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SUPPLY CHAINS IN FOCUS AFTER JAPAN, THAILAND DISASTERS / PAGE 3

STOP-LOSS INSURERS RECOGNIZING BENEFITS OF WELLNESS / PAGE 6

In Brief

PBGC deficit hits record \$26 billion

The Pension Benefit Guaranty Corp.'s deficit hit a record \$26.1 billion in fiscal 2011, the agency said. The deficit in the PBGC's insurance program for single-employer plans climbed to \$23.3 billion in fiscal 2011, up from \$21.6 billion the previous year. The deficit in the agency's insurance program that covers multiemployer pension plans nearly doubled to about \$2.8 billion, up from \$1.4 billion the previous year. The PBGC attributed the rise in its deficit to lower interest rates used to value plan liabilities and anticipated increases in financial assistance to multiemployer plans.

Transatlantic sues Validus

Transatlantic Holdings Inc. filed a lawsuit against Validus Holdings Ltd. on Friday, alleging that Validus' attempt to replace Transatlantic's board violates Delaware law. Validus, which

See **IN BRIEF** page 21

HEALTH CARE REFORM

Reforms face key court test

Employer planning complicated by legal uncertainty

By **JERRY GEISEL**

WASHINGTON—Employers' desire for certainty about the health care reform law will have to wait until at least sometime next year, when the Supreme Court rules on the legality of the law.

The justices agreed last week to review a lawsuit challenging the



2010 Patient Protection and Affordable Care Act, with a decision expected by the end of the court's term in June.

The decision to hear the chal-

lenge sets the stage for one of several decisions, experts say:

- The court either could uphold or strike down the issue directly before them in the case, which is whether a health care reform law provision requiring individuals to enroll in a qualified health care plan or pay a financial penalty, is unconstitutional.

- The court could decide the entire law is unconstitutional. Such a decision is possible if the justices strike down the individual mandate and find that the mandate is so intertwined with the

broader provisions the broader law would fall with it.

- The court could rule that a decision is premature. That scenario is possible if the justices follow an appeals court ruling that a challenge to the individual mandate could not occur until individuals actually pay a penalty for not enrolling in a plan. The first penalty payment wouldn't be due until April 2015, the deadline for filing 2014 federal tax returns.

How the Supreme Court rules

See **REFORM** page 17

RISK MANAGEMENT

Penn State abuse scandal sharpens focus on risks

Colleges expected to review practices in wake of crisis

By **MIKE TSIKOUKAKIS**

STATE COLLEGE, Pa.—Allegations of child sexual abuse by a former assistant football coach have rocked Pennsylvania State University, which faces federal allegations, litigation and even a review of its bond rating that will examine reputational damage and financial risk.

The university also may face unlimited legal liability in civil litigation, but Penn State said its directors and officers liability insurance will respond in the case.

Gerald A. Sandusky was arrested Nov. 5 on 40 counts related to the alleged sexual abuse, often on university property, of eight boys dat-

ing back to 1994.

Criticized for knowing about but failing to report the abuses to law enforcement officials, Penn State's university trustees removed legendary football coach Joe Paterno and President Graham Spanier. Two other officials have stepped down.

After the announcement of the charges against Mr. Sandusky, and charges of lying to a grand jury and failure to report to police against two senior Penn State officials, Marquette University and Syracuse University last week also faced allegations of failure to report sexual misconduct.

"I would suspect that the focus and the spotlight is on this now, and that would encourage some who may previously not have wanted to or not had the courage to or not felt compelled to step forward with allegations," said Ron



AP PHOTO

Former Penn State Assistant Football Coach Gerald Sandusky was arrested this month and charged in connection with child sexual abuse allegations.

Hayes, risk manager for the Calcasieu Parish School Board in Lake Charles, La.

"One of the possible ripple effects of the Penn State episode will be that...from this point forward, it will be a lot more sober discussion because we're seeing the tremendous ramifications, the tragedy, the effect—all of these things are being amplified by what's happening post-Penn State," Mr. Hayes said.

There are several steps risk managers at colleges and universities can take to avoid potential liability, experts say (see story, page 21).

Christine Eick, executive director of risk management and safety at Alabama's Auburn University, said risk managers at universities now will pay close attention to areas of the college beyond those that frequently work with children.

"I think risk managers and university administrators are going to be looking at what happened at Penn State and say, 'Do we need a broader policy?' instead of the policies specific to the different areas that they know of where children are coming on campus," Ms. Eick said.

According to prosecutors, the inappropriate conduct by Mr. Sandusky often took place on Penn State premises where his youth charity held athletic camps.

Allegations of sexual misconduct can be very damaging to a school's reputation and "it's very difficult, if not impossible to measure those damages," said Robert T. Lipps, executive director of Lockton Alliance for Industry Protection, a San Francisco

See **PENN STATE** page 21

SPOTLIGHT

INDUSTRY FINANCIALS:

NINE-MONTH RESULTS

Property/casualty insurers under pressure from losses, investments; health insurers get boost from low utilization rates; large brokers able to grow revenues despite challenging economy.

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Business Insurance

Online features & highlights
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white paper

BE PREPARED: Insurers and buyers alike increasingly are reporting rate increases for some lines. But is a hard market coming? Don't wait to find out. This white paper offers strategies to soften the impact of a market turn. Visit www.BusinessInsurance.com/whitepapers.

MOST POPULAR STORIES Week of November 14, 2011

1. Employer health care reform communication mandate delayed
2. Google seeks approval to fund benefit risks through captive
3. Flash mobs pose threat to retailers: Marsh
4. Surety losses likely to rise as economic problems continue
5. Thai floods could be costliest in a decade: Allianz
6. Injured worker's testimony enough for comp award: Court
7. Marsh & McLennan Agency buys South Florida brokerage Seitlin
8. OSHA issues safety guidelines for Black Friday retailers
9. NFIP extended through Dec. 16
10. Transatlantic sues Validus over attempt to replace board

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forum

MID-MARKET RISKS: Learn about unique risk management challenges for mid-market firms at a Dec. 14 online educational forum. Topics include D&O and alternative benefits funding. Register at www.BusinessInsurance.com/mmrisk.



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HEALTH CARE BENEFITS

Group health plan costs rising more slowly

Average increase falls to 6.1% in 2011, Mercer survey shows

By **JERRY GEISEL**

Group health care plan costs increased more than 6% in 2011, and the cost per employee crossed the \$10,000 mark, according to a survey of more than 2,800 employers released last week by Mercer L.L.C. in New York.

The 6.1% increase brought health plan costs to an average of \$10,146 per employee compared with \$9,562 in 2010, according to the survey.

This year's increase is somewhat less than in 2010, when costs jumped an average of 6.9%, but is in line with cost increases in

recent years. From 2005 through 2007, health plan costs rose an average of 6.1% annually, while in 2008 costs increased an average of 6.3%. In 2009, costs climbed an average of 5.5%, which was the smallest increase in a decade.

Amid steadily rising costs, employers, especially larger organizations, continue to take action to try to hold down cost increases to more manageable levels, according to the survey.

For example, 32% of large employers—those with at least 500 employees—offered a consumer-driven health plan linked to health savings accounts or health reimbursement arrangements in 2011, up sharply from the 23% that did so in 2010.

The appeal of CDHPs is obvious, Mercer noted: Due to the high-deductible feature, they cost

much less than other plans. For example, the cost of medical coverage through a CDHP linked to an HSA averaged \$7,787 per employee in 2011. That's about 20% less than the average of \$9,385 per employee for medical coverage through a preferred provider organization.

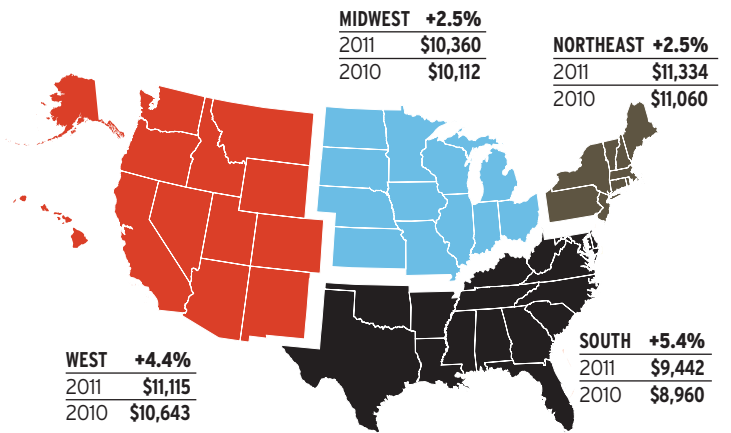
In addition, more employers see CDHPs as key to their strategies to improve the health of their employees, Mercer said.

"A growing number of employers are making their account contributions contingent on the employees' willingness to take steps to improve their own health," Susan Connolly, a partner in Mercer's Boston office, said in a statement accompanying the survey.

See **COSTS** page 20

REGIONAL COSTS

Average annual health plan costs per employee for employers with at least 500 employees, by region.



Source: Mercer L.L.C.

RISK MANAGEMENT



Factory workers joined sandbagging operations in mid-October to keep their companies operating in Thailand's Nawa Nakhon industrial estate despite ongoing flooding.

Firms rethink supply chain risks

Disasters in Japan, Thailand highlight need for continuity plan

By **RODD ZOLKOS**

BANGKOK—As flooding in Thailand disrupts supply chains in many industries, the event—along with Japan's March earthquake and tsunami—is prompting many to consider aspects of supply chain risk that might have been previously overlooked.

While many expect global sourcing to become an even larger factor for businesses going forward, recent events are prompting companies to consider the geographic concentrations of suppliers, the need for backup suppliers and re-engineering processes to accommodate backup components should supply chains be disrupted.

With an estimated 45% of the world's hard drive production located in Thailand and flooded plants affecting production by major manufacturers such as Seagate Technology Inc. and Western Digital

Inc., some analysts say the hard drive disruption could affect personal computer production through the first half of 2012.

The flooding also has had a major impact on the auto industry, where disruptions at Thai auto manufacturing plants and parts producers reportedly is expected to result in lost production of 250,000 vehicles worldwide.

Many Japanese companies relocated production to facilities in Thailand after the March earthquake and tsunami, a report suggested last week. London-based law firm Reynolds Porter Chamberlain L.L.P. said the move to Thai facilities helped many Japanese companies mitigate their losses after the Japan disaster. But many now face further losses as a result of the floods in Thailand.

See **THAILAND** page 19

WORKERS COMPENSATION

Wellness project seeks to serve and protect

By **ROBERTO CENICEROS**

PORTLAND, Ore.—Shift work, high-stress jobs and hours of sitting in patrol cars before suddenly jumping into action help make law enforcement personnel a high-risk group for workers compensation and disability claims.

In an effort to address that problem, Oregon Health & Science University medical researchers have launched a unique health promotion and intervention program study that could help police improve their well-being so that compensable injuries are less likely and disability durations are shorter.

The health improvements also could help reduce overall health care benefit costs, said Beth Hawk, safety and wellness coordinator in Salem, Ore., for Marion County, where sheriff's department personnel are participating in the study along with officers and deputies from other Oregon agencies.

A similar health promotion program the researchers launched about 10 years ago for Oregon firefighters helped improve eating and exercise habits and has helped Portland reduce work-related health expenses by an average of \$1,500 per firefighter annually, said Dr. Kerry Kuehl,

one of the researchers and an associate professor of medicine at Portland-based OHSU.

Ms. Hawk said she hopes OHSU's involvement with the Marion County Sheriff's Office helps deputies improve their health and results in similar outcomes as those experienced by Oregon firefighters.

