



Global insured catastrophe losses for 2014 were \$33 billion, down from \$40 billion in 2013 and \$126 billion in 2011.

(Guy Carpenter)

13.8%

Of adults nationwide have no health insurance, down from 17.3% in 2013. Highest uninsured rates are in the South and West, with Texas having nearly 25% of adults uncovered. The lowest percentage of adults without health insurance continue to be in the Northeast and upper Midwest. (Gallup)

DATA DUMP > SCOTT SINDER AND MICHAEL VATIS

A New Anthem

Will you be singing “The Data Breach Blues”?

On February 5, as you are all too well aware, Anthem Blue Cross and Blue Shield disclosed it had experienced a data breach in late December that it believes compromised the confidentiality of personal information. The breach affected not only Anthem clients but also clients of other Blues companies that partner with Anthem. Many of your employer clients are now asking how this affects their company. The answer (in classic lawyerly fashion): It depends.

REVIEW CLIENT STATUS/ CONTRACTS

Anthem’s data breach affects direct insureds in individual and group markets as well as self-insured plans in which Anthem, or one of its Blues partners, acts as a service provider.

This is generally as a third-party administrator to the employer. In the latter case, any employer that is self-insured and uses Anthem probably has obligations for independent data breach investigation, notification and remediation to anyone currently insured under its self-insured plans unless Anthem was delegated those obligations by contract. Your self-insured clients therefore should review their contracts to determine the extent to which any of the breach-related obligations have been delegated.

BREACH-RELATED OBLIGATIONS

To the extent these obligations have not been delegated, your self-insured clients will have independent breach-related obligations under both federal and state law. It does not appear

that any medical information was compromised in the Anthem breach. Anthem has acknowledged, however, that consumer names, addresses, Social Security numbers and health account numbers might have been compromised. Because this data all relates to healthcare coverage for consumers, the protections and obligations imposed by the Health Insurance Portability and Accountability Act (HIPAA) likely apply. Penalties for non-compliance can go up to \$100 per day but are capped at \$1.5 million per incident.

In addition, every state except Alabama, New Mexico and South Carolina, as well as the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands, impose their own data breach notification requirements. Ten of those states—Arizona, Arkansas, California, Hawaii, Indiana, Kansas, Kentucky, Michigan, New Hampshire and Rhode Island—exempt an entity subject to HIPAA from their >>



where he was most recently managing account consultant for South Central regional national accounts. >> Launches CyberSelect Loss Model, designed to provide companies with guidance on modeling their largest exposures to the loss or theft of confidential personal information. www.beecher-carlson.com

BRECKENRIDGE INSURANCE GROUP

Hires Jino Masone as chief operating officer. Masone joins from Zurich North America, where he was head of sales, marketing and distribution. <http://breckis.com>

BROWN & BROWN Brown & Brown of Pennsylvania acquires certain assets of

Liberty Insurance Brokers and related affiliate companies in Philadelphia. Liberty Insurance president and founder Scott Engel and his team will combine with Brown & Brown’s team under Rob Heller’s leadership. www.bbinsurance.com

CONFIE SEGUROS Acquires Baja Auto Insurance, a Texas auto insurer with about 200 employees. www.confieseuros.com

CONNER STRONG & BUCKELEW Hires Timothy Gosnear as managing director and SVP, major account and co-practice leader of Life Sciences Group. He joins from Aon Risk Solutions, where he was managing director in life sciences and multinational

account practices. He will work out of the Philadelphia office. www.connerstrong.com

COOPER GAY SWETT & CRAWFORD

CGSC North America hires William Ludington as EVP, carrier management and alternative markets; Mason Power as chief marketing officer; and Mark Smith as senior advisor to CEO Tom Ruggieri. Ludington joins from Canaccord Genuity, where he was head of U.S. structures products sales team. Power joins from Agencyport, where he was chief marketing officer. Smith joins from RT Specialty, where he was managing director and member of the executive committee. www.cg-sc.com

FBINSURE Acquires Henry L. Newbury Insurance Agency. Co-owner and president Jim Newbury and co-owner John Newbury will retain their roles to ensure a smooth transition for clients. After the transition is complete, they will retire. www.fbinsure.com

GLATFELTER INSURANCE GROUP

Glatfelter Healthcare Practice launches GlatfelterHealthcarePractice.com, providing independent agents and brokers with resources to serve senior living, assisted living and home healthcare and hospice clients. >> VFIS introduces coverage enhancements for p-c and accident and sickness benefits coverage, targeting fire departments, ambulance

DATA DUMP

» state disclosure and penalty regimes as long as the entity satisfies HIPAA data breach notification requirements. State penalties for non-compliance range from hundreds of dollars to as much as \$5,000 per day.

