

Business Insurance

\$5

June 28, 2010

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**HEALTH CARE REFORM RULES
CLARIFY SOME POINTS ON
BENEFITS CAPS / PAGE 3**

**OBAMA SIGNS LEGISLATION
TO GIVE EMPLOYERS RELIEF
ON PENSION FUNDING / PAGE 3**

**WASHINGTON BUSINESS GROUPS
SEEK END TO MONOPOLY FOR
STATE COMP INSURER / PAGE 3**

In Brief

Arizona can't raid workers comp fund

Arizona's Legislature cannot take money from a state Industrial Commission workers compensation fund to balance the state's budget, a judge ruled. Maricopa County Superior Court Judge Larry Grant ruled that the Industrial Commission Special Fund is not public money, according to the National Federation of Independent Business, which intervened in the lawsuit.

P/C insurers post profit but premiums dip 1.3%

U.S. property/casualty insurers' net income after taxes increased to \$8.86 billion in the first quarter of this year compared with a \$1.33 billion net loss during the same quarter last year, according to a report by Insurance Services Offices Inc. and the Property Casualty Insurers Assn. of America. U.S. property/casualty insurers made a collective profit despite a 1.3% drop in net written premiums,

See **IN BRIEF** page 25

**2010 BENEFIT
MANAGER** of the year



IBM Corp.'s Marianne McManus is *Business Insurance's* Benefit Manager of the Year;

Gary Eastes of the City of Knoxville, Tenn., and North Shore-LIJ Health System's Joseph Molloy named to first-ever Benefit Manager Honor Roll. **PAGE 9**

AGENTS & BROKERS

CRC denied first bid to block rival's hires

*Ex-staff can work
at Ryan Specialty
while case proceeds*

By **COLLEEN MCCARTHY**

CHICAGO—Ryan Specialty Group Inc. won a round last week in its fight to keep dozens of former CRC Insurance Services Inc. employees, but the dispute between the rival wholesalers still is far from resolved.

In a ruling in U.S. District Court in Chicago, Judge James Zagel denied CRC's request for a preliminary injunction, which allows the former CRC employees to continue working at Ryan Specialty while the case proceeds.

Judge Zagel said although CRC demonstrated a "better-than-negligible" chance of success on the merits of its claims, any such move would result in "significant harm" to the 39 former CRC employees involved in the case.

CRC was seeking a preliminary injunction against Chicago-based Ryan Specialty; its founder, Patrick G. Ryan; its subsidiary RT Specialty

L.L.C. and a group of former CRC employees, arguing "its very survival was in jeopardy," according to court documents. The move would have restrained the former employees from being employed by or associated with any entity in competition with CRC in the state of Illinois, and from soliciting CRC's employees and customers for two years, as stipulated in the employees' respective employment contracts, according to court records.

In May, more than 120 CRC employees in Chicago, Philadelphia and California resigned to join Ryan Specialty. Both firms have filed lawsuits against each other over the departing employees' employment contracts.

CRC Chairman and CEO Tom Curtin said in an e-mail statement that he was "disappointed with the court's decision."

"We are only at the beginning of what will be a protracted legal dispute. CRC intends to continue vigorously defending itself and protecting its business," he said.

In its suit, Birmingham, Ala.-based CRC alleges, among other things,



Mr. Ryan

See **CRC** page 24

FEDERAL LEGISLATION & REGULATION



REUTERS/LANDOV

Senate Banking, Housing and Urban Affairs Committee Chairman Chris Dodd, D-Conn., drafted the Senate version of financial services reform.

Buyers, insurers see wins in financial reforms deal

By **MARK A. HOFMANN**

WASHINGTON—The property/casualty insurance industry fared relatively well, and risk managers achieved some key legislative goals, under a House-Senate compromise on financial services regulatory reform.

For example, insurers appear unlikely to be subjected to new systemic risk regulations.

In addition, the bill contains two provisions long sought by the Risk & Insurance Management Society Inc. and some insurers—the creation of a federal insurance office within the

Treasury Department and streamlining of the regulation of surplus lines and reinsurance that would give qualified risk managers easier access to the nonadmitted market.

But the insurance provisions in the Restoring American Financial Stability Act of 2010 make up only a small part of the bill. Among other things, the measure would allow federal regulators to take control of and wind down failing financial services firms, regulate the derivatives market, establish a new consumer

See **REFORM** page 24

LIABILITY & LITIGATION

Pro-employer ruling on arbitration may spur law change

By **JUDY GREENWALD**

WASHINGTON—Employers scored a win last week when the U.S. Supreme Court ruled that a pre-employment arbitration agreement

was enforceable, but the victory ultimately may prove to be hollow, say many observers.

That is because the court's decision in *Rent-A-Center, West Inc. vs. Antonio Jackson* likely will bolster Congress-

DETAILS OF RULING: Supreme Court confirms validity of arbitration clauses, settles who determines when to arbitrate. **PAGE 24**

sional support for legislation that would ban pre-dispute arbitration clauses in employment contracts.

The Supreme Court held last week in its highly technical 5-4 ruling that employees can challenge the validity of the agreement to arbitrate clause in a pre-employment contract, but not the contract as a whole. In the case, a worker sued his employer alleging race discrimination and retaliation, but the employer argued that, under a pre-employment agree-

ment signed by the worker, the case should be arbitrated.

The opinion likely will increase momentum toward passage of the Arbitration Fairness Act 2009, which also would require arbitration agreements' validity to be determined by a court under federal law, rather than an arbitrator.

The measure, H.R. 1020, is pending in the House Judiciary Committee. The bill, which has 113 co-sponsors, was introduced in February 2009 by Rep. Henry C. Johnson Jr., D-Ga. A companion Senate bill, with 11 sponsors, was introduced by Sen. Russell D. Feingold, D-Wis.

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VIDEO: STATE OF WHOLESALE MARKETPLACE

In a new Insurance Broker Insights video, David Pagoumian of NAPCO L.L.C. discusses the state of the wholesale market sector.



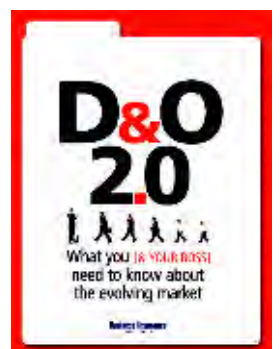
Benefit Manager of the Year

Business Insurance has video profiles of 2010 Benefit Manager of the Year Marianne McManus of IBM Corp., above, and 2010 Benefit Management Honor Roll honorees Gary Eastes of the City of Knoxville, Tenn., below, and Joseph Molloy of North Shore-LIJ Health Care System, bottom. Go to Video Reports under Multimedia.



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MOST POPULAR STORIES Week of June 21, 2010

1. Buffett wins \$30M World Cup insurance bet as France loses
2. Ex-CRC staff can keep working at Ryan Specialty: Judge
3. Insurance broker Integro hires MMC veteran
4. Sponsors start to shun French soccer team
5. WellPoint exec sees health reforms driving insurer 'oligopoly'
6. AIG bailout likely to generate government loss: Geithner
7. Health care reform measure hits Walgreens' profits
8. Senator scales back COBRA subsidy extension plan
9. Tort reform group warns of out-of-court tactics
10. Obama warns health insurers not to hike rates

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STOCK INDEX

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WORKERS COMPENSATION

Washington employers push for end to comp monopoly

By ROBERTO CENICEROS

OLYMPIA, Wash.—Business groups and other proponents of a Washington voter initiative that would eliminate the state's monopoly workers compensation system this week expect to turn in enough signatures to put the issue on the November ballot.

Initiative 1082 would allow private workers comp insurers to compete against the State Fund administered by the state's Department of Labor & Industries, which provides coverage for about 171,000 employers.

Washington, Ohio, North Dakota and Wyoming are the only four states with monopoly workers comp systems. Washington's is

unusual because employees contribute to workers comp premiums and rates are based on hours worked rather than a percentage of payroll, as is common in other states.

The ballot initiative would end the worker contributions.

"It's going to be the granddaddy of fights between business and labor unions and trial attorneys," said a spokeswoman for the Building Industry Assn. of Washington, which filed the initiative with the state's Secretary of State in April.

The Secretary of State's office confirmed last week that initiative supporters have a July 2 appointment scheduled to hand in the necessary signatures. About 241,000 registered voter signatures must be sub-

7.6%

WASHINGTON BUSINESSES saw a 7.6% average premium increase this year while other states are experiencing premium decreases.

mitted by July 2 to qualify for the ballot. The BIAW spokeswoman said supporters plan to submit 300,000 signatures.

Opposing sides already are setting out their positions, and the debate is heating up.

A spokeswoman for the Washington State Labor Council, AFL-CIO said: "We really think this will not be good for workers in Washington with big insurance controlling (coverage)," the spokeswoman said. "It's bound to have detrimental effects because, with our state system, we don't have to subsidize the profits of big insurance agencies."

The BIAW, in communications aimed at garnering initiative support, calls premium increases tax hikes and, in a blog posting, said "there is virtually no dispute that the Department of Labor & Industries runs one of the worst industrial insurance programs in the country."

Initiative supporters say state lawmakers have failed to implement

reforms adopted in other states and Washington businesses saw a 7.6% average premium increase this year while other states are experiencing premium decreases.

A Department of Labor & Industries spokeswoman said a state ethics law prohibits agency personnel from commenting on the ballot initiative.

But the department's website shows clear differences with BIAW's position, which is supported by several local chambers of commerce and the Olympia, Wash.-based Assn. of Washington Business.

While BIAW says claims filed in Washington have an average loss-

See **WASHINGTON** page 6

LIABILITY & LITIGATION



Ervin Gonzalez, an attorney for plaintiffs seeking Chinese drywall damages, shows examples of the damage that defective drywall can cause to pipes.

Settlements, \$2.4M verdict in Chinese drywall litigation

By JEFF CASALE

MIAMI and NEW ORLEANS—A jury recently awarded a Florida couple \$2.4 million for damages related to Chinese drywall, while the same defendant settled with claimants in another case before going to trial.

A jury in Miami earlier this month rules that Banner Supply Co. was liable for damages to Armin and Lisa Seifart's home and awarded the couple \$2.4 million.

Miami-based Banner Supply Co. was the distributor of the defective Chinese drywall, which has been linked to corrosion of wiring and household appliances and possible health problems.

The plaintiffs claimed Banner Supply knew there were problems with the wallboard it imported from Knauf Plasterboard Tianjin Co. Ltd.

The Miami-Dade County Circuit Court jury found Banner negligent and in violation of Florida's Deceptive and Unfair Trade Practices Act. According to reports.

In Louisiana, Knauf settled with two property owners in a federal court on June 18. The lawsuits were

brought by Paul Clement and Celeste Schexnaydre, and John Campbell, a real estate owner. All claimed the noxious drywall caused damage to their properties.

The three are among more than 2,000 plaintiffs in a class-action lawsuit filed in December against Knauf.

Under the settlement, Knauf agreed to pay Mr. Clement and Ms. Schexnaydre for removal and replacement of the drywall from one home, repairs to the electrical system and \$40,000 for moving, rent, storage and personal items. Knauf agreed to pay Mr. Campbell \$20,175 for lost rental income. Knauf also agreed to remove and replace the drywall and replace wiring.

In addition, two other companies hit with class action lawsuits related to Chinese drywall have settled. South Kendall Construction Corp. affiliate Palm Isles Holdings L.L.C. and Keys Gate Realty agreed to pay a combined \$6 million to settle homeowners' claims in Miami-Dade County Circuit Court, the Miami Herald reported.

HEALTH CARE REFORM

Health reform rules clarify benefit caps

More guidance needed on what constitutes an 'essential' benefit

By JERRY GEISEL

WASHINGTON—The latest health care reform regulations provide guidance on the annual and lifetime dollar limits employers can impose, but they leave unaddressed a key related issue.

Under the recent health care reform law, employers starting in 2014 are barred from imposing an annual dollar limit on "essential" health benefits. From 2011 through 2013, restricted annual limits are allowed on such benefits.

The law also bars lifetime dollar limits on essential health benefits, starting in 2011.

The regulations, which were

RULES ON LIMITS

- Employers can place annual dollar limits for "essential" health care services for the next three years. Limit can't be less than \$750,000 per enrollee in 2011, \$1.2 million in 2012, and \$2 million in 2013. No annual limit starting in 2014.
- Annual limits do not apply to FSAs, HSAs or HRAs linked to group plans. Standalone retiree-only HRAs exempt from annual limits.
- No differential in annual and lifetime limits for in- and out-of-network "essential" services.
- Definition of essential services yet to come.

issued last week by the Departments of Health and Human Services, Labor and Treasury, detail the annual dollar limits that employers can impose from 2011 through

2013 for essential benefits. In 2011, the annual limit can be no less than \$750,000 per enrollee, with the limit rising to \$1.25 million in 2012 and \$2 million in 2013.

Few employers impose annual dollar limits, though some may have them for a specific condition or service. Most employers, though, impose lifetime dollar limits, especially for out-of-network services.

The regulations, though, do not define what constitutes an essential benefit, leaving it to employers to make a good-faith interpretation. The health care reform law defines essential benefits only in broad terms, such as hospitalization and prescription drugs.

Regulators "really punted on the essential benefit issue," said Sharon Cohen, an attorney with Towers Watson & Co. in Arlington, Va.

See **RULES** page 25

FEDERAL LEGISLATION

Obama signs pension funding relief bill

By JERRY GEISEL

WASHINGTON—President Barack Obama last week signed long-sought pension funding relief legislation.

The president's action came one day after the House gave final approval to the measure, H.R. 3962, on a 417-1 vote. The dissenting vote came from House Education and Labor Committee Chairman George Miller, D-Calif., who objected to the omission of provisions he backed that would beef up disclosure of 401(k) plan fees.

The new law gives employers temporary alternatives to the basic requirement—embedded in a 2006 law—that requires employers to amortize pension funding shortfalls over seven years.

FUNDING RELIEF

Employers given two choices to current requirement to amortize pension funding shortfalls over seven years

- Amortize funding shortfalls over 15 years for any two years between 2008 and 2011, or
- Pay only interest on a funding shortfall for only the two plan years they choose. After that, seven-year amortization period begins.

Under one alternative, employers can amortize funding shortfalls over 15 years for any two plan years between 2008 and 2011.

Under the other alternative, employers can opt to pay interest

on a funding shortfall for only the two plan years they choose. After that, the seven-year amortization period would begin.

For example, if an employer chose the latter approach for the 2010 plan year, it would only pay interest—roughly 6% based on current rates—on the shortfall in 2010 and 2011, while the shortfall would be amortized over seven years starting in 2012.

Either approach would significantly reduce the cash pension plan contributions employers would have to make compared with current requirements.

"While it is not everything that we and our plan sponsor community would have wanted, it

See **PENSIONS** page 25

LIABILITY & LITIGATION

Judge approves settlement for sick WTC workers

By COLLEEN MCCARTHY

NEW YORK—A federal judge last week formally approved a settlement between the WTC Captive Insurance Co. and lawyers representing thousands of Sept. 11, 2001, rescue and recovery workers.

At least 95% of the roughly 10,000 plaintiffs—including firefighters, police officers and construction workers, must approve the settlement by Sept. 30 for it to take effect, or the deal collapses and litigation resumes.

U.S. District Court Judge Alvin Hellerstein said he found the agreement “fair, adequate and reasonable” and urged the workers to accept it.

The agreement offers as much as \$712.5 million to compensate ill workers who filed suit against New York City over their exposure to contaminants at the World Trade Center attack site. “It is fair in amount and fair in procedure,” said Judge Hellerstein, who rejected the initial settlement reached by the parties in March as inadequate.

At a fairness hearing last week, lawyers for the workers and the City of New York urged the plaintiffs to “opt in” to the agreement.

“There is no question in my mind that this settlement is substantial,

fairly administered and good for all plaintiffs,” Paul Napoli, partner at Napoli Bern Ripka L.L.P. in New York, which is representing more than 9,000 plaintiffs included in the settlement.

Kenneth R. Feinberg, who has been appointed to oversee plaintiff appeals under the settlement, also urged plaintiffs to approve the deal.

“To me, it is a simple choice. You have waited long enough,” said Mr. Feinberg, speaking on a closed-circuit feed from Washington.

The plaintiffs were precluded from participating in the September



Mr. Feinberg

11 Victim Compensation Fund, which Mr. Feinberg administered, because their health problems did not manifest until after the fund expired in 2003.

Under the revised pact, the net settlement has been boosted to as much as \$712.5 million, depending on participation, up from the previous offer of \$657 million.

Under the agreement, plaintiffs could receive anywhere from a few thousand dollars to more than \$1.5 million, depending on the severity of their illness and the degree of exposure at ground zero, prior health history and other factors.

Payments will be made by WTC Captive, a federally financed insurance fund established in 2004 with

a \$1 billion grant to provide otherwise unavailable liability coverage to the city of New York and about 100 contractors.

All qualifying claimants will get special insurance policies through MetLife Inc. providing a benefit of as much as \$100,000 in the event they are diagnosed with certain blood and respiratory cancers, attorneys for the WTC captive said. In addition, the settlement offers a variety of other benefits, such as waived fees on workers compensation benefits, which will not be available to plaintiffs who do not participate, attorney said.

Attorneys on both sides said they are reaching out to build support among the plaintiffs.

CATASTROPHES



AP PHOTO

Offshore energy industry observers at the Marine Money Week last week said the Deepwater Horizon disaster was preventable.

Offshore energy firms see greater liability, regulation

By ZACK PHILLIPS

NEW YORK—The Deepwater Horizon oil spill was a preventable accident that will provoke dramatic increases in regulation to be felt for a long time to come, experts say.

Offshore energy industry observers speaking at the Marine Money Week gathering last week in New York said higher liability caps and tighter safety regulations likely will be put in place in response to the explosion and resulting pollution from the drilling rig leased by BP P.L.C.

“The blowout at BP’s Macondo well was a tragic but preventable accident—in fact, one that should never have happened,” said Robert J. Mackenzie, Arlington, Va.-based managing director of energy and natural resources research at FBR Capital Markets & Co. “If BP had simply followed (American Petroleum Institute) best practices and the recommendations of their subcontractors...there would be no blowout today.”

