



SPRING VIEW

Vision. Insight. Results.

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EMPLOYER SURVEY OF INTEGRATED TRENDS

Spring is embarking on our 3rd consecutive employer survey. This year we will survey employers that are already integrating aspects of their disability, workers' compensation, FMLA, group health, wellness and/or other absence and health management programs. The interviews will be conducted in December and January and the results produced in March. If you are an **insurance company or TPA that is interested in sponsoring** the research, or an **employer that would like to take the survey**, please contact Karen English at (617) 589-0930 x105.

NEWSLETTER

November 2009

SHAKE THE TREE: REVIEW YOUR MATURE CAPTIVE

By Donald Riggan

Captive insurance companies require regular attention. They represent capital and resource commitments that can grow stale, unnecessary, under-used, under-appreciated, and in some cases, incomprehensible to financial staff unfamiliar with their *raison d'être*. This predicament arises from a variety of circumstances. Mergers and acquisitions, newly hired financial staff, and in many cases, the simple passage of time can render a once-needed and beneficial captive without an effective internal steward.

A comprehensive captive review includes the following analyses:

Solvency & Financial Management

Solvency refers to the ratio of capital and surplus to three components: (1) written premium, (2) loss reserves, and (3) the per-occurrence retention limit. Insurance companies, including captives, must maintain minimum standards for each ratio.

You should identify and benchmark each ratio against industry standards. Because capital usage is critical in measuring a captive's economic viability, you should also stress-test each ratio to determine the capital's effectiveness (or lack thereof).

Risk Management & Functional Utilization

The main purpose of any captive is (or should be) the management of risk. An evaluation of the captive's retentions, expenses, excess insurance, and collateral relative to the firm's risk profile is essential in determining how well the captive fulfills its mission.

Captive expenses should be significantly lower than that of the conventional insurance markets. Your analysis should benchmark the captive's expenses against industry standards and identify anomalies or problem areas.

Collateral is an important risk financing tool utilized by captives. Collateral vehicles are few in number, but you should compare each appropriate method with the existing arrangement and if appropriate, move to a more efficient alternative. Today, letters of credit and NY Reg. 114 trusts are the two primary methods.

Captives are excellent high-frequency, low severity loss management tools. Any risk that does not satisfy these basic criteria may not belong in a captive. It is always a good idea to measure the relative value of insuring the firm's spectrum of risks in the captive as compared to the commercial insurance markets.

Service Provider Performance & Cost Benchmarking

Outside vendors provide the majority of captive services. These include claims handling; loss prevention; as-

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SPRING'S VIEW REBALANCING WORK/LIFE

By Amor Ibe

The abruptness and severity of the U.S. and global recession forced companies to implement immediate workforce reductions. Since the start of the recession in December 2007, the U.S. unemployment rate has almost doubled from 5.0% to 10.2% in October. Companies utilized a combination of layoffs/furlough arrangements, salary/hour reductions, attrition, flexible work arrangements and interdisciplinary cross-training to eliminate costs in the face of decreased consumer demand and to maximize productivity. Although the growth of joblessness is tapering off, unemployment will linger. In a Labor Market Outlook survey conducted by SHRM, 69% of participating HR professionals revealed that they will either eliminate jobs or keep their payrolls flat in the third quarter of 2009.

One area of employee relations that will be significantly impacted by the recession is work/life balance. Prior to the recession, work/life concepts centered on providing employees with the time and resources for personal duties such as child and elder care. "Work/Life" now needs to be redefined as employees deal with job uncertainty and compete for a smaller pool of opportunities. For example, flexible work arrangements (FWAs) such as telecommuting and job-sharing will be utilized to a greater degree for their direct cost savings to the employer versus their attraction/retention benefits. This and other initiatives result in a shift to *employees* – rather than employers – needing to be more flexible.

EVENTS

CAYMAN CAPTIVE FORUM

Meet with Karin Landry and John Cassell in the Cayman Islands, December 1-3, 2009. See our ad in the December issue of Captive Review to be distributed at the conference.

(Mature captive continued from page 1)

set management; legal and audit work; and captive management services. While existing relationships and performance levels may be satisfactory, a competitive bidding process may provide an objective evaluation of costs and service quality.

Fronting insurers are also service providers, and should be evaluated similar to those listed above. However, because the front must pay claims if the captive is unable to do so, it is important that you evaluate the counterparty risk assumed by the captive.

Compliance

There are five regulatory bodies that may, depending on the captive's structure, require some degree of compliance: (1) The Internal Revenue Service (IRS), (2) The Securities & Exchange Commission (SEC), (3) State Departments of Insurance, (4) The Financial Accounting Standards Board (FASB), and (5) the captive domicile's monetary authority and/or registrar of companies. Your analysis should document

the captive's existing relationship with each regulator, and identify any potential non-compliance issues.

