Greg LaCost, senior counsel of the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

CalPERS: Cost-cutting tiered approach hits a wall

Continued from page 1

tions—rejected it.

Instead, with the help of Blue Shield of California, CalPERS used the few quality measurements currently available to excise 38 hospitals that it determined did not offer the best value for their services.

However well-intentioned CalPERS may have been, though, some industry observers are doubtful that current quality measures are adequate to accurately gauge which hospitals are better than others.

Hampering consumerism

Mr. Enthoven, a professor at Stanford University in Palo Alto, Calif., said CalPERS' move "could have been a good idea if…CalPERS could identify the excess cost per day and then go to the insureds and say, 'if you go to one of the 38 hospitals, you are fully responsible for the difference.' That would have been a good strategy."

"Everybody ought to be involved in cost-conscious choice. And to just jerk away something is unfortunate," he said. But, "unless you want to pay infinite prices, you've got to do something if people charge more than you think is reasonable. You've got to be able to walk away from it."

Rich Ostuw, a principal at Towers Perrin in Stamford, Conn., agreed that CalPERS had very little choice when the hospitals refused to cooperate with the tiered network approach.

"The ideal world is full collaboration. But the reality is that sometimes the employers need to make tough business decisions, and, in some cases, they will have to pick their partners," he said.

However, proponents of the consumer-driven health care movement, which they believe would foster competition leading to lower prices, were critical of CalPERS' retreat to the narrow network approach.

"I think this CalPERS move is totally anticompetitive," said Regina Herzlinger, a professor of business administration at Harvard Business School in Cambridge, Mass., and an expert in consumer-driven health care economics.

"What they should do instead is, they should charge the consumer more for expensive facilities and charge the consumer less for cheaper facilities, and then give them quality matrix so they can judge for themselves if the expensive hospital is a good or bad value for the money," she said.

"In a real consumer system, you have a lot of competition, and you get offered a lot of different products, and they all come at different prices, and it's the competition among them in giving the consumer value for the money that makes them get better and cheaper all the time," she said.

However, "if you narrow the number of competitors, you don't get innovation, what you get is oligopsony, in other words, they get very powerful, and they become very standardized and they all offer the same services at the same price, and you kill consumerism," she added. "And if they become powerful enough, they can actually dictate the price to the insurer."

A spokesman for CalPERS acknowledged that, in some ways, the organization is punishing providers for the bad health care purchasing behavior of its plan members.

"The big part of it is getting engagement. That is very, very difficult," he said. To control costs, CalPERS started with HMOs, and now it's at the provider level, and the next step will be "moving down the food chain" to the plan members, the spokesman said. "You can't just keep cutting. So then you have to go to the next level—the provider level. So that's where we are now, but we know that it's got to go deeper than that."

Janice Pushaw, director-global benefits strategy at Whirlpool Corp. in Benton Harbor, Mich., recently implemented a consumer-driven health plan at her company. Based on Whirlpool's experience, she questioned why CalPERS was not focusing on altering behavior in conjunction with the hospital cuts.

> **'If you narrow the number of competitors, you don't get innovation, what you get is oligopsony...they get very powerful...and you kill consumerism.'**
>
> *Regina Herzlinger*
> *Harvard Business School*

"They're saying that they're going to deal with the consumer side after they deal with the physician side? That's rather perplexing to me given CalPERS' size and influence. I would think they would be able to modify behavior in conjunction with each other," she said.

"If you're going to do the provider side, you better get the consumer aligned," Ms. Pushaw said. "We absolutely have to get to the core of altering consumer behavior because the providers are driving utilization and the employees aren't pushing back."

Tiering proposal rejected

Blue Shield has been dividing some of the hospitals under contract into two tiers with its "Network Choice" product since April 2002, according to David Joiner, senior vp-network management in the insurer's San Francisco headquarters.

CalPERS, which had been using Blue Shield's traditional HMO product, said it would consider a tiered product if Sutter Health were placed in the upper tier, according to a CalPERS spokesman. Sutter Health hospitals' costs average 60% higher than its Northern California peers and 80% higher than the statewide average, according to CalPERS.

But Sutter Health declined.

Some of the other hospitals cut from the network expressed some interest in participating in a tiered product, but "if Sutter didn't do it, it wasn't worth doing," the CalPERS spokesman said.

Sutter Health is participating in the Blue Shield's Network Choice product, but its facilities are on the lower tier, according to Mr. Joiner.

While not explaining why Sutter Health refused to move into the upper tier rather than lose CalPERS' business, a spokesman for the Vallejo, Calif.-based hospital chain said that, as an alternative, Sutter offered to hold its rate increases to single digits for two years. He also disputed CalPERS' assertions that Sutter's rates were significantly higher than that of other hospitals in the markets Sutter serves.

"When you look at Sutter hospital charges overall, and you use public data, government data, to conduct the analysis, which we have done, you see that our hospital charges are in line with those of other hospitals in Northern California," he said, adding that Sutter's findings were later validated by a state-sponsored study.

Moreover, "we believe Sutter Health is a value because not only are our charges in line with those of others in Northern California, we have stepped up in the area of quality improvement commitments. We are a Leapfrog (Group) leader. We are the only organization in the western United States implementing the electronic ICU, and one of the only organizations to implement the bar coding technology in our hospitals to ensure safer medication delivery. Both of these start to address the Leapfrog challenges, and we're doing so while maintaining financial competitiveness because our charges are in line," he asserted.

Mr. Joiner of Blue Shield acknowledged that "what you would see in the case of Sutter is they do consistently score very, very high on the quality matrix," but he also noted "they also score very, very high on relative cost."

And when Blue Shield compared hospital charges against a quality matrix that included criteria from the Leapfrog Group, the Joint Commission on Accreditation of Healthcare Organizations, the Patients' Evaluation of Performance in California, the California Perinatal Quality Care Cooperative and the National Voluntary Hospital Reporting Initiative, it found no correlation between cost and quality, according to Mr. Joiner.

"In other words, you have very expensive hospitals that are very high quality, and very expensive hospitals that score lower on the matrix. And the same is also true of the low-cost hospitals. What this says to me is it's not necessarily true that if you pay more you get more," he said.

But the Sutter Health spokesman questioned the findings of Blue Shield's quality comparison tool. "We have an unfair disadvantage here because we simply can't validate a secret study," he said.

Quality measures lacking

Some health care industry sources were skeptical that any of today's quality measurement tools are sufficient gauges of hospital quality.

"There is a real limitation right now. The Leapfrog criteria are a big help. Some of the other measures are useful. But nothing's totally prescriptive yet," said Mr. Ostuw of Towers Perrin.

"All the consumer-driven plans are striving to put all of this cost, quality and outcomes data in the hands of the plan members, but the data itself is in its infancy, and no matter what any plan sponsor—whether it's CalPERS or somebody else—does, they're working off data that is in its infancy, and they are working off matrices that are in their infancy," said Randall K. Abbott, a senior consultant and national leader for workforce benefit strategies at Watson Wyatt Worldwide in Philadelphia.

The subjectivity of the measurements is one of the reasons that CalPERS will need to tread carefully when explaining the reason for the hospital cuts to its plan members, he added.

> **'We absolutely have to get to...altering consumer behavior because the providers are driving utilization and the employees aren't pushing back.'**
>
> *Janice Pushaw*
> *Whirlpool Corp.*

"Consumers are beginning to understand the need for change, but they are not going to accept change that is penalty-based when they can't understand the rationale for the action," he said. "When any plan sponsor takes a step to penalize one party or the other, they have to be able to demonstrate that it was done in an informed way, and they need to make it understandable in a way that's meaningful to the plan member or the patient."

This lack of transparency is part of what led to the managed care backlash, and it could happen again if plan sponsors are not careful, Mr. Abbott warned.

"Patients look at the landscape today and say, 'Hey, I did exactly what you guys told me to do. You set up a network, you told me to go to these hospitals and these doctors, and I did what you said. You told me that these doctors and these hospitals were credentialed. They were the good guys, and that's why I should go to them. Now you're telling me some providers are more equal than others, harking back to 'Animal Farm.' 'Some animals are more equal than others,'" he said.

"So the challenge is that in order for us to move to the next level with providers, we really need to get beyond beating them up and get to a point where all of the parties are making informed decisions," he said.

Unfortunately, the CalPERS experience demonstrates that "we're not there yet," Mr. Abbott said.

Even Mr. Joiner of Blue Shield acknowledged that the matrix being used to compare the hospitals is constantly being refined, with additions made every six months.

To prevent confusion among plan members "we do not communicate the quality matrix," he said. "But, if you look at hospitals on the Blue Shield Web site, you'll see a dollar-sign approach that shows relative cost, like the Zagat's restaurant guide. On the quality matrix, you'll see how hospitals score on the various tests, like JCAHO or PEP-C or Leapfrog. What you will not see is the score together."

This is because "we don't believe that having the actual score there is ready for prime time yet," he explained. "We have a big responsibility on our shoulders. If we're going to use this information, we better make sure it's good information," he said.