Kevin Book, managing director of

ClearView Energy Partners L.L.C., said the resulting media scrutiny and political firestorm means an intense focus on safety that will tighten regulation dramatically well beyond the offshore, deepwater drilling sector where the Deepwater Horizon rig operated. He said he has seen indications that regulators may tighten oversight in completely distinct energy sectors, such as onshore natural gas production.

“The political environment and risk perception that has come off the Gulf has reverberated to technologies that are as different as a Great Dane and a Pekinese,” Mr. Book said. “This notion that something is being done in the name of safety is unassailable politically.”

Mr. Book and other panelists said regulatory initiatives could take two forms: various, relatively incremental actions by the federal government or substantial surcharges on production, rescission of tax benefits, and other measures that would have a significant effect on the off-

See **DEEPWATER** page 25

P/C INSURERS

U.K. proposes premium tax increase

By SARAH VEYSEY

LONDON—Buyers purchasing insurance for U.K. risks would see their total bill increase thanks to a higher premium tax proposed by the U.K. government to help alleviate a massive budget deficit.

The one percentage point increase in the insurance premium tax, proposed last week by Chancellor George Osborne as part of an emergency budget to counter about \$1.3 trillion in debt, is smaller than some observers had feared.

Among other measures, Mr. Osborne said the insurance premium tax would increase to 6% of premium from 5% effective Jan. 1, 2011.

The tax is paid on insurance for risks in the United Kingdom and

U.K. PREMIUM TAX HISTORY

- A tax on U.K. insurance premiums was introduced in 1994 at a rate of 2.5% of premium.
- In April 1997, the standard rate increased to 4% of premium and the higher rate was introduced at 17.5% of premium.
- In July 1999, the standard rate increased to 5% of premium.

typically is paid by the buyer to the insurer, which forwards it to the U.K. Treasury.

Mr. Osborne said a higher tax rate also would apply to insurance, such as travel or auto, that is

sold by third parties that provide other goods and services. That tax would increase from 17.5% to 20% of the premium, a rate that is in line with the value-added tax paid on goods.

At the Assn. of Insurance & Risk Managers’ annual conference in Manchester, England, this month, risk managers and brokers expressed fears that premium tax rate would increase to as much as 10%.

While the government’s planned increase is less than feared, it still is a 20% rate hike, said Ben Flockton, a director in the insurance tax division of PricewaterhouseCoopers L.L.P. in London.

A larger increase probably would have negatively affected U.K. insur-

See **TAX** page 7

EMPLOYMENT PRACTICES

DOL guidance eases eligibility for FMLA

By JERRY GEISEL

WASHINGTON—Family and Medical Leave Act guidance issued last week by the Department of Labor reduces the conditions an employee must meet to take FMLA leave to care for a child with whom the employee lacks a legal or biological relationship.

Under the 1993 law, employees can take up to 12 weeks of unpaid leave a year due to the birth or adoption of a son or daughter or to care for a son or daughter with a serious health condition.

The FMLA defines a son or daughter as a “biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis.”

The DOL says it has received requests for additional guidance on the conditions employees must meet for employees who do not

BEFORE AND AFTER

How a new Labor Department interpretation expands entitlement to the Family and Medical Leave Act

OLD RULE: Entitlement allowed for workers acting in place of a parent for a non-biological child if a worker is responsible for day-to-day care and financial support of the child.

NEW INTERPRETATION: Entitlement allowed if worker is responsible for day-to-day care for or financial support of the child.

have a biological or legal relationship with the child to be considered acting in loco parentis and thus be entitled to FMLA.

Under previous FMLA regulations, the Labor Department defined in loco parentis as includ-

ing individuals with day-to-day responsibilities to care for and financially support a child.

But under the latest guidance—issued as an “administrator’s interpretation” by Nancy Leppink, deputy administrator at the Department of Labor’s Wage and Hour Division—only one part of the two-part “in loco parentis” test would have to be met in order for an employee who lacks a biological or legal relationship to be entitled to FMLA leave.

“It is the administrator’s interpretation that the regulations do not require an employee who intends to assume the responsibilities of a parent to establish that he or she provides both day-to-day care and financial support in order to be found to stand in loco parentis to a

See **FMLA** page 6

JIM ISN'T A HERO BECAUSE
HE IMPLEMENTED A NEW GROUP PROGRAM.
HE'S A HERO BECAUSE NOTHING WENT WRONG.



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Washington: No monopoly

CONTINUED FROM PAGE 3

time duration of 270 days, the department says the median loss-time duration is 40 days.

The median duration is more accurate because the department does not purchase reinsurance for the State Fund, so it retains severe claims on its books longer than is typical for insurers, said Robert Malooly, assistant director for insurance services at the department in Olympia.

Additionally, state law prohibits closing claims through compromise and release arrangements. Those factors mean a small group of severe claims skew the loss-time average, Mr. Malooly said.

The BIAW also touts a Dec. 31, 2009, State Auditor report finding that Washington's Accident Fund, which pays nonmedical claims

expenses, faces a 74% chance of insolvency within two years and a 90% chance within five years.

According to Department of Labor and Industry documents, the audit report was mischaracterized in a newspaper editorial, leaving the impression that the entire system was in danger of insolvency.

The 2009 audit report states that Accident Fund contingency reserves "declined substantially" due to the recession, increased loss adjustment expenses, and insufficient premium rates in 2008 and 2009. But the Accident Fund would have sufficient assets to pay claims and perform day-to-day services; although, contingency reserves have a potential of falling below zero, the audit report states.

Mr. Malooly also said that assessing premiums on hours worked rather than on a percentage of pay-

roll means Washington's rates have not included an amount for wage inflation. Its rate increases, therefore, essentially keep the system in line with other states' levels, Mr. Malooly said.

The American Insurance Assn. and the Property/Casualty Insurers Assn. of America say they support the initiative effort. They have not contributed resources but are weighing doing so.

Generally, states have eliminated monopoly workers comp insurance systems rather than create new ones, and a state Senate-created task force in Ohio is investigating the possibility of opening that market to competition, said Bruce C. Wood, the AIA's associate general counsel and director of workers compensation.

"I think the historical record is clear that private markets produce the most efficient allocation of resources and certainly a stable insurance environment," Mr. Wood said.

FMLA: Guidance eases rule

CONTINUED FROM PAGE 4

child," according to the DOL interpretation.

For example, under this interpretation, an employee providing day-to-day care for his or her unmarried partner's child, but does not also provide financial support for the child, would be considered standing in loco parentis and entitled to FMLA leave to care for the child's serious health condition.

The interpretative guidance pro-

vides examples outside of domestic partner situations where only part of the two-part test would have to be satisfied.

"Examples of situations in which an in loco parentis relationship may be found include where a grandparent takes in a grandchild and assumes an ongoing relationship for raising the child because the parents are incapable of providing care, or where an aunt assumes responsibility for raising a child after the death of the child's parent," the

bulletin said.

While experts say the interpretation may trigger litigation, they also believe most employers will comply.

"I think most employers will take the safe route" and comply, said Matt Morris, a legal consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

"This is not a sea change," Mr. Morris added.

Still, it will mean more employees will be entitled to leave, said Mary Tavarozzi, director of Towers Watson & Co.'s absence and disability management practice in Tampa, Fla.

Commentary

Enthralled by prospect of drenching summer

With the hurricane season upon us, the insurance industry trade groups have been issuing their annual reminders to those in affected areas regarding how to prepare for possible storms.

The hurricane threat is something those on the Atlantic or Gulf coasts accept as a fact of life, I guess, much as those in seismically active areas deal with earthquake risk.

Here, in the interior of the continent, the risks nature throws our way generally are weather related, though the occasional event like last week's magnitude 5.0 quake near Ottawa makes you wonder.

In the Midwest, where I've spent my entire life, weather risks typically run to blizzards in the winter and spring and summer storms—the sort that breed tornadoes and floods. And, though summer's still young, we've already seen some pretty dramatic examples of the latter.

My wife, Kathy, likes to suggest that I have an unusual obsession with weather, though I like to think it's more of a fascination. I've written in the past about close encounters with tornadoes while growing up in Indiana—experiences that probably fueled that fascination.

In the past week or so, I've thought about those tornado experiences while in the middle of a couple of first-class Midwest summer storms.

One came on a Friday afternoon as we drove to Iowa to spend a long weekend with Kathy's folks. Watching the sky darken as we drove west across Illinois, we finally ran head-on into the storm, pulling off to wait it out when the combination of rain and 70-plus mph winds had pretty much reduced visibility to zero.

As we waited, I checked for weather information on my phone, not telling Kathy of an alert warning that this was a potentially dangerous storm and we should seek shelter immediately. Given our location in the middle of Illinois corn country, miles from any such shelter, that wasn't an option anyway.

But, when I saw a low-reaching finger of dark cloud beginning to slowly spiral nearby, I nearly suggested that, deluge or not, it might be time for Kathy, me and our flat-coated retriever, Smoke, to make ourselves comfortable in the ditch.

Fortunately, it didn't come to that, the worst of the storm passed, and a short while later



RODD ZOLKOS

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we were back on our way to Iowa.

Later that afternoon, with the storm well behind us and listening to the tail end of the Cubs game as we neared Kathy's folks' place in Cedar Rapids, we heard the storm just starting to advance on Chicago.

Cedar Rapids, of course, is itself well acquainted with catastrophic weather events. It is still recovering from a devastating

When I saw a low-reaching finger of dark cloud beginning to slowly spiral nearby, I nearly suggested that, deluge or not, it might be time to make ourselves comfortable in the ditch. Fortunately, it didn't come to that.

2008 flood, its low-lying neighborhoods still marked by boarded-up homes and many downtown storefronts remaining empty. I thought of Cedar Rapids often this spring, as I followed Nashville's flood and its aftermath.

By all indications, that Friday afternoon storm still was a pretty good one when it hit downtown Chicago. My *Business Insurance* colleagues described whitecaps on the Chicago River, the flags lining either side of the Michigan Avenue bridge blowing toward each other, and outdoor furniture flying from the 16th floor terrace lounge of the Trump Tower across the river from our offices.

I'm sorry I missed that. I'll bet it was fascinating.

Business Insurance Webcasts & Webinars

Business Insurance's Webcasts are developed by *BI* editors to discuss the latest and most pressing issues facing our readers. **Business Insurance's Webinars** are educational and informative presentations by leading companies serving the risk management, employee benefits and commercial insurance communities. Both formats are presented live online and afterward are accessible on demand.

Retaliation Claims: What You Need to Know About This Growing Risk

Live Online: This Wed., June 30, 2010 | 1 p.m. Eastern | Free of Charge

Retaliation claims against U.S. employers accounted for a greater number of charges filed with the Equal Employment Opportunity Commission than any other type of complaint filed with the commission last year. And the number of these claims is growing. Retaliation complaints tied with racial discrimination for the biggest increase among the various types of employment discrimination claims, according to the EEOC.

This *Business Insurance* webcast will help risk managers and other employer executives to analyze the reasons behind the growth of these claims, and to learn what employers can do to minimize their exposure. Join Gerald R. Maatman Jr., a partner at Seyfarth Shaw in Chicago, and Michael R. Buchanan, a shareholder with Ogletree Deakins in Dallas, for an examination of retaliation claims and answers to your questions in the live webcast. The webcast will be moderated by *Business Insurance* Senior Editor Judy Greenwald.

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For details, visit BusinessInsurance.com/Webinars

Industry needs to make voice heard on new U.K. rules

LONDON—Insurance buyers, brokers and insurers should make their voices heard as the U.K. government puts in place a new system of regulating financial services companies, experts say.

If the regulatory changes are too severe, insurers may leave the United Kingdom, experts warn.

The changes come in the wake of widespread criticism of the supervision of banks by the London-based Financial Services Authority, which regulates insurance companies, brokers, banks and other financial services companies.

Under the changes proposed by the newly elected coalition government, the FSA by 2012 would be replaced by the Prudential Regulatory Authority, which would be a subsidiary of the Bank of England, and the Consumer Protection & Markets Authority. The Prudential Regulatory Authority would regulate insurers.

Insurance buyers, brokers and underwriters will be able to take part in a consultation period about the changes during the summer. The deadline for comments has not yet been announced.

Nick Lowe, director of government affairs at the International Underwriting Assn., said the London-based group wants the new regulator to have a good understanding of the insurance industry and the importance of insurers and reinsurers to the U.K. and global economy.

"Changing the regulatory structure does not automatically bring better regulation, and insurers should make good use of the consultation phase before these changes are implemented to put their case forward," said Bruno Geiringer, partner in the insurance group at London-based law firm Pinsent Masons L.L.P.

If regulation of insurers in the United Kingdom becomes too "aggressive" and costly, "the U.K. insurance industry will move abroad," Mr. Geiringer said. "We may then have a very fine regulatory system but very little of the insurance industry left in the United Kingdom to regulate."

While the Prudential Regulatory Authority would oversee insurers, the Consumer Protection & Markets Authority likely would oversee insurance brokers.

The London-based British Insurance Brokers' Assn., which said it will take part in the consultation, said cost would be a key issue for its members.

—By Sarah Veysey

Tax: United Kingdom proposes premium tax increase

CONTINUED FROM PAGE 4

ers' competitiveness, said Mr. Flockton and Alexis Roberts, a partner in the insurance team at London-based law firm Pinsent Masons L.L.P.

Had the increase been as high as 10%, insurers likely would need to absorb some of that cost themselves to avoid discouraging buyers. That would have necessitated an overhaul in the way coverage is priced, Mr. Roberts said.

The insurance premium tax increase may result in some buyers purchasing less insurance, said a spokesman for the Lloyd's of Lon-



The increase in the insurance premium tax, proposed last week by Chancellor George Osborne, is smaller than some observers had feared.

don insurance market. But he said Lloyd's does not think the tax increase would harm its competitiveness.

Increasing the insurance premium tax to 6% likely will not have a major effect on the attractiveness of the U.K. insurance market, said

Howard Jones, a tax partner at London-based accountant Mazars Group.

But other industry groups said they fear the tax increase would result in some businesses and individuals buying less coverage.

While it welcomed some of the other announced changes, the London-based Assn. of British Insurers said increasing the insurance premium tax could have "unintended consequences" and result in less insurance being bought.

The insurance premium tax increase could add to budgetary pressures companies face during the recession, said Eric Galbraith, CEO

of the London-based British Insurance Brokers' Assn.

"This is a tax on protection," he said, and could lead to companies being underinsured.

Other measures in last week's emergency budget that could affect the insurance industry include the government's pledge to reduce the corporate tax rate from 28% to 24% by 2014.

Lloyd's welcomed the move and said it would aid the competitiveness of the U.K. insurance market.

The ABI also said it welcomed the government's move to make the United Kingdom more competitive.



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Business Insurance OPINIONS

Benefit managers earn honors for hard work

RISING MEDICAL COSTS, unhealthy lifestyles and financial pressures on workers are big challenges for employers and the benefit managers whose job is to help workers stay healthy and productive and keep saving for their future.

With profiles beginning on page 9, *Business Insurance* is proud to honor three outstanding employee benefit professionals whose leadership and innovation are making a big difference for their organizations, with the 2010 Benefit Manager of the Year award and the newly launched Benefit Management Honor Roll.

Marianne McManus, director of health benefits strategy and design for IBM Corp., was named the Benefit Manager of the Year by a panel of independent judges for her creative approach to health care and wellness benefits.

Gary Eastes, risk and benefits manager for the City of Knoxville, Tenn., ushered in significant plan design changes and incentives that have helped save lives and get plan members on the road to healthier living. His achievements have earned him a place on the Benefit Management Honor Roll.

Joseph Molloy, corporate director of benefits for the nonprofit North Shore-LIJ Health System, has applied cost-saving and benefit participation strategies more common among for-profit entities, and it's paying big dividends for his employer. Mr. Molloy's accomplishments have won him a spot on the Benefit Management Honor Roll.

In the face of challenging conditions, these benefit managers found ways to enhance the value of the benefit programs their organizations offer, with impressive results: saving money, improving health and helping workers achieve financial security in retirement.

These benefit managers found ways to enhance the value of the benefit programs their organizations offer, with impressive results.

Financial services reform agreement a good start

WHILE THE MEASURE ISN'T PERFECT, this is the time to take what we can get when it comes to financial services regulatory reform.

As we report on page 1, House and Senate conferees agreed on the details of a comprehensive financial services regulatory reform bill that includes a couple of long-term legislative goals of the risk management community.

One is reforming the regulation of the nonadmitted insurance market and reinsurance so qualified risk managers can more easily access surplus lines insurers. This is a noncontroversial reform that should have become law years ago. Provided the House and Senate approve the broader bill and the president signs it into law, it will become reality at last.

The bill also would create a new Federal Insurance Office within the Treasury Department. We have to admit that we're disappointed in how the compromise circumscribed the office's powers to pre-empt state insurance regulators. We would have greatly preferred granting the office much broader powers to pre-empt states regarding international insurance issues.

Of course, as we've written many times before, ultimately we'd prefer the creation of a system of optional federal charters for insurers and brokers, but unfortunately that won't happen soon. We recognize the political reality surrounding the establishment of the FIO.

Something is better than nothing and, for the time being, the FIO provision in the regulatory reform act represents the best that's possible. If the House and Senate approve its creation, it could be the foundation for broader insurance regulatory reform in the future.



WRITE

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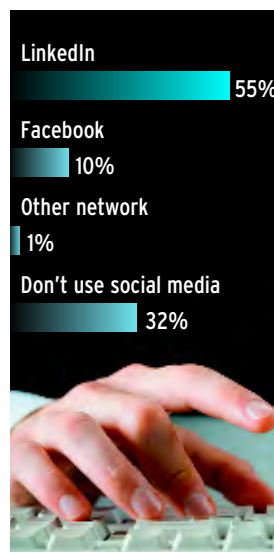
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Which social media network do you use most for professional purposes?



NEXT WEEK'S QUESTION

Q: Have you ever taken Family and Medical Leave Act leave?

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Chicago: 312-649-5286; Denver: 303-898-4043;

London: 44-207-457-1412; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by

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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; Suite 814,

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Olathe, Kan. 66062, Fax: 312-280-3174, 77 Franklin St., Suite 809,

Boston, Mass. 02110-1510; Fax: 212-210-0704, \$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).