Enterprise-wide Needs Analysis

Companies form captives to address a specific problem or set of problems. Years later those problems may no longer exist, or may have intensified. Over time, new and challenging risks emerge that few within the company think are insurable.

These include a variety of operational and financial risks dismissed as "business risks." Today, captives routinely insure a wide variety of individualized so-called business risks.

Summary

Captives are not static, unchanging, entities, set up to fulfill a particular need and then ignored. They should be used strategically within a comprehensive risk management program. And every few years they need a tune-up – so shake the tree and see what falls out!

SPRING SIGHTINGS

MORE EMPLOYERS ASKING TO FUND BENEFITS THROUGH CAPTIVES

An update of companies who have applied to the DOL for approval to fund employee benefits in a captive, including Dow Corning. For more information, please contact Karin Landry.

*Business Insurance
August 21, 2009*

WINDOW OF OPPORTUNITY FOR MICROSOFT CAPTIVE?

Microsoft has applied for approval to fund long term disability in their

captive. This article discusses other companies who have succeeded and benefitted from this endeavor, including YKK and Dow Corning whose DOL filings were prepared by Spring.

*Business Insurance
September 14, 2009*

OPPORTUNITIES ABOUND

Funding employee benefits in a captive can help healthcare organizations save money. Karin Landry, Amor Ibe and Alex Korotin discuss the process, DOL and tax implications, and a case study of Banner Health in this editorial.

*Captive Review Healthcare Guide
October 2009*

IN THE NEWS

NO SOCIAL SECURITY COLA

According to a press release from the Social Security Administration, for the first time since 1975, there will be no Cost of Living Adjustment (COLA) for 2010. This static level comes on the heels of a 5.8 % increase in 2009, the largest since 1982 primarily due to increases in expenses (i.e. gas and oil prices).

*Fast Facts from GENEX
October 20, 2009*

NEW GINA RULES IMPOSE RESTRICTIONS ON HEALTH RISK ASSESSMENTS

The U.S. Department of Health and Human Services, Labor and the Treasury released regulations on the Genetic Information Nondiscrimination Act of 2008 (GINA). The new regulations, which will be in effect December 2009, restrict the use of HRAs, including obtaining genetic information such as family medical history, in determining health plan eligibility. Many groups are vocally disputing GINA rules as its wide reach may result in employers decreasing coverage, incentives, and/or health promotion.

*Employee Benefit News Legal Alert
October 9, 2009*

FMLA AMENDMENTS

The Supporting Military Families Act of 2009, which was added by the National Defense Authorization Act for 2010, will amend the Family and Medical Leave Act (FMLA) to mandate exigency leave to all covered active duty members and the families of certain former service members. Previously access to exigency leave was limited to Reserve and National Guard members.

*SHRM
October 26, 2009*

MICHELLE'S LAW

By George Gonser

With many friends with college aged children and with my own only a few years away, you hear about the incredible time demands of college life. Adding in the devastating effects a critical illness or injury makes it nearly impossible to continue to carry a full or part time course load never mind attend college at all.

This was the challenge New Hampshire college student Michelle Morse faced in late 2003 when she was diagnosed with colon cancer. To battle the cancer, she had to undergo physically draining, Chemotherapy treatments. As a result, her doctors advised her to take time off from school to aid in her recovery.

Instead, Michelle continued to go to school and maintain her full-time course load. Cutting back her schedule would make her ineligible to be covered as a dependent under her parents' family plan and would have resulted in her having to pay an additional \$550 per month for COBRA. Unable to afford the extra cost, Michelle bravely fought her cancer while maintaining her full-time academic schedule.

Michelle lost her battle with cancer and passed away in 2005 at the far too young age of 22, but not before championing the dependent coverage issue locally and nationally. She didn't want

students in similar predicaments to be pushed off their parents plan. Therefore, a bill was created to allow dependent students a medically necessary leave of absence for up to one year without loss of dependent benefit status on their parents plan. The key provision is that the medically necessary leave of absence allows a dependent to continue on the parents plan without having to go onto COBRA or potentially go uninsured.

In 2008, HR 2851 known as "Michelle's Law" was signed into law. The provisions of the law takes place for all insured and self-insured health plans upon their renewal date on or after October 1, 2009.

The law would require students to provide written documentation from a medical professional explaining the need for the temporary medical leave (up to 1 year) from the college or university (post secondary education). The law would only apply to full-time students who are already dependents on a health plan immediately prior to the written request. Students whom exceed the age restriction or fail to qualify under the dependency requirements would be deemed ineligible under Michelle's Law.

