Home Health

BUSINESS REPORT

MONDAY, MARCH 29, 1999 VOL. 6, NO. 13 PAGE 1 OF 8

A WEEKLY REPORT ON NEWS, TRENDS & STRATEGIES FOR THE HOME HEALTHCARE EXECUTIVE

House and Senate budget committees back home care

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – The House and Senate Budget Committees both unanimously passed amendments last week aimed at restoring part of the home health benefit that was stripped by the interim payment system (IPS). In the House, Rep. Robert Weygand (D-RI) and Rep. Paul Ryun (R-KS) introduced language that urges Congress to cancel the across-the-board 15% reduction in home health spending included in the IPS. But the House Budget Committee also defeated a measure introduced by Rep. Ed Markey (D-MA) that would have earmarked 2% of the projected budget surplus for a long term care program that includes home care.

Meanwhile, the Senate Budget Committee passed an amendment introduced by Sen. Charles Grassley (R-IA) and Sen. Russ Feingold (D-WI) that says the IPS and other

See CBO, Page 8

Staff Builders announces plan to spin off home care business

By MEREDITH BONNER
***HHBR* Editor**

Staff Builders (Lake Success, NY) has decided to spin off its home healthcare business from its staffing operations to create a separate, publicly traded home care company.

The split, said Staff Builders' CIO/COO Dale Clift, will allow both companies to focus on their particular industries.

"We think we have done some good things with both businesses," he said, "and we think we are positioned well for our home care business." The company's **Tender Loving Care Health Care Services** (TLC) unit, which owns all of Staff Builders' home care business, accounted for about 75% of FY98 revenues, Clift told *HHBR*.

To complete the spin off, Staff Builders will distribute each of its shareholders shares of its (TLC) unit. For every two

See Spin off, Page 8

NAHC seeks closure on federal suits as new case emerges

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – The **U.S. Department of Justice** last week cleared the path for the **National Association for Home Care** (NAHC) to join federal attorneys in a lawsuit that pits the **Health Care Financing Administration** (HCFA; Washington) against several home health beneficiaries represented by the **Center for Medicare Advocacy** (CMA). Earlier this year, a federal judge certified the case as a class action suit brought by CMA on behalf of the beneficiaries who had been denied home health services. The suit claims that the process for denying Medicare coverage of home health care is unconstitutional.

"This is the first time in my life I have ever considered joining forces with the Department of Justice and HCFA and

See Lawsuits, Page 7

Congress questions HCFA's further use of IR authority

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – Congress has stepped in to further delay the reimbursement cuts for six items proposed by the durable medical equipment carriers (DMERC) under the **Health Care Financing Administration**'s (HCFA; Baltimore) expanded inherent reasonableness (IR) authority. Earlier this month, House Ways and Means Health Subcommittee Chairman Bill Thomas (R-CA) asked **General Accounting Office** (GAO; Washington) Director William Scanlon to examine whether HCFA has "overstepped its authority" in its use of the new IR authority granted to the agency as part of the Balanced Budget Act of 1997 (BBA).

HCFA was granted IR authority in the mid-1980s to increase or decrease reimbursement for individual items of

See IR, Page 2

INSIDE:

GRAHAM-FIELD HEALTH PRODUCTS MUST RESTATE FY96 AND FY97 EARNINGS.....3
PEDIATRIC SERVICES OF AMERICA MOVES TO SMALLCAP 4

IR

Continued from Page 1

durable medical equipment (DME) if the existing payments were found to be grossly deficient or excessive. The BBA expanded this authority and limited the requirement for notice and comment to instances where the adjustment exceeds 15%. Medicare Part B suppliers and home infusion providers have been arguing since early last year that HCFA grossly exceeded this authority when it proposed a 15% payment reduction for Category I enteral nutrition formulas and cuts of various magnitudes in several other items including blood glucose monitors, albuterol, lancets, and certain catheters.

In his request to GAO, Thomas specifically asked the GAO to analyze the role of the DMERCs in this process. "The BBA makes no mention of the secretary delegating authority to the DMERCs to implement IR authority," Thomas asserted. "I would ask that you examine the statute and the regulation and report back to me on the ability and legality of HCFA using DMERCs in this capacity." Thomas also asked the GAO to examine the impact these proposed cuts may have on Medicare services.

In addition, Thomas asked the GAO to weigh reports he has received from various heathcare trade groups that questioned HCFA's sampling data, which they said were really just a survey of selected market prices. "Healthcare trade groups report to me that there were serious design flaws in the HCFA methodology, including flaws in the size and randomness of the surveys," said Thomas. There was also concern whether the surveys were focused on "the proper distribution channel for particular products," he added.