E-mail subscription correspondence and address changes to

customerservice@businessinsurance.com or mail to Business

Insurance Circulation Department, 1155 Gratiot Ave., Detroit, MI

48207-2912. Send subscription correspondence to Circulation

Department, *Business Insurance*, 711 Third Ave., New York, N.Y.

10017-5806. Microfilm copies available: University Microfilms,

300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell

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Innovative strategies buoy health, savings

By JOANNE WOJCIK

SOMERS, N.Y.—When an organization's culture espouses innovation, creativity is encouraged at all operational levels. Still, introducing and implementing cutting-edge programs to improve the workforce's health and productivity while keeping costs in check can be challenging.

But Marianne McManus, director of health benefits strategy and design at IBM Corp., has implemented strategic plan design changes and introduced pioneering benefit programs while saving the Armonk, N.Y.-based information technology company more than \$1 billion between 2004 and 2009.

In fact, IBM's annual U.S. health care cost increases were consistently below the median nationwide trend by as much as 3% for the past six years, according to the company's benefit consultant, New York-based Towers Watson & Co. IBM's total annual spending on U.S. health care benefits exceeds \$1.8 billion.

Analyzing data collected in one of the largest and most comprehensive data warehouses in the world, Ms. McManus has redirected IBM's health care spending to encourage greater use of primary care, ensure patient

2010 **BENEFIT**
MANAGER of the year

safety and treatment effectiveness, increase generic drug use, and expand the company's award-winning Healthy Living Rebates program to offer incentives for exercise, nutrition, illness prevention and to address childhood obesity (see story, page 12).

Ms. McManus also has successfully exported IBM's global vision of Healthy People for High Performance program to the more than 170 countries where the company has operations, managing a cadre of vendors worldwide through the use of technology and communications programs that provide a seamless experience for employees and their families.

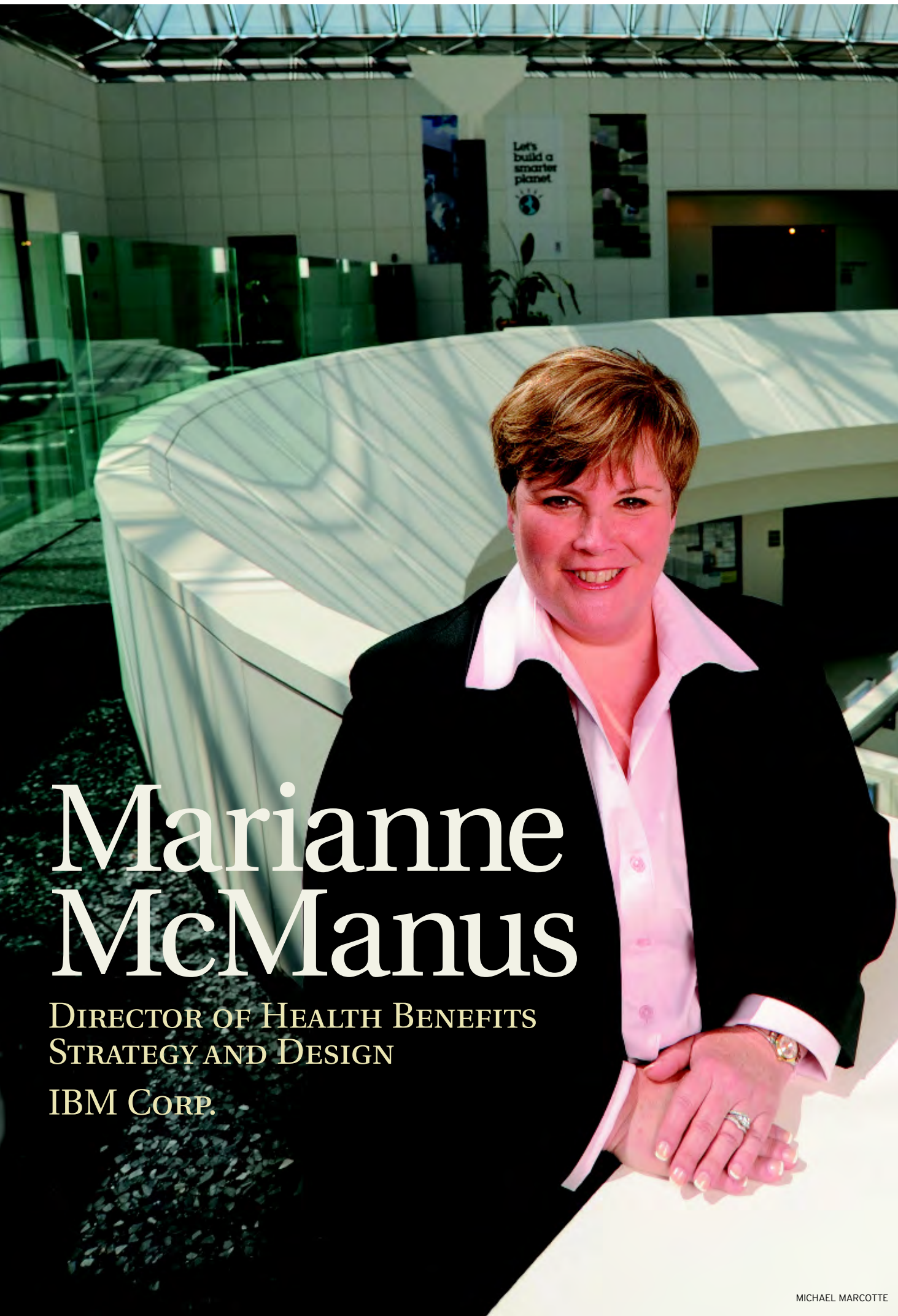
Taken together, all of these accomplishments have earned Ms. McManus the *Business Insurance* 2010 Benefit Manager of the Year honor.

"Marianne has a great capacity for accepting and engaging alternative points of view, being able to set aside established modes of doing things, and redirecting her talents toward pursuing completely new approaches to things," said Dr. Martin Sepulveda, an IBM fellow and vp of integrated health services, to whom Ms. McManus reports. "She also has deep subject matter knowledge."

Federico Castellanos, vp of human resources integration, said Ms. McManus is "very sensitive to cost issues. She also strives for simplicity and to remove complexity."

Because IBM long has been known as an innovator in the area of information technology, Ms. McManus has been encouraged to

See **McMANUS** next page



Marianne McManus

DIRECTOR OF HEALTH BENEFITS
STRATEGY AND DESIGN

IBM CORP.

MICHAEL MARCOTTE

More Benefit Manager
of the Year inside

Primary care now paid at 100% **PAGE 10** | Vendors chosen by best-in-market guide **PAGE 11** | Drugs lead to genetic testing **PAGE 12** |
Rebates back healthy living **PAGE 12** | Coordination weaves medical, behavioral plans **PAGE 13** | Global but tailored approach **PAGE 13** |
Communication taps collaboration **PAGE 14** | From the Blues to Big Blue **PAGE 15**

Primary care 100% company-paid

IBM bucks the trend of requiring workers to pay a greater share

By JOANNE WOJCIK

SOMERS, N.Y.—While most employers are asking employees to shoulder a greater share of health care costs, IBM Corp. has done just the opposite and began paying 100% of the cost of primary care at the beginning of this year.

Dr. Martin Sepulveda, IBM fellow and vp of integrated health services, came up with the idea for the financial incentive after an analysis of IBM's health care claims data showed that not enough employees were using primary care.

But coming up with the idea was easy compared with the task that faced Marianne McManus, director of health benefits strategy and design. It was her job to figure out how to pay for it so the added benefit would be cost-neutral for IBM.

"I challenged Marianne to come to me with some ideas about how to create financial incentives for people to go and seek and establish relationships with primary care physi-

cians," said Dr. Sepulveda. "I told Marianne to figure out how to make it free and yet cost-neutral for IBM."

She accomplished this by finding and eliminating inefficiencies in other benefits programs, he said.

But IBM's efforts at enhancing the role of primary care go beyond encouraging employees to use more pediatricians, internists and general practitioners. The company was one of the founders of the Patient Centered Primary Care Collaborative, a coalition of large employers and employer groups, consumer organizations and medical providers dedicated to promoting the medical home concept as a way to boost primary care.

IBM also has supported several pilot projects aimed at promoting medical homes and primary care overseen by Dr. Paul Grundy, director of health care technology and strategic initiatives at IBM's corporate headquarters in Armonk, N.Y. Drs. Grundy and Sepulveda have collaborated on research published in Health Affairs that demonstrated patients who have primary care physicians serving as their "medical homes" have better health, fewer complications and lower health care costs than those who use the

health care system without such an ombudsman.

"A medical home is a real and virtual relationship with a doctor centered around a patient's needs," Dr. Grundy said in a 2008 interview with *Business Insurance*.

Unfortunately, when IBM approached its health plans to ask whether they would change the way they compensate primary care physicians to encourage them to serve as medical homes, they said they could not, Dr. Grundy said. As a result, IBM launched its own pilot via the Patient Centered Primary Care Collaborative.

IBM's medical home program has yet to be expanded beyond the pilot stage partly because of insurer resistance and partly because of the shortage of primary care physicians, Ms. McManus said.

"IBM also needs partners, but health plans have been slow to adopt the new payment structure," she said. "They want to continue to approach it on a pilot basis and collect more data."

Regardless, IBM continues to promote the concept and has reinforced its support through the introduction of its first-dollar primary care benefit, she noted.



Dr. Martin Sepulveda, vp of integrated health services, challenged Marianne McManus to make primary care free for workers yet cost-neutral for IBM.

McManus: Strategic innovator

CONTINUED FROM PREVIOUS PAGE

experiment with benefit innovations that other employers have monitored and sometimes adopted.

"In serving a broad array of customers whose success and survival is in taking performance to another level, we're most persuasive in doing that when people see we eat our own cooking," Dr. Sepulveda said. "So there's an expectation, certainly in human resources, that we need to be at the front of things that take performance in the human resources to the next level."

"Nobody's ever going to call you stupid for bringing something forward that challenges the convention, so there's a high level of respect accorded for different points of views and different opinions," Dr. Sepulveda said.

In fact, he said Randy McDonald, senior vp of human resources, to whom Dr. Sepulveda and Ms. McManus report, "delights in people coming to him with off-the-wall ideas that then get exercised."

For example, IBM was among the first U.S. employers to switch from copayments to coinsurance for all services, including hospitalization, office visits and pharmacy benefits, as a means to promote consumerism.

"When we did that, the world was in a flat copay model," Ms. McManus said. "We recognized that



MICHAEL MARCOTTE

'What differentiates IBM from some other organizations is we are very intimate with our data and our population's health, so we gain a lot of insights. And we're led by a physician and have a lot of other physicians on an extended team.'

Marianne McManus, IBM Corp.

babies don't cost \$10 and people shouldn't think babies cost \$10. So we needed a cost-sharing mechanism that would show members the true cost of medical services. Now we find many, many other employers are using that coinsurance mechanism."

IBM employees pay 20% of the cost of in-network care after meeting annual deductibles of \$901 for individuals and \$2,703 for families. However, employees pay nothing

for preventive or primary care. There also is no deductible for in-network lab work, only coinsurance.

If employees go out-of-network for care, they are responsible for paying 45% of the cost after an individual deductible of \$1,576 and a family deductible of \$4,895. The deductibles apply for all out-of-network health care services.

IBM also introduced mandatory mail order for maintenance medications in 2004, long before many

other employers did.

"I don't know if we were the first, but we were trailblazing," Ms. McManus said.

IBM's 100% preventive care benefit, launched in 2006, since has been adopted by many other large and midsize U.S. employers.

But it may take a bit longer for other employers to copy IBM's latest, and perhaps most revolutionary, benefits change. Beginning this year, all of IBM's self-insured benefit plans provide first-dollar coverage of primary care services.

"I feel fairly certain we are leading there," Ms. McManus said.

The objective is to encourage greater use of primary care doctors, such as internists, pediatricians and general practitioners, who charge significantly less for office visits than do specialists.

It also is designed to ensure plan members get regular checkups so they receive recommended preventive care and doctors can detect and treat conditions early.

The decision to enhance this benefit came after Ms. McManus' evaluation of claims data showed that use of primary care services could be improved.

"I challenged Marianne to come to me with some ideas about how to create financial incentives for people to go and seek and establish relationships with primary care physicians," said Dr. Sepulveda. "I told Marianne to figure out how to make it free and yet cost-neutral for IBM."

She did this by finding and eliminating inefficiencies in other benefits programs, such as pharmacy benefits, Dr. Sepulveda said.

"She gets real creative," he said of Ms. McManus.

Another idea that Dr. Sepulveda had, but Ms. McManus executed,

was to address the nation's childhood obesity epidemic by adding an education module and incentive to IBM's Healthy Living Rebates program, which has been recognized by the National Business Group on Health. Dr. Sepulveda used IBM data to co-author a paper published in the March issue of Health Affairs on the impact of childhood obesity on employers.

"What differentiates IBM from some other organizations is we are very intimate with our data and our population's health, so we gain a lot of insights. And we're led by a physician and have a lot of other physicians on an extended team," said Ms. McManus, referring to Drs. Sepulveda and Paul Grundy, director of health care technology and strategic initiatives, who heads IBM's medical home pilot program that also is designed to foster greater use of primary care.

In fact, IBM was among founders of the Patient Centered Primary Care Collaborative, a coalition of large employers and employer groups, consumer organizations and medical providers that's dedicated to promoting the medical home concept as a way to improve the quality of care and hopefully lower its cost. In a medical home, each patient has an ongoing relationship with a primary care physician who serves as his or her personal "health coach," leading a team of medical professionals that take collective responsibility for delivering care.

The collaborative was Dr. Grundy's brainchild, borne of a discussion at an IBM executive's house about ways to lower the company's health care costs.

"Most of our ideas are pretty organic. We've got a creative team," said Ms. McManus.

IBM deploys best-in-market strategy to choose providers

Analysis of services aims for consistent and coordinated care

By JOANNE WOJCIK

SOMERS, N.Y.—Rather than using a single vendor to manage all of its health benefit programs across the United States, IBM Corp. uses a “best-in-market strategy” designed by Marianne McManus, director of health benefits strategy and design, to improve vendor performance and save the company money.

For example, Ms. McManus used a bidding process in 2007 to choose a pharmacy benefit manager that saved IBM more than \$35 million annually.

After analyzing enrollment and costs, she was able to pare the number of health maintenance organization plans it offers to employees and retirees.

And by negotiating aggressive performance guarantees with health plan providers, IBM has saved \$2.5 million during the past four years.

Ms. McManus even used the process to select vendors to manage the benefits programs in Brazil, Egypt, Hong Kong, Russia and Taiwan.

The strategy relies heavily of IBM’s comprehensive data warehouse, which is managed by Ingenix Inc., an Eden Prairie, Minn.-based subsidiary of UnitedHealth Group Inc.

“When we looked at the market, we wanted to achieve a balance with administrative simplification and selecting partners who would have world-class service, clinical care management capabilities, lower administrative fees, as well as good provider access and discounts,” Ms. McManus said.

“In trying to achieve that balance, we looked at the map, at who played in all of the different markets, and divided the country into what we call a best-in-market strategy,” she said.

Ms. McManus cross-referenced this geographic information against IBM’s warehoused data on enrollment, claims costs and outcomes to determine which vendors provided the best bang for IBM’s buck.

Today, “we’ve got regional vendors, or vendors who operate in certain markets but not necessarily all markets in the country,” Ms. McManus said.

Multiple plan administrators

So while most other employers have consolidated their plan administration with a single provider, IBM has five: Minnetonka, Minn.-based UnitedHealth; New York-based Empire Blue Cross & Blue Shield, a subsidiary of Indianapolis-based Anthem Inc.; Hartford, Conn.-based Aetna Inc.; Bloomfield, Conn.-based CIGNA Corp.; and Schenectady, N.Y.-based MVP Health Care Inc. It also contracts with 26 HMOs nationwide.

IBM uses Franklin Lakes, N.J.-based Medco Health Solutions Inc.

to administer its pharmacy benefit plan and San Francisco-based United Behavioral Health to manage its behavioral health benefits and outreach program.

Because IBM offers retiree health benefits, it has contracts with Aetna; CIGNA; UnitedHealth; Empire; MVP; Minneapolis-based HealthPartners; and 23 HMOs to serve its pre-65 retirees.

In addition, it contracts with UnitedHealth, MVP and Medco and 58 HMOs to serve its post-65 retirees. It also offers plans to retirees through Aetna’s Retiree

‘When we looked at the market, we wanted to achieve a balance with administrative simplification and selecting partners who would have world-class service, clinical care management capabilities, lower administrative fees, as well as good provider access and discounts.’

Marianne McManus, IBM Corp.

Health Access program.

Even though multiple vendors, suppliers and systems are involved,

Ms. McManus has worked to ensure that the numerous benefits programs are administered consistently

on a national basis to ensure a seamless experience for IBM benefit plan members.

But juggling all the vendors has been challenging, Ms. McManus admitted.

“You might think that’s a plug-and-play kind of thing, but it’s not. There’s a lot of coordination. It’s more than just sharing files,” she said.

It also involves “understanding the needs of the user and working with our partners to ensure IBM plan members access the various health care services seamlessly,” Ms. McManus said.



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MICHAEL MARCOTTE

The benefits team at IBM Corp. includes Juan Prieto, program manager, benefits design and development; Marianne McManus, director of health benefits strategy and design; and Marianne Semenetz, program manager, health benefits strategy and design.

IBM a pioneer in personalized medicine

By JOANNE WOJCIK

SOMERS, N.Y.—IBM Corp. was one of the early participants in a pioneering personalized medicine experiment administered by Franklin Lakes, N.J.-based Medco Health Solutions Inc. to test whether certain patients should receive two drugs—tamoxifen and warfarin—and if so, in what dosages.

It is difficult for doctors to determine the correct dosage for warfarin, an anticoagulant that can lead to serious complications such as excessive bleeding. Tamoxifen, which is used to prevent recurrence of breast cancer, is not metabolized by certain women, rendering it useless.

The pilot, which involved IBM and 26 other employers, began in 2008 and is continuing, although IBM decided to make access to the program, which involves genetic testing, a new benefit beginning this year.

"It's a completely voluntary and confidential program where members prescribed these medications can be tested genetically to determine, in the case of tamoxifen, whether it will be metabolized by the body to treat breast cancer, or in the case of warfarin, to determine proper dosage," said Marianne McManus, director of health benefits strategy and design at IBM. The test results are shared with the patient and their provider, who decide further treatment, she said.