In addition, such programs could help other employee populations, Ms. Hawk said.

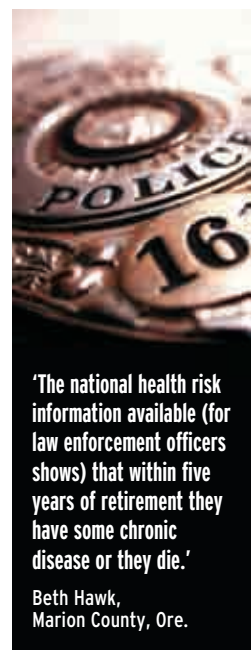
Marion County Sheriff's employees are among hundreds of law enforcement personnel applying OHSU's strategy as part of a \$2.5 million, multiyear study funded by the National Institute for Occupational Safety and Health.

"They are in a high-risk occupation," Ms. Hawk said of police. "The national health risk information available (for law enforcement officers shows) that within five years of retirement they have some chronic disease or they die."

retirement they have some chronic disease or they die," Ms. Hawk said. "Their fatality rate is really high after they retire because of their lifestyles all the way through to retirement."

According to NIOSH, police are at increased risk of suicide and health issues, such as cardiovascular problems. Yet they are one of

See **POLICE** page 20



'The national health risk information available (for law enforcement officers shows) that within five years of retirement they have some chronic disease or they die.'

Beth Hawk,
Marion County, Ore.

P/C LEGISLATION & REGULATION

Solvency II risk assessment rules under review

Regulator seeks input on internal reviews of company risks

By SARAH VEYSEY

FRANKFURT, Germany—The European insurance regulator has launched consultations on two important aspects of Solvency II, while the U.K. regulator has hinted it will try to minimize the effects on U.K. insurers of having to comply with two sets of rules in 2013.

The Frankfurt, Germany-based European Insurance and Occupational Pensions Authority began a public consultation on the Own Risk and Solvency Assessment that insurers and reinsurers in the European Union will have to undergo under Solvency II, which is slated for gradual introduction starting Jan. 1, 2013.

The comment period runs until Jan. 20, 2012.

Under Solvency II, all insurers and reinsurers will have to conduct regular ORSAs—

a view of the company's own risk profile and solvency assessment, or capital, needs.

Article 45 of the Solvency II directive requires that all companies perform a regular ORSA and that they provide the company's regulator with documentation on the process.

In its consultation, EIOPA requests responses from insurers and reinsurers about whether its guidelines on the ORSA are clear, whether practical or operational issues may arise from the ORSA process, and whether insurers and reinsurers have any suggestions on when and to whom reporting on compliance with the guidelines should be made, among other things.

"Effective implementation of the ORSA remains one of the top priorities facing European insurers," said Paul Clarke, global head of Solvency II at PricewaterhouseCoopers L.L.P. in London.

'Effective implementation of the ORSA remains one of the top priorities facing European insurers.'

Paul Clarke, PricewaterhouseCoopers L.L.P.

Although there still is uncertainty about the final form of the ORSA requirements, EIOPA's publication of the consultation document should give insurers the impetus they need to develop and finalize their own ORSA processes, he said.

"There is unlikely to be any further detailed guidance on the ORSA after the finalization of this paper, so firms should treat this as the last opportunity to raise any

questions still remaining," said Paul Brenchley, insurance director at KPMG L.L.P. in London.

The consultation paper suggests that insurers will be encouraged to develop their own templates for reporting results of their ORSAs rather than regulators prescribing the form of such reports, he said.

Also this month, EIOPA published a consultation document on reporting requirements under Solvency II, with the comment period ending Jan. 20, 2012.

EIOPA has requested that interested parties provide feedback on issues that include whether more clarity about Solvency II's reporting requirements is needed, whether any additional areas should be included in the requirements, and whether they have any concerns about the reporting requirements.

Meanwhile, the Financial Services

See **SOLVENCY** page 18

RISK MANAGEMENT



New markets, unfamiliar risks

For middle-market companies, expanding into the global marketplace has never been more accessible, but international opportunity also brings significant exposure to unfamiliar risks, experts say.

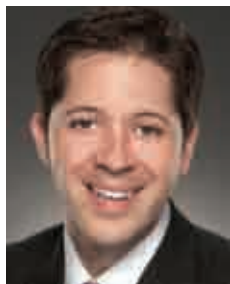
In the *Business Insurance* webinar "International Expansion Risks for Middle-Market Firms"—now available on demand at www.BusinessInsurance.com—Bill Skapof, Philadelphia-based head of commercial-international initiatives at Zurich North America Commercial, explored how events such as geopolitical conflicts, societal and cultural challenges, economic instability and natural disasters are becoming more prevalent in the global marketplace.

In such a tumultuous environment, Mr. Skapof warned that the impact of an uninsured loss on the middle-market environment can be "devastating, if not life-threatening." Among other risk mitigation strategies, Mr. Skapof stressed the importance of working with local brokers and insurers to make certain that an insurance program is in place and that it complies with local rules and laws.

Because middle-market firms often are subject to tighter risk



Mr. Skapof



Mr. Burnsworth

management budgets, Shawn Burnsworth, Atlanta-based vp-practice leader of international at Wells Fargo Insurance Services USA Inc., listed a variety of free and low-cost ways to mitigate and avoid risk during international expansion, such as including hold-harmless agreements in contracts with international customers and providers.

"Once you've established a risk management program and approach to your business, inclusive or exclusive of insurance, be sure to document your crisis or event protocol," Mr. Burnsworth said. "This will always prove the most beneficial and critical step in managing any event."

Business Insurance Associate Editor Matt Dunning moderated the webinar. The free, 60-minute program can be viewed on demand at www.businessinsurance.com/webinars.

RISK MANAGEMENT

Several lines see rates rise in 3Q: RIMS

Despite increases, no major turn seen

By RODD ZOLKOS

Third-quarter premium increases in three of four lines tracked in a regular benchmark survey for the Risk & Insurance Management Society Inc. suggests an end to eight years of declining commercial property/casualty insurance prices.

Of the lines tracked in the RIMS survey, only directors and officers liability showed a premium decrease in the third quarter, declining 1.9%. Average premiums increased 1.2% at renewal in general liability, 1.6% in proper-

ty and 2.1% in workers compensation, RIMS said in a statement last week.

"Average premiums may be showing modest increases, but it seems pricing generally is still quite favorable in most lines," Frederick J. Savage, director of risk management at San Ramon, Calif.-based Chevron Corp. and a member of the RIMS board of directors, said in a statement announcing the survey results.

He added that it would take a large catastrophe or series of catastrophes to trigger a market hardening like that prompted by stock market downturns in the early 2000s and the Sept. 11, 2001, terrorist attacks.

"Indications have been strong

over the past couple of quarters that the market was near bottom, so it's not surprising to see premiums drifting upward a bit now," Dave Bradford, president of Advisen Ltd.'s research and editorial division and editor-in-chief of the survey conducted for New York-based RIMS, said in the statement.

Mr. Bradford added that "sharply higher rates like we saw in 2001 are nowhere in sight," with the market remaining "quite competitive."

Mr. Savage advised risk managers to "budget for somewhat higher insurance costs," but also said abundant capacity in the market should dampen rate increases.

HEALTH CARE BENEFITS

Boost for bundled payment programs?

By JOANNE WOJCIK

Although a bundled payment pilot program spearheaded by private Medicare payers ran into significant obstacles early in its implementation, other similar experiments likely will get a boost from the launch of a national Medicare bundled payment program, supporters of payment reform say.

Besides encouraging development of the technology necessary to facilitate bundled pay-

ments, the launch of a national bundled payment pilot program by the newly established Center for Medicare and Medicaid Innovation also is expected to foster greater participation by payers and providers, who have resisted the change, the experts say.

After three years of piloting a bundled payment model in three markets—southeastern Pennsylvania; Rockford, Ill.; and Grand Rapids, Mich.—Prometheus Payment Inc. has yet to achieve its goal of providing bundled pay-

ments to health care providers for treating certain chronic conditions. This differs from traditional fee-for-service payments, where providers bill for each procedure, as well as capitation, where providers receive a monthly stipend for providing all care a particular patient needs.

According to recent study of the Prometheus system by Washington-based RAND Corp., the

See **BUNDLING** page 18

Errors & Omissions

Due to an editing error, several charts in the Nov. 14 issue mischaracterized data from Advisen Ltd. on premiums for various lines of coverage. The charts should have noted that the figures listed reflect thousands of dollars.



YOU CAN'T PREDICT
ACCIDENTS,
 BUT YOU CAN
 SEE COMPLICATIONS COMING
 A MILE AWAY.

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INDUSTRY:
 MANUFACTURING

CUSTOMER:
 FURNITURE DESIGNER

CASE OBJECTIVE:
 MANAGE UNRELATED COMPLICATIONS
 OF AT-WORK INJURY

CASE SPECIFICS:

While working, an employee at one of our customers' furniture factories recently had an accident. What seemed like a fairly straightforward claim changed when our VantageComp™ predictive model alerted us early that the man had key triggers for Type 2 diabetes. We were able to get our doctors and other medical staff involved early to craft a plan that treated the injury and helped the employee manage his diagnosis. By combining innovative data analytics with experienced talent, VantageComp led us to the best solution for today and tomorrow.

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Medical stop-loss insurers warming up to wellness

Programs may reduce employers' premiums, attachment points

By JOANNE WOJCIK

As more and more middle-market employers turn to self-funding their benefits as part of their cost-containment strategy, some stop-loss insurers are lending a helping hand with incentives to adopt medical management programs.

Many stop-loss underwriters providing excess coverage will consider effective wellness and disease management programs in calculating premiums for specific stop-loss coverage, which pays claims of an individual plan member that pierce a certain deductible threshold, or aggregate stop-loss coverage, which pays when total actual claims

exceed 125% of total expected claims.

But few stop-loss insurers have gone as far as New York-based Chartis Inc. did when it announced last month that it formally endorsed the MedEncensive L.L.C. program, a patented web-based health care cost containment system that rewards both doctors and patients for adhering to evidence-based care and healthy behaviors.

Chartis is offering premium discounts and lower aggregate attachment points to employers that adopt the program.

"We're trying to find ways to support programs employers are implementing that will help control the cost of health care for

their employee and dependent populations," said Chip Studer, vp of sales at Chartis Corporate Benefits in Philadelphia. "The level of discounts varies based on the size of the group, size of the specific deductible and other underwriting variables."

The lowest specific deductible available from Chartis is \$25,000, and the standard aggregate attachment point is 125% of expected claims.

However, "we will consider offering contracts at 120% of expected claims if this product is involved," Mr. Studer said. "Theoretically, the employers should see lower costs under their

See **STOP-LOSS** page 16

Learn strategies for key challenges in middle market

As mid-market companies work to protect their assets, remain competitive and grow their operations, they face a host of risks and strategic decisions that will shape their fortunes over the long term.

In an effort to help mid-market firms and their industry partners confront those challenges, *Business Insurance* on Dec. 14 will present "Middle Market Risk Challenges," a virtual educational forum offering the latest insights into such companies' unique risks and strategic concerns.

Core topics to be covered during the online forum include:

- Alternative benefits financing strategies, including self-insurance;

- Ways to minimize the business impact of catastrophes and protect business continuity; and

- Often-overlooked directors and officers liability exposures for mid-market companies.

Panel discussions will feature industry thought leaders and will be moderated by the editors of *Business Insurance's* Mid-Market Executive and Brokers &

Insurers channels.