Business Insurance
www.businessinsurance.com

SINGLE-COPY SALES
To order any current or back issue of *Business Insurance*, call the single-copy sales division of *BI's* Circulation Department:
1-888-446-1422

LIST RENTAL
Portions of *BI's* subscriber database are available to qualified companies for list rental. For available titles and a price quote, call our list broker:
313-446-1625

ADVERTISER INDEX

Issue of May 31

ADVERTISER	PAGE #
Acordia Inc.	11
Aetna Corporate	7, 9, T2
Aon Consulting	T5
Aon Corporation	2
benefitsCONNECT	16
Burnham Systems	16
Business Insurance	15, 19, 21, Cover 3, T14, T20
ComPysch	T12
Council of Insurance Agents & Brokers	Cover 2
Empire Blue Cross Blue Shield	15R
Fidelity Investments	T13
Great West Healthcare	T16
Hewitt Associates	T17
Information Products Inc.	T18
International Foundation Emp Retire	T19
Liberty Mutual	Cover 4
Lord, Bissell & Brook LLP	13
Mercer Human Resource Consulting	T15
MetLife	T6/T7
PricewaterhouseCoopers	T9
Private HealthCare Systems	T8
Self Funding Actuarial Services, Inc.	16
Sentry Insurance	14
United HealthCare	T10/T11
Wausau Insurance Company	5
Wellpoint Pharmacy Management	12
WLT Software of Florida, Inc.	16

BI 05-31-04 B 1 5/26/04 5:27 PM Page 1

Business Insurance

Special Take-Out Section

Benefits Management

May 31, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

Consulting & Outsourcing

Consultants answer call for outsourcing services

LARGEST BENEFIT CONSULTANTS

RANKING ON PAGE T4

BI 05-31-04 B 3 5/26/04 3:33 PM Page 1

Business Insurance

Special Take-Out Section

Benefits Management

May 31, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

Inside

Risks in handling personal data

Outsourcing employee benefit administration to foreign countries doesn't remove U.S. employers' duty to safeguard workers' private health care information.

page T12

European employers flock to outsourcing

Employers in Europe increasingly are taking advantage of opportunities to outsource noncore benefit functions so they can focus on strategic operations.

page T16

Some prefer to keep functions in-house

A survey of employers finds that not all organizations prefer to outsource all or most of their benefit administration. Some choose to retain certain functions.

page T18

Alternative route to cost savings

Alternative medicine is allowing employers to save money while providing valued health care to employees.

page T18

Cover photo:
Outsourcing employees field calls at a call center in Bangalore, India.
Reuters Photo Archive

Business Insurance's Directories of Employee Benefit Consultants and Benefit Outsourcing Providers, along with other lists, are available in the directories area of *www.businessinsurance.com.*

The searchable directories allow registered subscribers to find information by using various search criteria, including company name and revenue, among other information.

PDF copies of this and other *Business Insurance* directories can be purchased by e-mailing the Crain Information Center at *biorders@crain.com.*

Consulting & Outsourcing

Call centers widely used to ease onus on benefit departments

By JERRY GEISEL

Each workday, H.B. Fuller Co. receives about 20 telephone calls from employees with a variety of benefits-related questions.

But during the annual benefits open enrollment period for the St. Paul, Minn.-based special chemical manufacturer, call volume can quadruple for two or three weeks, said Todd Mestad, Fuller's employee benefits manager.

> **Helping field dozens of questions a day, H.B. Fuller's call center is 'an extension of our employee benefits department.'**
> *Todd Mestad*
> *H.B. Fuller Co.*

Still, that surge in calls doesn't overwhelm the company's three-person benefits department.

That's because employees' questions are not being fielded by Mr. Mestad or his department; instead, they go to a call center run by the benefits outsourcing unit of Mercer Human Resource Consulting.

From Mr. Mestad's perspective, the call center is "an extension of our employee benefits department." By handling for the benefit

See CALL CENTERS/page T10

Employers seek one-stop shopping for HR, benefit administration

Outsourcing firms expanding services

By JUDY GREENWALD

Many benefits outsourcing vendors are making a push to build one-stop shops for employers' needs.

Employers in many cases welcome the opportunity to reduce the number of vendors they use because it can reduce both costs and administrative distractions.

Michael Eck, a vp with The Segal Co. in New York, said that while employers previously had sought the "best in class" for each benefits outsourcing function, today, "there's a move toward a consolidation in the outsourcing vendors," as they look to provide a "sole-source environment." Vendors that had previously provided just 401(k) administration, for example, are now being asked to perform health/welfare and payroll services as well, he said.

Observers say much of the impetus for this move has come from employers.

Some companies using several different outsourcing vendors discovered that "they couldn't get a clear view of the entire picture," said Scott Azwell, Chicago-based benefits leader for Cincinnati-based Convergys Corp., which provides human resource outsourcing services among its businesses.

Rather than being able to simply concentrate on their own core competencies, companies had to develop a new skill—"vendor management," Mr. Azwell said.

"They're looking to choose a full-service provider, because they can't continue to invest in systems and technology in order to offer their employees the latest tools and services. The cost to do that is accelerating quite a bit," said Jack Callahan, executive vp of Boston-based Fidelity Outsourcing Services Co., a unit of Fidelity Investments.

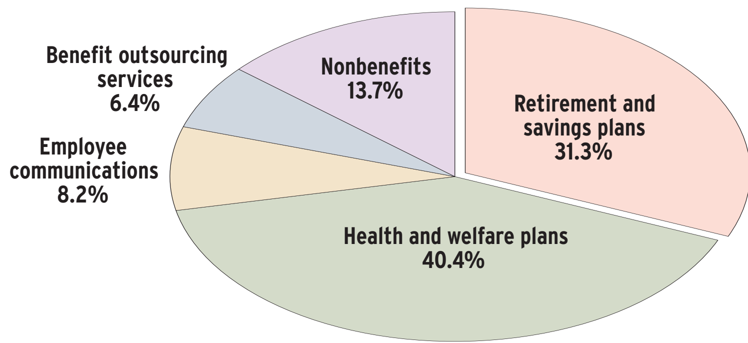
Employers now believe "there's some synergies and efficiencies in having it all in one place. And since providers are reaching out broader

See MARKET/page T6

BI 05-31-04 B 4 5/26/04 3:35 PM Page 1

BENEFIT CONSULTANT SERVICES

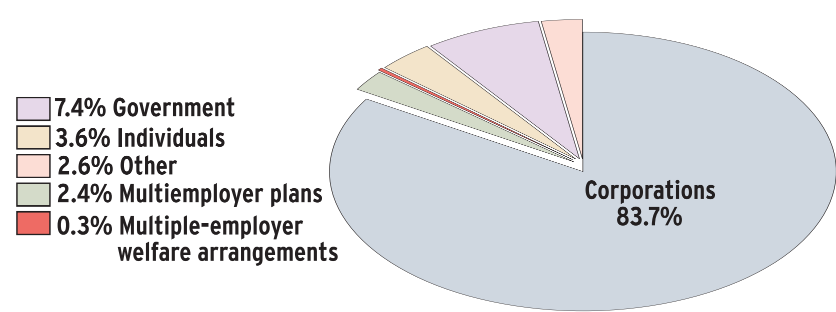
For firms deriving majority of revenues from benefit consulting



Source: *BI* survey

BENEFIT CONSULTANT CLIENTS

Clients by type.



Source: *BI* survey

World's largest employee benefit consultants

Ranked by worldwide benefit consulting revenues*

Rank	Company /Address	Phone/Fax/Web site	2003 benefit consulting revenues	2002 benefit consulting revenues	% change	% of gross revenues from benefit consulting	2003 gross revenues from benefit outsourcing services	Principal officer
1	Mercer Human Resource Consulting L.L.C. 1166 Ave. of the Americas New York, N.Y. 10036	212-345-7000 Fax: 212-345-7414 *mercerhr.com, mercerić.com*	$1,430,000,000	$1,336,000,000	7.0%	52.0%	$348,000,000	Peter Felton, chairman
2	Watson Wyatt Worldwide 1717 H St. N.W. Washington, D.C. 20006	202-715-7000 Fax: 202-715-7700 *www.watsonwyatt.com*	$898,000,000	$857,000,000	4.7%	84.0%	-	John Haley, president/CEO
3	Aon Consulting Worldwide 200 E. Randolph St., Suite 1000 Chicago, Ill. 60601	800-438-6487 Fax: 312-381-0240 *www.aon.com*	$829,000,000	$723,000,000	14.6%	69.0%	$295,000,000	Donald C. Ingram, chairman/CEO -Aon Consulting Worldwide
4	Towers Perrin 1 Stamford Plaza, 263 Tresser Blvd. Stamford, Conn. 06901	203-326-5400 Fax: 203-326-5499 *www.towersperrin.com*	$703,400,000	$700,600,000	0.4%	46.3%	$314,400,000	Mark V. Mactas, chairman/CEO
5	PricewaterhouseCoopers Human Resource Services 1301 Ave. of the Americas New York, N.Y. 10019	646-471-4000 Fax: 646-394-5577 *www.pwc.com/hrs*	$630,000,000 [1]	$700,000,000 [1]	-10.0%	70.0%	-	John Caplan, Sandy Pepper, global co-leaders -Human Resource Services
6	Deloitte & Touche USA L.L.P. 1633 Broadway New York, N.Y. 10019	510-273-2371 Fax: 213-688-5330 *www.deloitte.com*	$607,000,000 [2 3]	$498,000,000 [2]	21.8%	42.0%	-	Ainar Aijala, global managing director -Human Capital
7	Hewitt Associates Inc. 100 Half Day Road Lincolnshire, Ill. 60069	847-295-5000 Fax: 847-295-7634 *www.hewitt.com*	$536,400,000 [4 5]	$428,700,000 [4 5]	25.1%	27.0% [3]	$1,250,000,000 [4]	Dale L. Gifford, chairman/CEO
8	Mellon's Human Resources & Investor Solutions 85 Challenger Road Ridgefield Park, N.J. 07660	201-296-4000 Fax: 201-296-4004 *www.mellon.com/hris*	$445,500,000	$439,000,000	1.4%	45.0%	$340,600,000	James D. Aramanda, vice chairman -Mellon Financial Corp.
9	Ernst & Young L.L.P.-Human Capital 1225 Connecticut Ave. N.W. Washington, D.C. 20036	202-327-6000 Fax: 202-327-6714 *www.ey.com*	$340,000,000	$290,000,000	17.2%	80.0%	-	Bob McAndrew, director-Americas Performance and Reward
10	The Segal Co. 1 Park Ave. New York, N.Y. 10016	212-251-5000 Fax: 212-251-5490 *www.segalco.com*	$148,300,000	$145,500,000	1.9%	84.0%	-	Howard Fluhr, president/CEO

*Excludes revenues from claims administration, compensation consulting, insurance commissions and other nonbenefit consulting. 1 Fiscal year ending 6/30 2 Fiscal year ending 5/31 3 Estimated 4 Fiscal year ending 9/30 5 *BI* estimate

Source: *BI* survey

Visit *www.businessinsurance.com* for more information and to access the full searchable Directory of Employee Benefit Consultants.