"The objective is to ensure safety in the case of warfarin and effectiveness in the case of tamoxifen," Ms. McManus explained. "Our

'Our approach at IBM has been one that tries to focus on health outcomes and quality. We believe if you address the risk picture, the cost picture improves.'

Marianne McManus, IBM Corp.

approach at IBM has been one that tries to focus on health outcomes and quality. We believe if you address the risk picture, the cost picture improves."

It also eliminates waste, she said.

The testing, which involves taking a DNA sample using a cotton swab rubbed inside the mouth, costs about \$300, on average. However, if just one patient benefits from the test for warfarin use, for example, IBM saves between \$12,000 and \$13,000 by avoiding a hospitalization due to an adverse drug reaction, said Dr. Martin Sepulveda, vp-integrated health services at IBM's Armonk, N.Y., headquarters.

The personalized medicine program is the most recent addition to IBM's pharmacy benefits, which also include specialty medication management. All doctors who prescribe new specialty drugs to IBM plan members are required to contact a specialty medication

specialist at Medco who will manage and coordinate that patient's medication use. The specialty medicine prior authorization requirement has saved IBM \$8 million annually.

IBM offers a three-tiered drug formulary, with incentives for the use of generics. Copayments are waived for patients' first generic prescription drug order and generics are placed in the lowest, and least expensive, tier.

Mail-order prescription refills have been mandatory for maintenance medications since 2004, saving the company \$12 million annually. Employees can fill up to three prescriptions at a retail pharmacy, but when they fill their second prescription, they receive a notice that says they must switch to mail order or pay 100% of the cost of the drug.

Employees pay 20% of the cost of each prescription filled at in-network pharmacies for generic drugs and for brand-name drugs listed on the IBM formulary. For drugs in the top tier, which are nonformulary branded drugs, employees pay 45% of cost. Mail-order coinsurance rates are the same.

To ensure that drugs remain affordable, coinsurance is capped at \$21 for generics at in-network pharmacies and \$23 at mail-order pharmacies for 90-day supplies; \$68 for formulary brand name drugs at in-network pharmacies and \$136 through mail-order pharmacies for 90-day supplies; and \$137 for nonformulary brand name drugs at in-network pharmacies and \$274 through mail-order for 90-day supplies.

Rebates provide employee incentives

Healthy lifestyles are rewarded with cash payments from IBM

By JOANNE WOJCIK

SOMERS, N.Y.—After Dr. Martin Sepulveda, an IBM fellow and vp of integrated health services at IBM Corp., began researching the effects of childhood obesity on employers, he directed Marianne McManus, director of health benefits strategy and design, to develop a program to address it within IBM Corp.

She did this by adding a childhood obesity module to IBM's award-winning Healthy Living Rebates program that includes a self-assessment, development of an action plan, participation in a 12-week program, and a reassessment after completion.

Ms. McManus said she was particularly excited about tackling this new project because it showed that IBM was willing to go beyond the scope of just addressing the health issues of its immediate employee population.

"It's really consciousness-raising, getting people involved and getting the person to develop a plan that is tailored to the family," she said.

For example, having family mealtime might not be practical if one parent is traveling on business. But it may be possible to limit television viewing or video game playing to allow more time for family interaction and limit time spent being sedentary, Ms. McManus said.

"The program was designed to be a family activity, the object being to create healthy weight environments. It wasn't just about making kids do stuff. The family has to do stuff. You can't get kids to do anything that you don't do yourself," Dr. Sepulveda said.

Other Healthy Living Rebates programs focus on healthy eating, physical activity, smoking cessation and personal vitality, a module that was added this year to show employees a new way to think about wellness that goes beyond traditional tips about diet and exercise.

For example, employees are encouraged to conduct a personal "sleep study" to examine the length, conditions and quality of their sleep. Participants also track their water consumption to learn about its effects on their well-being. Rather than focusing on weight loss, the program encourages consumption of colorful foods that have been shown to support health and immunity.

Since IBM pioneered the concept

Continued on next page

\$190 million

Since IBM pioneered the concept of wellness incentives for its employees in 2004, it has saved an estimated \$190 million in health care costs. Employees' health risks also have declined by 60%, according to Ms. McManus.

'It's really consciousness-raising, getting people involved and getting the person to develop a plan that is tailored to the family.'

Marianne McManus, IBM Corp.

CONTINUED FROM PREVIOUS PAGE

of wellness incentives for its employees in 2004, it has saved an estimated \$190 million in health care costs. Employees' health risks also have declined by 60%, according to Ms. McManus.

This is the portion of savings attributable to the Healthy Living Rebates program, which encouraged employees to adopt healthier behaviors. It was calculated after incentives were paid. Other programs, coupled with this, collectively have saved the company more than \$1 billion. They include \$23 million saved by improving its generic dispensing rate; \$12 million saved by switching to mandatory mail order; and \$8 million saved through its specialty medicine management program.

Completion of each program pays \$150 in cash and employees can earn up to two rebates each year. So far, IBM has paid out more than \$1 million in rebates to 80,000 employees who have participated in the program.

Ms. McManus firmly believes wellness incentive programs are integral to lowering health care costs, improving employee health and enhancing the performance of organizations.

"Whether it be smoking, exercise and nutrition, or other potentially harmful behaviors," Ms. McManus said, "it's a universal concern in this country. You're born with your genes and, until science catches up to help take care of those health risks, we can only work on what we can control."

Coordination ensures best treatment

By JOANNE WOJCIK

SOMERS, N.Y.—To ensure that IBM Corp. employees and their families rapidly gain access to appropriate medical and behavioral health care services at the right time and in the proper venues, Marianne McManus, director of health benefits strategy and design, implemented a care coordination program.

The program, managed by Hartford, Conn.-based Aetna Inc. and San Francisco-based United Behavioral Health, a unit of Minnetonka, Minn.-based UnitedHealth Group Inc., enables integrated care coordination to be embedded into IBM health plans, Ms. McManus said.

"It could be a member calling into the health plan because they are having a baby or need a transplant," she said. "Or it could be a member who has been identified through data as needing assistance," such as an individual with a chronic illness who may benefit from behavioral health outreach.

"It's a service to the member to help them navigate the health care system as well as to help them address their health issues," Ms. McManus said.

The care coordination program provides education and information support, screening and secondary prevention services, health and medical decisionmaking support, access to disease management and complex case management programs.

As a result of this program, 30% of plan members' treatment were changed to a "best practice" treat-

ment—following science-based medical guidelines such as those recommended by the U.S. Preventive Services Task Force, an independent panel of experts in primary care and prevention that systematically reviews the evidence of effectiveness and develops recommendations for clinical preventive services; 11% changed their drug regimens to reduce side effects; 12% discontinued an unnecessary service; and 14% switched to a higher-quality doctor. In addition, 82% of plan members reported the program improved their quality of life, and 48% said it helped improve their physical health, the company reported.

The program also resulted in improved compliance with evidence-based guidelines for beta blocker use and a reduction in hospital admissions for patients with coronary artery disease, asthma and depression.

IBM's behavioral health outreach program, administered by United Behavioral Health, uses "a very high-touch approach" to ensure plan members are referred to appropriate providers, Ms. McManus said. Care advocates also contact plan members after they have started treatment to make sure they're making and keeping their appointments and are compliant with medication when it is prescribed, she said.

The program has increased the percentage of outpatient appointments from 51% in 2003 to 29% in 2008, the most recent year for which data is available. In addition,

the percentage of appointments kept after hospitalization have increased from 61% in 2003 to 84% in 2008. Rehospitalization rates have fallen from 15% in 2003 to 7.3% in 2008. The program also reduced missed workdays among IBM employees by 82%, the company said.

Because of the way in which the care coordination and behavioral health outreach programs are integrated into IBM's various health

plan offerings, the company already is compliant with the Mental Health Parity and Addiction Equity Act, Ms. McManus said. The law requires companies with 50 or more employees to provide the same coverage of mental disorders as they do medical illnesses, by July 1.

"We've been on a path to normalize all of our health benefit programs, so we have aligned our behavioral health program more completely with medical," she said.

IBM Corp.

BUSINESS DESCRIPTION: One of the world's largest technology companies, which manufactures and sells computer hardware, software, hosting services and consulting services in areas ranging from mainframe computers to nanotechnology.

HEADQUARTERS: Armonk, N.Y.

YEAR FOUNDED: 1896 as the Tabulating Machine Co.

INCORPORATED: 1911

NICKNAME: Big Blue

CHAIRMAN, PRESIDENT AND CEO: Samuel J. Palmisano

NUMBER OF EMPLOYEES: 399,409 worldwide as of year-end 2009

2009 REVENUE: \$103.6 billion

ANNUAL U.S. HEALTH CARE EXPENDITURES: \$1.8 billion

IBM's wellness programming on global scale

SOMERS, N.Y.—At IBM Corp., promoting employee health is a global mission.

That means all 400,000 of its employees worldwide have access to wellness, health promotion and disease prevention programs, regardless of where they work and live.

But the intensity of the wellness programming is greater in some countries than in others, depending on how much preventive care is available via government programs, said Federico Castellanos, vp of human resource integration at Armonk, N.Y.-based IBM.

While health risk appraisals are being implemented in most of the 147 countries where IBM has operations, other programs have been introduced to address health issues specific to each country, which are identified by analyzing the information collected in its enormous data warehouse, considered to be one of the largest in the United States and perhaps even the world.

"We've got a good understanding of population health and what health issues exist here and in other countries," said Marianne McManus, director of health benefits strategy and design, and the *Business Insurance* 2010 Benefit Manager of the Year. "We combine that knowledge with our own creative problem-solving ability" to tailor solutions to each country's customs and culture, lan-

guage, laws, benefit practices and local vendor capabilities.

For example, in India, a new physician consultation benefit recently was added. In India, Brazil and Singapore, new programs for women's health and fertility have been introduced. In India, Brazil, China, the Czech Republic, Russia and Hungary, a Pathways to Resilience program was added to help people manage stress and achieve work/life balance. In Germany and Italy, programs to manage cardiovascular disease and screen for cancer have been introduced. And in China, insurance benefits were added to cover HIV and AIDS, Hepatitis B and behavioral health, along with on-site programs for behavioral health and stress.

IBM also exports its wellness programs.

In Mexico, for example, employees are being encouraged to walk 10,000 steps a day for 12 consecutive weeks in the 10,000 Pasos program. Seven Healthy Habits, a comprehensive wellness campaign that addresses nutrition, physical activity, preventive health services, stress management and how to choose health care providers based on cost and quality, is available to IBM employees in Argentina, Brazil and Venezuela.

Meanwhile, in Germany, IBM launched Looking Through the Eye Into the Heart, a program designed to assess employees' risk

of developing cardiovascular disease using a pocket personal computer.

IBM adopted this universal culture of health because "a healthy workforce delivers high levels of productivity. It doesn't matter whether you're in China, Slovenia, Brazil or Arizona. We do it because it helps our business," said Martin Sepulveda, an IBM fellow and vp to whom Ms. McManus reports.

"We take an approach through policies, practices, environments, role models, health promotion programs and benefits design to engage people to do healthy things at home, at work and in conjunction with their communities," he said.

"That's part of our DNA that we take everywhere that we go to do business. That's why people like to have IBM in their environments, because we bring the kinds of assets to communities and to countries" that are beneficial to everyone, Dr. Sepulveda added.

Mr. Castellanos, a 31-year IBM veteran who moved to the United States from Europe less than three years ago and has seen IBM's global wellness programs in action overseas, concurred.

"It is a sound company policy in terms of enhancing productivity, preventing illness and avoiding absenteeism," he said.

—By Joanne Wojcik

Collaborative communication key to success for IBM plans

Design change, objectives discussed in projects' early stages

By JOANNE WOJCIK

SOMERS, N.Y.—When IBM Corp. introduces a new benefit or makes a plan design change, Marianne McManus, director of health benefits strategy and design, makes sure her benefit communications team is involved at the start.

"Early on in the process, she sits down with the communications team to discuss the issues being addressed and the objectives so that we can collaboratively come up with an approach," said Mary Barton, vp of workforce communications, who leads a team of four communications specialists at IBM's headquarters in Armonk, N.Y.

Ms. McManus' style is "a much more collaborative and early involvement than you'll find in the typical benefit communications

'More typically at companies, everything is siloed. It's not a collaborative experience. But at IBM, we're all about expertise and collaboration. We brainstorm together. Sometimes, even great ideas are complicated to explain, so part of our job is to winnow that down to make it easier for employees to understand.'

Mary Barton, IBM Corp.

process," Ms. Barton said, drawing from her past experience as a consultant at Mercer L.L.C.

"More typically at companies, everything is siloed. It's not a collaborative experience. But at IBM, we're all about expertise and collaboration," Ms. Barton said. "We brainstorm together. Sometimes, even great ideas are complicated to explain, so part of our job is to winnow that down to make it easier for employees to understand."

Nearly all of IBM's health benefit communications are published online because most of the employees are fairly tech savvy, Ms. Barton said. The Health Management Center, on IBM's company intranet, is connected to a transactional center hosted by Fidelity Investments. Some of the content was developed internally by IBM, and other parts were developed with partners. It includes content and tools for enrollment and other types of decisionmaking, such as provider and

hospital selection.

However, despite the sophistication of IBM's employees, print and sometimes verbal communications still are made available to elderly retirees, some of whom are in their 90s, Ms. Barton said.

For example, when IBM intro-

duced new benefits options to retirees in 2008, the company hired several retirees to staff a call center and call older retirees to ask if they had received their information packets and whether they had any questions. IBM also launched a new website specifical-

ly for that program.

"It was a human touch in what is otherwise a sometimes overwhelming process," Ms. Barton said.

One of the most challenging benefit communications initiatives involved introduction of the Healthy Living Rebate for childhood obesity.

"When you think about it, the real audience is not our employees; it's really whoever is cooking," Ms. Barton said. "In that case, we employed some old-fashioned things like home mailings. We also made conference calls available to the spouses of employees."

When IBM introduced first-dollar coverage of primary care this year, Ms. McManus, Ms. Barton and her team hosted a conference call for

managers to ensure they would be able to answer employees' questions.

"Working closely with Marianne and others on IBM's HR team, we've experimented with a number of different approaches to communicating complex, hard-to-understand benefits issues....We've held webcasts and Web meetings with employees, and sometimes their partners or spouses, to explain key aspects of new programs. We're looking forward to doing more with IBM's own internal social media system. And through it all, Marianne and the team work with us closely to brainstorm ideas, evaluate results and consider how to continually improve," Ms. Barton said.

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MICHAEL MARCOTTE

Marianne McManus said her introduction to health benefits at an insurer provided extensive training.

Career started with the Blues, led to Big Blue

By JOANNE WOJCIK

SOMERS, N.Y.—For Marianne McManus, IBM Corp.'s director of health benefits strategy and design, working in the health benefits field has almost been like being in her family's business.

When she graduated from Iona College in New Rochelle, N.Y., with a liberal arts degree in 1981 but no particular career agenda, her mother, who had just retired from what then was called Blue Cross & Blue Shield of New York, suggested she apply to work at the Blues, which she did.

"I would love to tell you I was one of those focused kids who went into college knowing what I wanted to do, but that is not my story," Ms. McManus said. "I was a liberal arts major. I majored in English; and when I came out of college, I was looking for a job. I applied at lots of different places. I didn't know what I wanted to do. I didn't take a lot of business courses in college. I applied to and was hired by Blue Cross and Blue Shield. I felt it was sort of the family business because my mother worked for them many, many years ago."

Ms. McManus' mother retired in

1981 and Ms. McManus was hired in September 1982.

Ms. McManus said her introduction to health benefits at an insurer provided extensive training, particularly in the area of benefit communications. Ironically, at one time when her job required servicing large accounts, IBM happened to be among them.

Ms. McManus left the Blues in 1985 to join NYNEX Corp., now part of Verizon Communications Inc., starting out as a human resources generalist. About a year later, she moved to health benefits, where she remained for another 8½

years. Her last position there was assistant director of benefits.

"It was a wonderful experience because it gave me a lot of practical applications. I had done insurance from the insurance carrier side; now I was on the customer side, the employer side, so that was a nice perspective to get. It also gave me some experience working in a collectively bargained environment, which was a tremendous growth experience for me."

When NYNEX relocated its corporate headquarters to New York in 1996, Ms. McManus had to decide whether to relocate her family or seek work locally. She decided to find a job close to home and landed a position in IBM's benefits department.

"I had a young child at the time, and I was not going to do a New York City commute. One of my colleagues at NYNEX actually met the manager of health benefits at IBM at a dinner party, who mentioned that he was looking for someone with a lot of managed care experience, a lot of health benefits experience, and my friend said, 'I have the perfect person for you,'" Ms. McManus said.

"I have had a passion for this business for over two decades. My path has led me to IBM," she said. "It was a dream come true for me."

Real stories the real reward

One aspect of her job that Ms. McManus finds particularly gratifying is the feedback she receives from employees.

"We see it in the aggregate, we see our health risks being mitigated; but when you hear somebody's real story, it doesn't get better than that," Ms. McManus said.

Throughout her career, Ms. McManus has pursued continuing education, receiving her Certified Employee Benefits Specialist designation from the International Foundation of Employee Benefit Plans in 1992. She also earned a master's degree in business administration from her alma mater, Iona College, which she completed in 1996.

Though she concentrated in marketing, which she feels directly applies to benefit communications, Ms. McManus said the accounting, finance and asset management classes she completed for her MBA were particularly helpful in managing IBM's retiree medical benefits programs.

McManus considers her most influential mentors to be her current managers: Dr. Martin Sepulveda, an IBM fellow and vp in charge of global well-being and health care services; Federico Castellanos, vp of human resources integration; and Randy McDonald, senior vp of human resources.

"They've let me learn and grow and allowed me to take risks," she said. In addition, they have encouraged her to "think globally."

Ms. McManus, 50, is married to James McManus and lives in Yorktown Heights, N.Y., with her two children, Lauren, 20, and Christopher, 12, and the family's dog, Rusty.