The forum's online environment allows attendees to download conference materials and use various interactive networking tools—including group and individual chat, scheduled discussions, message boards, vCard exchanges and Q&A tools—to connect with speakers, exhibitors and other attendees.

The cost to attend the virtual educational forum is \$100, which includes four webinars—including on-demand replay for three months—and registrants can request a voucher good for one course delivered by WebCE, a leading provider of certified online education.

For more information and to register for the Dec. 14 educational forum, visit www.businessinsurance.com/mmrisk.



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Opinions

EDITORIAL

PBGC deficit warrants review

Contrary to assertions by several business and employer benefit groups, we don't think the Pension Benefit Guaranty Corp.'s report that its 2011 deficit hit a record \$26.1 billion is a "nonevent."

The PBGC's announcement last week, according to a document signed by the American Benefits Council, the Business Roundtable, the ERISA Industry Committee and the U.S. Chamber of Commerce, is a "nonevent" because much of the deficit is "directly attributable to the decline in interest rates."

The growth in the agency's deficit, which climbed from \$23 billion in 2010, "will simply be the product of government-created artificially low interest rates," the groups said in the document.

No one would disagree that interest rate assumptions are critical in valuing pension plan liabilities.

If one assumes that invested assets will generate a 10% return, it obviously will require a much smaller amount of money to pay off a liability—in this case the benefit obligations of participants in failed pension plans taken over by the PBGC—than, say, a 1% rate of return.

Whether the interest rate assumptions used by the PBGC are reasonable is beyond our scope of expertise. But in an economic climate where interest rates on fixed investments are low, it would be imprudent to assume high rates of return.

To us, the issue isn't the size of the PBGC's deficit. The real issue is the long-term future of an agency supported in part by premiums paid by employers with defined benefit plans, which help fund an insurance program that currently pays more than \$5.5 billion a year.

Given current trends, the long-term future of the agency isn't promising. As more employers freeze their pension plans, the income the PBGC receives will dwindle, raising the question of whether the agency will have sufficient income to honor its guarantees to participants in failed plans.

Rather than being a nonevent, we think the agency's deficit should be a signal for lawmakers to examine what changes in law may be necessary to encourage employers to continue their defined benefit plans.

The deficit report also should encourage policymakers to closely examine whether the PBGC's suggested changes in its premium structure, which would take into account the financial strength of plan sponsors, make sense.

LETTERS

Business Insurance welcomes letters to the editor.

The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

Please send your letters to:

Letters to the Editor, *Business Insurance*,
360 N. Michigan Ave., Chicago, Ill. 60601-3806

Fax: 312-280-3174; email: gsouter@businessinsurance.com

SCHILLERSTROM



COMMENTARY

Graying of America reshapes care

Now that your parents are getting up in age, you've decided to prepare this year's Thanksgiving dinner to give your mom a break.

After your sumptuous feast, your father complains of chest pains and shortness of breath. Your mother teases him, attributing it to heartburn from a second helping of your decadent pumpkin-pecan pie.

But you know your dad has a heart condition. What do you do? If you live in the Denver area, you could take him to Colorado's first emergency room designed specially for seniors.

Exempla Lutheran Medical Center opened its Senior ER in Wheat Ridge, a suburb of Denver, on Oct. 4 after an analysis of historical ER utilization showed that 21% of patients were over age 65, said Jan Dionne, program manager for senior emergency and trauma services at the hospital.

Because conventional hospital emergency rooms usually are noisy and chaotic, they can be stressful and debilitating for older patients. "We wanted to create an environment that fosters healing," said Ms. Dionne, a registered nurse with advanced training in geriatric medicine.

Each of the eight examination rooms in Exempla Lutheran's Senior ER are separated by walls rather than curtains to provide solitude and privacy.

The normally glaring fluorescent lights are dimmer and the beds are topped with thicker, supportive mattresses. The Senior ER also is equipped with plush recliner chairs on wheels for patients with conditions that prevent them from lying flat. To

assist patients who arrive without their eyeglasses or hearing aids, magnifying glasses and "pocket talkers"—amplification devices that resemble iPods—are provided. The floor of the Senior ER even has a nonskid surface to prevent slips and falls.

In a resource room adjacent to the Senior ER, a case manager is available on a daily basis to help address post-hospital care—a godsend for families of patients whose employers do not provide elder care referral services.

Although the ER is dedicated to patients over 65, younger patients who exhibit dementia or delirium—conditions normally associated with old age—have been treated there.

Exempla Lutheran's investment is a proactive response to our aging society. According to 2010 U.S. Census figures, nearly 60 million U.S. residents are older than 60, representing almost 20% of the population. In fact, hospitals nationwide are transforming the ER experience for the elderly.

My niece, Amber, is considering medical school, and my brother is urging her to specialize in geriatrics because he will be 60 by the time she graduates. While such a career path would provide her with job security, she would probably be too busy caring for other patients to tend to dear old dad. The American Geriatrics Society reports that there is roughly one geriatrician for every 2,600 people, and that number could fall to one for every 3,800 older U.S. residents by 2030.

Contact: jwojcik@businessinsurance.com



JOANNE
WOJCIK
SENIOR EDITOR

PROPERTY/CASUALTY INSURERS' NINE-MONTH 2011 RESULTS

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

Insurer	Net premiums written 2011	% Increase (decrease) 2011-2010	Net income 2011	% Increase (decrease) 2011-2010	Consolidated revenues 2011	Combined ratio 2011*	Combined ratio 2010*
American International Group Inc.	\$26,992	12.3%	\$268	(79.6%)	\$46,828	109.6%	101.2%
Liberty Mutual Insurance Co.	23,401	8.1	81	(92.6)	25,708	108.6	102.0
Travelers Cos. Inc.	16,926	3.2	868	(65.2)	19,073	108.2	94.0
ACE Ltd.	11,7427	14.2	835	(60.0)	12,355	95.2	90.2
Chubb Corp.	8,793	4.9	1,230	(21.1)	10,240	97.1	90.1
CNA Financial Corp.	4,716	6.2	424	9.3	6,688	102.1	96.6
Hartford Financial Services Group Inc.	4,694	8.0	535	(49.6)	16,221	102.8	88.0
W.R. Berkley Corp.	3,267	11.4	277	(14.2)	3,785	98.8	94.7
Cincinnati Financial Corp.	2,338	4.3	132	(87.3)	2,848	107.8	105.4
American Financial Group Inc.	2,168	17.6	234	(32.3)	3,467	96.0	89.0
Cumulative	\$105,037	8.3	\$4,884	(49.3%)	\$147,213	102.6%	95.8%

* Includes dividends.
Source: Company reports

P/C market ready to turn?

Insurers under pressure after cat losses, lackluster investment returns

By **MARK A. HOFMANN**

A market turn may be in the offing as property/casualty insurers continue to deal with extensive catastrophe losses and disappointing investment returns, market observers say.

While reserve releases continue, they're occurring at a slower pace. In addition, rising demand for commercial insurance is reflected in increased premium volume.

However, any turn is likely to be gradual and perhaps be more of stabilization than a true hard market, analysts say.

A survey of large commercial U.S. property/casualty insurers amply demonstrates the continued impact of catastrophe losses and poor investment returns during the first nine months of the year. Although net written premiums among the 10 largest U.S.-based or U.S.-listed commercial property/casualty insurers that report quar-

terly results were up 8.3% compared with the same period last year, the group's collective net income fell by nearly half and its combined ratio deteriorated nearly seven percentage points to 102.6%.

"It's been a difficult year," said James Auden, an analyst with Fitch Ratings in Chicago. Few large insurers have an underwriting profit, and while specialty companies show an underwriting profit, they tend not to have significant property exposures, he said.

Catastrophe losses are "up considerably from last year," with Hurricane Irene adding to third-quarter losses, he said. In addition,

"pricing is inadequate broadly across commercial lines." "When we look at bottom-line performance, it's very rare for a company to produce a double-digit (return on equity) this year," Mr. Auden said. "The industry is not

See **INSURERS** next page

INDUSTRY FINANCIALS:

NINE-MONTH RESULTS

'It's very rare for a company to produce a double-digit (return on equity) this year. The industry is not generating an adequate return on capital.'

James Auden, Fitch Ratings

INDUSTRY FINANCIALS:
Nine-Month Results

SPOTLIGHT

HEALTH INSURERS GET BOOST FROM LOW UTILIZATION
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Insurers: Cat losses, investment returns contribute to pressure to boost rates

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generating an adequate return on capital.”

“The first issue is the extent of catastrophic losses in a relatively mild hurricane quarter and less consistency. We’re seeing reserve releases dwindle as an earnings source,” said Meyer Shields, a director at Stifel Nicolaus & Co. in Baltimore.

“I do think we’ll see results continue to worsen, and some of it is from the ongoing deterioration

we’re seeing in reserve releases. I think that will drive rates up, but I don’t think we’re at such a horrific state that we’ll see the kind of increases we saw after 9/11,” Mr. Shields said, referring to the market tightening after the 2001 terrorist attacks on New York’s World Trade Center and elsewhere.

A second issue that points to improvement in rates is a much worse outlook on investment income, Mr. Shields said. “Investment returns will remain low,

which only leaves underwriting profit as a source of adequate return.”

Worldwide catastrophe losses—which Swiss Reinsurance Co. said amounted to \$70 billion for the first half alone—and investment returns were big issues for the industry, said Mark Dwelle, an insurance analyst with RBC Capital Markets L.L.C., a unit of RBC Dominion Securities Inc. in Richmond, Va. Despite those factors, “results were generally pretty good in the context—we knew

there were going to be catastrophe losses and they were generally well-telegraphed,” he said. “The optimism about the pricing environment had certainly increased, although there was only modest evidence of that in the actual results.”

“The question that most investors are asking at this stage is at what point rate increases will be sufficiently larger than loss-cost trends to produce improved margins,” said Mr. Dwelle.

Signs of stabilization

There are some signs “with regard to overall pricing that it might be stabilizing,” said Rich Attanasio, a vp with A.M. Best Co. Inc. in Oldwick, N.J. Like other

analysts, he pointed out that weather in the United States has had a “pretty significant impact” on insurers. In fact, weather events are a major issue for insurers, given the number of significant events in the past couple of years, he said.

“The question is: Is this the new normal?” said Mr. Attanasio.

He noted that price increases have not occurred equally across the board. While prices hikes have tended to fall hardest on homeowners and small commercial accounts, larger commercial property accounts are “probably stabilizing,” said Mr. Attanasio.

Fitch’s Mr. Auden said that “one encouraging sign is, we continue to see premium growth in the sector and that’s a sign of better economy,” thus creating more demand for coverage.

With greater revenue growth and despite weaker results, companies were making more positive statements about insurance pricing, said Mr. Auden. “But we don’t know if that’s an enduring trend. And given where accident-year results are, you need more pricing increases. We see it being more price stability rather than a hard market.”

‘The first issue is the extent of catastrophic losses in a relatively mild hurricane quarter and less consistency. We’re seeing reserve releases dwindle as an earnings source.’

Meyer Shields, Stifel Nicolaus & Co.

“We got a more positive read on what is happening with rates, which should not be confused with rate adequacy, and it should not even be confused with rate increases keeping up with loss-cost inflation,” said Stifel Nicolaus’ Mr. Shields.

“There doesn’t seem to any kind of a hard market in the historical sense—it’s more of a gradual process,” said Alan Murray, vp and senior credit officer at Moody’s Investors Service in New York. He called the situation a sort of “good news/bad news dynamic.”