Managing the demands of college is difficult enough. Adding a debilitating injury or illness can make it impossible. Michelle's Law allows qualifying students the time needed to heal and recover without affecting their dependent status or imposing additional financial hardships. Michelle's heroic cause was not in vain after all.

CARVING OUT HEALTH CARE REFORM: AN UPDATE

The Affordable Health Choices Act (S.1679) was passed by the Senate Health, Education, Labor and Pensions

Committee (HELP) on July 15, 2009. The Senate Finance Committee proposed a bill entitled America's Health Future Act of 2009 (S.1796), which was passed by the Finance Committee on October 18, 2009.

All three proposals are aimed at the

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(Continued from Health Care Reform)

same goal of covering the uninsured, increasing quality of care and making health care affordable to all; however, there are several areas where the bills differ. Two examples are employer responsibility and the option for a government-run insurance program. Under the Affordable Health Choices

Act employers with more than 25 employees receive a tax penalty for every uninsured employee. Similarly, the America's Health Future Act includes a tax penalty per uninsured employees for employers with more than 50 full-time employees. The Affordable Health Care for America Act requires employers to provide insurance or receive a penalty equal to 8% of payroll; however, employers

with less than \$500,000 per year in payroll are exempt.

As with all pending legislation additional changes are certain. Our newsletters will continue to provide updates as well as implications for your organization.

Stay tuned as the dust settles and feel free to contact us at (617) 589-0930 as questions arise.

ABSENCE ISN'T A FOUR LETTER WORD

By Teri Weber

Most HR professionals find ourselves – on a daily basis – leveraging our maternal and paternal instincts. On a good day we are teaching and advocating for health, safety, confidentiality, ethics and overall responsibility. But when it comes to absence, including but not limited to health and productivity, we often inadvertently preach “do as I say, not as I do” to our surrogate offspring.

As we drag ourselves to work coughing and sneezing; driving in a state of dizziness as if we were texting on our blackberries; and overdosing on antibacterial hand sanitizer we are not helping ourselves or our fellow employees which begs the question, when did absence become a four letter word?

In many work cultures, absences are met with eye rolls regardless of if the time is spent vacationing in the tropics or nursing a cold but in a world where human capital is one of our crucial resources, absence is necessary and dare I say beneficial

for employees and their employer. I am just as guilty as everyone else, making more trips to the office supply store on my FL vacation, with two toddlers in tow, then to the beach...but just because *we* do it, doesn't make it best practice!

All of our jobs are important, but think about the people you encounter every day – the bus driver taking your children to school, the furnace repair team at your home, your pharmacist or nurse, a teacher, or the airline mechanic working on the 727 you are about to board – do you want them to be working at 50% capacity?

It is important for employees to have breaks from work to recuperate as well as for leisure. In many ways it allows them to be more efficient and effective when they are working. In addition, with the flu season in full swing it may just keep the rest of your workforce safe and healthy.

What do your absence policies say about your organization? Are you incentivizing the best behavior for your company and its employees? Are changes needed in this new H1N1 world? It's worth your time to take a look.

PAID LEAVE PENDING

The Healthy Families Act of 2009 (H.R. 2460) was introduced in the U.S. House of Representatives on May 18, 2009 and referred to the Workforce Protections subcommittee on June 11, 2009.

The bill would require employers with more than 15 employees to provide workers with up to 56 hours of paid sick leave each year. Under the bill, workers would accrue paid sick leave at the rate of one hour for every 30 hours worked, could begin using the paid sick leave after 60 days of employment, and could roll over unused sick leave into the next calendar year.

More recently, emergency legislation (H.R. 3991) was prompted by the H1N1 pandemic that would provide five paid sick days to workers with contagious diseases who are told by their employers to stay home.

Possible government mandates in this area have many employers and public figures reeling. Not only will policies and processes need to be revamped, but the consideration of paid leave reviewed as part of the overall employee benefit package and how absence can be better planned for at organizations.

Spring Consulting Group, LLC is a full service consulting firm formed in March 2004 through a management buyout of the U.S. Insurance and Financial Services strategy consulting practice of Watson Wyatt, LLP. Spring provides a full range of strategic consulting services to employers as well as insurance and financial services companies. This includes general health and welfare benefits; multinational benefits; property & casualty programs; captive consulting and actuarial capabilities, with a special focus in the areas of alternative funding and integration (i.e. health, disability, workers' compensation, FML, time off management). Please contact us at (617) 589-0930 or visit us on the web at www.springgroup.com.