BI 05-31-04 B 6,7 5/26/04 3:37 PM Page 1

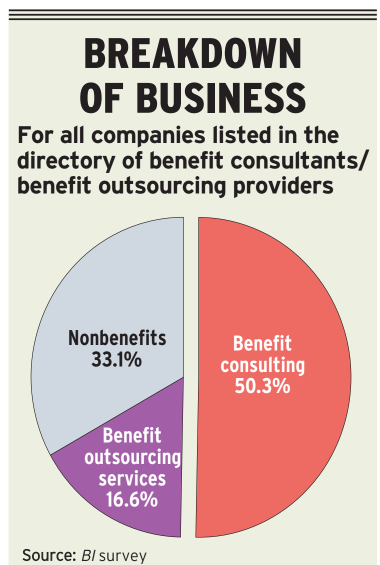
Market: Firms aim to offer one-stop shopping

Continued from page T3
and becoming more capable," employers are re-evaluating their approach and moving in that direction, Mr. Eck said.

This convergence in the industry, as outsourcers introduce more services, "is actually happening at a rather rapid rate compared to what we had initially expected," said David Peterson, director of marketing strategy for Minneapolis-based Ceridian Corp., which provides various outsourcing services for employers.

There has been a "convergence in the HR marketplace and the broader HR market space of everything HR—everything from benefits, to payroll, to time and attendance, to security, to employee assistance, work/life," Mr. Peterson said.

Human resources "is being looked at more broadly as a single, end-to-end system," he said. The focus is on "how you maximize that system, optimize it to be as efficient as possible (so as) ultimately to



drive costs out of it and offer a better value proposition," said Mr. Peterson, noting that rising health care costs are a key factor behind such moves.

Stephen Hill, executive director of risk management for the Detroit public schools, said the school system, which is now in its third year of using Ceridian for its benefits administration outsourcing, is examining the outsourcing of several additional services. These include time and labor processing, which involves keeping track of employees and the time they spend working, and call-center assistance in both human resources and payroll, Mr. Hill said.

"Everybody's got to do more with less," and his organization is looking for ways "we can outsource some of our more repetitive processes so our existing employees can deal with more core service issues," Mr. Hill said.

Doing more

Mr. Eck said benefits outsourcing can be viewed as a continuum. At one end are the application service providers, which provide the technology and software, while the business processes themselves remain in-house.

Then there are single-business outsourcers, which will take on all of an employer's human resource functions.

At the far end of the spectrum are the total business process outsourcing providers, which provide numerous outsourcing functions, including information technology, of which benefits and human resources may be only one component.

As part of this trend, traditional benefits outsourcing firms are offering new services and "reaching out a little bit further" to increase their market share and "do a little bit more than just benefits outsourcing," said Mr. Eck. They are "growing to become more focused toward HR business processing, with a little bit of payroll mixed in there, too," he said.

Mr. Eck pointed out, for instance, that Lincolnshire, Ill.-based Hewitt Associates Inc. last year bought Chicago-based Cyborg Systems Inc., which provides human resources management software and payroll services.

In addition, in January New York-based Mercer Human Resource Consulting acquired Houston-based Synhrgy HR Technologies, a human resources technology and outsourcing services provider.

At the same time, payroll services vendors "are now getting into benefits administration," including Web portal hosting and employee self-service, said David Coward, Dallas-based project director for TPI Inc., an outsourcing advisory firm.

Jim Konieczny, the leader of Hewitt's benefits outsourcing business, said: "What we're noticing in many situations is that it's no longer just about benefits, or it's no longer just about payroll. Organizations are looking for more holistic solutions, and while they may start with one discipline or another, eventually what they're looking to do is to work with an organization that can do things more broadly than what they're starting with," he said.

Andy Childs, Roseland, N.J.-based vp of marketing for ADP Benefit Services, said: "Companies are looking for outsourcing providers that can provide them with multiple services, and, obviously, they expect them to do them all well.

"There's always a split between those that go out and seek the 'best of breed' for each service, and those that would prefer to deal with a smaller number of vendors, but I

Continued on next page

Source: MetLife, The MetLife Study of Employee Benefits Trends, 2003. © 2004 Metropolitan Life Insurance Company, New York, NY. PEANUTS © United Feature Syndicate Inc. L0404C0E2(exp0406)MLIC-LD

Not quite there.

1-877-638-2862

BI 05-31-04 B 6,7 5/26/04 3:38 PM Page 2

TOP U.S. BENEFIT CONSULTANTS

Based on 2003 U.S. benefit consulting revenues

Company	Revenue
Mercer Human Resource Consulting L.L.C.	$729,300,000
Aon Consulting Worldwide	$530,560,000 [1]
Watson Wyatt Worldwide	$529,820,000
Towers Perrin	$511,371,800
Hewitt Associates Inc.	$321,840,000 [1,2]
Deloitte & Touche USA L.L.P.	$321,710,000 [3,4]
Mellon's Human Resources & Investor Solutions	$316,305,000
PricewaterhouseCoopers Human Resource Services	$252,000,000 [5]
Ernst & Young L.L.P.-Human Capital	$204,000,000
The Segal Co.	$146,075,500

1 *BI* estimate 2 Fiscal year ending 9/30 3 Fiscal year ending 5/31 4 Estimate
5 Fiscal year ending 6/30

Source: *BI* survey

Continued from previous page

think the balance has been tipping toward more of the latter," he said.

"There are providers out there that do a wide range of things well," he said. "It's not necessarily true that the more you do the less you do well," and there are opportunities for efficiency when there is integration among various functions, Mr. Childs added.

"It just seems natural that (benefits) integration happens faster" and can be done somewhat better if it is coming from one company, said Larry Concannon, director of product marketing-benefits for Framingham, Mass.-based Workscape Inc., a provider of benefits and workforce management solutions.

For example, if a call-center counselor has received several calls questioning information that has appeared on the client company's Web page, it can be readily changed, he said.

Suzanne Peterson, human resources director at Natick, Mass.-based Hadlock Law Offices, which has 135 employees, said that its payroll administration company provides several other services as well.

In addition to handling payroll services, Rochester, N.Y.-based Paychex Inc. provides benefit statements, deals with unemployment claims and performs COBRA administration for the law firm. "Where they added value for me" was in the company's knowledge of human resource-related state law, Ms. Peterson said.

Purchases, partnerships

Observers say outsourcing vendors are acquiring the additional expertise internally, making acquisitions, or entering into partnerships with other vendors.

Mr. Peterson said that in the segment of businesses with 1,000 to 20,000 employees, Ceridian can act as the primary contractor in areas such as payroll, tax services and employee assistance program services, while it subcontracts work in areas such as employee education and professional development.

In addition, Ceridian works with companies such as IBM Corp. on arrangements involving companies with more than 20,000 employees. "Through partnerships with companies like IBM, we're providing the back-end benefits services," including administration and health/welfare services—"everything benefits, essentially," Mr. Peterson said.

But relatively few companies so far have taken the step of entirely outsourcing their human resources functions, observers note.

"Total HR outsourcing is valuable for a lot of companies, but I don't think it's going to see incredible penetration for lots of different companies," said Deirdre Moore, director-strategic communications for Workscape. "That tends to be larger companies that are making that decision."

One company moving in this direction is Charlotte, N.C.-based Bank of America Corp., which in April announced a seven-year contract with Boston-based Fidelity Investments to provide administrative services for its human resources operations, payroll and benefits programs.

J. Steele Alphin, Bank of America's chief personnel executive, said in a statement that the arrangement allows the company to provide its employees with "a more integrated service environment and eliminate many third-party providers. Additionally, this relationship provides improved capabilities, coupled with the opportunity for significant operational and cost efficiencies."

Separately, Bank of America announced that Irvine, Calif.-based Exult Inc., an HR business-process outsourcing firm with which it has been associated since 2000, has been asked to expand its recruiting, temporary staffing, accounts payable, travel/expense, fixed assets and associated information technology services for the company.

About a dozen companies now use the "complete suite" of services offered by Fidelity, said Mr. Callahan, who anticipates more will do so in the future.