Mr. Murray said the bad news is the stabilization has come after many years of pricing weakening on commercial lines. But “the flip side is that companies remain quite well-capitalized.” He said one of the classic drivers of a hard market is weak earnings, significant losses and weakened balance sheets.

“We have not seen that combination of pressures materialize for the industry,” said Mr. Murray, who added, though, that Moody’s moved the outlook for commercial insurers to stable from negative during the third quarter.

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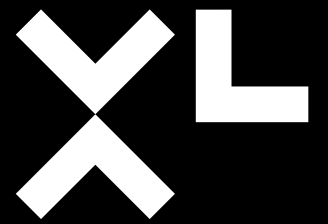
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MAJOR U.S. HEALTH INSURERS' NINE-MONTH 2011 RESULTS

Largest publicly traded U.S. health insurers ranked by reported revenues. Dollar figures, enrollment in millions.

Insurer	2011 Revenue	2010 Revenue	% Increase (decrease)*	2011 Enrollment	2010 Enrollment	% Increase (decrease)*	2011 Net income	2010 Net income	% Increase (decrease)*
UnitedHealth Group Inc.	\$75,946	\$70,125	8.3%	39.2	37.2	5.4%	\$3,884	\$3,591	8.2%
WellPoint Inc.	45,393	44,076	3.0	34.4	33.5	2.7	2,311	2,338	(1.2)
Humana Inc.	27,775	25,320	9.7	10.9	10.1	7.9	1,220	992	23.0
Aetna Inc.	25,207	25,706	(1.9)	18.2	18.5	(1.6)	1,613	1,551	4.0
CIGNA Corp.	16,535	15,824	4.5	11.5	11.4	0.9	1,038	887	17.0
Health Net Inc.	9,089	10,426	(12.8)	2.9	2.9	NA	11.9	123.8	(90.4)
Coventry Health Care Inc.	9,057	8,562	5.8	4.5	4.9	(8.2)	457	288	58.7

*Percentage change reflects unrounded figures. NA=not applicable
Source: Company reports

you're not going to see the magnitude of upside that we saw in the first half of the year," Mr. Windley said. "That being said, we still had companies reporting (revenue and net income) above expectations."

Continuing a yearlong trend of revenue growth, UnitedHealth Group reported \$75.95 billion in revenue through the first nine months of the year, an 8.3% increase over the same period a year ago (see chart).

The company's nine-month net income rose 8.2% to \$3.88 billion over the same period last year. Total enrollment also rose as UnitedHealth has added some 2 million members since the end of last year's third quarter, including 1.1 million in its commercial business.

Louisville, Ky.-based Humana Inc. continued its strong showing in 2011, posting year-over-year increases in revenue, earnings and enrollment. The firm reported total revenue for its first three quarters of 2011 at \$27.78 billion and earnings at \$1.22 billion, increases of 9.7% and 23%, respectively, over the matching period in 2010.

Humana's enrollment jumped 7.9%, adding around 800,000 members since last year.

For the foreseeable future, analysts said the industry will be focused on the general state of the economy and, in particular, how the country performs on jobs growth. Given continuing volatility in global markets and underwhelming expansion in U.S. employment to date, analysts said it is unlikely insurers will see the kind of enrollment surge necessary to fend off a rollback of the profit and revenue increases they've enjoyed in the past year.

More immediately, the ongoing negotiations in Washington over a deficit reduction package also could negatively affect insurers. Cuts to Medicare and Medicaid funding already are built into the default spending reductions that would take effect should lawmakers appointed to the 12-member "supercommittee" fail to reach an agreement by the end of November.

However, considering recent signals from some committee members that deeper cuts to the programs—particularly provider reimbursements—could be used to leverage tax increases, analysts said the default spending reduction package could ultimately be in the industry's best interest.

"If they don't wind up getting anything constructive done, the stocks would all do pretty well, because it's a known risk and the market has had an opportunity to digest it," Mr. Windley said. "The impact there wouldn't be all that onerous on the Medicare Advantage plans, and the commercial plans likely wouldn't feel any direct impact from that."

Low utilization boosts health insurers

But stagnant growth in enrollment figures raises fears of cost spike

By MATT DUNNING

Utilization rates well below historical levels—likely dampened by a struggling economy—continued to translate into robust revenue and profit for many of the nation's largest publicly traded health insurers through the first three quarters of 2011.

While enrollment has remained largely flat for the seven largest publicly traded managed care organizations, their revenue increased 4.5% this year compared with the nine-month totals last year.

Net income for the group also increased, rising 7.8% over 2010's nine-month totals.

But without considerable growth in enrollment, that rate of growth could slow considerably if utilization rates suddenly swing upward, as many analysts and industry executives believe they eventually will.

While the largest publicly traded health insurers' nine-month results met or exceeded expectations in most cases, investors

again have been warned that the gains still rely too much on depressed claim activity to be thought of as a sustainable condition.

"Companies have consistently stated that they expect utilization to accelerate anytime, but so far there hasn't been much of an indication of that," said Matthew Coffina, an equity analyst at Chicago-based Morningstar Inc.

At the same time that many

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market leading firms increased their full-year guidance estimates for revenue and net income, executives said utilization already has begun to pick up in certain lines of care, and they expect claim activity to rebound across the board as early as the fourth quarter this year.

"I think what we're seeing in utilization is really an extension of themes from last quarter," said Dan Schumacher, chief financial officer of Minnetonka, Minn.-based UnitedHealth Group Inc., noting that the company's utilization rates so far this year had increased over the prior year,



but the comparison was skewed by historically low claim activity last year.

"We're also seeing increased consumption levels, and that consumption is going up in the outpatient and physician categories most notably," Mr. Schumacher said. "On the inpatient care side, we continue to see a more restrained utilization, so that's still trending flat to slightly down."

One inherent danger of a prolonged period of low consumption levels looming over the industry is not just that claim activity will increase, but that it will do so suddenly, analysts said.

"At a certain point, you wonder if there's a pent-up demand for treatment and care, where people have been deferring procedures that they really need," said David Windley, a Nashville, Tenn.-based managing director at Jefferies & Co. Inc.

"Are they going to give in and reach into their pocket for that procedure, and will it be a gradual return or a spike?" he asked.

Looking at the nine-month results for managed care industry leaders, Mr. Windley said the degree to which health insurers have exceeded expectations might have waned a bit, but their positive performance in the first half of the year effectively "raised the bar" for the nine-month totals.

"With each progressive quarter,

'At a certain point, you wonder if there's a pent-up demand for treatment and care, where people have deferring procedures that they really need.'

David Windley, Jefferies & Co. Inc.

Big brokers report gains in revenue

Top-line growth achieved despite economic, market challenges

By **SONJA RYST**

The largest insurance brokerages increased their revenue for the first nine months of 2011 despite the sluggish economy and largely soft rates.

But with rate increases in catastrophe-exposed property lines and some signs of economic growth, the outlook for the five largest publicly traded brokers is slowly improving, analysts say.

While soft pricing and the weak economy affect all of the largest brokers, acquisitions were a factor in some results. Profitability, meanwhile, remains mixed as brokerages face their specific challenges.

"Companies seem to cite continued challenging economic conditions and a continued challeng-

profit also rose 48% to \$702 million, due mainly to its 2010 acquisition of benefits consulting and outsourcing firm Hewitt Associates Inc.

Revenue for Aon Risk Solutions increased 7% to \$4.99 billion for the first nine months of the year, but revenue for its HR Solutions unit jumped 246% to \$3.32 billion, reflecting the impact of Hewitt.

Organic revenue in Aon's HR Solutions group fell 2% in the

third quarter to \$1.11 billion. Aon management, which had forecast modest improvement, said in a conference call that the decline was due mainly to lower project-related revenue in outsourcing and weaker results in consulting businesses in Europe, the Middle East and Africa.

"Certainly you've seen weakness in Aon on the HR consulting side, which is...not all that

See **BROKERS** next page

NINE-MONTH 2011 BROKER RESULTS

Results for the largest publicly traded insurance brokers, ranked by total revenue. Figures in millions of dollars.

BROKER	2011 REVENUES	% INCREASE (DECREASE) FROM 2010	2011 NET INCOME*	% INCREASE (DECREASE) FROM 2010
Marsh & McLennan Cos. Inc.	\$8,618	10.9%	\$737.0	13.0%
Aon Corp.	8,293	48.0	702.0	48.0
Willis Group Holdings P.L.C.	2,633	5.2	179.0	(48.0)
Arthur J. Gallagher & Co.	1,556	10.8	103.6	(13.2)
Brown & Brown Inc.	769	3.5	127.5	(1.6)

*Includes the impact of acquisitions or discontinued operations. Source: Company reports

INDUSTRY FINANCIALS

BROKERS

ing pricing environment, but with pockets of improvement," said Bruce Ballentine, an analyst in New York at Moody's Investors Service Inc., who cited emerging economies and higher cat pricing as positive factors.

"We're seeing less negative momentum," said Meyer Shields, an analyst for Baltimore-based Stifel, Nicolaus & Co. Inc.

Marsh & McLennan Cos. Inc. performed particularly well, analysts say. The New York-based brokerage reported revenues of \$8.62 billion for the first nine months, up 10.9% compared with a year earlier. Its profit rose 13% to \$737 million.

Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York, attributed Marsh's performance to a return to fundamentals over the past several years and simplifying its operations, such as selling New York-based consultant Kroll Inc. for \$1.13 billion in June 2010.

"They're probably in the strongest shape they've been in for many years," Mr. Gallant said.

Other analysts concurred. For example, Standard & Poor's Ratings Service on Nov. 11 revised its outlook on Marsh to "stable" from "negative." The New York-based rating agency said the brokerage's operating results began showing significant improvement in the fourth quarter of 2010 after several years of restructuring the business.

In addition, Marsh & McLennan Agency L.L.C. continues building out its middle-market business with acquisitions. "MMA is definitely a positive help to the bottom line (for Marsh), but I'd say the bigger thing is just basic blocking and tackling and getting it right" on the fundamentals, Mr. Gallant said.

Aon Corp. reported nine-month 2011 revenues of \$8.29 billion, up 48% over 2010, and its



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Brokers: Revenues rise despite tough conditions

CONTINUED FROM PREVIOUS PAGE

surprising, given some of the economic uncertainty you're seeing in Europe," said Ray Iardella, New York-based vp and senior property/casualty insurance analyst at Macquarie Securities Group.

London-based Willis Group Holdings P.L.C. reported revenues of \$2.63 billion for the first nine months, a 5.2% increase. The brokerage's North America segment reported \$998 million in revenues, down 2% compared with last year. But its international business grew 13% to \$746 million.

Other brokerages also had healthy overseas business. For example, Marsh increased its international revenues by 13% year over year to \$2 billion in the first nine months of the year, at the same time it increased U.S. and Canada revenues by 10% to \$1.8 billion.

For Willis, an ongoing operational review, which included staff cuts, resulted in about \$96 million in charges for the first nine months of 2011.

Willis Chairman and CEO Joseph J. Plumeri said rates overall were flat to slightly down year-over-year in the quarter. He added that U.S. and European economic news "remains pretty bleak," but he also said there have been a few "bright spots" in

areas such as emerging economies.

Despite its revenue growth, Willis reported a 48% drop in its nine-month profit to \$179 million. Willis' 2008 acquisition of Hilb Rogal & Hobbs Co. included the middle-market brokerage's loan protector business, which provides lender-placed insurance to the mortgage servicing industry. After the loan protector business lost clients in recent months through attrition or mergers and acquisitions, Mr. Plumeri said he expects it to earn \$10 million to \$14 million this year vs. \$41 million last year, due in large part to commission pressures and banks slowing foreclosure activity.