Thomas specifically pointed to the sampling methodology used for enteral nutrition formulas, which he said may have been based on the retail prices of enteral formulas that generally are not the formulas actually used in tube-feeding for Medicare beneficiaries.

Late last year, the **National Alliance of Infusion Therapy** (NAIT; Washington) and the **National Home Infusion Association** (NHIA; Alexandria, VA) challenged the proposed cut in enteral nutrition on precisely these grounds. The two groups, which together represent manufacturers, providers, and clinicians involved in the provision of infusion therapy drugs and services, charged that the DMERCs and HCFA had based the proposed price reduction perhaps exclusively on an analysis of retail price data.

The two groups contended that there are no retail price data available for the most commonly used Category I formulas and, as a result, a retail price survey would not reflect the market for those products. "Of the 78 formulas in Category I, less than 40% are sold at retail," they maintained. "Clearly, an analysis based on this limited retail price data cannot logically include all of the formulas in that category and, we would assert, neither should the conclusions of that analysis. The fact that so many enteral formulas in Category I do not have retail prices should demonstrate that the use of retail price data to develop a single payment rate for all these formulas is a flawed approach."

"Hopefully, GAO will consult with the industry to understand exactly what their concerns are," NAIT's Alan Parver told *HHBR* last week. He added that his group and others are concerned not only about whether inherent reasonableness is a good idea, but about the way HCFA is implementing this authority. "This is an unprecedented expansive authority," said Parver. "For HCFA to take the position as it has that it does not have to meet standards of statistical validity, but can simply base payment adjustments on factors that make sense to them may be more than what Congress had in mind when it enacted that provision.

"The value of taking a snapshot of data to base payment adjustments, not because it is relevant or accurate, but because it is the easiest to obtain is also something that needs to be looked at," Parver added. "We are pleased that the Committee is taking that approach."

The GAO's examination could easily take six months. It is likely the DMERCs, which delayed these cuts earlier this year, will not act until the study is completed. ■

Home Health Business Report® (ISSN 1073-9572) is published every Monday by American Health Consultants®, 3525 Piedmont Road, Building Six, Suite 400, Atlanta, GA 30305. Opinions expressed are not necessarily those of this publication. Mention of products or services does not constitute endorsement. Home Health Business Report® is a trademark of American Health Consultants®, a Medical Economics Company.

ATLANTA NEWSROOM: Executive Editor: **Jim Stommen**. Managing Editor: **Lee Landenberger**. Editor: **Meredith Bonner**. Staff Writer: **Karen Pihl-Carey**. Washington Correspondent: **Matthew Hay**. Senior Production Editor: **Amy Wesolowski**.

BUSINESS OFFICE: Vice President/Group Publisher: **Donald R. Johnston**. Marketing Manager: **Amber Godfrey**. Operations Coordinator: **Debbie Strickland**. Account Representative: **Bob Sobel**. Reprints: **Karen Wehye**.

SUBSCRIBER INFORMATION
Please call **(800) 688-2421** to subscribe or if you have fax transmission problems. Outside U.S. and Canada, call **(404) 262-5476**. Our customer service hours are 8:30 a.m. to 6:00 p.m. EST.

EDITORIAL
Meredith Bonner **(404) 262-5478**
Karen Pihl-Carey **(404) 262-5514**

VICE PRESIDENT/GROUP PUBLISHER
Donald R. Johnston **(404) 262-5439**

INTERNET
http://www.ahcpub.com

COMPANIES IN THE NEWS

Chad senior VP to retire

Chad Therapeutics (Chatsworth, CA) said last week its senior vice president, Frank Fleming, will retire March 31. Chad said Fleming's retirement had been planned since last year. No replacement has been named, officials said. Fleming will continue to serve the company as a consultant, primarily in marketing, sales, government, and industry affairs.

CCSE loses two directors

Community Care Services' (CCSE; Mount Vernon, NY) Bernard Kruger, a director of the company since August 1996, has resigned from CCSE's board, effective March 23, for personal reasons. In addition, Bruce Ansnes, a director since August 1996 and vice chairman of the board, also resigned, effective March 23. CCSE said last week its annual shareholders meeting, scheduled for Tuesday, March 23, has been rescheduled to Thursday, April 8.

Coram signs contracts with BCBSTX, BCBSNJ

Coram Healthcare (Denver) has entered into an agreement with **Blue Cross and Blue Shield of Texas** (BCBSTX; Richardson, TX), a division of **Health Care Service Corp**., a **Mutual Legal Reserve** company. Coram also has entered into two agreements with **Horizon Blue Cross Blue Shield of New Jersey** (BCBSNJ).