In addition, in an agreement announced earlier this month, Hewitt will be responsible for running most of the human resource functions of TXU Corp., a Dallas-based energy company. The deal was arranged through Capgemini Energy L.P., a limited partnership formed by TXU and Paris-based Capgemini, a consulting, technology and outsourcing company. Capgemini Energy will initially provide business-process services and information

See **MARKET**/next page

49% of employees say they're concerned about financial security in the event of premature death. Yet many do nothing. MetLife can help make sure they get life insurance that keeps up with changing family needs. See the best practices for raising plan participation levels at

www.metlifeiseasier.com/life2004

have you met life today?®

BI 05-31-04 B 8 5/26/04 3:39 PM Page 1

Market: Firms offer one-stop shopping

Continued from previous page
technology services to TXU, with a plan to offer similar services to other energy companies.

A spokeswoman for TXU said, "By creating this separate entity that will not only deliver business processes and services to TXU but to other companies, we're better able to focus on our core businesses and also create an opportunity for growth."

Staying focused

Not all vendors are broadening their offerings, though.

Toronto-based Morneau Sobeco plans to continue to focus on its core services of health/welfare and pension administration, and it has no plans to expand into payroll administration, said David Osterhaus, Pittsburgh-based managing partner of U.S. operations for the company.

"We want to ensure that we are able to continue to offer the best possible value," and a multiservice provider cannot necessarily meet all a client's needs, Mr. Osterhaus said.

Terry Baker, Pittsburgh-based benefits manager for Fisher Scientific International Inc., which uses Morneau Sobeco for its online benefits enrollment, agrees with that view.

Ms. Baker said she explored a dozen different vendors, including the one that handles its human resources information systems and payroll, before deciding to work with Morneau Sobeco.

"We really look to the best" in selecting vendors, said Susan Mitchell, the company's Hampton, N.H.-based vp of compensation and benefits.

Dave Carlson, national practice leader for outsourcing at Mercer in Houston, said that although Mercer provides total benefits and human resources packages, it also continues to provide services piecemeal.

"We're still seeing the majority of clients buying it piecemeal, with the intent of adding pieces over time," said Mr. Carlson, who is Synhrgy's former chairman.

Mr. Carlson said he does not have a strong opinion as to which is the better approach. "In the long run, having all the information integrated for employers and management is the right way," whether though an integrated delivery system or a single vendor.

A strong network is the glue in any health plan.

And we all know how important good glue is.

Credentialing and Recredentialing
August 2001
Utilization Management
May 2001

ACCREDITED
Health Utilization Management
July 1993
ACCREDITED
Health Network with Credentialing
October 2001

You can always count on PHCS, the only national provider network to earn the full endorsement of America's two most respected quality assurance organizations.

Want the best network for your health plan? Choose PHCS, the network with the best quality, access, and savings. We credential and recredential our providers, so the quality of our national network can't be matched. Our hospital and physician relationships get you the best savings. Plus, you can integrate our state-of-the-art medical management program for greater control. To find out how PHCS can strengthen your health plan, call 1-866-750-7427 or visit www.phcs.com today.

PHCS PRIVATE HEALTHCARE SYSTEMS®

Vendors pitch to smaller customers, opt to take on newer tasks

By JUDY GREENWALD

Some benefit outsourcing firms are beginning to focus on serving the small to medium-sized market, while other vendors are finding new services to provide.

"I think the very big corporations were the first to adopt outsourcing" as part of their human resources and benefits administration strategy, said Randy Cook, Grand Rapids, Mich.-based practice leader for Palmer & Cay Inc. But now there is an emerging market for outsourcing among middle-market employers, said Mr. Cook, who said Palmer & Cay has been offering benefits outsourcing to this market since last year.

Grand Rapids, Mich.-based Northern Jet Management, a corporate aviation management company with 130 employees, uses Palmer & Cay for both its benefit outsourcing and its insurance brokerage needs, said Susan Galloway, vp of staff development.

Before using Palmer & Cay's outsourcing services, "we pulled our hair out trying to return employees' calls," said Ms. Galloway. Returning the calls was difficult, she said, because most of its employees do not work in an office environment.

Now, though, Northern Jet Management employees can place their queries with Palmer & Cay's representative through either a phone call or e-mail. Employees are "really just loving it," she said.

Uniondale, N.Y.-based Online Benefits Inc., which provides Internet-based human resources services, now offers benefit outsourcing services to the clients of 20 to 30 brokers, said President Alan Cohen. Last year, the company acquired two benefits outsourcing businesses and established a subsidiary, Benergy Outsourcing Strategies. The unit offers total benefits outsourcing, flexible spending account administration and COBRA administration.

The company plans to focus, in particular, on the fewer-than-1,000-employees market, said Mr. Cohen. "Even organizations the size of large regional insurance brokers—they just don't have the economy of scale" to offer outsourcing services, he noted.

Some companies are also finding new areas to outsource.

Christian Echavarria, a founder of Pittsburgh-based Invesmart, said, "One area we're beginning to see additional outsourcing is in the whole area of investment advice."

Another area is consulting services to provide oversight to retirement plans, Mr. Echavarria said, to be sure "they're following proper fiduciary standards."

BI 05-31-04 B 10,11 5/26/04 5:28 PM Page 1

Call centers: Employers see way to hold line on costs

Continued from page T3

department what he describes as "time-stealing" questions—such as employee queries about lost health identification cards or when COBRA health care continuation coverage begins—the call center gives Mr. Mestad and his staff additional time to focus on strategic benefit issues.

Fuller's embrace of benefit call centers—which took place about four years ago, as the company was moving to a full-fledged flexible benefits program—is not unique.

For example, benefit consultant and outsourcing giant Hewitt Associates Inc. reports that virtually all of its clients use its call center services.

"Call centers are a critical part of benefit outsourcing," said Dave Carlson, U.S. practice leader for Mercer's outsourcing practice in Houston.

That call centers remain an integral part of employee benefit administration may seem surprising at first glance, given how advances in technology have allowed employees to become more self-sufficient at obtaining benefit plan information and getting answers to questions without human intervention.

Indeed, a decade ago, when benefit call centers began to proliferate, corporate intranets and the Internet were still in their infancy. Being able to go online, for example, to electronically enroll in a benefits plan or report an address change, was virtually unheard of at the time.

Times have changed: Now, a whopping 87% of employees' benefit transactions are conducted online, Hewitt says.

Still, while going online has become the predominant way employees get answers to their benefit questions as well as enroll in benefit plans, call centers have not withered away.

One striking statistic bears that out: Lincolnshire, Ill.-based Hewitt says it receives more toll-free calls through its call centers than are received by any other entity in Illinois.

Providing call centers "is still a growth business," said John Begley, executive vp-customer support services at Fidelity Investments in Marlborough, Mass.

'The Web is exceptional at educating people. The call center is an outstanding source of empathy and assurance and is especially valued at a time of stress.'

Tom Flint
Hewitt Associates Inc.

That is because many benefit transactions or concerns are handled better with the assistance of people, and some simply can't be dealt with online.

"On some issues, employees need customer service," such as determining why a health care claim was not resolved or whether a pension benefit was computed correctly, said Mercer's Mr. Carlson.

"The role of the call center has not gone away," said Duncan Harwood, a Dallas-based principal with the HR services unit of PricewaterhouseCoopers L.L.P.

In fact, rather than being in competition with each other, call centers and what often is described as "Web-based employee self-service" play complementary roles.

"The Web is exceptional at educating people. The call center is an outstanding source of empathy and assurance and is especially valued at a time of stress," said Tom Flint, Hewitt's HR outsourcing global practice leader.

For example, "when an employee dies," you don't want to force a family member to go online to get benefit information, Mr. Flint said.

Employers agree. "The call center adds value for nonroutine activity," said Eileen Palumbo, director

Continued on next page

Business Insurance
www.businessinsurance.com

• SERVICES •

REPRINT SERVICES

BI's Reprint Department can provide reprints, in quantities of 100 or more, of any article that has appeared in the magazine. Legal permission complying with U.S. copyright laws also can be provided to companies that seek to reprint, on their own, materials that have appeared in the magazine. For information, please call or fax:
Phone: 312-649-5319
Fax: 312-280-3174

ARTICLE FAX SERVICE

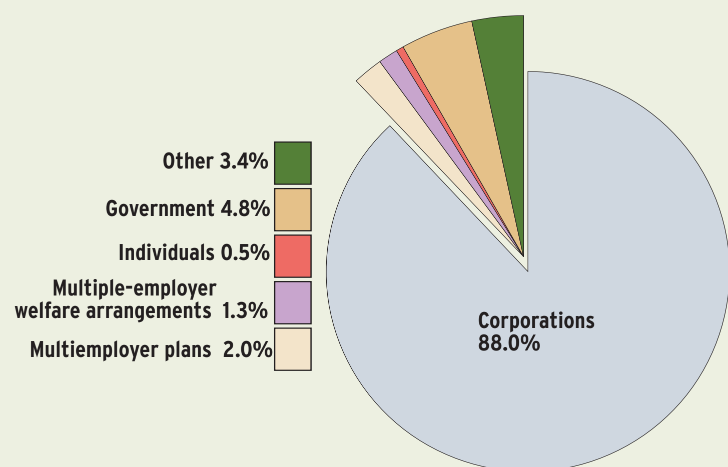
For article photocopies sent by fax on the same day, please telephone and provide the *BI* issue date, the article headline and credit card information. The charge is $10.00 per copy, per article. For article photocopies, please call:
Phone: 312-649-5329

SINGLE-COPY SALES

To order any current or back issue of *Business Insurance*, call the single-copy sales division of *BI's* Circulation Department:
1-888-446-1422

BI 05-31-04 B 10,11 5/26/04 5:28 PM Page 2

BENEFIT OUTSOURCING PROVIDER CLIENTS



Source: *BI* survey

Continued from previous page

shared services-benefits at Johnson & Johnson in New Brunswick, N.J.