In addition, 15 states—Alaska, California, Colorado, Hawaii, Illinois, Louisiana, Minnesota, Nevada, New Hampshire, North Carolina, Oregon, South Carolina, Tennessee, Virginia and Washington—and the District of Columbia, Puerto Rico and the U.S.

Virgin Islands provide a private right of action for individuals to sue for non-compliance with their disclosure regimes.

HIPAA requires the owner or licensor of the compromised data to notify potentially affected consumers within 60 days of discovering the breach. For self-insured plans, the employer or

the plan itself will be the data owner. The notice generally must include:

- ▶ The types of data that were breached
- ▶ What is being done to eliminate the breach issues going forward
- ▶ Contact information for questions.

Anthem has set up a website through which it provides all of the requisite information: www.anthemfacts.com.

State breach notification laws generally require companies to provide the same types of information, but laws differ with respect to when notifications need to be provided; to whom (the exceptions vary widely); and the method of providing notice. A survey of all of the applicable state breach notification laws and their requirements is included in Steptoe's data breach response toolkit at www.steptoe.com/databreach.

WHAT NEXT?

No doubt the Anthem breach will be viewed as just one in a long line of high-profile data breaches—not the first

When you buy a firm, you buy its data security problems.

and inevitably not the last. Although you and your clients cannot completely eliminate the cyber-risk exposure (particularly with respect to third-party vendors like Anthem), you can minimize it. You should also have a plan in place so you are ready for the next event.

You and your clients might want to consider:

- ▶ Identifying and mapping the data in your possession and data for which you may be responsible (like the Anthem beneficiary data for self-insured plans)
- ▶ Evaluating and updating your network security and access control measures and protocols
- ▶ Reviewing your contracts with vendors and business partners to ensure they properly address the responsibility for data security (and that they include audit rights)
- ▶ Reviewing and updating your privacy notices and practices to ensure that you are actually doing what you say you are doing
- ▶ Making sure your insurance coverage is adequate to recover the poten-

tially catastrophic costs of a breach, including response, remediation and litigation costs

▶ Focusing a component of any due diligence in M&A-type transactions on your potential partner's cyber-security systems and protocols, because when you buy another firm, you are buying its data and any data security problems it might have.

Finally, you and your clients should maintain an up-to-date incident response plan and regularly test it to ensure it works. The plan should make clear who would be called in to help when an incident occurs. To minimize your potential liability, your first call should be to your lawyer. As self-serving as that sounds, it's prudent advice because it allows a breach investigation to commence while maximizing your opportunity to avail yourself of the protections of the attorney-client privilege, which can be critical if litigation ensues.

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INDUSTRY NEWS TICKER

and rescue squads, and 911 centers. www.glatfelters.com

GUY CARPENTER Hires Matthew Eagle as managing director and head of international analytics. He will join the London office on August 1 and lead EMEA and Asia Pacific regions. Most recently, he was at Willis Re as head of catastrophe analytics and was a regional director of Willis Re International. www.guycarp.com

HONAN INSURANCE GROUP Acquires MACS Insurance Brokers in Singapore. The move is part of Honan's growth in the Asia Pacific region. www.honan.com.au

HUB INTERNATIONAL Acquires Alexander Insurance Agency, which will become a part of Hub Transportation. Larry Alexander, president, will join Hub and work under Dennis Templeton. Alexander's San Antonio office will join Hub's San Antonio office. » Hires Bobbi Curry and Robyn Welch as managing directors of entertainment. Both join from Lockton and will be based in Los Angeles. www.hubinternational.com

INTEGRO Acquires California-based E&O Professional Risk Management and Insurance Services. Sheri Pontolillo, CEO and founder of the firm, will continue to lead the group within Integro and will report to Chuck Shay, co-leader of Integro

management risk practice. » Hires Mark Santoleri as healthcare SVP. He worked out of the Philadelphia office. He joins from Platinum HR Management where he was director of risk control. » Opens Miami office, its first in Florida, to target both Florida and Latin America markets. www.integrogroup.com

JARDINE LLOYD THOMPSON Agrees to sell 26% stake in Milestone, holding company of JLT's French associate Siaci St. Honoré, to Ardian. Deal is expected to close in April. » Mark Wood is retiring at end of May as CEO of U.K. employee benefits business. Will be succeeded by Duncan Howorth.

Dominic Samengo-Turner will take over Howorth's former position as CEO of JLT Asia. Samengo-Turner joins from Willis, where he was most recently co-CEO of global specialties and director of Willis. Ian Robinson will take on the role of COO of Thistle Insurance Services. Warren Downey will take on the role of CEO and COO of JLT Asia, replacing Robinson in the COO role. » Hires Timothy Mahoney as EVP and chief strategy officer. He joins from Marsh, where he was chief client officer of North America. He is based in New York. www.jlt.com

J.H. BLADES Acquires oil and gas sector specialist wholesaler Burke-Daniels Co. Bob