"I think (Willis is) still positioned well for the future, but they face the same macroeconomic uncertainty as everyone else in the group," Mr. Iardella said.

For Daytona Beach, Fla.-based Brown & Brown Inc., a high concentration of business in Florida and other economically troubled states such as California and Michigan affected its results. During the past four or five years, more clients were acquired or went out of business than has historically been the case, and that trend hasn't abated, President and CEO J. Powell Brown said during a conference call.

The "economy continues to

present challenges in growing our business," he said.

Brown & Brown's nine-month revenue increased 3.5% to \$769.4 million, which Stifel Nicolaus' Mr. Shields attributed to a "less painful" U.S. market environment. However, its profit fell 1.6% to \$127.5 million due largely to its Florida property exposures.

Arthur J. Gallagher & Co.'s revenue from continuing operations rose 10.8% to \$1.56 billion for the first three quarters of 2011 compared with the same period of 2010. But the Itasca, Ill.-based brokerage's net income fell 13.2% to \$103.6 million, as its costs increased and it continued integrating U.K. broker Heath Lambert Ltd., which it bought in May.

Analysts remain cautious about the outlook for the brokerage sector.

"There's a lot of (investor) optimism about the rate environment turning and the economy picking up," said Mike Grasher, senior equity analyst at Piper Jaffray & Co. in Chicago. "At the same time, there's a lot of uncertainty remaining."

"I think it depends on the rate picture and the economy as much as anything," said Mark Dwelle, an equity insurance analyst in Richmond, Va., at New York-based RBC Capital Markets L.L.C.

"If those continue to strengthen—as they've shown signs of doing—that should be a positive, but I don't think either of those trends is sufficiently clear to necessarily be sure," he said.

UP COMINGS & GOINGS CLOSE

LETA FINCH

NEW JOB TITLE: Burlington, Vt.-based national practice leader for higher education at Aon Risk Solutions.

PREVIOUS POSITION: Burlington, Vt.-based executive director for the higher education practice with Arthur J. Gallagher Risk Management Services Inc.

LOOKING FORWARD TO: What I have discovered is, Aon has tremendous resources that resonate with colleges and universities, and I am looking forward to introducing those resources.

INDUSTRY CHALLENGES: There is a continuation of a growing number of new regulations. Regulations create a compliance challenge, an added expense and time constraints.

INDUSTRY OUTLOOK: There are glimmers of light in the industry; it will get better.

BEST THING ABOUT A BAD ECONOMY: The incentives that it creates to take a broader enterprise risk management approach, to identify those material risks that can have the greater impact on an organization. By doing this, every organization becomes more resilient in tough times.

FIRST MARKET EXPERIENCE: I was a medical malpractice loss-control technician for the Hartford Insurance Group. I had this position during the malpractice crisis of the late 1970s. One thing I did was go around and talk to doctors about how they could better prepare themselves.

ADVICE: Never believe that what hasn't happened is a predictor of what can happen.

OUTSIDE THE INDUSTRY, A DREAM JOB: Philanthropist. I have strong feelings about humanitarian efforts.

HOBBIES: I have a small foundation and that consumes any of my free time. The name is self-explanatory: The Foundation for Higher Education in Central Asia. There is a need to continue to help institutions (there) so students can get an honest education.

MOST PASSIONATE ABOUT: Higher education and insurance solutions.

FAVORITE MEAL: Caesar salad and a glass of red wine.

ON A SATURDAY AFTERNOON: I'm at the office cleaning up loose ends from the previous week.



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Products & Services

AIR Worldwide launches Germany flood model

MUNICH—AIR Worldwide Corp. has launched a model for inland floods in Germany.

The model includes on- and off-plain flooding and covers a river network of more than 99,419 miles, with 30,000 stream links and more than 35,000 small drainage areas. It combines global climate modeling with a numerical weather prediction model, said Milan Simic, managing director and senior vp of AIR in London.

Germany is the second-biggest driver of insured flood losses in Europe, after the United Kingdom, for which AIR launched a flood model in 2008, Mr. Simic said. Flooding is the second-costliest insured peril in Europe after windstorms, and he said AIR plans to launch flood models for other European countries soon.

In Germany, flood insurance is not a compulsory coverage, and market penetration of flood insurance is patchy depending on region, Mr. Simic said. For example, in areas that were part of the former East Germany, where flood coverage was compulsory, coverage penetration is typically higher than in other areas, he said.

For commercial businesses, the takeup rate of flood insurance is about 40%, he said.

The model also takes into account the characteristics of buildings in Germany, many of which have basements, for example, said Mr. Simic.

The model also uses data produced by the German insurance association, the Gesamtverband der Deutschen Versicherungswirtschaft e.V., which divides German residential properties into four hazard classes.

ZIP codes in Germany tend to be very large, so the new model enables users to zoom into street level, said Mr. Simic.

For more information, contact Yorn Tatge, managing director at AIR in Munich, at +49 (0) 8923-077-501 or info@air-worldwide.com.

Proactis introduces tool to manage supply risk

LEEDS, England—Proactis Group Ltd. has launched a risk management platform to help organizations mitigate exposures from their suppliers.

The Cloud Supplier Risk Management Platform aims to help organizations address supplier risks by using cloud computing technology to manage suppliers' performance, the Leeds, England-based software and services provider said in a statement.

The platform uses a software-as-a-service cloud delivery infrastructure and provides visibility of each supplier's performance history, qualifications and capabilities, cer-

tifications and compliance, and insurance and disaster recovery plans, according to the statement.

"Once-a-year supplier risk assessments don't do the job, and as they take too much time and cost, they are often left incomplete," Simon Dadswell, director of marketing for Proactis, said in the statement.

Proactis' Cloud Supplier Risk

Management Platform provides a supplier directory with a record of insurance policy documents, standardized questionnaire templates, and controls and alerts that assess risks associated with changes, among other features.

For more information, contact Sean McDonough, chief operating officer, at +44 (0) 7764-936-019 or sean.mcdonough@proactis.com.

IronHealth offers medical wraparound GL coverage

HAMILTON, Bermuda—IronHealth has launched medical professional liability coverage for medical facilities that treat low- to moderate-income patients.

The Health Qualified Center

Medical Professional Liability coverage aims to address liability risk exposures of federally qualified health centers that serve low-income communities, the health care insurance unit of Hamilton, Bermuda-based Ironshore Inc. said in a statement.

The development of community health care centers is funded by the Patient Protection and Affordable Care Act to offer primary services to low-income, Medicaid and uninsured patients, according to the statement. After an annual application process, the federally qualified centers and their employees are protected against medical malpractice under the Federal Tort Claims Act.

Private insurance is required of

the health centers to protect against new medical devices not protected under the federal statute. The new coverage is a wraparound policy providing general liability coverage, including covering new medical services or activities offered by the center since its application was approved.

Professional and general liability coverages are available for deemed and nondeemed medical services for primary and excess limits, and separate policy limits can be underwritten for employed practitioners, volunteers and part-time dentists, among other coverages.

For details, contact Meg Gaffney, health care professional liability product manager, at 860-408-7811 or meg.gaffney@ironshore.com.



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Stop-loss: Wellness efforts gaining insurers' interest

CONTINUED FROM PAGE 6

aggregate policies as a result of implementing MedEncenive's information therapy program since the following year's claims are based on the prior year's activity. So it will impact future actual costs as well as future liabilities under the aggregate contract."

The Chartis offering, which uses annual contracts, is being marketed to self-insured employers with 100 or more employees.

Although MedEncenive has been piloting its program (see story) for the past six years with self-funded employers that purchase stop-loss coverage from other insurers, Chartis was the first stop-loss underwriter to formally recognize the value of the MedEncenive program through across-the-board pricing credits on its stop-loss product, said Jeff Greene, CEO and founder of Oklahoma City-based MedEncenive.

Other stop-loss insurers recognize the value of wellness and medical management through premium discounts and, at times, lower aggregate attachment points, but such consideration generally is provided on a case-by-case basis as part of the medical underwriting process, both brokers and stop-loss insurers say.

"Most (managing general underwriters) and direct-writing carriers have the ability to apply case-specific underwriting credits to the stop-loss premium rates, as

well as the aggregate attachment point/expected claims based on the actual or projected impact of a benefit modification, such as a change in benefit design, addition of a wellness program or implementation of a new product or service," said Robert Melillo, national vp of risk financing solutions at USI Insurance Services L.L.C. in Meriden, Conn.

Ken Olson, division president of The Horton Group Inc., a middle-market insurance broker based in Orland Park, Ill., said he often has been able to persuade stop-loss underwriters to shave up to 5% off of a specific stop-loss premium "if I can tell a good story that demonstrates the impact of wellness and disease management on a particular employer's claims experience."

However, most stop-loss insurers "will not promote it because there's little proof of true savings to the catastrophic layer, and the benefits to the aggregate show up in their actual claims experience. But some will still shave a few points off of the aggregate attachment point," Mr. Melillo said.

"If a group is new to us and they have a well-established wellness program, generally you will see the results as part of the underwriting process," acknowledged Karin James, Windsor, Conn.-based assistant vp of stop loss and strategic operations at Wellesley Hills, Mass.-based Sun Life Financial Inc., the U.S. business group of Toronto-based Sun Life Assur-



Wellness program uses rewards to boost patients' health literacy

OKLAHOMA CITY—MedEncenive L.L.C.'s so-called "information therapy" program uses financial incentives to promote patient health literacy, empowerment and adherence, with the goal of improving outcomes and ultimately lowering health care costs.

The incentives are paid to both doctors and patients.

Doctors receive payment after they refer patients for MedEncenive's online health education classes, which have been developed for numerous diagnoses.

Patients receive incentive payments after they complete the necessary online coursework and then pass an accompanying health literacy test.

Although the employer can decide exactly how much the financial incentive should be, MedEncenive's six years of testing has found that \$15 is "the magic number" that drives behavior change, said Jeff Greene, MedEncenive CEO and founder.

"Doctors get paid an extra \$15 for each

office visit for practicing our way—it's like a medical home," with the provider coordinating and keeping tabs on patient care, he said. "The doctor is an authority figure, so the patient-doctor relationship drives the behavior change."

Likewise, \$15 is the sum that has the power to engage patients, he said.

"We have been doing this for six years with self-funded employers in three states. We tested different levels of rewards, different reminders, different tactics, and the findings have been published and confirmed by the University of Kansas School of Medicine," Mr. Greene said.

One of those studies, involving the city of Duncan, Okla., found that the city's health benefit costs dropped nearly 30% over two years, while other studies showed health care cost savings ranging from \$3.10 to \$17.70 for each dollar invested in incentive payments, he said.

—By Joanne Wojcik

'The doctor is an authority figure, so the patient-doctor relationship drives the behavior change.'

Jeff Greene,
MedEncenive L.L.C.

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ance Co. of Canada. "We will take that into consideration in both the aggregate attachment point and the specific premium rate."

Sun Life also provides data analytics to the third-party administrators that administer self-funded employers' claims to identify plan members who may be getting close to reaching the specific deductible so the TPA can intervene with medical management programs, Ms. James said.

More recently, Sun Life began offering its stop-loss customers access to Philadelphia-based CIGNA Corp.'s national preferred provider network, considered one of the most robust with its 660,000 health care professionals and 5,100 hospitals nationwide. It is believed that the network will help keep costs in check for self-funded employers that purchase

stop-loss coverage from Sun Life, Ms. James said.

"One of the key things in containing health care costs is a strong PPO network, which CIGNA has. In addition, CIGNA has cost-containment programs around their network. It's a very holistic approach to providing and managing health care services," Ms. James said.