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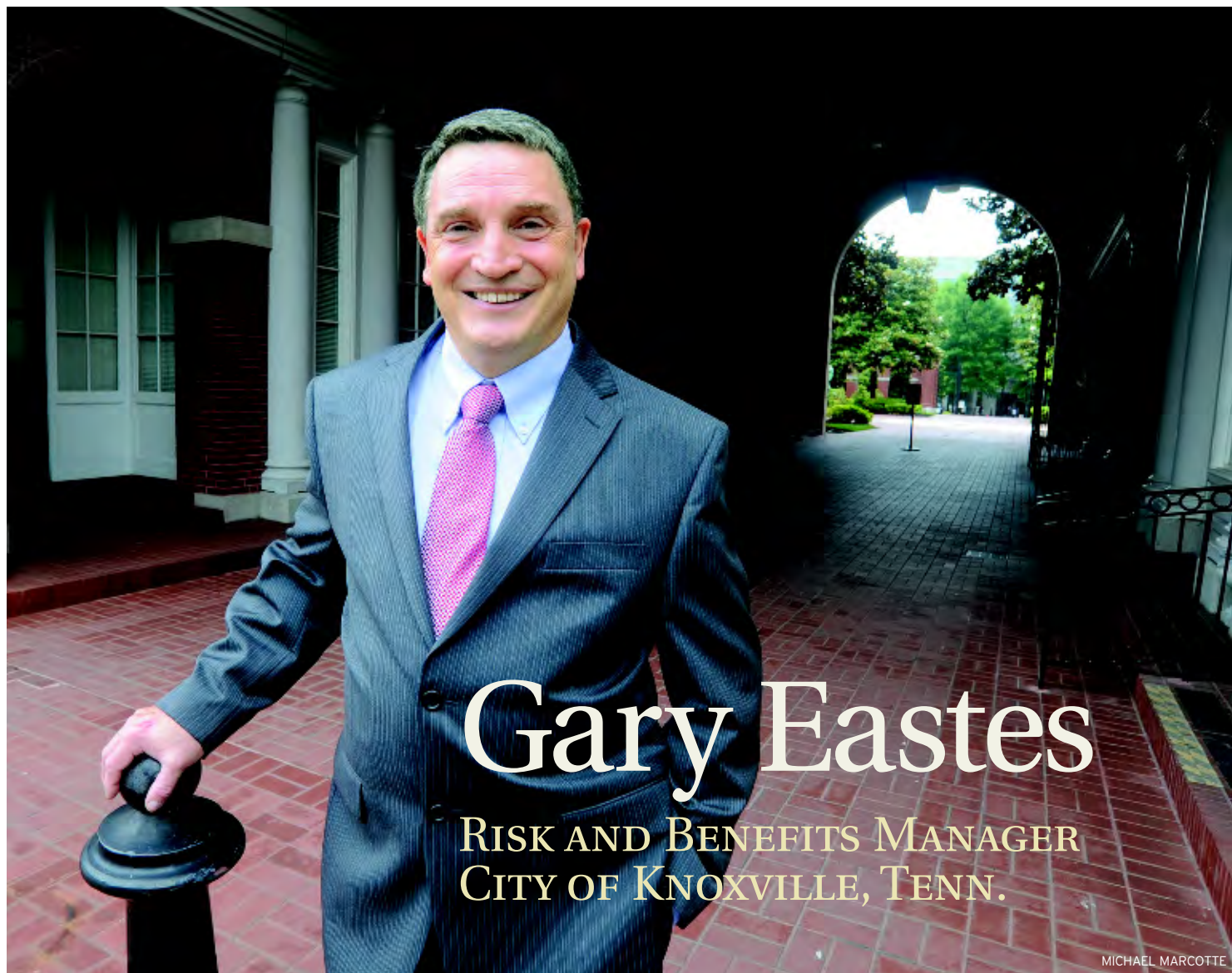
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Who?
PRU



Gary Eastes
RISK AND BENEFITS MANAGER
CITY OF KNOXVILLE, TENN.

A little patience leads to big changes

City implements new plan after much resistance

By SALLY ROBERTS

KNOXVILLE, Tenn.—While many large private-sector employers have turned to wellness and disease prevention to address rising health care costs, public entities have been slow to embrace the concept.

Politics, entitlement mentalities among government workers and budget constraints all work against public entity benefit managers' ability to introduce new ideas.

Gary Eastes, risk and benefits manager for the City of Knoxville, Tenn., is an exception.

Mr. Eastes faced those challenges head-on in overhauling the city's benefit program in 2006, enduring harsh criticism from city workers and even calls for his resignation at local City Council meetings in the process.

But with the full support from Knoxville's mayor and City Council, Mr. Eastes has remained undaunted in his quest to improve the quality of life for city employees. He knows that if he can encourage employees and their family members to make healthier lifestyle choices, they will live better and longer lives, and in return the city will have more productive employees and lower health care costs.

"Gary feels very strongly about what he's

doing, and it's not just all couched in, 'I'm doing this to save the city money,'" said Knoxville's Deputy Mayor Larry Martin, to whom Mr. Eastes directly reports. "While that's a worthy cause—and certainly all of our taxpayers would have us be about that—Gary's actually so wrapped up in it because he knows it to be the right thing to do for the health and well-being of our employees."

But bringing wellness to Knoxville has not come easy.

One challenge for Mr. Eastes has been the employee population. In addition to a high prevalence of obesity and tobacco use, the city's workforce is mostly male—about 80%—and most are over age 40, a demographic that historically has the highest prevalence of chronic diseases. In addition, a large percentage of the population is made up of police officers, firefighters and service workers, who also traditionally have higher-than-average costs.

In addition, a majority of the city's employees were enrolled in the State of Tennessee's first-dollar health maintenance organization medical plan and felt entitled to that level of coverage.

Given those factors, it was of little surprise to Mr. Eastes that the city's paid medical claims per member were 28.3% above BlueCross BlueShield of Tennessee Inc.'s norm in 2006 and that the prevalence of chronic disease was 40% higher at the city than normative data for

the region. Overall, health care costs had risen 141% from 2001 through 2006.

To tackle the issue, Mr. Eastes began putting more personal responsibility into the city's health care equation and has teamed up with partners that share his ideas, including the Tennessee Blues plan, the HealthCare 21 Business Coalition, Cowan Benefit Services Inc., Summit Medical Group and software provider NavigatorMD Inc.

Since 2006, Mr. Eastes has:

- Pulled out of the State of Tennessee's medical plan and replaced it with a consumer-driven preferred provider organization plan with deductibles.

- Created a city-funded health reimbursement account that provides incentives for healthy behaviors, chronic disease self-care and consumerism.

- Began offering more complete annual physicals for uniformed officers and similar free voluntary health care screenings for nonuniformed employees that include a full blood work-up and, depending on age, an electrocardiogram and prostate-specific antigen test to screen for cancer.

- Created a chronic disease self-care program and disease management program that focuses on the treatment and prevention of eight chronic conditions.

- Helped launch the city's on-site Health, Education and Wellness Center and staffed it with a medical director, two nurses, a nurse

practitioner and a licensed practical nurse. The center provides face-to-face chronic disease coaching as well as acute care treatment.

- Combined into one system all member health and medical information data that had been housed among various vendors so the city and its disease management vendor could identify problem areas such as health trends.

Although the programs still are evolving, they are showing signs of success.

Health care costs are under control at the city, rising 4.2% in 2008 and 4.1% in 2009, well below BlueCross BlueShield of Tennessee's medical care trend of 10.8% and 9.5%, respectively.

In addition, more than 1,000 of the city's 1,500 benefits-eligible employees have made healthy lifestyle choices and qualified for HRA incentive dollars. And in 2010, the number of tobacco-free employees receiving an incentive has increased to 836 from 634 in 2006.

More importantly, Mr. Eastes says, the improvements are changing people's lives.

In the first year the city began offering more complete annual physicals and health screenings, 40 diabetes cases were diagnosed; there were 12 referrals to cardiologists due to blockages and other heart disorders; three employees received heart surgeries within four days of the assessment; and two cases of early prostate cancer were diagnosed.

"There are a number of employees who say the programs we're running have saved their lives," Mr. Eastes said. "It is very possible that might be true in some of those cases. I am certain that our programs have encouraged employees to take better care of themselves and improve the quality of at least some of their lives, which in turn has made them more productive employees."

Mr. Eastes' efforts have not only earned him a spot in *Business Insurance's* 2010 Benefit Manager of the Year Honor Roll, but also have won him accolades from his peers.

What defines Mr. Eastes best is his passion, said Matt Cowan, president of Cowan Benefit Services, the city's Franklin, Tenn.-based benefits broker.

"He lives and breathes and dies for these concepts and puts himself on the line daily to try and implement these things."

However, "you've got to give credit to the City of Knoxville—the mayor and City Council—because they did step forward and back his decision to take the risk and pull out of the state plan and to allow all these changes to be made. Most cities are afraid to make changes," Mr. Cowan said.

"We're just so fortunate in the city to have Gary here—someone with that level of patience," said Marilyn Roddy, a Knoxville City Council member. "The adage in government is that it takes government three times as long as it does the private sector to get anything done, so change comes slowly, but Gary is someone who sets a goal and keeps his eye on the prize."

"There are certainly larger national companies that have done this and have invested a significant amount of money to show a return," said Dr. Warren Sayre of Summit Medical Group, who serves as the city's wellness program's medical director. "I think Gary's done that on a very tight budget."

"That's probably one of the things that's impressed me the most about this program, knowing that he has that scrutiny of every taxpayer in the city limits and the city government...and really squeezing every ounce of what he can get out of that to implement a pretty robust program," said Dr. Sayre, whose group is based in Knoxville.

More on
Gary Eastes inside

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Better health means lower costs

By SALLY ROBERTS

KNOXVILLE, Tenn.—Like most employers, the largest benefit problem facing the city of Knoxville, Tenn., has been the rapidly rising cost of health care.

The city's health care costs rose a staggering 141% from 2001 to 2006.

Backed by a new administration that embraced change, Gary Eastes, the city's risk and benefits manager, set out in 2005 to do something about it.

He knew that to truly effect change and reduce costs, he needed to find ways to encourage employees to change their unhealthy behaviors. But before he could implement any incentive programs, he had to do something about the city's health plan.

Since 1999, city employees had been covered under the State of Tennessee's medical insurance pool, with a vast majority of employees covered under the state's first-dollar health maintenance organization plan with small copayments.

But "because it was pool-rated, we could improve employee health but it wouldn't help our claims," Mr. Eastes said. "If we were going to make a difference in our claims, we were going to have to leave the state plan."

So after an extensive request-for-proposal process, Mr. Eastes ultimately selected a fully insured Blue-Cross BlueShield of Tennessee Inc.'s preferred provider organization plan with either a \$300 individual/\$600 family deductible or a \$1,000 individual/\$2,000 family deductible. It covers all preventive services, including colonoscopies, at 100%.

The new plan, which became effective in 2006, did not go over well with city employees, who felt entitled to their first-dollar benefits.

"The \$300 deductible scared them to death," Mr. Eastes said. "There were employees telling me they'd be financially bankrupt by the end of one year, that there was no way they could afford this deductible. It really terrified them."

But this was just the beginning of

Mr. Eastes' vision for helping employees live better lives. The new health plan was coupled with a city-funded health reimbursement arrangement that encouraged wellness participation, care for chronic disease and consumerism.

Although the incentives have evolved throughout the past few years, employees that agree to undergo a health screening are eligible for HRA contributions:

- Employees earning less than \$29,320 earn \$150, while those earning between \$29,321 and \$39,460 receive a \$75 HRA contribution each year.

- Employees and one eligible dependent who commit to being physically active for at least 20 minutes three times a week earn \$20 per month.

- Employees who are tobacco-free earn \$100 per year and an additional \$100 per year if all covered dependents also are tobacco-free.

- Single employees participating in the highest deductible PPO network earn \$150 a year and those with family coverage earn \$450 a year.

- Employees participating in one chronic disease self-care program earn \$40 per quarter and \$80 per



MICHAEL MARCOTTE

Knoxville Mayor Bill Haslam, right, has backed Mr. Eastes' plan changes.

quarter if they participate in two or more programs.

- Employees participating in the city's prenatal program earn \$200 upon delivery of a child.

The HRA is working to change behaviors, Mr. Eastes said.

Participation has grown each year with about 85% of employees receiving the annual health screening exam. In addition, 37% more employees requested the tobacco-free incentive this year compared with last year, and up to 40% of participants receive the physical activity incentive in any given month.

It went self-funded in 2008 as a way to get "better control" over employee health and see results immediately, Mr. Eastes said.

He also avoided a 6% cost increase this year by increasing the city's lowest deductible plan to \$500 for an individual and \$1,000 for family coverage.



City of Knoxville Risk and Benefits Manager Gary Eastes (center) with his Cowan team

Gary Eastes
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City of
Knoxville, Tenn.

POPULATION: approximately
177,000

MAYOR: Bill Haslam

NUMBER OF EMPLOYEES: 2,991
full time, temporary and seasonal

**NUMBER OF EMPLOYEES
COVERED UNDER THE CITY'S
HEALTH INSURANCE PLAN:**
1,550

**NUMBER OF EMPLOYEES AND
DEPENDENTS COVERED UNDER
THE CITY'S HEALTH
INSURANCE PLAN:** 3,000

2009 HEALTH PLAN COST:
\$12,300,000

Disease management program saves city lives, money

By SALLY ROBERTS

KNOXVILLE, Tenn.—To address the above-average prevalence of chronic disease among employees working for Knoxville, Tenn., Gary Eastes, the city's risk and benefits manager, created a self-care incentive that has evolved into a robust disease management program that is saving lives and money.

The city has a challenging employee population; not only is it roughly 80% male, but most workers are older than 40 and a large percentage smoke and are overweight.

To tackle the challenge, Mr. Eastes established a self-care chronic disease incentive in 2005 as part of a new program to encourage city employees to take more personal responsibility for their health.

To earn the incentive, employees with diabetes, asthma, coronary artery disease, congestive heart failure and/or chronic obstructive pulmonary disease had to participate in an annual health screening and exercise three times a week for 30 minutes. They also were required to keep a log that showed they were monitoring their respective conditions.

If employees met all the criteria, the city gave them a \$40 per quarter credit—or an \$80 per quarter credit if the employee participated in more than one chronic program—toward their mail-order prescriptions and an extra \$10 a month in their paychecks for exercising.

At that time, the city's telephonic disease management vendor was supposed to be working in tandem with the incentive program, reaching out to those employees with

chronic diseases and coaching them on controlling their conditions. But after being given access to the vendor's data in 2006, Mr. Eastes realized that "almost none of that was happening," he said.

It was then that "I determined...that a telephonic service could never...have the impact that a local program could have with members getting to know the disease counselors and counselors getting to know the members face to face," Mr. Eastes said.

So in 2007, Mr. Eastes terminated the city's telephonic chronic disease program and expanded its self-care chronic disease incentive into a new, more comprehensive chronic disease program.

Central to the program is the city's on-site Health, Education and Wellness Center, which Mr. Eastes helped launch in 2007 to oversee disease management as well as offer limited acute-care services.

Although the city had an on-site medical facility for decades, Mr. Eastes said he decided in 2004 to close the facility and lease it to another doctor in favor of contracting with a local medical service provider willing to provide the city "immensely improved" annual medical examinations for uniformed officers and voluntary health screenings for other government employees. The medical group would provide those screenings, however, only at their own doctors' offices.

In 2007, Mr. Eastes replaced the vendor with a local physicians group, Summit Medical Group P.L.L.C., which not only bought



MICHAEL MARCOTTE

The benefits team at the City of Knoxville, Tenn., includes, back row, from left: Michael Passeur, risk analyst; Ginger Huskey, claims specialist, Steve Wilcox, safety inspector; middle: Danny L. Marshall, benefits assistant; front row, from left: Carol Mahler, benefits coordinator; Gary Eastes, risk and benefits manager; Sue Bragg, claims specialist; and Jacque Williamson, benefits assistant.

into Mr. Eastes' wellness vision but also agreed to staff the city's on-site medical facility and become the city's disease management provider.

Today, two full-time Summit nurses provide the bulk of the city's disease management services at four city facilities that include the Health, Education and Wellness Center.

Employees who want to participate in the chronic disease incentive program now must meet in person with one of the on-site nurses to devise a personal plan to manage their condition, in addition to having an annual health screening and completing the monthly physical activity requirement.

The program also has evolved in other ways.

Obesity, hyperlipidemia and hypertension have been added to the list of qualifying chronic diseases. While the \$40 or \$80 quarterly incentive for participating remains unchanged, the city now deposits the money in the employee's health reimbursement arrangement rather than giving it as a credit for prescription drugs. Employees also automatically qualify for an additional \$20 per month for the physical activity incentive, up from the initial \$10, and are given reduced copayments for chronic disease medications and free monitors and supplies for

applicable diseases.

The disease-management program is working:

- As of November 2009, only 22% of members participating in the chronic disease program had a gap in care for their condition compared with 42% of those not in the program with the same conditions.

- From May 2009 through April 2010, the average total cholesterol for participating nondiabetic members dropped to 188.07 from 191.06, while the average total cholesterol for participating diabetics dropped to 156.6 from 161.75.

- In 2008, the city's cost per member for coronary artery disease dropped 19.8% from 2007, while hyperlipidemia costs dropped 7.2% and asthma costs declined 9.3%.

Despite these successes, though, participation in the city's disease management program, while growing, stands at only 35%.

One of the key ways Mr. Eastes aims to improve that is through better use of data analysis.

During an 18-month period beginning in 2008, Mr. Eastes worked with key partners to combine all of the city's biometric, medical, health risk assessment, absenteeism, long-term disability and workers compensation data into one database to allow the city and Summit to analyze the information on an aggregate and individual basis.

Although that analysis has just begun, the city already is in a better position to be proactive in intervening with those employees most in need of direction for health improvement, Mr. Eastes said.

Benefit management in public sector has unique challenges

By SALLY ROBERTS

KNOXVILLE, Tenn.—As a benefits manager for a city government, Gary Eastes is confronted with unique challenges that few private-sector employers face when it comes to implementing a new health care program.

Not only is the city of Knoxville, Tenn., made up of a diverse workforce—from law enforcement officers to fleet managers to garbage collectors—but the city's approximately 1,550 covered employees also are spread out over dozens of locations and work a variety of shifts.