Under the agreement with BCBSTX, Coram will provide 260,000 BCBSTX members covered under the HMO Blue and BlueChoice plans access to a variety of prescription drug therapies that are delivered intravenously in the home. The agreement will reach those HMO Blue and BlueChoice members in Austin and San Antonio, TX, and the surrounding areas.

Under a new agreement with Horizon BCBSNJ, Coram will provide hemophilia patients covered under Horizon BCBSNJ's 2.1-million-member plans access to blood products and services. Concurrently, a separate contract was renewed in which Coram will continue providing home infusion therapy services to Horizon BCBSNJ's 1.4 million indemnity and PPO members.

GF experiences management shake up

Graham-Field Health Products (GF; Hauppauge, NY) has appointed John McGregor president/CEO. McGregor replaces Paul Bellamy, who resigned, GF said, due to a disagreement with the board over management issues. Bellamy, who served a short term as CEO, was appointed in late February. GF's board also announced the appointment of Soren Reynertson as vice president/CFO. McGregor is a principal and Reynertson a senior associate with **Jay Alix & Associates**, internationally known for corporate turnarounds and financial restructurings.

The management changes come after an announcement from GF earlier last week that it will have to restate its financial statements for FY96 and FY97. GF said an internal investigation being conducted by the Audit Committee of GF's board has identified certain accounting irregularities and errors that will likely have a material effect on the company's FY96 and FY97 operating results, requiring the company to restate its financial statements for those periods. As a result, GF said it believes neither the previously issued FY96 and FY97 financial statements nor the auditors reports for those years should be relied upon, consistent with guidelines promulgated by the auditing profession.

GF said it does not expect the adjustments to materially impact its business or operations on a going-forward basis. Officials also said GF does not know of any material irregularities or errors relating to its financial results for FY98. The investigation was initiated, officials said, after management discovered some information that raised questions regarding the accuracy of GF's FY97 financial results. Based on the results of the investigation as of last week, GF has preliminarily determined that pre-tax losses may increase to $10.7 million, from $9 million, in FY96 and to $38.6 million, from $30.2 million, in FY97.

Simultaneously with the appointments of McGregor and Reynertson, GF's board also elected Rupert Morely, the operations director of GF's largest shareholder, **Brierly Investments** (New Zealand), as its new chairman.

Lincare receives subpoena from OIG

The **Department of Health and Human Services**' (Washington) **Office of Inspector General** has issued subpoenas to **Lincare Holdings** (Clearwater, FL) requesting documents from the company's offices in the Tampa, FL, area. The department requested documents for Medicare patients who received home oxygen therapy in 1996 and 1997. Lincare said the reason for the inquiry was not disclosed, but that it plans to fully cooperate. Shares of Lincare fell as much as 36% following announcement of the inquiry. In November, a former Lincare employee in Orlando, sued the company for paying kickbacks to doctors who referred patients for oxygen services, reported the *St. Petersburg Times*. The government declined to join the lawsuit, but the employee's attorney said the Tampa subpoenas show that the government is still interested in the case. "The government can join the lawsuit at any time, and I believe they will," Mike Bothwell, attorney for the employee, told the *Times*. "And for Lincare to say they don't know what this is all about is ridiculous."

Prudential Securities (New York) has reiterated its strong buy/SBI rating of Lincare, as well as its $53 target price. The company's stock weakness is not warranted, Prudential said in a report. It could be attributed to expectations of a 57% Medicare cut.

Matria director buys stock

Matria Healthcare (Marietta, GA) director Rod Dammeyer purchased 30,000 shares of the company's common stock, according to a Form 4 filed with the

Securities and Exchange Commission (Washington). He purchased the shares for $3.38 each on March 3. He now directly holds 30,000 shares of company stock and indirectly holds 35,000 shares.

McKesson HBOC, UW Health team up

McKesson HBOC (San Francisco) has signed a new five-year contract with UW Health/University of Wisconsin Hospitals and Clinics to provide its CoSource supply management program to UW Health. The program integrates pharmaceutical distribution services, automated technologies, and information systems to help deliver the lowest total patient costs. In a related agreement, UW Health has bought McKesson's Pathways Laboratory software.