"There's a lot of innovation going on in the marketplace, and a lot of different stop-loss carriers are looking for unique ways to manage claims," observed Michael W. Sullivan, president and chief operating officer of HM Insurance Group, the stop-loss subsidiary of Highmark Inc. based in Pittsburgh.

Although HM Insurance has not endorsed any specific wellness or disease management programs,

Mr. Sullivan said the insurer will evaluate cost-containment programs that self-funded employers are implementing as part of the underwriting process and, in some cases, will discount premiums based on individual track records.

In addition, "we have some tertiary care vendors that we bring forward to help manage larger claims," he said.

"If the financial models show a clear impact to cost trends, then Chartis (and other stop-loss carriers) should be applauded for passing that reduction along to the groups that embrace the initiative," said Chris Hogan, president of Benefit Commerce Group, a Scottsdale, Ariz., based health benefit consultant. "We talk a lot about how a member needs to be 'engaged.' Shouldn't a stop-loss carrier be as well?"

Reform: Stage set for challenge of health care law

CONTINUED FROM PAGE 1

will greatly influence the issues facing employers and lawmakers.

Since the passage of the reform legislation in March 2010, employers have had a dual focus.

Their immediate focus has been amending their plans to comply with provisions that went into effect this year, such as extending coverage to employees' adult children up to age 26 and knocking out lifetime dollar coverage limits.

At the same time, employers have been preparing for other changes that take effect later, such as an excise tax that will be imposed on the most costly plans. And many have analyzed whether it makes sense to offer a health care plan after a key reform law provision—the availability of federal premium subsidies to lower- and middle-income uninsured individuals—begins in 2014.

If the Supreme Court strikes down the entire law, employers' focus will shift abruptly.

Initially, there would be "relative chaos in terms of planning with everyone having been geared up" to comply with the law, said Helen Darling, president of the National Business Group on Health in Washington.

But if the law were to be overturned, employers' focus will shift from implementation to whether and how they should roll back health care plan design changes that they already have put in place.

For example, virtually all employers had to amend their plans to comply with the age 26 adult child coverage mandate. Prior to the reform law, employers typically ended coverage at age 19, or 23 or 24, in the case of children who were full-time college students.

Many employers, especially those for whom the age 26 requirement had only a minor cost impact, are likely to keep that provision.

"Once something is extended, it is hard to take back," said Gretchen Young, senior vp-health policy with the ERISA Industry Committee in Washington.

"I do not believe we would go back to our full-time student age 25 limitation as I do not believe this change has had a major impact on our plan and has been very well-received by our employees," said Joseph Molloy, vp-benefits/employee services at North Shore-LIJ Health System in Lake Success, N.Y.

Some employers might take a middle approach, keeping the extension of coverage until age 26 but reinstating prior requirements, such as the adult child being a full-time student, Ms. Darling said.

If only the individual mandate were struck down, federal lawmakers and the Obama administration would face a different issue.

If individuals faced no penalties for not buying coverage and could

'I do not believe we would go back to our full-time student age 25 limitation as I do not believe this change has had a major impact on our plan and has been very well-received by our employees.'

Joseph Molloy, North Shore-LIJ Health System

purchase it any time through exchanges, massive adverse selection would be certain, experts say.

That is because the law bars insurers, which would write cover-

age provided through the exchanges, from denying coverage for pre-existing medical conditions, making it certain that many individuals would wait until they

had expensive-to-treat medical conditions before getting health insurance.

Without an individual mandate, "you have a worst-case scenario. You'd have individuals sitting on the sidelines until they need coverage. You would not have a spread of risk, and that would drive up costs" enormously, said James Napoli, a senior counsel with Proskauer Rose L.L.P. in Washington.

"How could the exchanges function? Premiums would skyrocket," Ms. Young said.

In addition, "insurers would

not want to write coverage" through the exchanges, said Andy Anderson, a partner with Morgan, Lewis & Bockius L.L.P. in Chicago.

With costs to subsidize those dramatically higher premiums far higher than budgeted, lawmakers and the administration would have to search for new approaches, experts say.

Yet another possibility is that the high court could put off action until 2015, a potential outcome that would not be welcomed by employers.

"More than anything, employers want certainty," said Michael Thompson, who is a principal with PricewaterhouseCoopers L.L.P. in New York.



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Solvency: Rules under review

CONTINUED FROM PAGE 4

Authority signaled that it would explore ways to reduce the costs involved for U.K. insurers, which effectively would have to comply with current rules and models as well as the new rules during 2013 because the U.K. insurance regulator has decided to delay full implementation of Solvency II until 2014.

But large U.K. insurers likely will have to comply with many of Solvency II's requirements in 2013 anyway, experts say.

At the FSA's Solvency II conference for industry practitioners this month, Julian Adams, the FSA's director of insurance, confirmed that companies will have to demonstrate "some form of Solvency II reporting" starting Jan. 1, 2013, as well as comply with the FSA's current individual capital assessment rules.

But Mr. Adams also said the FSA intends to explore, along with companies, "possible ways of avoiding the costs associated with the dual running of an (individual capital assessment) and Solvency II model."

He said the details of U.K. firms' pre-2013 reporting requirements would not be made public until the Omnibus II E.U. directive, which will phase Solvency II requirements in stages, is final-

Insurers share implementation concerns

LONDON—"An insurance company will never look the same again after Solvency II," Marc Beckers, head of analytics for Aon Benfield in the Europe, Middle East and Africa, said during a recent Aon Benfield-sponsored Solvency II conference.

At the London conference, industry practitioners shared their experiences about implementing capital models within the Solvency II framework.

Gary McNally, who is responsible for capital modeling at Guernsey-based Canopus Group Ltd., said there are several areas of concern for insurers that are implementing models under Solvency II.

For example under Solvency II, he said, insurers will be required to factor in "binary events," such as mega-tsunamis, meteor strikes and nanotechnology, into their reserves in addition to their "best-estimate" needs.

If regulators are going to require insurers to hold amounts greater than their best-estimate reserves, he said he would prefer that regulators make clear what that sum should be.

Another area of uncertainty for insurers is insurance risk, said Mr. McNally—specifically whether management's responses to the insurance cycle and reinsurance purchasing decisions should be included in models.

While it appears likely that management

decisions will not have to be included in the models, Mr. McNally said, many insurers have spent a considerable amount of time discussing and working on this difficult-to-quantify issue.

James Toller, who is responsible for capital modeling at Dublin-based Beazley P.L.C., said his company uses capital models to help its management team view the risks the company faces.

Beazley explicitly includes the market cycle in its internal model because this, he said, is a big risk for the company. "If there was a systematic mispricing, it would affect our reserves," he said, "and so we model it."

Models need to be transparent so managers can use them to challenge their teams, he said.

For example, Beazley has put in place risk-scoring mechanisms to allow managers to adjust for changes such as an underwriter leaving or the limits being offered for a certain line of business being changed, he said.

Solvency II will include a "use test," which forced Beazley to ask who would use its model. As a result, said Mr. Toller, senior management and underwriting management team members receive training on the use of the model to demonstrate to regulators that the model is being used within the business.

—By Sarah Veysey

ized. The directive is likely to be completed in the first quarter of 2012.

Jim Bichard, an insurance partner at PWC in London, said the FSA's announcement was a boost for insurers.

"Many insurers will feel relief at the FSA's announcement. Run-

ning the ICA model is a very resource-intensive process and it would be an enormous strain if insurers were required at the same time to submit preparatory reports based on separate Solvency II models," said Steven McEwan, of counsel in the financial institutions group of law firm Hogan

Lovells International L.L.P. in London.

Given the similar objectives of the ICA model and the Solvency II model, he said it might make sense for the FSA to treat fully operational Solvency II models as sufficient for ICA purposes during 2013.

CMS to survey employers on retiree funds

WASHINGTON—The Centers for Medicare and Medicaid Services says it will survey employers and other early retiree health care plan sponsors on how they used money provided under a federal program.

Under the \$5 billion Early Retiree Reinsurance Program set up as part of the health care reform law, approved plan sponsors have received partial reimbursement of claims they have paid.

That survey is required under the Patient Protection and Affordable Care Act, which requires the secretary of the Department of Health and Human Services to develop a mechanism "to monitor the appropriate use of the funds."

Under the ERRP, the government reimburses employers and other early retiree health care plan sponsors for a portion of medical claims filed after June 1, 2010, by retirees and their covered dependents, as long as the retiree is at least 55 years old and not eligible for Medicare.

In general, the reimbursement must be used to reduce employers' and/or retirees' health care costs.

—By Jerry Geisel

Bundling: Bundled payment programs may get boost

CONTINUED FROM PAGE 4

primary reason the organization was unable to achieve its goal of making bundled payments to providers despite three years of work was "the complexity of the model and the fact that it builds on existing complex health care systems."

However, researchers found the effort prompted significant changes in the way participating providers practice medicine. In particular, it made providers aware of their ability to re-engineer health care delivery to reduce costs while not sacrificing quality, according to RAND's study, which was published in the Nov. 9 edi-

tion of the journal Health Affairs.

Lack of suitable technology has hindered another private-sector bundled payments pilot project in California led by the Oakland-based Integrated Healthcare Assn., said Weslie Kary, director of the IHA's bundled payment program.

"We've been trying to encourage the development of these administrative solutions," she said, but "the technology wasn't there yet."

But with the passage of the Patient Protection and Affordable Care Act, which requires developing episode of care technology by 2012 for the Medicare pilot, that technology is being developed and eventually will become available to private payers, Ms. Kary said.

"Claims administration products coming to market is huge," she said.

Despite RAND's disparaging report on the progress of Prometheus, "it's possible that future bundled payment implementations could proceed more quickly due to technical advances and lessons learned from early experiences," said Peter Hussey, a lead author of the Prometheus study and a policy researcher at RAND. He also is studying IHA's

Bundled Episode Payment Pilot, which began in 2009 and will run through 2013. In fact, IHA already has made its first bundled payment, he said.

"I think a lot of the resistance really stems from the fear of innovation, that in health care we pretty much have done the same old thing for many, many years. We tweak around the edges and once

'Claims administration products coming to market is huge.'

Weslie Kary,
Integrated Healthcare Assn.

every 30 years, we do something interesting. Thirty years ago, it was capitation, and since then we haven't done anything in terms of payment change," said Donna Marshall, executive director of the Colorado Business Group on Health, which launched its own Prometheus pilot in 2010.

"We seek to utilize the lessons learned from the earliest pilots," she said, but so far "we're also

finding lack of technology to be a barrier. To that end, we've put more resources into the Colorado pilot to make sure that claims data is better," Ms. Marshall said.

Cyndy Nayer, president and CEO of the Center for Health Value Innovation in Estero, Fla., likened the slow employment of bundled Medicare payments to the adoption of value-based insurance design, which encourages the use of high-value health care services, such as prevention.

"It's another disruptive force in the universe of health care. It takes awhile for people to understand the enormity of what it takes to get it going. Sometimes the frustration and complication weigh you down. We have to give it a little more time," Ms. Nayer said.

Francois de Brantes, executive director of the Health Care Incentives Improvement Institute Inc. and charged with overseeing the Prometheus project, said he views the pilot as an entrepreneurial endeavor.

"You've got to test it before coming up with proof of concept. Well, we tested it and, after three years, we now have proof of concept," he said. Since RAND researchers' last site visit in May 2010, Prometheus has launched fully operational statewide pilots in North Carolina and New Jersey, he said.