That makes communicating the city's health care incentive program, which Mr. Eastes began implementing in 2006, and educating employees about how to live healthier lifestyles that much more difficult.

But it's not just about diversity and logistics. Mr. Eastes also has to contend with a very vocal employee population that is represented by three separate employee associations—the Fraternal Order of Police, the Firefighters Assn. and the City Employees Assn.

Although Mr. Eastes considers having more employee input an advantage, he admits it increases the challenge of implementing bene-



MICHAEL MARCOTTE

Gary Eastes reports to Larry Martin, deputy to the mayor.

fit changes.

"Historically, government employees expect richer benefits to offset what is generally perceived to be lower pay than the private sector," Mr. Eastes said. "So employees tend to be more outspoken and demanding about benefits, particularly medical insurance," he said.

To say that city employees were unhappy about Mr. Eastes' decision to replace the state's first-dollar health maintenance organization plan with a \$300 and \$1,000 deductible medical plan in 2006 would be an understatement.

"I did have one association president call for my resignation in front of a City Council meeting," Mr. Eastes said.

"The main thing that we were emphasizing at the time was that we have to improve employee

health. There were a lot of employees who understood that and (the) City Council understood that, but there were still a lot of employees who made it known that they were strongly against going away from the HMO and going to straight deductibles."

Although Mr. Eastes still faces resistance from some employees over various plan design changes, more are beginning to understand the benefits of living a healthier lifestyle and that, he said, in large part is due to constant communication efforts.

"We don't necessarily have to tell them all the time, 'You have to take responsibility.' It's more putting the issue of health out in front of them as much as we can," Mr. Eastes said.

But that's not always easy, given the makeup of the city's workforce.

About half of the city's employees work in the field, so opportunities to meet with them are limited as they report to a central location only at the beginning and end of their shifts, he said. Another one-third of the employees are stationed in remote facilities, such as fire stations and recreation centers, and can be even more difficult to meet with because they do not have a central location to which they report at the beginning and end of their shifts, Mr. Eastes said.

Then there is the diversity of cultures and personalities.

"Police personnel are very different from street maintenance personnel and firefighters in their communication styles," Mr. Eastes said. Not every communication vehicle is effective for every group and any method of communication tends to work only for a period of time.

"What we do is try and communicate many different ways," he said. "We use e-mail, memorandums, newsletters, posters, and small and large meetings...(and) employee representatives."

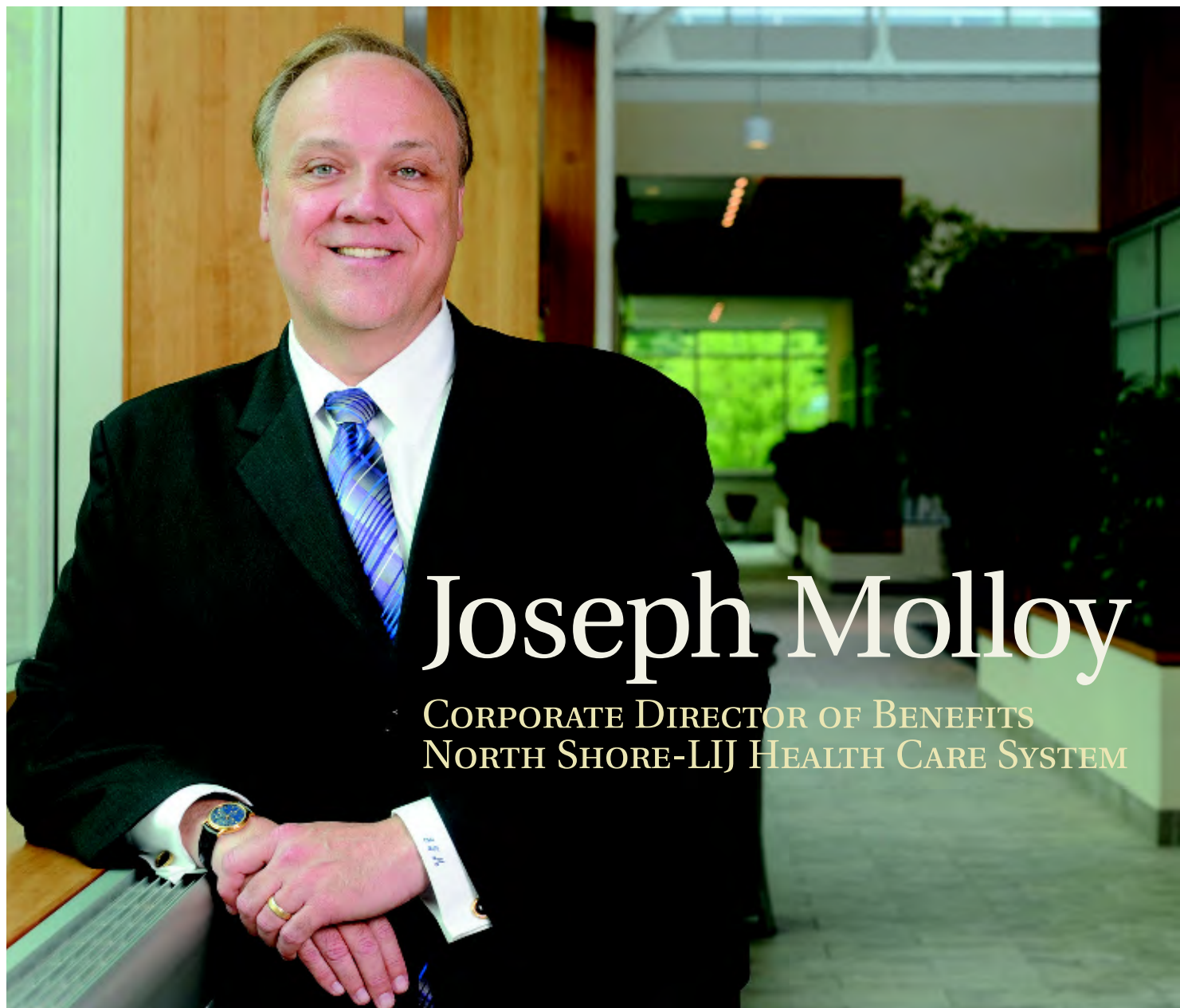
Eastes has strong history in benefits

KNOXVILLE, Tenn.—Gary Eastes, 55, has been the risk and benefits manager of the city of Knoxville, Tenn., since 2003. Prior to that he spent 17 years at the city of Oak Ridge, Tenn., where, as risk manager, he was in charge of managing all of the city's insurance programs including property/casualty and employee benefits.

Mr. Eastes has a Bachelor of Arts in human services and a Master of Science in education from the University of Tennessee in Knoxville and a Master of Business Administration from the Florida Institute of Technology.

He is married to Vickie Eastes, an office manager for a local neurology group. The couple has two children, Heather and Daniel, and three grandchildren.

—By Sally Roberts



Joseph Molloy

CORPORATE DIRECTOR OF BENEFITS
NORTH SHORE-LIJ HEALTH CARE SYSTEM

Reducing benefits costs by design

Multifaceted approach improves plan, saves money

By JERRY GEISEL

LAKE SUCCESS, N.Y.—Joseph Molloy, corporate director of benefits at North Shore-LIJ Health Care System, is critical of the way U.S. health care is delivered and compensated, but he is optimistic employers can improve the quality of employees' health care and hold down its cost.

Since he joined the Great Neck, N.Y.-based health care system in 2005, Mr. Molloy has drawn on his decades of experience in employee benefit issues to design plans to protect the system's employees and incorporate wellness programs, all while holding down costs.

"As corporate director of benefits, Joe Molloy has been instrumental in helping us achieve our goals. Without question, he has one of the toughest jobs in the organization," wrote Joseph Cabral, North Shore-LIJ's senior vp and chief human resources officer, in nominating Mr. Molloy, who has been named to the *Business Insurance* 2010 Benefit Management Honor Roll.

"He has made significant contributions—in

his first year alone he saved North Shore-LIJ more than \$30 million in health plan design changes. In addition to the financial bottom line, Joe's personal contributions have impacted employee satisfaction and utilization of in-system resources, reflecting the organization's mission to continue to provide the highest quality care to our patients and

'The pieces are coming together and I'm excited to be part of it.'

Joseph Molloy,
North Shore-LIJ Health Care System

our employees," added Mr. Cabral, who is Mr. Molloy's boss.

Mr. Molloy, who works in North Shore-LIJ's Lake Success, N.Y., office, is a critic of the current health care system where he says not enough dollars are invested to keep individuals healthy or spot medical problems early.

"Our system nationally is not about health care. It is about sick care," he says.

But during the past five years, he has devel-

oped a multifaceted strategy to implement his vision of how employee benefit plans should be designed. It includes:

- To increase the likelihood that medical problems are detected before they become expensive-to-treat conditions, there should be no cost barriers to employees seeking preventive services.
- To help employees who want to stop smoking and lose weight, employers should subsidize smoking-cessation and weight-loss programs.
- To provide employees online access to their complete health care record in one place.
- To provide powerful financial incentives for employees to use the in-system health care services of North Shore-LIJ.
- To ensure that employees participate in retirement savings plans to increase the likelihood that they will have a nest egg when they leave or retire.
- To find new, more efficient ways to deliver information to employees.
- To never rest on accomplishments and explore new avenues to deliver health care services more efficiently.

Much of Mr. Molloy's vision has become reality, including slowing health care cost increases and ensuring that more employees

have retirement savings in addition to saving the health care system millions of dollars.

"The innovative programs he oversees all reflect a fundamental guiding principle: They're the right thing to do for employees, providers and the community North Shore-LIJ serves," wrote Stacey Thaler and David Scheer, senior consultants at Towers Watson & Co. in New York, which is one of the health care system's benefit consultants.

Modestly, Mr. Molloy gives credit for the changes put in place to his superiors, who have welcomed efforts to hold down costs, but have not demanded an immediate return on the health system's investment.

"What they have asked for are programs and benefits that will get our employees healthier," Mr. Molloy said. "The pieces are coming together and I'm excited to be part of it."

One key change put in place at the start of this year was eliminating copayments, which previously were \$15, for a slew of preventive services such as annual examinations.

"We wanted to ensure that there were no financial barriers at all to employees for ascertaining this aspect of wellness coverage," Mr. Molloy said.

North Shore-LIJ's health care's plans were revamped to give employees significant financial incentives to receive services from in-system providers, with the cost differential widened depending on whether care was delivered in-system, in-network or out-of-network.

For example, in 2009, in managed care plans offered through Empire Blue Cross/Blue Shield and Aetna Inc., 100% coverage was provided for in-system care, with 90% coverage for services provided in-network, with no deductible and a \$1,000 maximum out-of-pocket limit.

This year, 100% coverage remains for in-system care, but a \$250 individual and \$500 family deductible was imposed for in-network services delivered in two Empire and Aetna plans, while the out-of-pocket limit was raised to \$2,000 for individual coverage and \$4,000 for family coverage.

Preliminary claims data information, Mr. Molloy said, shows an increase in treatment delivered in-system which will improve employees' health over the long term.

"If we get more employees into our 'in-system' for services, and the physicians participating in treating our employees work with us to better understand their patients' and our employees' health, the ultimate result should be a healthier workforce," Mr. Molloy said.

And Mr. Molloy is spearheading more changes that he says should lead to a healthier workforce.

Later this year, employees will be asked to complete health risk assessments to identify employee health conditions. Notices then would be sent to employees and their doctors so plans could be developed to address those conditions. Financial incentives linked to the program have not yet been decided.

Ultimately, information gleaned on an aggregate basis from those assessments will enable to the health care system to identify employees' most significant chronic and modifiable conditions.

Down the road, Mr. Molloy has an even more ambitious goal: analyzing claims data to determine which physicians have the best results in treating medical conditions.

"It is our intent to work within the physician community," sharing the data to develop better outcomes through evidence-based medicine, Mr. Molloy said.

Inside: more on
Joseph Molloy

Building a culture of wellness PAGE 20 | Automatic enrollment boosts employee participation in 403(b) plan PAGE 21 |

North Shore-LIJ Health Care System by the numbers PAGE 21 | Benefits blog helps keep plan members better informed PAGE 22 |

Personal connection draws benefits manager to job PAGE 22 | Views on health reform ONLINE @ WWW.BUSINESSINSURANCE.COM



Joseph Cabral, senior vp, chief human resources officer, (left) and Joseph F. Molloy, corporate benefits director, at North Shore-LIJ Health System.

MICHAEL MARCOTTE

Cultural change backs wellness

Tools and counseling reach beyond workers to their families

By JERRY GEISEL

LAKE SUCCESS, N.Y.—Three years have passed, but Joseph F. Molloy, corporate director of benefits at North Shore-LIJ Health System, vividly recalls a 2007 conversation he had with Chief Financial Officer Bob Shapiro.

The two were discussing the

health care system's claims experience in which claims costs were running lower than projected.

Mr. Molloy recalled that Mr. Shapiro was pleased and said, "This is great. How can we sustain it?"

"By building a culture of wellness," Mr. Molloy said he responded.

One approach that had been taken to improve employees' health was giving employees the tools to help them stop smoking. The Center for Tobacco Control, which operates as a division of the health care system's hospital in Manhasset,

N.Y., opened about a decade ago to provide free counseling and coaching sessions to help employees, their spouses and children stop smoking.

The center also does an "enormous amount" of outreach, including helping doctors help their patients quit smoking, Mr. Molloy said.

The center also offers on-site coaching and classes at locations where there is a "critical mass" of employees who want to quit smoking, he said.

Employees also can go to their own doctor to obtain smoking-cessation products, which are fully covered. All of the cost of prescription and over-the-counter nicotine replacement therapies are covered for employees enrolled in the health care system's medical plans.

In all, more than half of individuals—nearly 1,000 people—who attended smoking-cessation programs at the Center for Tobacco Control have stopped smoking, Mr. Molloy said. The system has about 42,000 employees.

The health care system's attitude toward smoking, which is communicated to employees, is simple. "We wanted this to be a culture shift. We want employees to know that we care about your health. We are going to give you the tools to help you stop smoking," Mr. Molloy said.

He said it is impossible to measure precisely how much the decrease in smoking has affected health care costs, but the value goes beyond cost reductions.

"Employees are going to be healthier, and getting people healthier is part of our mission as a health care system," Mr. Molloy said.

Helping employees lose weight is another employee wellness benefit and is one that recently was revamped.

Launched in March 2008, the health care system initially reimbursed employees for the cost of attending sessions offered by Weight Watchers International Inc., so long as they attended a certain number of sessions.

But in January, the design was changed so employees would have to reach certain weight loss targets to get full reimbursement for Weight Watchers sessions they attended.

"We had no limits on the number of times you could be reimbursed, and we had quite a few frequent fliers," Mr. Molloy said of a small number of employees who exploited the loophole.

Under the revamped structure, an employee must lose 5% of his or her weight to be fully reimbursed for the first series of meetings. Then an individual would have to hit a weight goal or lose 10% of their body weight to receive full reimbursement for a second series of sessions.

"If you use the program, you have to lose weight" to get full reimbursement, Mr. Molloy said.

In all, participating employees have lost 30,000 pounds since the program began two years ago.

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Joseph Cabral, senior vp, chief human resources officer, (left) and Joseph F. Molloy, corporate benefits director, at North Shore-LIJ Health System.

MICHAEL MARCOTTE

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MICHAEL MARCOTTE

Back row, left to right: Lorraine Chambers-Lewis, corporate director, employee health services; Joseph Cabral, senior vp, chief human resources officer; Dahlys Oetting, corporate director, human resources; Christine Sanzone, corporate director, strategic initiatives; Barbara Felker, vp, human resources; Joseph F. Molloy, corporate director of benefits; Susan Bardolf, senior director, human resources; Sandra Lembck, manager, human resources information technology; Andrea McGoldrick, corporate director, human resources. **Front row, left to right:** Vicki Kahaner, corporate director, labor and employee relations; Rukhsana Rehman, corporate director, talent acquisition; Rebecca Gordon, vp, labor and employee relations; Allison Bunin, corporate director, employee communications; Carol Battaglia, corporate director, benefit operations; Jude Williamson, corporate director, human resources; Carol Boyer, corporate director, compensation strategy.



MICHAEL MARCOTTE

Row 1 (left, front to back): Kimberly Joseph, customer support specialist II; Siji Thomas, customer support specialist II; Kathy Perico, customer support specialist II; Christine Mendizabal, customer support specialist II; Shivone John, customer support specialist II; Magda Ramirez, team lead, retirement; Dijana Predich, strategist, benefits. **Row 2:** Jennifer Passalacqua, specialist, retirement; Kathleen Jerabeck, customer support specialist II; Norma Pagan-Watson, customer support specialist I; Robin Richards, customer support specialist II; Fran Lau, customer support specialist II. **Row 3:** Carol Battaglia, corporate director, benefit operations; Trish Pearson, team lead, leave of absences; Patricia Riccardi, customer support specialist II; Joanne Wiebke, benefits operations manager; Patricia Plutchok, assistant analyst, benefits; Betty McEnery, customer support specialist II; Joseph F. Molloy, corporate director of benefits. **Row 4:** Daniel Murphy, customer support specialist I; Michael Moreno, customer support specialist I.

For-profit strategy boosts 403(b) plan enrollment to 90%

Auto enrollment, comprehensive education yield results

By JERRY GEISEL

LAKE SUCCESS, N.Y.—For many employers, one of the most frustrating things about sponsoring a defined contribution plan is that a high percentage of employees don't participate.

Joseph F. Molloy, corporate director of benefits at North Shore-LIJ Health System, shared that frustration. Despite a matching contribution by the health care provider, more than 30% of eligible workers did not contribute to its 403(b) savings plan.

"If an employee put in 6% of salary, we'd put in 2%," Mr. Molloy said. "Still, we had about 30% of eligible employees not contributing."

"Some people believed they couldn't afford to contribute. Others had an expectation that their employer would take care of everything," Mr. Molloy said.

A third group was focused on using their salaries for what Mr. Molloy called "immediate gratification. Too many people say, 'My wife's car is two years old and she needs a new car. I can't save for retirement because I have to buy a new car.' Immediate gratification has overtaken the need to save for retirement."