Of course, for more routine benefit transactions, even call centers cannot approach the speed and efficiency of the Web.

"You don't need a call center rep to check a 401(k) account balance or to request an address change. Employees can do those things online at their convenience," said Bob Lopes, managing director for global administration solutions with Towers Perrin in Philadelphia.

"To a point, everyone loves self-service," said Larry Concannon, director of product marketing-benefits at HR administrator Workscape Inc. in Framingham, Mass.

But that is not the case with every benefit transaction and activity. "There are some questions where feedback is needed from a human being," said PwC's Mr. Hardwood, citing as an example, an employee who needs to determine quickly whether an older child in need of urgent medical services is too old to be covered as a dependent by the employer's group health plan.

One trend consultants have identified is that while the volume of calls going to benefit call centers has declined, call center staff are spending more time on each call.

"Calls have decreased; call minutes have not," said Mr. Lopes of Towers Perrin.

For example, Mr. Flint of Hewitt said that while the overall calling rate per participant has declined over the last three years, each call lasts between 10% and 12% longer.

Regardless of how benefit inquiries and transactions are handled—whether online or through call centers—the corporate motivations to outsource functions that once were the exclusive domain of employee benefit departments are the same.

Employers have recognized that most benefit inquiries and transactions can be handled better and faster by a third party that can make—because of a large client base—the needed and heavy investments in technology.

"The technology is expensive. It doesn't pay for an employer to make that investment just for itself," said Jim Corcoran, senior vp-employee benefit services at Ceridian HR Solutions in Minneapolis.

At the same time, employers increasingly realize that turning over administration of their benefit programs to third parties would free up their benefit departments for more important work.

'You don't need a call center rep to check a 401(k) account balance or to request an address change. Employees can do those things online at their convenience.'

Bob Lopes
Towers Perrin

"A lot of this is transaction processing that can bog down benefits departments," said Fidelity's Mr. Begley.

Mr. Mestad, the benefit manager at Fuller, said the outsourcing of benefit administration has provided his department with the time to focus on such strategic issues as benefit design and the evaluation of health plan insurers.

"Our decision to outsource administration was not to cut staff but to use our benefits staff in more productive ways," he said.

Other benefit managers concur with this assessment. "We were not strategically oriented, because we were so bound up in day-to-day administration," said Jeff Hamlin, system director for HR services in Houston at CHRISTUS Health, a large, faith-based nonprofit health care system. CHRISTUS contracts with Towers Perrin for call center services for its health and welfare plans.

Another driver of benefit outsourcing has been corporate recognition of the need to provide more consistent information to employees from one centralized source, such as a call center.

"The risk is reduced to the corporation of someone in the benefits department providing outdated or incorrect information," said Steve Larson, a consultant in the Miami office of Watson Wyatt Worldwide.

"Companies realized they had to become more efficient and improve the accuracy and consistency of the answers they provided," Mr. Larson said.

Our benefit solutions can help relieve some of the cost burden on employers.

Those kinds of results are always in style.

From classic designs to the latest styles, people can always turn to the fashion industry to give them something that fits just right. UnitedHealthcare has taken the same approach to designing benefit solutions for companies like yours.

Covering the entire spectrum of plan designs. We don't dictate which plan designs are right for a company. We listen to the needs of employers and craft solutions that are flexible and consistent. From traditional to a new generation of innovative consumer-driven plans that give employees more accountability for the cost of their coverage, we have market-driven solutions that come with an affordable price tag. And, our vision, dental and life specialty products can be completely integrated with our medical plans, making administration that much easier for you.

Working to hold down costs. UnitedHealthcare is continually working to help you get more value for your benefit premium dollars. For example, with our focus on prescription drug list management, we've moved many of our customers into our optimal three-tier pharmacy plan. We've shown that this program can save up to 35% on annual pharmacy costs for our customers[1].

THE RIGHT BENEFIT SOLUTIONS

Is it worth your time to see if our benefit solutions can help tailor your health benefits program? We invite you to call a UnitedHealthcare Representative at 1-800-286-7393 or visit us on the Web at www.employer.uhc.com/bimbenefits to get our booklet, "The Right Benefit Solutions." Or, contact your broker or consultant to learn more. We'll show you how UnitedHealthcare just makes sense.

Administrative services to self-funded plans provided by UnitedHealthCare Services, Inc., United HealthCare Insurance Company or United HealthCare Service LLC. Insurance coverage provided by or through: United HealthCare Insurance Company, United HealthCare Insurance Company of New York, or their affiliates.
Source: [1]UnitedHealthcare Pharmacy Management data.
©2004 United HealthCare Services, Inc.

BI 05-31-04 B 12 5/26/04 3:46 PM Page 1

Offshore outsourcing creates privacy-related risks

HIPAA-covered entities urged to push vendors for disclosure of outsourcing arrangements

By JOANNE WOJCIK

An extortion attempt by a Pakistani medical records transcriber, who threatened to post protected health information on the Internet if she wasn't paid for her work, has drawn attention to the risks associated with offshore outsourcing.

Under the federal Health Insurance Portability and Accountability Act of 1996, it is illegal for any covered entity—such as any employer-sponsored health plan, health care clearinghouse or health care provider, regardless of size—to make public patient health information.

However, the law does not specifically mention offshore outsourcing, nor does it require any HIPAA-covered entities to ask their outsourcing vendors where they are performing their work or whether they are farming it out to third parties.

In the case of the Pakistani transcriber, the work had been handed off four times: The University of San Francisco Medical Center had outsourced a portion of its medical transcription work to a vendor in Sausalito, which, in turn, subcontracted with a vendor in Florida. While the university had been aware of this arrangement, it did not know that the Florida vendor had subcontracted with another vendor in Texas, which had sent the work off yet again to a transcription service in Pakistan.

The transcriber eventually withdrew her threat, after receiving partial payment.

But, as a result of this incident, the UCSF Medical Center now requires full disclosure from its transcription vendors to ensure that they will not subcontract work without its knowledge, according to Clifton Louis, associate director of clinical services.

UCSF Medical Center also requires its transcription vendors to provide the Social Security numbers of all subcontractors to ensure that the work is not being sent offshore, Mr. Louis said during March 2003 testimony before a joint hearing of California's Senate Business and Professional Committee and the Select Committee on International Trade Policy and State Legislation.

While the incident did not involve an employee benefit plan, it just as easily could have, given the sizable amount of health claims work that has been sent offshore. It also demonstrates the need for employers to seek full disclosure of any subcontracting arrangements by business associates that handle employee health information. That is because HIPAA does not provide for enforcement actions against business associates, exposing HIPAA-covered entities to liability for such parties' actions, observers say.

Since the incident, nearly a dozen bills have been introduced in the California Legislature to address the dangers of offshore outsourcing, and at least one piece of legislation is pending in the U.S. Congress.

A bill introduced May 13 by U.S. Rep. Edward J. Markey, D-Mass., would "prohibit the transfer of personal information to any person outside the United States, without notice and consent, and for other purposes." "Personal information," as defined in the legislation, includes medical records, which are often used in processing insurance claims.

> **'The issue becomes, when you go offshore, you lose that control (over data), especially if it's a third party.'**
>
> *Jim Corcoran*
> *Ceridian Corp.*

"As the U.S. continues to look at offshoring, I'm sure that we're going to see additional legislation that's going to dictate what people can and can't do," predicted Jim Corcoran, a senior vp with human resources provider Ceridian Corp. in St. Petersburg, Fla.

"The issue becomes, when you go offshore, you lose that control, especially if it's a third party," said Mr. Corcoran. "And so we have chosen not to take data offshore in any manner."

Ceridian does sometimes use offshore contractors for some of its software development, he acknowledged, but, in those situations, the company is very careful about how that programming is integrated into its existing systems.

"We do some code development offshore, but whenever you do that, you have to make sure that you understand what is being done, and you do not give up source code. You need to put in place the protection and capability to be able to find out what you're receiving back and make sure that it is secure," he said.

For example, "if you're talking about code development, how do you go about ensuring that someone hasn't put a Trojan horse inside your application?" he asked.

"I think that is an issue that people really haven't thought about or dealt with because of this whole rush to offshore," Mr. Corcoran said.

Another issue that is only starting to be examined is whether U.S. laws are enforceable outside of the country.

In a recent report, the Washington-based consumer watchdog group Public Citizen pointed out that "U.S. law does not apply overseas, and obtaining redress in the U.S. civil justice systems in cases of abuse involving overseas companies is very difficult. Even though increased offshoring by U.S. companies means that an unprecedented amount of sensitive personal data is being shipped overseas, U.S. privacy protections effectively end at our borders."

Offshoring to vendors in the European Community is probably safe, according to John Christiansen, a director in the health care

See OFFSHORE/page T14

your life. your work. your best.
Helping your organization reach its goals by helping your people achieve theirs.
COMPSYCH
THE GUIDANCE RESOURCE COMPANY
The Worldwide Leader in GuidanceResources®
Employee Assistance Programs, Behavioral Health, Work-Life Services
800.851.1714 • compsych.com
Copyright ©2004 ComPsych Corporation. All rights reserved.

Business Insurance
Subscription Services

New Subscriptions
You can now subscribe to our publication over the Web.
Simply fill out our subscription form
and we will get your first issue to you right away.

Moving? Change of address? New job?
If you're leaving your current location, make sure you don't leave
behind the late-breaking, agenda-setting news
that helps you stay on top of your business.
You can change your information with us online, immediately.