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Thailand: Firms rethink their supply chain risks

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"The problem for insurers who provide business interruption cover to Japanese manufacturers is that they have to cover the losses stemming from the Thai flooding because so many businesses moved some or all of their supply chain there," Daniel Saville, legal director in the reinsurance and corporate insurance department of Reynolds Porter, said in a statement. "Moving production from Japan to Thailand was 'Plan B.' The question now is whether those businesses have a 'Plan C,'" he said.

Gerry Alonso, senior vp of claims at Factory Mutual Insurance Co., which does business as FM Global, in Johnston, R.I., noted that the "slow developing" nature of the Thai catastrophe makes it difficult to get a handle on the extent of losses. And, the duration of the flooding could exacerbate the losses.

"It's been a month and the water hasn't receded," Mr. Alonso said. "That amount of time with water in a building, the damage could be far greater."

"We've had some clients that have been able to procure boats and divers and go in there, but that gives you an idea of what you have," he said. "The frustrating part from a claims perspective, you can't really start to assess losses until the water's gone."

William J. Montanez, director of risk management at Oak Brook, Ill.-based Ace Hardware Corp. and a member of the board of the Risk & Insurance Management Society Inc., said his company hasn't been affected by either catastrophe, though it relies on overseas suppliers. "We look very carefully at our supply chain and we do a fair amount of sourcing from China and that part of the world," he said.

"I think we're going to continue to go down that road," Mr. Montanez said. "At the back end, we have to look at safeguarding and how we can make it less risky to do it."

With the Thai floods raising awareness of the risk of geographical concentrations of suppliers, Linda Conrad, director of strategic business risk management at Zurich Financial Services Ltd. in New York, said her company has

'It's been a month and the water hasn't receded. That amount of time with water in a building, the damage could be far greater.'

Gerry Alonso, Factory Mutual Insurance Co.

been working with clients to identify where suppliers and industries are concentrated.

Going forward, she said, "I think this illustrates the need for better continuity plans," including backup supplier arrangements, diversifying the locations

of suppliers and using different backup suppliers than competitors.

Ms. Conrad also said companies are starting to ask existing suppliers about their own continuity plans. "I think that's a positive development that's come out of

this," she said. "People are also starting to do a lot more scenario analysis," including calculating the potential impact of having to re-engineer processes if alternative components or parts don't match the specifications.

In general, the recent supply chain disruptions are leading many companies to embrace "that resiliency mindset of: Let's try to think through some hypotheticals and plan for this when it costs us less than when we are in a crisis," Ms. Conrad said.

Ace Hardware's Mr. Montanez sees a similar response. "A lot of people are starting to go down this

road, predictive modeling and what are the business continuity issues and how are we going to incorporate that into our strategic plan and the enterprise risk management process," he said.

He noted that recent events have raised stakeholder expectations about companies' awareness and management of supply chain risks.

"At the end of the day I think the onus that's going to be on risk management and management in general is how can we get a preview of what the future might look like and how will we respond to it," Mr. Montanez said. "That's what ERM is all about."

Sarah Veysey contributed to this report.

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Costs: Group health plan costs continue to rise

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At the same time, more employers are adding incentives and penalties to boost employee participation in wellness or health management programs. For example, 33% of large employers with health management programs provided incentives or penalties this year to encourage participation, up from 27% last year.

And an old standby used by employers to hold down cost increases—cost-shifting to employees—continues. Forty-seven percent of employers said they intend to raise deductibles or increase the percentage of premiums paid by employees in 2012.

The survey also found cost increases were much lower among large employers than smaller organizations—employers with between 10 and 499 employees. Health care plan costs increased an average of 3.6% among large employers this year compared with an average of 9.9% for small employers.

One reason for that sharp difference may be that the cost impact of complying with the 2010 health care reform law has been much greater on smaller employers than larger ones, said Beth Umland, Mercer's director of research for health and benefits in

Police: Wellness program focuses on unique risks

CONTINUED FROM PAGE 3

the most understudied occupational groups in the nation.

Studies also have found that shift work and long work hours—both typical of police jobs—are associated with increased health and safety risks, according to NIOSH.

The work conditions mean police often are sleep-deprived, regularly eat poorly, and face unusual physical demands that contribute to illness and injury, sources said.

The compensable injury and disability challenges police face differ from those for the typical working population, said James Soto, vp and regional manager in Long Beach, Calif., for Tristar Risk Management, a division of Tristar Insurance Group Inc.

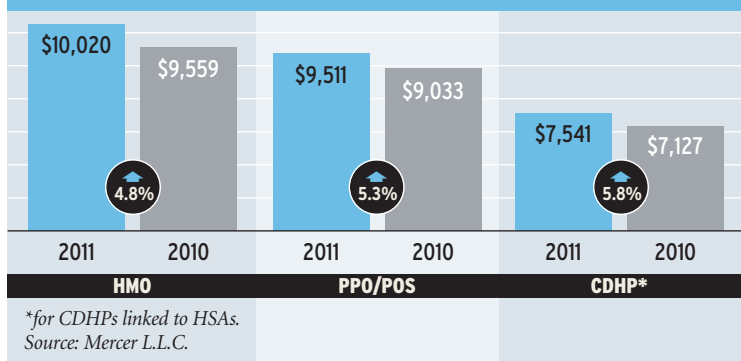
Mr. Soto is not associated with the Oregon study, but he oversees management of workers comp claims filed by Los Angeles Police Department officers and Los Angeles County Sheriff's deputies.

"The fact that they often go from sitting in a car—maybe while on a stakeout—going from zero activity to all of a sudden sprinting, chasing down a suspect," puts stress on the body, Mr. Soto said.

The OHSU project requires identifying individual law enforcement officers' specific

COSTS VARY BY PLAN DESIGN

For employers that have at least 500 employees, medical care plan costs per employee are highest for health maintenance organizations, followed by preferred provider organizations/point of service plans and consumer-driven health plans.



New York.

Small employers tend to offer less generous coverage than larger employers and were more likely to be affected by health care reform law provisions that went into effect in 2011 that restricted annual dollar limits unless special government waivers could be obtained and that mandated free preventive care except for grandfathered plans, Mercer said.

Small employers also are far more likely to drop their health care plans in 2014, when key provisions take effect, such as federally subsidized premiums for uninsured lower-income individuals to

buy coverage through new state insurance exchanges.

For example, 19% of small employers said it is "likely" or "very likely" that they will terminate coverage in 2014, compared with 9% of employers with at least 500 employees and just 4% of employers with 5,000 or more employees, according to the survey of 2,844 employers nationwide.

In general, though, when employers "consider the penalty, the loss of tax savings and potentially grossing up employee income so they can purchase comparable coverage through an

exchange, many don't see a financial advantage in dropping coverage," Ms. Umland said.

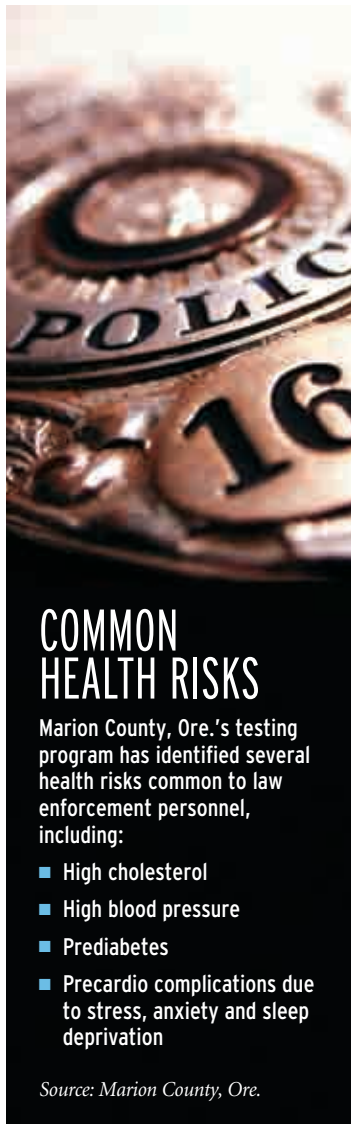
Other survey findings include:

- Prescription drugs costs rose just 5% in 2011, compared with 10% five years ago and 17% 10 years ago. Mercer attributed slowing cost increases to employer design strategies that encourage the use of less costly generic and over-the-counter medications.

- Retiree health care plans continue to dwindle. In 2011, 24% of large employers offered coverage to retirees under 65, and 16% offered coverage to Medicare-eligible retirees. As recently as 2005, 29% of large employers offered coverage to retirees under 65, while 21% offered coverage to Medicare-eligible retirees.

- Nearly half of respondents with at least 50 employees said they had a "significant" or "very significant" concern about a provision in the health care reform law that will impose a 40% excise tax on health care premiums that exceed certain amounts, which takes effect in 2018.

While the tax would be imposed on insurers—and, in the case of self-funded employers, third-party claims administrators—experts expect insurers and TPAs to recover the taxes they pay through new charges on employers.



COMMON HEALTH RISKS

Marion County, Ore.'s testing program has identified several health risks common to law enforcement personnel, including:

- High cholesterol
- High blood pressure
- Prediabetes
- Precardio complications due to stress, anxiety and sleep deprivation

Source: Marion County, Ore.

ties. For example, one deputy who regularly consumed two Big Macs at meals had to lay out lard on a table equal to the fat contained in the popular burgers.

Other activities included log-

ging their sleep hours and discussing sleep habits, such as whether they regularly consumed alcohol to help them doze off, Ms. Hawk said.

At first, they were reluctant to talk about their issues, but eventually opened up to help each other.

The team approach creates positive reinforcement and peer pressure, Ms. Hawk added. If someone failed to attend a meeting, he or she heard about it from peers.

The dozen employees from different divisions that participated in the pilot provided a mix of opinions on what parts of the program will work for the rest of the department and on needed protocol adjustments, she added.

Now the project is in Phase 1, meaning about 200 of 354 Marion County Sheriff's Office employees voluntarily have participated in the medical testing, and the intervention work begins early next year for them, Ms. Hawk said.

After the intervention exercise, they will participate in multiple follow-up medical tests over three years to help gauge outcomes.

Ms. Hawk's participation has included recruiting employees to volunteer for the project, she said.

That meant a late-night visit to an employee jailhouse cafeteria; attending a patrol deputies briefing at 4:30 a.m.; and finding other locations, such as a shooting range, where the Marion County sheriff's deputies congregate.

"We did 32 of those (pitches) in a month. It was very intense," Ms. Hawk said.

"It's getting that trust and face time and saying, 'I care about you. You need to do this.'"

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Penn State: Case sharpens focus on risk

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unit of Lockton Cos. L.L.C.

Moody's Investors Services Inc. already is weighing reputational damage. In a Nov. 11 statement, the New York-based rating agency said that it is reviewing Penn State's bond rating to assess fallout from the sexual misconduct allegations and that it "will evaluate the potential scope of reputational and financial risk arising from these events."

"I'm not sure that reputations can be repaired once this occurs. I think it's a huge risk," said Mr. Hayes.

The way to mitigate reputational risks would be "obviously to prevent it from occurring in the first place. It's a very simplistic answer but it's got to be there," he said.

Exacerbating the problem, Penn State may face unlimited liability in civil litigation because it may not be able to invoke sovereign immunity, which protects state entities and employees from tort claims and imposes limits on liabilities, experts say.

"The most significant hurdle in the Penn State case is the (Pennsylvania) Sovereign Immunity Act," said Larry Jackson, partner in the complex liability practice group at Nelson Levine de Luca & Horst L.L.C. in Blue Bell, Pa. "Arguably, Penn state would have sovereign immunity."