A fourth subgroup didn't take the time to enroll in the 403(b) plan, the nonprofit world's equivalent of a 401(k) plan. That 30% nonparticipation rate rankled Mr. Molloy, who said employers have an obligation to boost participation but doubted that another standard edu-

North Shore-LIJ Health System

BUSINESS DESCRIPTION: The second-largest U.S. nonprofit health care system, based on number of beds, and the 16th-largest based on net patient revenue. Its 15 hospitals include four tertiary hospitals, two specialty care facilities, eight community hospitals and one affiliated hospital.

HEADQUARTERS: Great Neck, N.Y.

SERVICE AREA: Long Island, Manhattan, Queens and Staten Island.

YEAR FORMED: 1997, through merger of North Shore Health System and LIJ Medical Center.

PRESIDENT AND CEO: Michael Dowling

NUMBER OF EMPLOYEES: 42,000

2009 REVENUE: \$4.9 billion

cation campaign would improve employees' participation rate.

The only approach that could succeed, Mr. Molloy believed, was one common in the private sector but rare in the nonprofit world: automatic enrollment. Under such a system, employees who don't

respond to 403(b) enrollment notices are enrolled automatically unless they notify their employer that they want to opt out.

He made his case to the health care system's senior leadership. While adding automatic enrollment would increase the system's costs by nearly \$3 million, he argued that it was the right thing to do for several reasons.

"Since we were providing a competitive retirement program that included participation in a defined contribution plan with an employer match, didn't it make sense for us to ensure that all employees maximized the availability of the benefit?" Mr. Molloy said he explained to the senior leaders, who agreed.

A design was set. Employees who did not voluntarily enroll would be automatically enrolled with a contribution amount equal to 3% of their salary, with that amount increasing in annual increments of 1% of salary for the next three years. Those contributions would be invested in target-date investment funds offered through Vanguard Group Inc.

Prior to the April 2008 introduction of automatic enrollment, a communications campaign was launched. Six notices were sent to employees describing the automatic enrollment program and informing them that they would be enrolled unless they opted out.

The notices, prepared by Allison Bunin, corporate director of employee communications, explained key program advantages in easy-to-

understand terms.

"We communicated the tax aspects. If you put in three dollars, it's really" much less "because the contributions are pretax. That was important to employees," Mr. Molloy said. "Even though pretax contributions have been around for decades, for a lot of people it still is a pretty esoteric concept to understand. A \$3 contribution is not really a \$3 contribution. That's something that really has to be explained."

To ease potential mistrust, "we communicated that North Shore was doing this because we felt this was important and that it was not going to save us any money. It would cost us additional money," he said.

Even with all the communications, there was trepidation by some senior members of the human resources staff. He explained that the program had been well-communicated and it was too late to turn off the automatic enrollment switch.

"We communicated this six times already, with a confirmation letter going out. At some point, you have to draw the line and employees have to be responsible," he said.

The program began and the health care system received virtually no calls from employees who didn't understand why they were automatically enrolled in the plan.

In fact, some employees who called were elated and said "they never would have done this on their own. They said, 'Thank you for doing this. I'm glad you did it,'" Mr. Molloy said.

The participation rate in the 403(b) plan soared, immediately rising and remaining at 90%.

The high participation rate "can be attributed to the comprehensive employee education and communications materials provided under Joe's directive," wrote Anthony Durak, director of client management in the Somerset, N.J., office of MetLife Resources, a unit of MetLife Inc., and the health care system's 403(b) plan's record-keeper, in a letter nominating Mr. Molloy for *Business Insurance* honors.

Mr. Molloy spearheaded other changes as well.

Working with MetLife in 2007, the health care system converted its paper-intensive system for certain transactions. As a result, changes in contribution rates, investment allocations, loans and beneficiary designations now are done online.

But one change that many other employers have made in recent years—freezing their defined benefit pension plans—has not occurred at North Shore-LIJ. Aside from the 403(b) plan, it also has a cash balance pension plan in which employees receive annual credits equal to 3% of their pay.

"Oftentimes, employees view defined contribution plans as very large savings accounts," Mr. Molloy said. "We want to ensure that some of the funds that we are providing for retirement actually will go to a monthly retirement," he said in saying why the health care system has stuck with its defined benefit plan.

Benefits help just a click away

By JERRY GEISEL

LAKE SUCCESS, N.Y.—When North Shore-LIJ Health System employees have questions about their benefits, the answer may be just a click or two away.

In fall 2008, the health care system started a benefits blog on the company's website to provide information and answer questions quickly.

"Our commitment was to post responses within 24 hours, but in reality we are posting responses often within 60 minutes," said Joseph F. Molloy, corporate benefits director.

Clearly, employees are flocking to the information medium. Since last fall, the site has received more than 50,000 hits, Mr. Molloy said.

"It has been a great tool and has given employees very fast access to information that they need," Mr. Molloy said. It also is a way for the health care system to "measure the temperature of issues, as when many of the same questions are being asked."

Questions asked by employees and the answers provided are presented chronologically. In addition, benefit issues are tagged by topic, such as "flexible spending accounts" and "retirement medical benefits."

Many of the most recent questions have been about the federal health care reform law, especially about a provision that requires employers to extend coverage to employees' adult children up to age 26, generally by Jan. 1, 2011.

Responding to the questions, a blog prepared by Mr. Molloy and his staff explains that the system's health care plan will be amended, as of Jan. 1, to provide coverage to employees' children through the end of the month in which the child turns 26.

Coverage now ends at age 19, or at age 25 if the child is a full-time student.

Personal connection draws Molloy to his job

By JERRY GEISEL

LAKE SUCCESS, N.Y.—When Joseph F. Molloy joined North Shore-Long Island Jewish Health System in June 2005 as corporate director of benefits, he said he was "thrilled" to be back as a corporate benefit decisionmaker.

For nearly a decade prior to joining the organization that recently changed its name to North Shore-LIJ Health System, Mr. Molloy worked at Ruggieri Consulting Group L.L.C., where he was a founding member of the New York-based benefits consultant. Previously, he held benefit director positions at Ogden Services Corp. in New York; Abraham & Straus, a New York department store later acquired by Macy's Inc.; and Equitable Life Assurance Society, now AXA Equitable Life Insurance Co.

While at Ruggieri, Mr. Molloy's accomplishments included developing outsourcing capabilities and employee benefit plans for clients.

"You got involved in different and unique situations," Mr. Molloy said of his time as a benefit consultant, work he said he enjoyed.

Still, he missed being the one to make and implement decisions. He especially missed helping employees with specific problems.

"A family member dies and I can help explain the life insurance benefits. You truly can help someone who was in need. I worked for about 10 years in benefit consulting and one of the reasons I left was I didn't have that personal connection," Mr. Molloy said.



Mr. Molloy

Being benefits director of a huge health care system has a special value and attraction, he said. "I'm not a doctor and I don't save people's lives. What I can do is (provide benefits) to people who are saving the lives of others. That personally is very satisfying," said the 49-year-old who has been named to the 2010 *Business Insurance* Benefit Management Honor Roll.

While in management training at Equitable, Mr. Molloy said he took to benefits "like a fish to water." He said the immediate appeal was that benefit issues "beg you to think outside the box and that, I believe, has always been one of my strengths."

Mr. Molloy has a bachelor of science degree from Cornell University in Ithaca, N.Y., where he majored in management and economics.

His wife, Dana, is the center coordinator at a Weight Watchers International Inc. facility in Wantagh, N.Y., and the couple have two children, Jennifer, 23, and Rachel, 13.

UP CLOSE



DAVE KALB

NEW JOB TITLE: St. Louis Park, Minn.-based senior associate with Dubraski & Associates L.L.C.

PREVIOUS POSITION: Minneapolis-based senior vp with Stuart, Fla.-based Evergreen Re, a unit of Brown & Brown Inc.

INDUSTRY CHALLENGES: I think the consolidation of health plans and health plans withdrawing from the market, which we will be seeing more of with health care reform, will be a challenge.

INDUSTRY OUTLOOK: With health care reform, depending on where the dollars are put, you could see an increase in research and Medicaid health plans, which would be a good opportunity for us. The opportunities will be with government and Medicaid plans.

CAREER HIGHLIGHT: I think one of the more dynamic events was in the early '90s and mid-'90s, when capitation was predominant in the industry. The opportunities in the market were phenomenal and we saw a lot of growth. There were a lot of needs that we could service; it was an exciting time.

ADVICE: Our industry is getting a little bit mature and, if you look around at who is in this business on the reinsurance side, it's really people who have been doing this for a long time. We haven't seen any new blood. I think we have to build and mentor the new people in the industry. They come in with a fresh set of eyes and some interesting perspectives. I think there are a lot of opportunities for young people to come in and become the new leaders.

WHAT YOU WANTED TO BE WHEN YOU GREW UP: I wanted to be a professional tennis player. I played a lot of tennis growing up.

OUTSIDE THE INDUSTRY, A DREAM JOB: I have always wanted, and still want, to run a restaurant. I love to cook; I am passionate about cooking. Someday, I would love to give that a go.

MOST PASSIONATE ABOUT: In this job, I am passionate about making sure that we are very successful here.

HOBBIES: I enjoy golf, tennis, hiking, skiing. I am active in a lot of ways. Boating, water skiing; I love to keep busy and try new things.

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Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mike Tsikoudakis
Business Insurance
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Chicago, Ill. 60601-3806
mtsikoudakis@businessinsurance.com

POSTING THIS WEEK

AGENTS:

- Tanner, Ballew and Maloof Inc.
- Welsch, Flatness & Lutz Inc.

ASSOCIATIONS:

- Comité Européen des Assurances

BROKERS:

- Edgewood Partners Insurance Center
- Equity Risk Partners Inc.
- Hays Cos. of Denver

INSURERS:

- American United Life Insurance Co.
- Beazley Furlong Ltd.

OTHER PROVIDERS:

- AlphaStaff Group Inc.
- DLA Piper

Products & Services

OnPoint offers surety bond cover for tribal nations

ATLANTA—OnPoint Underwriting Inc. has added surety bond coverage to its sovereign tribal nations program.

The Program for Sovereign Indian Nations offers surety bond coverage, including probate, license and permit, miscellaneous indemnity, and lost securities serving tribal nations, the Atlanta-based managing general agency said in a statement.

The surety bond coverage will be written through an insurer not named at this time. The insurer is rated A by A.M. Best Co. Inc. and reported more than \$20 billion in 2009 revenues, according to the statement.

OnPoint Underwriting said the full program offers various insurance products for Native American tribes such as all-risk property, general liability and workers compensation.

For more information, contact Ryan Scheinfeld, managing director, at 678-651-2202 or rscheinfeld@onpointunderwriting.com.

ACE platform to manage global insurance programs

ZURICH—ACE Ltd. has launched an international platform to manage global insurance programs for multinational clients.

ACE Global Program Solutions aims to manage and deliver insurance programs across regulatory and legal climates for multinational businesses, the Zurich-based insurer said in a statement.

"In addition to providing local policies in relevant territories, and non-admitted policies where permissible, ACE's master multinational policies will indemnify a business' parent company on a (difference-in-conditions/difference-in-limits) basis, for its own financial loss and not the losses suffered by their overseas entity," ACE said in the statement.

The program features ACE Worldview, a web portal accessible from users' desktops to monitor and manage their global insurance program in real time.

Other features include access to

ACE's research tools used by its underwriting, account management and legal teams, along with its multinational loss-reporting tool.

"The ability to operate effectively across different regulatory and legal regimes is increasingly important to multinational businesses," said Phil Sharpe, director of casualty and major risks for ACE U.K. & Ireland, in the statement.

For more information, contact Kenneth Riegler, president of the multinational client group for ACE North America, at 212-642-7894 or Kenneth.riegler@acegroup.com.

For international clients, contact Michael Furgueson, president of the multinational group for ACE Inter-

national, at 212-827-4465 or Michael.furgueson@acegroup.com.

CIG offers contract protection insurance

ARLINGTON HEIGHTS, ILL.—Construction Indemnity Group L.L.C. has introduced contractors and material suppliers coverage to mitigate "non-payment" of contracted goods and services.

The Contractor Protection Insurance policy aims to cover artisan contractors and suppliers against nonpayment of completed work and materials supplied, the Arlington Heights, Ill.-based insurance producer said in a statement.

Part of the claims process involves CIG subrogating mechanic

liens claims, which are filed by contractors to guarantee payment on an improved structure, to collect from the contracted parties.

CIG said the policy, which is underwritten by Chicago-based surplus lines insurer Prime Insurance Co., will enforce contractual accountability and obligation of payment.

According to the statement, for approximately \$1,000 in annual premiums, CIG provides \$25,000 of coverage annually for properly filed mechanic liens.

"Research has shown that the average mechanic lien filed is approximately \$7,500; therefore the \$25,000 aggregate annual limit should provide adequate protection for the majority of claims," said

Todd Golin, principal for CIG, in the statement. "Limits in excess of \$25,000 may be considered with additional information from the applicant and stricter underwriting guidelines."

For more information, contact Todd Golin, principal, at 847-253-2261 or tgolin@constructionindemnity.com.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. or e-mail mtsikoudakis@businessinsurance.com.



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Waiver: Arbitration ruling may spur law change

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Observers say arbitration agreements are widely used to cover employment as well as consumer and franchise-related disputes.

"There's long been concern about the issue of mandatory arbitration provisions in certain types of contracts, and I think the legislation reflects that," said James E. Berger, of counsel at law firm Paul, Hastings, Janofsky & Walker L.L.P. in New York.

It is "very much an open question" as to whether Congress will have the time to deal with the bill this session, said Matthew Webb, senior vp for legal reform policy at the U.S. Chamber of Commerce's Institute for Legal Reform in Washington.

But observers generally agree the *Rent-A-Center* decision will give the issue more momentum. Sen. Patrick Leahy, D-Vt., one of the bill's cosponsors, said in a statement after the court ruling that "Congress should now take a closer look at the way in which binding mandatory arbitration is creating a legal underground where American workers are left without protection."

This decision is among factors that are likely to encourage Congress to seriously consider arbitration legislation "that they would view as protecting employees and consumers and other parties that don't have a lot of bargaining pow-

er from what they perceive as the ills of arbitration provisions," said Philip J. Loree Jr., an attorney with arbitration specialist firm Loree & Loree in Manhasset, N.Y.

Richard R. Meneghello, a partner with law firm Fisher & Phillips L.L.P. in Portland, Ore., said *Rent-A-Center* "just gives more support for those who say, 'Here's a guy who thought he had a valid race discrimination argument, and this employer pulled this arbitration agreement out.'"

Michael W. Fox, a shareholder with law firm Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Austin, said he believes the bill will win passage in the House. "The real question is the Senate." The Franken Amendment to the Defense Appropriations Act of 2010, which passed the Senate with bipartisan support in October and subsequently signed into law, may signal that the Senate may pass the arbitration measure, he said.

The amendment prohibits the awarding of any contracts in excess of \$1 million unless the contractor agrees not to enter into or enforce mandatory arbitration agreements against employees or independent contractors for claims related to Title VII of the Civil Rights Act of 1964, and tort claims arising out of sexual assault or harassment. The impetus behind the amendment was the case of a defense contractor worker who allegedly was gang

Ruling clarifies arbitration clause issues

Employers gained a victory, albeit perhaps a narrow one, in a divided U.S. Supreme Court opinion last week that confirms the validity of arbitration clauses and settles who should determine when disputes can be arbitrated.

Antonio Jackson, the plaintiff in *Rent-A-Center, West Inc. vs. Antonio Jackson*, was an employee of Rent-A-Center, West Inc., a unit of Plano, Texas-based Rent-A-Center Inc., who filed a lawsuit in 2007 accusing his employer of race discrimination and retaliation. The employer moved to dismiss the case and compel arbitration based on an agreement Mr. Jackson signed as a condition of his employment that said the arbitrator will have the exclusive authority to resolve any dispute relating to the arbitration agreement's enforceability.

The employer argued that the agreement means an arbitrator, not a court, should decide whether the arbitration agreement was enforceable. Mr. Jackson argued the agreement was "unconscionable," or signed under duress, in part because it was a non-negotiable condition of his employment.

In September, the 9th U.S. Circuit Court of Appeals in San Francisco reversed a lower court ruling and ruled that when an arbitration agreement delegates the question of its validity to an arbitrator, a court, not the arbitrator, must rule whether an agreement to arbitrate is enforceable.

In its ruling, the majority opinion by Justice Antonin Scalia said because Mr. Jackson challenged the validity of the agreement as a whole, and not the delegation provision that gave the arbitrator the authority to resolve any disputes relating to the agreement's enforceability, the issue must be decided by the arbitrator.

Unless Mr. Jackson "challenged the delegation provision specifically, we must treat it as valid...and must enforce it...leaving any challenge to the validity of the agreement as a whole for the arbitrator," said the opinion.

The decision is a victory for employers that "moves the ball forward with respect to the assumption that arbitration agreements in employment contracts will be upheld," said Nigel F. Telman, a partner with law firm Proskauer Rose L.L.P. in Chicago.

"The decision is quite narrow in its particular effects," however, said Donald M. Falk, a partner with law firm Mayer Brown L.L.P. in Palo Alto, Calif., who submitted a brief in the case on behalf of the U.S. Chamber of Commerce, speaking on his own behalf. He noted also that the ruling showed "future litigants how to raise their challenges."

Henry Lederman, a shareholder with law firm Littler Mendelson P.C. in Walnut Creek, Calif., who represented Rent-A-Center, said "the decision more or less tracks the other circuit courts that have ruled on the issue outside of the 9th Circuit."

However, arbitrator Richard Faulkner, a partner with Richardson, Texas-based law firm Blume Faulkner P.L.L.C. said he believes the opinion will "dramatically expand the issue of arbitration" because few would-be litigants will be able to successfully dispute the arbitration process.

Jeffrey M. Tanenbaum, a partner with Nixon Peabody L.L.P. in San Francisco, said the case "serves as a good reminder for employers to review the language" of their arbitration agreement to make sure it "expressly provides for review of enforceability of the arbitration agreement by the arbitrator."

—By Judy Greenwald

raped in Iran, and her employer's ultimately unsuccessful effort to have her case arbitrated.

Jeffrey M. Tanenbaum, a partner

with Nixon Peabody L.L.P. in San Francisco, said litigation can be so expensive "it deprives employees and consumers of access to a

forum to have their disputes resolved." Removing arbitration as a potential remedy would be a "terrible unfairness."