Billing or renewal inquiry?
Verify your subscription details or pay an invoice.
If you receive a notice from us after you have paid,
it is likely due to correspondence crossing in the mail.
However, if you receive a second notice after you have paid,
contact us and include a copy of both sides of your canceled check.

For more information about a subscription,
please contact the customer service department at
1-888-446-1422

www.businessinsurance.com

Offshore: Outsourcing creates privacy-related risks

Continued from page T12

practice at PricewaterhouseCoopers L.L.P. in Seattle. That's because those countries have privacy protection laws that are more stringent than those in the United States, and they also have mature economic and legal systems, Mr. Christiansen said.

By contrast, there could be problems offshoring to "countries at the other end of the spectrum—emerging economies where labor is cheap," he said. "For example, the former Soviet bloc countries are probably not a good bet."

But there is no legal recourse under HIPAA for individuals who are the victim of a violation, even if personal health information is exposed in the United States, said Mark Lutes, a partner at Epstein, Becker & Green in Washington.

The situation with the Pakistani transcriber "underlines the fact that neither the legislation nor the rule gives the ultimately affected individual direct recourse—a private right of action—against those abusing their" personal health information, Mr. Lutes said.

"But that's the case domestically as well as internationally. It is much more dramatic when it occurs internationally, and it fits into a greater, politically sensitive debate about world trade. But, as a matter of law, they're indistinguishable," he said.

For HIPAA to be enforced, an affected individual must file a complaint with the U.S. Health and Human Services Department's Office for Civil Rights, which would then investigate and perhaps impose a fine if a covered entity were found to be in violation, Mr. Lutes explained.

The U.S. government, though, has no authority to act against the subcontractors of covered entities, which are defined as "business associates." These subcontractors are bound only by the terms of the "business associates agreements" that HIPAA requires covered entities to have with subcontractors, he said.

"The statute was never written to include the subcontractors of covered entities," Mr. Lutes said. "If hospital X or insurer Y puts (personal health information) in the hands of an entity to perform an administrative function or some sort of function with that (information), the Office for Civil Rights does not have any direct enforcement authority over that other entity. They're out of the reach of the HIPAA statute."

"All delegates, all subcontractors, should be required by their contracts to institute what the security rule calls 'appropriate administrative, physical and technical safeguards that protect the confidentiality, integrity and availability" of personal health information, Mr. Lutes said, quoting from the statute.

"The issue is not just that it was Pakistan. It could happen anywhere," agreed Linda Bergthold, a consultant at Watson Wyatt Worldwide in Universal City, Calif., who helps employers meet HIPAA privacy and security requirements.

'I think a lot of companies don't know what's being outsourced offshore.'

Linda Bergthold
Watson Wyatt Worldwide

"I think a lot of companies don't know what's being outsourced offshore," Ms. Bergthold said. "They outsource to a TPA, and then the TPA itself may outsource to an offshore vendor or group of people somewhere in India to actually manage the claims, and I don't think the company would even know that unless something went wrong."

While it may be advisable that employers include in their business associate agreements that they be informed of any subcontracting arrangements, "I'm pretty sure most of them have not done that yet," she said.

However, "as we go through HIPAA security with clients, they will begin to ask those questions," especially after the Pakistani transcriber case, Ms. Bergthold said.

The HIPAA rules pertaining to security, which take effect April 21, 2005, require that covered entities conduct a risk analysis of the security of their computer systems to make sure that any personal health information being stored is safe, she explained.

"As a result of that case, there's been a lot of discussion among our clients about going the extra mile. You may need to find out exactly who is paying the claims, where they are, but also, more importantly, what responsibility does the TPA have and then what are you liable for as a covered entity," Ms. Bergthold said.

Employers should always be aware if their vendor is subcontracting, regardless of whether personal health information is staying in the United States or migrating to some Third World country, advised Mr. Christiansen of PwC.

He said he encountered a situation in which a U.S.-based subcontractor whom a Web-enabled benefit service provider had hired was so proud of this work "that he was actually going out and showing potential clients the Web site, with employee information on it."

"We heard about that from one of the prospects," he said. "What we did was, we put the server in lockdown."

In that situation, the company executives were less concerned with getting sued than they were with revealing employees' salary and benefit information to competitors, Mr. Christiansen said.

"If you're an employer who's a big company where you might have concerns that there might be some targeting of your employees, maybe to lure them away from your organization or just because you're a prominent company and perhaps not necessarily well-loved by all people…under those conditions you want to exercise some pretty stringent controls," he said.

But "if you're a truss shop in Lafayette, Colo.—you're big enough to be self-insured, but you're not very big—then, realistically, nobody's going to be deeply interested in the benefits information that has to do with your employees," he continued.

"It's a risk assessment based on who you are and what you're up against," Mr. Christiansen said.

Find out first.

When important industry news breaks, the ***Business Insurance*** **Daily News** e-mail alert delivers it first.

Thousands of key executives like you have already signed up for this free service – and they have a definite advantage over their colleagues and their competition. ***BI*** **Daily News** keeps them ahead of the curve with headlines and highlights of the day's hot news in the commercial insurance, risk management and employee benefits marketplace.

So be the first to be in the know.

Register today for ***BI*** **Daily News**.

BusinessInsurance.com/DailyNews

www.businessinsurance.com
Business Insurance

THE BENEFITS OF BETTER COVERAGE.

Seeking varied advantages, Europe embraces outsourcing

Arrangement offers chance to save, focus, be consistent

By SARAH VEYSEY

European employers are increasingly interested in outsourcing parts of their employee benefits programs.

Employers' desire to wring costs out of their human resources and benefits functions has been a key impetus behind the growth in outsourcing, observers say. Companies also are outsourcing administrative functions as a way to focus on what they see as more critical operations, such as those related to corporate strategy and governance.

In addition, outsourcing can make human resources and benefits programs run more smoothly for those employers with operations in several European countries, consultants note.

U.K. employers have increased their use of outsourcing in the past few years, a survey shows.

In a poll of 1,188 U.K. companies conducted late last year, the London-based Chartered Institute of Personnel Development, which represents human resources professionals, found that 24% of respondents had increased their use of external providers for employee benefits in the prior three years, while only 4% reported a decrease.

In addition, 25% of the companies surveyed said they had increased their use of external providers for pensions services over the period, compared with 4% that said their use of external providers had declined.

British employers have been looking for several years at the possibility of outsourcing a variety of human resources functions, noted Jon Tye, a senior consultant in the benefits administration solutions practice at Watson Wyatt Worldwide in Reigate, England.

In particular, the last few months have seen an increase in activity in the United Kingdom, with some large deals being struck, he said. "And I think that has got people interested again in the whole outsourcing debate."

Cutting costs

U.K. employers' interest in lowering their operating costs has been a key factor behind the outsourcing trend, said Rebecca Clake, CIPD adviser-organization and resourcing in London.

"A significant cost for a company is salary cost, benefit cost—all the

Continued on next page

MAKE THE CONNECTION

Business Insurance has a broad and comprehensive directory of industry-related Web links available on its Web site.

If you are searching for risk management or employee benefit management information, this is a great place to start.

If your site provides commercial insurance services or information, you can submit an online request for a free link.

To browse the links, visit the Links section of *businessinsurance.com.*

Business Insurance®
www.businessinsurance.com

IF RISING HEALTH CARE COSTS ARE KEEPING YOU UP AT NIGHT, THIS AD COULD PUT YOU TO SLEEP.

Great-West℠ HEALTHCARE

As a leader in self-funding for 25 years, we at Great-West Healthcare spend a lot of time looking for the kind of flexible, creative solutions that will help your company lower health care costs. Solutions that, in fact, give you more control. Like our first-to-market Great-West Healthcare Consumer Advantage tiered benefits plan that provides high-level coverage for medically complex or catastrophic services, while engaging employees in discretionary services where they have the time and information to make smart purchase decisions.

As well as our new HRA (Health Reimbursement Account), a consumer-driven plan that uniquely engages employees in lowering overall benefit costs by sharing expenses from the first dollar of coverage. To learn more about Great-West Healthcare and how our expertise in self-funding could save your company up to 15%, contact your broker or give us a call at the number listed below.

1-866-442-3890

Great-West Healthcare refers to products and services provided by Great-West Life & Annuity Insurance Company and its subsidiaries (Alta Health & Life Insurance Company and Great-West Healthcare HMO/HCSC companies). It also refers to the group business that is underwritten by New England Life Insurance Company and Metropolitan Life Insurance Company which is currently administered by Great-West Life & Annuity Insurance Company. Great-West Life & Annuity Insurance Company is not licensed to do business in New York. Products are sold in New York by its subsidiary First Great-West Life & Annuity Insurance Company, Albany, N.Y.

BI 05-31-04 B 16,17,18,19 5/26/04 5:41 PM Page 2

Continued from previous page

areas of remuneration. And that can make up a large proportion—anywhere upwards of 30%—of its group costs," Mr. Tye said.

By outsourcing parts of their employee benefits administration, employers can reduce their spending on areas such as information technology and "focus more on other aspects of human resources," he explained.

Indeed, the outsourcing of the "day-to-day transactional stuff" lets companies focus internally on strategic issues related to employee benefits and human resources, noted Ms. Clake of the CIPD.

Administrative outsourcing gives the in-house human resources department more time to focus on such strategic matters as staff training and motivation, noted Gareth Emmonds, an HR consultant at Black Mountain International Ltd. in London.

The growing focus on corporate governance and operational risk also has fueled the trend toward outsourcing, said Robert Plumb, European partner of Mercer Human Resource Consulting in London. By outsourcing noncore activities, companies can devote more time and resources to governance and strategic issues, he said.