However, Penn State Risk Officer Gary W. Langsdale, who declined to comment for this story, told *Business Insurance* in a 2009 interview that, "We are almost unique in that we don't enjoy any sovereign immunity."

Penn State officials declined to comment on the sovereign immunity issue.

In addition, Mr. Hayes said insurers likely would look at all counts in the Penn State allegations as one occurrence.

"That means that the insurance resources would be even more limited because they pool everything together into one claim with one policy limit," he said.

In an effort to prevent legal costs from falling on the public, the university's D&O insurance will help cover the costs of any lawsuits, Penn State's office of public information confirmed. Coverage details were not available.

Allegations of sexual misconduct typically are covered under a general liability policy, said John Roskopf, Chicago-based vp of risk management for Educational &

Take steps to avoid liability

Risk managers at colleges and universities often require background checks for faculty and sexual misconduct training, which includes reporting rules, experts say.

A first step after an allegation is made is to perform a thorough and adequate investigation of the allegation to develop a legal strategy, said Natasha Baker, senior associate representing private and public institutions of higher education at law firm Curiale Hirschfeld Kraemer L.L.P. in San Francisco.

Devising a strategy before an incident is essential, she said.

"That is consistently one of the hardest things...to be guiding someone through an investigation in a big case whose never done it before," she said.

Dan Hurley, senior director of risk management and safety for Norfolk Public Schools in Norfolk, Va., said his schools

have a central reporting place and a department dedicated to investigating all allegations.

"The first step is to notify our compliance investigators, who then would take the complaint and interview the individuals. If there's any substance to it based on what they're hearing, they would follow the state guidelines and notify the police and work with the police department in doing a proper investigation," Mr. Hurley said.

Loss control best practices include clear instruction of staff "on how to report incidents and the action plan should include reporting the incident to the local authorities and also engaging a capable internal or outside spokesperson," said Robert T. Lipps, executive director of Lockton Alliance for Ministry Protection, a San Francisco unit of Lockton Cos. L.L.C.

—By Mike Tsikoudakis

PENN STATE FALLOUT

NOV. 4: A grand jury report investigating allegations of sexual misconduct against former Penn State assistant football coach Gerald A. Sandusky is released.

NOV. 5: Mr. Sandusky is arrested for allegedly sexually abusing eight boys since 1994. Tim Curly, Penn State's athletic director, and Gary Schultz, Penn State's senior vp of finance and business, are charged with perjury and failure to report.

NOV. 7: Penn State releases a statement that Messrs. Curley and Schultz have stepped down from their positions.

NOV. 9: Penn State announces that university President Graham Spanier and head football coach Joe Paterno were removed from their posts, effective immediately, for failing to report the allegations against Mr. Sandusky.

NOV. 11: Trustee Ken Frazier is named as chair of a committee to undertake a complete investigation of the events that gave rise to the grand jury report.

Institutional Insurance Administrators Inc. in Chicago.

"However, some larger institu-

tions may find it more appropriate to carve out sexual misconduct and either purchase the coverage separately or fund for it other ways and that would be through a captive or a large retention," he said.

Mr. Roskopf noted that increasingly he's seen large deductibles for sexual misconduct, or in some instances a cap on the coverage, with punitive damages often excluded.

Typically, colleges buy CGL, D&O and educators legal liability policies, said Bonney Hebert, president of Academic Risk Resources & Insurance L.L.C. in Boston.

While the CGL policy steps in to cover third-party bodily injury and emotional distress, the D&O and educators legal liability would cover trustees, directors and officers, and the organization itself, she said. Such policies often include separation of insureds or severability provisions.

"The policy, according to these provisions, is not going to protect the individual who was untruthful, but continues to provide insurance for the rest of the institution and the other individuals," Ms. Hebert said.

inBrief

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has been in a monthslong battle to acquire Transatlantic, sent a letter to Transatlantic's board this month seeking several changes, including having Transatlantic stockholders remove seven board members and replacing them with three directors backed by Validus. In a filing with the Securities and Exchange Commission on Friday, Transatlantic said that it had filed suit against Validus.

Google seeks OK to fund benefits through captive

Google Inc. has asked the Labor Department for approval to fund benefits risks through its Hawaii captive insurance company. Google wants to use Imi Assurance Inc. to reinsure life insurance, accidental death and dismemberment, and long-term disability policies written by Prudential Insurance Co. of America. Imi was licensed by Hawaii regulators in December 2010 and is authorized to write property and casualty coverage.

Marsh unit MMA buys broker Seitlin

Marsh Inc.'s Marsh & McLennan Agency L.L.C. has acquired South Florida brokerage Seitlin Insurance for an undisclosed amount. Seitlin, which specializes in property/casualty insurance and employee benefits for middle-market companies, will serve as MMA's hub in Florida, Marsh said. Seitlin generates annual revenue of about \$24 million and employs 119 workers in Miami, Fort Lauderdale and West Palm Beach. All the employees and leadership team, including Seitlin CEO Tom Cornish, will join MMA, Marsh said. MMA is an initiative that New York-based Marsh & McLennan Cos. Inc. launched in 2009 to build its business in the middle market.

P/C insurer reserve releases slowing

Property/casualty insurers' reserve releases are slowing and

are likely to continue doing so, according to a report by Keefe, Bruyette & Woods Inc. The report, based on a review of third-quarter insurer results, found that pricing "might well be improving" for property/casualty insurers. But despite premium growth, the industry is experiencing weak underwriting results.

NFIP extended through Dec. 16

Congress has approved another short-term extension of the National Flood Insurance Program, which was slated to lapse Friday. The extension was part of a spending bill that was approved Thursday to fund federal government, including the NFIP, through Dec. 16.

More large employers freeze DB plans

More than 40% of Fortune 1000 companies that have defined benefit pension plans have frozen at least one such plan, according to Towers Watson & Co.'s analysis of Securities & Exchange Commission filings. Of the 584 employers on this year's Fortune 1000 list that sponsor defined benefit plans, 237 have frozen at least one plan. That 40.6% is up from 2010, when 35.5% of 586 Fortune 1000 companies had frozen at least one defined benefit plan.

Bias charges, awards set records: EEOC

The U.S. Equal Employment Opportunity Commission saw a record number of discrimination charges and record value of monetary awards in fiscal 2011, the EEOC said. The federal agency received 99,947 discrimination charges in the fiscal year that ended Sept. 30, the highest number in its 46-year history. In fiscal 2010, the agency said it received 99,922 such charges due to factors that include economic conditions; increased diversity and demographic shifts in the labor force; employees' greater awareness of the law; and improvements in its intake practices, consumer services and public accessibility. The EEOC said monetary benefits for victims of workplace discrimination totaled more than \$364.6 million in fiscal 2011—also the highest in its history. That compares with \$319 million in monetary benefits in the previous year.



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At least it wasn't snakes

They're the kind of stowaway nobody wants to confront under any circumstances.

But these unticketed passengers allegedly made it aboard an AirTran Airways flight from Charlotte, N.C., to Houston. The culprits? Cockroaches.

According to a story posted on Charlotte's WCNC.com, Harry Marsh and his fiancée, Kaitlin Rush, said they saw the bugs crawling out of the plane's air vents and carry-on compartments.

But in a lawsuit they filed after the alleged Sept. 15 incident, the couple claimed flight attendants were either too busy to check out the situation or simply didn't believe it existed. Mr. Marsh, who is a lawyer, claimed that when he mentioned the situation to a flight attendant, she put a finger to her mouth, which he interpreted as meaning she wanted him to be quiet.

The couple said they got sick from the bugs and ultimately threw away or washed their belongings for fear of infestation.

According to the report, Mr. Marsh and Ms. Rush are suing AirTran for more than \$100,000 in damages plus the price of their tickets, alleging negligence, recklessness, emotional distress and even false imprisonment, among other things.

If they prevail, AirTran may find itself having to sell more than a few additional tickets to pay for the damage done by some six-legged stowaways.

CONTRIBUTING: Mallory Gillikin, Mark A. Hofmann, Ann Reus

End Page

YEEEE-UUUUP!

YUUUP!

Rapper Trey Songz, 'Storage Wars' star battle over catchphrase

Another bizarre lawsuit involving a reality star and a rapper?

YUUUP!

Dave "The Mogul" Hester, star of "Storage Wars" on A&E, reportedly said he has received a cease-and-desist letter from rapper Trey Songz's lawyer telling the auctioneer to stop using the phrase "YUUUP!" during auctions on his television show as well as on merchandise related to the program.

Mr. Songz, born Tremaine Neverson, alleges that "YUUUP!" has been his "signature sound" since 2009.

However, Mr. Hester reportedly trademarked the word in September.

Mr. Hester has filed a countersuit, alleging that the rapper's use of the word is an "animallike or nonhuman squeal which begins with a distinct 'yeeee' sound before finishing with a squeal-like 'uuup' sound," which is "distinct and different" from Mr. Hester's "monosyllabic sounding guttural auction bidding phrase...which is meant to convey the meaning of 'yes,'" according to the New York Post.

Mr. Hester is seeking unspecified damages and an order barring Mr. Songz from "interfering" with his use of the catchphrase.

REUTERS

Southwest, frequent flier in bar fight

An Illinois man says that Houston-based Southwest Airlines Co. stiffed him for 45 in-flight cocktails after the airline changed how it would honor its vouchers for free alcoholic drinks.

Chicago area plaintiff Adam Levitt says that for years, he and other customers who chose to purchase flights through Southwest's "Business Select" program were awarded drink coupons with no expiration date, in exchange for paying a higher airfare.

Southwest changed its policy on Aug. 1, 2010, to say passengers could only use the coupons on the day printed on them, rendering Mr. Levitt's collection of unredeemed drink vouchers worthless.

"In an industry where the competition is always knocking (or banging) on the door and where watching the bottom line is more important than ever, we owe it to our employees, customers and shareholders to find ways to operate smarter," Mike Hafner, Southwest's vp of cabin services, wrote in a company blog post.

The lawsuit seeks class action status for U.S. travelers with unredeemed drink vouchers and compensatory damages, as well as other remedies.

"Southwest decided that it would make more money—improve its 'bottom line'—by choosing not to honor the coupons that consumers had already paid and bargained for," said the complaint.

Southwest could not be reached for comment on the case.

CRIKEY! THAT'S SOME INSURANCE POLICY!

A Darwin, Australia-based insurer issued a crocodile attack insurance policy to cover U.S. President Barack Obama during his two-day trip to the continent last week.

President Obama, only the fifth U.S. president to visit Australia, visited the national capital of Canberra as well as Darwin, the capital of the Northern Territory.

The local insurance firm, Territory Insurance Office, presented a framed copy of the policy, which features a

threatening crocodile image, to the president during his visit to Darwin.

"It's a unique product for a unique environment and we're excited to be issuing one of these policies for Obama as a memento of his time in the territory," Richard Harding, the insurer's CEO, said in a statement.

The insurer has offered the crocodile coverage for more than 20 years in Australia, where saltwater crocodile attacks kill two people a year on average. "Salties," as they

are known locally, are the largest of all living reptiles and can grow up to 23 feet long and weigh more than a ton.

In the unlikely event that the president were to be attacked and killed by a crocodile, the policy would have paid out \$50,000 Australian (\$51,400).

President Obama visited the Australian national capital of Canberra and Darwin last week.

REUTERS



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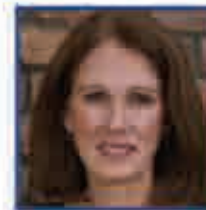
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Lunch Keynote:

Lynn Cronin
author of "Damned If She Does, Damned If She Doesn't"

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