Reform: Deal has pluses

CONTINUED FROM PAGE 1

financial protection agency, and allow federal regulators to monitor systemic risk to the financial system.

The bill treats the property/casualty industry better than other financial sectors, said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington.

"From the onset of the financial crisis, property/casualty insurance had great concerns that Congress would overreact and unintentionally sweep in our industry, which had little to no involvement in creating the crisis," said Jimi Grande, senior vp in the National Assn. of Mutual Insurance Cos.' Washington office. "We're pleased that the final product appropriately recognizes the significant difference between property/casualty insurance and the activities and behaviors of other large, complex financial institutions."

"In most instances, the legislation appropriately recognizes that our industry does not pose systemic risk," Leigh Ann Pusey, president and CEO of the American Insurance Assn., said in a statement. "The existing state-based resolution mechanism remains in place, and policyholders remain protected by the state guaranty fund system."

AIA believes creation of the FIO "offers a substantial contribution toward broadening and deepening our nation's understanding of the critical role of insurance in our financial system," she said.

According to the compromise, the FIO would have limited powers to pre-empt state insurance regulators in certain international insurance matters.

The office would be required to notify certain House and Senate committees of its intention to pre-empt state law. The Office of the United States Trade Representative also would play a role in international insurance matters. The office also would provide expertise and guidance to federal authorities on insurance matters and provide reports on insurance and reinsurance matters to Congress.

"Significant improvements have been made to the conference report to minimize the potential negative consequences of adding federal oversight to the state-based insurance regulatory system," said David Sampson, president and CEO of the Property Casualty Insurers Assn. of America, in a statement. "However, deep concern remains over the long-term impact of this legislation on U.S. competitiveness for the financial services sector."

Insurers remain concerned how a provision that would require financial institutions with assets of more than \$50 billion to pre-fund a mechanism to settle failing financial institutions would affect the

property/casualty industry. "AIA remains opposed to any legislation that subjects our industry to pre-funding obligation," said Ms. Pusey in her statement.

While insurance groups had disagreed over the scope of the office's pre-emption power, there was near-universal support for the surplus lines and reinsurance reforms.

New York-based RIMS is "thrilled" that the surplus lines reform and Federal Insurance Office provisions—both for which RIMS had lobbied—were included in the agreement, said Scott Clark, RIMS secretary and director-external affairs.

Mr. Clark, who also is risk and benefits officer for Miami-Dade Public Schools in Miami, said RIMS would have preferred greater pre-emption authority for FIO, but "we believe that any movement toward that goal is a good start."

"We're pleased to see the Senate finally adopt the surplus lines and reinsurance legislation as the House has done four times previously," said Frank Nutter, president of the Reinsurance Assn. of America.

But the act is not yet law, and while House passage seems assured, the outlook in the Senate is less certain, said the CIAB's Mr. Wood. He said Senate Banking, Housing and Urban Affairs Committee Chairman Chris Dodd, D-Conn.—who drafted the Senate version of financial services reform—has "no margin of error. He still has to get Republican votes."

CRC: Hires can work

CONTINUED FROM PAGE 1

conspiracy and breach of contract and accuses Ryan Specialty of conducting a "well-choreographed raid."

At issue in the suit is the enforceability of the employees' non-compete agreements, a confidentiality agreement, and a non-solicitation agreement, according to court documents. Both parties agree the confidentiality agreement is enforceable and Ryan Specialty has indicated to the court that it is complying with all confidentiality agreements, Judge Zagel said.

Ryan Specialty and a group of more than 60 former CRC employees will continue to pursue a lawsuit seeking "declaratory relief" from their employment contracts, Mr. Ryan said. An amended complaint was filed in U.S. District Court in Chicago last week.

After last week's ruling, the case becomes squarely about damages, legal experts say. If this case proceeds, "a judge or jury will have to decide if the restrictive covenants are enforceable. If so, were they breached? If so, what are the damages that flow from the breach?" said Gary B. Eidelman, a labor attorney with Saul Ewing L.L.P. in Baltimore.

"The damages could be quite substantial given the sheer size and

scope of the people involved," Mr. Eidelman said.

Although both sides have indicated they are determined to take the case to trial, legal experts say a settlement is a strong possibility.

"Ninety-five percent of these restrictive covenant suits resolve themselves through some form of settlement," said Monica Latin, a partner with Carrington, Coleman, Sloman & Blumenthal L.L.P. in Dallas.

Industry experts said although CRC has suffered a blow, it likely will survive the setback. "As one of the nation's largest wholesalers, they will be able to rebuild," said John Butler, managing director and head of investment bank Piper Jaffray & Co.'s insurance practice in New York.

"But the reality of this business is it's all about relationships, and if people leave, there's a good chance the business will follow," he said.

Meanwhile, CRC said it will continue to pursue litigation in Alabama against Ed McCormack, a managing director of Ryan Specialty and former outside counsel to CRC. Among other things, CRC accuses Mr. McCormack of soliciting CRC employees and causing CRC employees to violate their employment contracts.

In addition, litigation is pending in California between former CRC President Timothy W. Turner and CRC over various restrictive covenants contained in Mr. Turner's CRC employment agreement. Mr. Turner joined Ryan Specialty in February as managing director.

News In Brief

CONTINUED FROM PAGE 1

which were \$105.1 billion, during the first three months of this year compared with the same period last year.

Some AIG employees to receive 'performance units'

Some American International Group Inc. employees will receive "long-term performance units" that are 80% tied to junior debt that pays 8.175% interest and 20% to common stock, said the insurer in a Securities and Exchange Commission filing May 28 that was publicized last week. AIG said in a statement this helps the company achieve its goals of attracting and retaining capital and experienced professionals and motivating them to achieve strong business results.

Health care reform hits Walgreens' profits

Walgreen Co.'s fiscal 2010 third quarter earnings took a hit as a result of health care reform, the company said. Its results for the quarter included a negative impact of 4 cents per diluted share as a result of eliminating the employer tax benefit for the Medicare Part D subsidy for retiree benefits under the Patient Protection and Affordable Care Act. Walgreens also reported a reduction of 2 cents per diluted share as a result of costs associated with the acquisition of drugstore chain Duane Reade Holdings Inc., and 1 cent per diluted share in restructuring and restructuring-related costs associated with its Rewiring for Growth initiative, a cost-containment effort launched in 2008. As a result, Walgreens said its net earnings for this year's third quarter fell to \$463 million compared with \$522 million for the third quarter of fiscal 2009.

Dismissal of securities case could affect several suits

The U.S. Supreme Court dismissed a securities lawsuit by foreign investors against an Australian bank in a case that could have a significant impact on several pending lawsuits. The ruling, affirming a federal appeals court decision, found that U.S. securities laws cannot be

applied in cases of foreign investors, foreign shareholder exchanges and foreign companies. The plaintiffs had alleged wrongdoing by a U.S. subsidiary of Melbourne-based National Australia Bank Ltd. But the court found that where the securities are purchased determines whether U.S. courts have jurisdiction.

P/C insurer financial impairments triple: Best

U.S. property/casualty insurance company financial impairments more than tripled since 2007, according to a report by A.M. Best Co. Inc. The number of financially impaired property/casualty insurers rose to 18 last year, up from 16 in 2008 and only five in 2007, the last full year before the recession began, according to the rating agency. The study says most of last year's impairments arose from underreserving, underpricing and too-rapid growth in the years immediately before impairment.

Brokerage Willis names chief financial officer

Willis Group Holdings P.L.C. said Michael Neborak has been named executive vp and group chief financial officer, effective July 6. He will oversee all of Willis' global finance functions and be a member of its executive committee, reporting to Chairman and CEO Joe Plumeri, the London-based insurance brokerage said in a statement.

CalPERS to see average premium increase of 9.9%

2011 premium increases for members of the California Public Employees' Retirement System will increase 9.9% on average, the largest increase since 2007, when rates grew 11.9%. Last year, premium hikes averaged 3.2%. HMO members will experience the biggest hikes, averaging 10.6%, while PPO premiums will grow 8.7%, and Medicare plans will increase 3.4%. CalPERS blamed higher costs for hospital, medical and prescription drug use in the California market.

Three in five firms buy U.S. terror cover: Survey

Takeup rates for U.S. terrorism insurance continued to increase in 2009, according to a report by insurance brokerage Marsh Inc. According to "Marsh Report: Terrorism Risk Insurance 2010," 61% of firms surveyed by Marsh purchased property terrorism insurance in 2009, up from 57% in 2008.

Rules: Health care benefit caps clarified

CONTINUED FROM PAGE 3

For now, "it is up to employers to decide what is an essential benefit," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

Benefit experts say they don't know when guidance defining essential benefits will be issued.

"It could be awhile," said Frank McArdle, a consultant with Hewitt Associates Inc. in Washington.

In addition, the regulations do not address whether employers can impose nondollar limits, such as a limit on the number of times a service can be provided.

The regulations do end uncertainty in other areas. For example, they make clear that annual limits

do not apply to health savings accounts and flexible spending accounts.

In addition, health reimbursement arrangements that are linked to group health care plans and standalone, retiree-only HRAs also are exempt from the limits.

"There was a concern about that," Mr. Stover said, referring to whether annual limits applied to account-based plans.

Regulators, though, are seeking comment on whether the annual limits should apply to standalone HRAs offered to employees.

The regulations also do not make clear whether services provided out-of-network should be treated differently from those provided in-network.

As a result, benefit experts say the annual and lifetime dollar rules would apply identically to both out-of-network and in-network services.

"Given that the law was silent on the issue, I don't see how the regulations could have made such a distinction," Mr. Stover said.

The regulations, to be published in the June 28 issue of the Federal Register, also make clear that employer plans—except so-called grandfathered plans—can not impose higher cost-sharing requirements for out-of-network emergency room services than for emergency room services provided in-network. In addition, nongrandfathered plans must permit direct access to in-network ob-gyns without a referral.

Pensions: Obama signs funding relief bill

CONTINUED FROM PAGE 3

will provide much-needed and nearly immediate relief to what are clearly some of the most challenging financial conditions that pension sponsors have faced in recent memory," said Alan Glickstein, a senior consultant in the Dallas office of Towers Watson & Co.

But some of the relief provided to employers would be eroded by a provision known as the cash-flow rule. The rule would require employers that use either of the temporary funding schedules to contribute

extra cash to their plans to equal "excess" employee compensation or "extraordinary" dividends.

For example, an amount equal to compensation in excess of \$1 million paid to any employee would have to be contributed to the plan.

Employers adopting the interest-only funding approach will be bound by the cash flow rule for three years, while the rule will apply for five years for employers adopting the 15-year amortization schedule.

Yet another provision will benefit plan participants. Under the 2006 law, plans must be temporarily

frozen, and participants cannot accrue new benefits if their funding levels fall below 60%.

Under the new law, employers with plans that are less than 60% funded can, for plan years beginning before Oct. 1, 2010, look at their plans' funding levels as of Jan. 1, 2008—before the equities market plunged—to determine whether the benefit accrual stoppage rule applied.

The funding relief provisions are part of a broader measure that temporarily reverses a cut in fees the government pays doctors treating patients covered by Medicare.

Deepwater: Regulation

CONTINUED FROM PAGE 4

shore oil industry, he said.

"Particularly in the context of that sweeping law we could get—the Sarbanes-Oxley-like stampede—you will have a massively limiting regulatory infrastructure that will continue to exist probably for decades," he said.

Under the Oil Pollution Act of 1990, energy firms responsible for a spill must pay for the cleanup but have their liability damages capped at \$75 million. Mr. Book said Congress was certain to raise that liability ceiling to \$1.5 billion, which Republican lawmakers have proposed, if not higher.

Mr. Mackenzie said raising the

liability caps will drive smaller operators and perhaps independent operators out of the Gulf of Mexico sector.

Peter Bjerager, Katy, Texas-based senior vp and director of operations for DNV North America's energy unit, said major regulatory changes in the offshore energy sector always have been driven by accidents. He said safety in the offshore industry has improved significantly in recent decades with respect to smaller incidents, but not for larger ones.

"If you look at occupational health and safety in the oil and gas industry, it has improved by a factor of 10 over the last 20 years," he said. "When it comes to major disasters like this one, the ones that should not have happened and most likely could have been prevented, we may not see a decrease. These (catastrophic) events tend to continue to happen, not only in our industry."

He said that in the wake of the Deepwater accident, it was important for energy firms to do full risk assessments, and not focus solely on the likely cause of this particular incident.

"What often happens is now we get a lot of focus on blowout preventers," he said. "And then it's something else that goes wrong next time."

Mr. Mackenzie said there is a significant risk that the offshore energy industry will infer that the six-month moratorium on drilling in the Gulf of Mexico could last far longer, and move most rigs out of the Gulf. The Obama administration is appealing a federal judge's ruling blocking enforcement of the moratorium.

Still, Mr. Book said the speed and scope of congressional action on these matters "virtually guarantees" that the moratorium will last longer than six months.

Business Insurance

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Mr. Spitzer and Ms. Parker will be partnered on an unnamed program on CNN, which the network referred to as a “roundtable discussion.”

Spitzer joins ‘most trusted name in news’

Let’s say you’re a disgraced former governor. What can you do for an encore? If you happen to be Illinois ex-Gov. Rod Blagojevich, you land a gig on a reality TV show before you have to go to court to answer for your alleged misdeeds. But if you’re Eliot Spitzer, erstwhile scourge of Wall Street and the insurance industry, one-time governor of New York and admitted patron of call girls: You get a job on CNN.

And talk about your odd couples. The liberal Mr. Spitzer will be partnered with Kathleen Parker, a Pulitzer Prize-winning and decidedly right-of-center columnist.

The unnamed program, which CNN called a “roundtable discussion” in a press release announcing the move, will air in prime time.

“Other cable news channels force-feed viewers one narrow, predictable point of view; in contrast, CNN will be offering a lively roundup of all the best ideas—presented by two of the most intelligent and outspoken figures in the country,” Jon Klein, president of CNN/U.S., said in a statement released by the network.

In an earlier time, Mr. Spitzer’s failings would have banished him from the public eye, probably for decades. Now, they may be one of the reasons Mr. Spitzer won a second act on the public stage.

Liberties taken with product: Progressive



Progressive Corp. is a bit offended by Liberty Mutual Group’s in-car monitoring system to help determine auto insurance rates based on the mileage driven in the vehicle.

The Mayfield Village, Ohio-based company has filed a lawsuit against Liberty Mutual in an Ohio federal court claiming Liberty Mutual copied its idea on using the in-car monitoring system. Progressive claims Liberty Mutual’s products—OnBoard Advisor and Rewind—are copyright infringements on Progressive’s MyRate program, which received a patent in 2000.

Progressive introduced the first in-car monitoring system in 1999. The program offers drivers a wireless monitoring device that charts distance, how quickly the driver accelerates, brake usage, and time of day they travel.

The driver’s insurance rate for the month is determined based on the information gathered by the vehicle’s on-board diagnostic system, which is evaluated by Progressive.

“Our extensive research, development and investment in usage-based insurance dates back to the mid-1990s,” a spokeswoman for Progressive said in a statement. “We filed this suit to protect intellectual property rights we have spent more than 15 years investing and developing.”

Progressive alleges in the lawsuit that Boston-based Liberty Mutual’s programs “include each and every feature” of its patented service.

Liberty Mutual would not comment on the matter.

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AP PHOTO (BUFFETT) CSM LANDOV

France’s Sebastian Squillaci reacts to his team’s World Cup loss, on which insurance mogul Warren Buffett, inset, apparently won big.

France’s loss is Buffett’s big win

France may have embarrassed itself in the FIFA World Cup this year by bowing out in the first round, but the loss was a big win for Warren Buffett.

France lost 2-1 to South America, the host nation of the World Cup, after drawing Uruguay and losing to Mexico 2-0. According to reports, Mr. Buffett, CEO of Berkshire Hathaway Inc., said if France won the tournament, the company could lose \$30 million.

Ajit Jain, who leads Omaha-based Berkshire’s reinsurance unit, sold the insurance contract tied to France’s exit from the tournament, according to a report by CNBC in March. Mr. Buffett said his company previously sold policies based on the guarantee against the potential cancellation of NCAA basketball tournaments as well as a possible \$1 billion payout for a contest held by PepsiCo Inc. in 2003.

It is unknown who purchased the coverage for France, but with Berkshire being a big insurer of catastrophes, it looks like Mr. Buffett made a good bet on the French team’s implosion.

France won the World Cup in 1998 and lost in the final in 2006.

Naked Cowboy says copycat Cowgirl violating trademark

In the 1970s and ‘80s, it seemed like there couldn’t be enough nakedness in New York’s then-infamous Times Square.

But things got cleaned up, and now there’s a suit over whether two semi-naked characters are one too many in the former site of adult theaters and other less-than-wholesome enterprises.

The strange thing about the suit is that it’s being brought by one of the semi-naked characters himself, the famous Naked Cowboy.

The Naked Cowboy—who performs in boots, briefs, cowboy hat and a strategically located guitar—brought the suit against The Naked Cowgirl. The Naked Cowboy, whose real name is Robert Burck, sent a cease-and-desist letter to his female counterpart, who goes by the name Sandy Kane. The reason? By calling herself The Naked Cowgirl, Ms. Kane is violating Mr. Burck’s trademark, he claims.

Mr. Burck wants her either to stop or sign a Naked Cowboy franchise agreement. Ms. Kane so far has refused, telling the New York Post, “I’ve been naked for years.” She actually wears a cowboy hat and bikini when she performs. According to the paper, Ms. Kane had been employed as host of what the paper described as “a raunchy public-access comedy program” that ran for years.

This is not The Naked Cowboy’s first foray into trademark litigation. In 2008, he sued Mars Inc. over an animated ad Mars ran outside its Times Square M&M’s Store that showed the blue M&M dressed somewhat like Mr. Burck. The parties reached a settlement agreement, the terms of which were not disclosed.

Absent a speedy agreement between Mr. Burck and Ms. Kane, it looks like another court will be called upon to render justice based on the bare facts of this case.



AP PHOTOS

The Naked Cowboy, bottom, has ordered The Naked Cowgirl, top, to stop violating his trademark. He wants her to stop performing as The Naked Cowgirl or sign a Naked Cowboy franchise agreement.



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