Mr. Plumb noted that while many companies want to outsource back-office functions, such as benefits administration, they often want to maintain control over other human resources- and benefits-related functions, such as policy and practice. "So, in some cases, we are coming to an arrangement which is a sort of compromise between (in-house functions) and outsourcing," he said.

The extent to which companies outsource their employee benefits functions has "very much to do with their individual buying style," said Andrew Whiteley, managing director of Heath Lambert Consulting in London.

While large employers generally have the means to perform administration in-house, "the question is, does one want to resource up to that level for something that one only uses from time to time?" he said.

In the United Kingdom, where pension administration has been one of the most commonly outsourced functions, employers are looking to other areas, such as the administration of flexible benefits, Watson Wyatt's Mr. Tye explained.

Malcolm Reynolds, administrative consulting director in Jardine Lloyd Thompson Group P.L.C.'s employee benefit division in London, noted, "We've seen the growth of flexible benefits-type arrangements within organizations, and what is really driving that is the fact that people want to show total reward to their employees in one complete statement rather than piecemeal.

"But that brings its own problems in a way: That data is typically held in a variety of different systems—it is all over the place," he noted. So companies are looking to benefits consulting/outsourcing firms to help them bring all the relevant information together, he said.

Pan-European operations

Companies with operations across Europe are increasingly looking to outsource parts of their employee benefits programs, noted Chris Noon, head of HR outsourcing for Europe at Hewitt Bacon & Woodrow in London.

"We are getting a lot of approaches (from companies) looking for global—and/or pan-European—solutions," Mr. Noon said.

While the administration of benefits may vary greatly from country to country, companies want to give their employees "a common experience," he explained.

Using third-party advisers also gives companies clearer overall views of the benefits they are providing to employees in different countries and can also help them to ensure that they comply with local laws and regulations, Mr. Noon explained.

> **The outsourcing of the 'day-to-day transactional stuff' lets companies focus internally on strategic issues.**
>
> *Rebecca Clake*
> *Chartered Institute of Personnel Development*

"On a day-to-day basis, we are very much involved with the management of (European) companies' group insurance programs, which include company pensions," said Alan Hewitt, head of the international practice at Aon Consulting in London.

The growing move away from traditional, defined benefit-style pension programs also is contributing to the use of third-party pension administration, observers note.

"We are getting involved more and more in helping companies switch out of defined benefit pension schemes into defined contribution plans," Mr. Hewitt noted.

That assistance can include helping companies ensure they comply with regulations, assisting them with closing plans to new employees and communicating the changes to employees, he explained.

A switch from defined benefit to defined contribution pension plans is taking place in Europe, but it is happening at different rates in different countries, noted Mr. Hewitt.

"Even in Holland, where there is a strong defined benefit focus, companies that are either looking to renew existing plans or set up new plans are saying, 'Well, we want to go down the defined contribution route,'" he said.

"And if you look at Belgium, any new plans that are going in place today are basically defined contribution," he added, noting that a similar trend is being seen in Eastern Europe.

WORKING WITH HEWITT TO HELP YOUR EMPLOYEES MAKE MORE INFORMED HEALTH CARE CHOICES WILL RESULT IN WHICH OF THE FOLLOWING OUTCOMES?

A. YOUR COMPANY WILL SAVE MILLIONS.

B. YOUR COMPANY WILL SAVE MILLIONS.

C. YOUR COMPANY WILL SAVE MILLIONS.

D. YOUR COMPANY WILL SAVE MILLIONS.

HR & Benefits Outsourcing | Payroll | Retirement & Financial Management | Health Care | Talent & Organizational Change

Hewitt

©2004 Hewitt Associates LLC

www.hewitt.com/results

Blend of outsourcing, in-house work common

Mixed approach to benefits administration used to cut costs, boost productivity

By GLORIA GONZALEZ

A majority of companies outsource some employee benefits administration functions but handle internally those functions that they can administer cost effectively, according to a Watson Wyatt Worldwide survey.

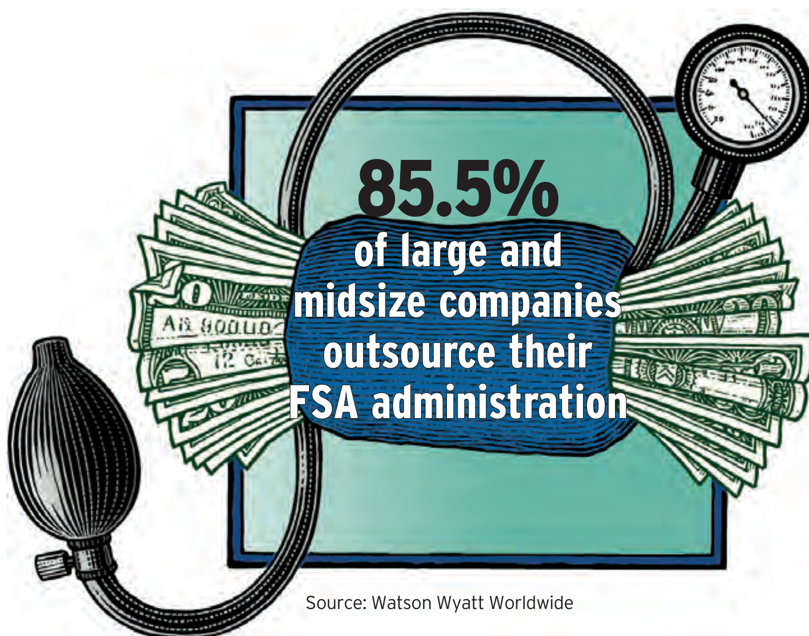
Almost 60% of the responding companies reported using a combination of internal and external resources when administering their pension plans, according to the survey, "Finding the Right Mix for Benefits Administration." Most of the 315 companies that responded to the survey were large and midsize companies.

About 27% of respondents completely outsource their pension plan administration functions, while the rest handle all of these functions internally, the survey found.

Processing benefit payments is the most commonly outsourced defined benefit plan administration function, with about 80% of large and midsize companies using outside vendors to perform the function, according to the survey. In contrast, employee interaction services, such as offering employees benefits advice, are the least likely pension function to be outsourced, with only 31% of large and midsize companies using an external provider.

About 86% of survey participants said they use both internal and outsourced resources to administer their health and welfare benefits. Only 3.5% completely outsource these functions, while 10.5% handle these functions internally, the survey found.

Functions such as flexible spending account and COBRA administration are the most likely health and welfare administration functions to be outsourced, with 85.5% of large and midsize companies outsourcing FSA administration and 72.7% outsourcing COBRA administration. Only 29.3% outsource employee interaction functions, the survey found.



Source: Watson Wyatt Worldwide

Most companies retain responsibility for employee interaction because internal human resource service centers produce lower costs and higher satisfaction rates than outsourced human resource centers, according to a companion study by Watson Wyatt, "Trends in HR Service Center Administration." That study examined responses from 87 of the surveyed companies that have either internal or external service centers.

Half of the survey participants with internal service centers reported an average annual HR service center operating budget of $58 or less per full-time employee and retiree. At the same time, only half of companies that outsourced their service centers had costs below $119 per full-time employee and retiree, the survey found.

"There is a tremendous cost advantage of insourcing the people side," said Rick Hubbard, global practice director-technology solutions for Watson Wyatt in Cleveland.

Forty-four percent of large companies surveyed had internal HR service centers, while only 19% of midsize companies had such centers. "The larger companies will continue to insource more of the employee interaction activities," he said. "They have service centers and technology to efficiently handle that employee interaction. The smaller and medium-size companies may not be able to do that as cost effectively."

Reed Elsevier, a global publishing company with 35,000 employees, takes a blended approach to outsourcing it benefits functions.

The company's U.S. operation, based in New York, outsources its pensions benefits calculations and 401(k) administrative functions, due to the complexity of the calculations involved and the amount of money administered in the plans, said Anne Silverman, vp-compensation and benefits, The Americas.

But the company handles most health and welfare administrative functions internally because it has access to a shared service center for all company operations, which has a sophisticated computer system that can handle these functions, she said.

"We know we're doing it very effectively and much less expensively than using an outside consulting firm," Ms. Silverman said.

The Watson Wyatt survey also queried companies on the importance of various goals in selecting benefit administration vendors and products, as well as on how successful they were in meeting these goals.

With regard to pension plans, 86.7% of respondents said that they were successful in increasing productivity, but only 67.3% reported that they were able to reduce costs. On the health and welfare side, 85.7% said that they were able to increase productivity, and 75.0% said that they were able to reduce costs.

"Costs continue to be a focal point for these decisions in the beginning, and people are somewhat disappointed with cost savings," Mr. Hubbard said.

Companies with a blended approach are more likely to reduce costs and meet productivity goals since more sophisticated technology gives companies a greater ability to mix and match products and vendors to optimize benefits administration, according to the survey. The most consistent finding is that "the cost seems to be minimized with this blended approach as opposed to outsourcing everything or insourcing everything," he said.

The Watson Wyatt surveys—"Finding the Right Mix for Benefits Administration" and "Trends in HR Service Center Administration"—are available online at www.watsonwyatt.com/research/reports.asp. The cost is $45 for each.

Alternative medicine seen as cure for health costs

By JOYCE PELLINO CRANE

Former nurse Michael Schor thinks he knows how to harness skyrocketing health care costs for employers.

As chairman of the Cost Effective Interest Group of the Collaboration for Healthcare Renewal in Newton, Mass., Mr. Schor has come to value complementary and alternative medicine as a less expensive and more effective way of treating many illnesses and injuries than traditional medicine. Health services such as acupuncture, massage therapy and chiropractic care, he said, can be integrated into the conventional health system.

"As employers see costs going up, they become more eager to look at alternatives and options," Mr. Schor said. "When the old solutions don't work, you look for new solutions."

The argument for integrating alternative health services into the mainstream is that they will reduce escalating costs by providing less-expensive services with better results.

Alternative-health experts say massage therapy is often better than anti-inflammatory pills for sore back muscles, for example, and is less costly than back surgery for pain relief. Yet it is unclear whether alternative-health services can truly reduce costs, because research organizations have not conducted large-sample surveys on the topic, health experts say. Still, employers are beginning to offer unconventional health care benefits to employees to meet a growing demand and a perceived enthusiasm.

In 1998, a landmark study published in the Journal of the American Medical Assn. showed that an estimated four in 10 Americans used at least one alternative therapy in 1997, compared with only three in 10 in 1990. The study, published by Dr. David Eisenberg, a recognized authority on alternative medicine, prompted a wave of studies and the establishment of the National Center for Complementary & Alternative Medicine under the federal government's National Institutes of Health. Dr. Eisenberg is director of the Division for Research & Education in Complementary & Alternative Therapies at the Osher Institute of Harvard Medical School. The agency conducts research on the safety and efficacy of unconventional medicine.

'As employers see costs going up, they become more eager to look at alternatives and options.'

Michael Schor
Collaboration for Healthcare Renewal

George DeVries, chairman, president and chief executive officer of American Specialty Health in San Diego, said the lack of studies on the cost savings of alternative medicine is "a huge problem" for employers and for society. His company sells alternative-health benefits such as chiropractic, acupuncture, massage therapy, dietetic counseling, naturopathy, health-club discounts and personal-trainer services to larger insurance companies and to companies directly. The firm currently has 9.4 million members. Among its clients are Woodland Hills, Calif.-based Blue Cross of California; Oakland, Calif.-based Kaiser Permanente; Cypress, Calif.-based PacifiCare Health Systems Inc.; and Philadelphia-based CIGNA Corp.

The main reason that employers buy benefits for complementary and alternative medicine is employee satisfaction, Mr. DeVries says. "Employers want to attract the very

Continued on next page

Eliminate paper benefits enrollments for your clients with our automated Interactive Voice Response (IVR) and internet benefit enrollment solutions.

- Paperless Benefits Enrollments
- Multilingual Systems
- HIPAA 834 Compliance

INFORMATION Products, Incorporated

For more information call toll-free at 1-800-477-7822.

BI 05-31-04 B 16,17,18,19 5/26/04 5:42 PM Page 4

Continued from previous page

best employees that they can. Alternative health care is very popular around the Rocky Mountains and on the West and East Coasts. Chiropractic is very strong not only in these regions but also in the Midwest. What we are seeing is that the popularity of CAM is a growing interest across the country."

W.E. Aubuchon Co. Inc. of Westminster, Mass., the parent of Aubuchon Hardware stores in the Northeast, began offering complementary benefits to employees last year, according to Benefits Manager Sarah Arel. Through the Marino Center for Progressive Health, employees can take advantage of massage therapy, acupuncture and homeopathy services at one of three clinics in the greater Boston area. Aubuchon also offers "nutriceutical" benefits, which provide herbal remedies for health conditions, Ms. Arel said. The complementary services are offered separately from the conventional health insurance plan, which also offers chiropractic services.

"We try to do all we can for our people," Ms. Arel said, adding that the complementary-benefits plan is up for review this spring and is in danger of being discontinued for underutilization. "I would not like to see us take it out because these could be great remedies for some conditions."

This emerging sentiment has led Mr. Schor and other alternative-medicine proponents to argue for more integration of unconventional health services within the health care system. "The problem we have with the (conventional) style of care is that (conventional health providers) believe this is the only style that works," he said. "If you look at the clinical evidence, you'll find these alternatives are effective."

Mr. Schor maintains that poor lifestyle habits, aging baby boomers, expensive new technology and cavalier consumers who ignore cost are all contributing to spending hikes. Health insurance coverage masks the enormous charges, he said. "When I need cancer therapy, bypass surgery or a cholesterol-lowering medication, price is not part of the equation," he said. "The forces that mitigate other services are not as present in medicine, because the patient is not paying (directly) for it."

But recently, as the cost of health care coverage has soared, employers have pushed more of the burden of rising health care premiums onto workers. A 2003 survey of 3,000 employers conducted by Mercer Human Resource Consulting, for example, showed that the contribution that workers made toward one type of family health insurance premium jumped to 58% from 53% that year.

Mr. DeVries, who was appointed in the late 1990s to the White House Commission on Complementary and Alternative Medicine Policy under President Clinton, is convinced that more funding for comparative research is needed to demonstrate the cost-effectiveness of alternative medicine.

"I personally consider the No. 1 health care crisis in the country to be the escalating cost of health care," he said. "We should be studying what is the most cost-effective package of health care we can be offering Americans."

The commission's 29 recommendations were published in 2002 and included one that called for funding of research on the cost-effectiveness of complementary—and alternative—medicine programs. The report also recommended that federal agencies and employers "evaluate the possibility of covering benefits or adding health-benefit plans that incorporate safe and effective CAM interventions."

FedEx Corp. is focused on injury prevention for its 110,000-member workforce, and over the past five years, the company has begun paying for 20% of the cost of chiropractic medical treatments. Couriers and package sorters are required to lift up to 70 pounds without assistance and over 70 pounds with the aid of equipment, according to a spokeswoman for the Memphis-based company. "People who have physical jobs…are required to do 10 to 15 minutes of stretching exercise to limber up," the spokeswoman said. She said that rising costs are "of concern to us," noting that the company's cost of prescription drugs alone increased by 25% between 2000 and 2001.

A recent study by the Centers for Medicare and Medicaid Services reports that prescription-drug spending is expected to increase the fastest of all health sectors, which include hospital, Medicare, Medicaid, out-of-pocket and physician spending. The 2003 evaluation is expected to show that spending on prescription drugs rose by 13.4%. The jump for 2004 is projected to be 12.9%, and another 12.4% is predicted for 2005.

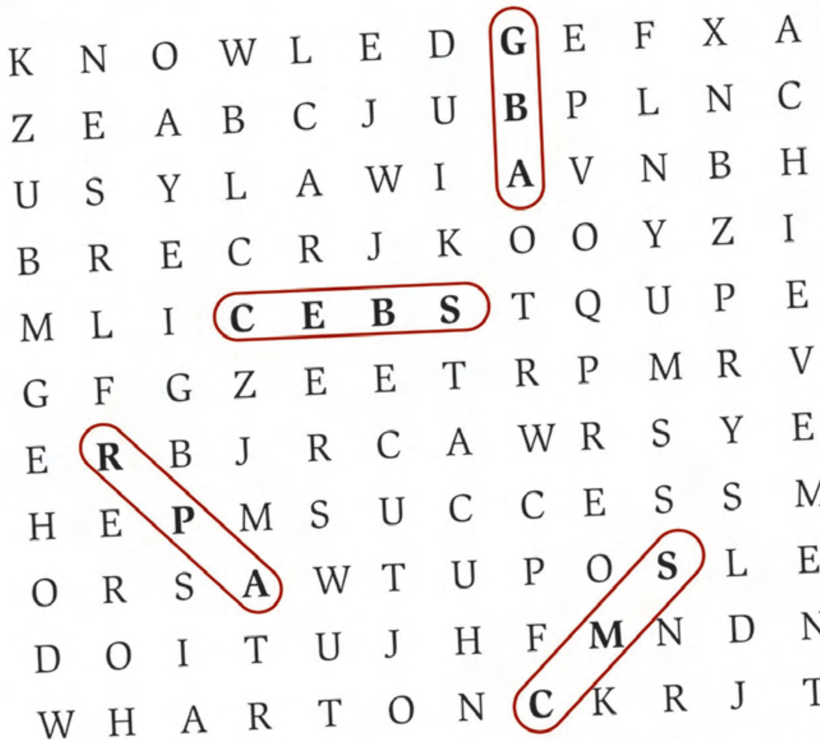
Beyond just those cost issues, many proponents of complementary and alternative medicine believe the real savings lie in health and lifestyle habits.

Mr. Schor encourages businesses to create a corporate culture that provides resources that employees can draw on for education and information. "Every organization has a culture of some sort, and you can decide what that culture is going to be," he said. "You should be able to make sure the employees understand that there are resources available to improve their lifestyles."

There's no simple solution to cost escalation, Mr. Schor added. It requires an expansive approach and a willingness by employers to be informed. "If you're an employer, you first need to educate yourself, and that means demanding much more of your advisers, be they insurers or brokers, and the health plans," he said. "Then you need to look at your workforce in the same way you look at your capital equipment. It's an asset. But it's an asset you're only going to have if you take care of it. If you don't, it's going to be very expensive."

Joyce Pellino Crane is a reporter for Workforce Management, a sister publication of Business Insurance.

Searching for the Right Credential?



If you're looking for a competitive edge, higher compensation or industry recognition, CEBS has the answer!

Designed by the Wharton School of the University of Pennsylvania, the CEBS program offers you the opportunity to earn the **Group Benefits Associate** (GBA), **Retirement Plans Associate** (RPA) and **Compensation Management Specialist** (CMS) designations. These three specialty designations form the core of CEBS, the premier designation in total compensation.

Find all the answers you need to become certified!
www.cebs.org • (800) 449-CEBS (2327).