Option Care records FY98 net loss

Option Care (Bannockburn, IL) recorded revenues of $114.4 million in FY98 ended Dec. 31, a 14.4% increase over revenues of $100 million reported in FY97. The company reported a net loss of $691,000, 6 cents per share, compared to the previous year's net loss of $2.1 million, 20 cents per share. The FY98 results include a charge of $739,000, 7 cents per share, due to tax adjustments and changes in reserves. Without this charge, the company would have reported net income for the year, it said in a statement. In 4Q98, the company reported a net loss of $614,000, 6 cents per share, on revenues of $29.2 million, compared to a net loss of $3.9 million, 36 cents per share, on revenues of $28.6 million in 4Q97.

PSAI moves to Small Cap Market

Pediatric Services of America's (PSAI; Norcross, GA) common share listings have moved to the Nasdaq SmallCap Market. Its stock symbol will remain the same. PSAI's common shares did not meet the minimum bid price and minimum value of the public float requirements for continued listing on the National Market. The company recently learned that on March 11, a purported shareholder class action lawsuit was filed against the company and certain of its officers. The suit alleges that PSAI violated laws by misrepresenting and omitting material information concerning its finances during FY98. Said Chairman/President/CEO Joseph Sansone: "We have reviewed the complaint and believe the claims are unfounded, and the lawsuit is without merit. This lawsuit represents the very type of shareholder strike suits, instigated by class action plaintiff's lawyers, that Congress has recognized as abusive. PSAI will vigorously defend itself against this litigation."

PGA expects lower-than-expected 1Q99 earnings

Personnel Group of America (PGA; Charlotte, NC) expects to report 1Q99 earnings per share of 21 cents to 23 cents. "It appears that our earnings will fall short of expectations," said PGA Chairman/CEO Edward Drudge. He attributed the results to slower-than-expected commercial staffing sales and low IT gross margin percentages. The company believes revenues in 1Q99 will be between $228 million and $232 million. "Given our slow start, however," Drudge said, "we currently expect diluted earnings per share for FY99 to be in the range of $1.11 to $1.16."

In other news, PGA announced last week an expansion of its existing share repurchase program. Under the expanded program, PGA's board has authorized the repurchase of up to $52 million of its outstanding shares of common stock. Share repurchases made under this program, officials said, will be made from time to time in accordance with applicable securities regulations in open market or privately negotiated transactions.

Respironics launches new product

Respironics (Pittsburgh) has launched its new Profile Custom Nasal Mask, an advancement in the treatment of sleep apnea. The mask fits the individual's facial contours. It is submersed in boiling water, cooled, then placed on the face to create a personalized fit, the company said.

Sparta buys Western Medical

Sparta Surgical Corp. (Pleasanton, CA) has signed a non-binding letter of intent to purchase all or almost all of the assets of **Western Medical** (Walnut Creek, CA). Sparta is executing an agreement, which needs approval from its board of directors. The transaction is expected to be complete before May 31, the end of 1Q99. Western, a provider of home health aides and other health professionals, recorded net sales of about $55 million in FY98. Sparta President/Chairman/CEO Thomas Reiner has also announced that the company has locked up two other acquisition targets to purchase a home care medical equipment and respiratory business and a digital monitoring equipment and supply business.

Sunrise Medical division's CFO faces charges

The **Securities and Exchange Commission** (Washington) has filed an administrative proceeding barring the former CFO of **Bio Clinic Corp**., a division of **Sunrise Medical** (Carlsbad, CA), from practicing before it as an accountant. The action was taken against Robert S. Barton for violations of the antifraud provisions of the Securities Act of 1933. The complaint alleged that Barton committed accounting fraud that inflated Sunrise's earnings by 16% in FY94 and 40% in FY95.

Westaff to sell to United Home Health Care

United Home Health Care of Northern California has plans to acquire assets of the medical services unit of **Westaff** (Walnut Creek, CA). Westaff signed a letter of intent to sell last week. Financial terms were not disclosed. Westaff said the sale includes three **Western Medical Services** offices in Jackson, Valley Springs, and Cameron Park. The company will sell most of its other Western Medical offices to **Sparta Surgical Corp**. (Pleasanton, CA) in a separate transaction, reported *Dow Jones News Service*. (*See Sparta Buys Western Medical above.*) ■

REGIONAL DIGEST

• Unions in New York are planning a series of aggressive actions, including mounting a drive to organize 50,000 home care workers. The actions come after a wave of corruption investigations swept away many of New York's labor leaders, reported *The New York Times*. Now, a new group of union leaders is starting to make the city's labor movement more vigorous and combative than it has been in a long time. This new aggressiveness, including a large labor rally scheduled for May 12, is expected to strain the contract negotiations for more than 250,000 city workers, including home healthcare workers.

• Arizona should improve its regulation of health agencies that provide skilled nursing and other services to patients in the home, according to a state audit released last week. In Tucson, AZ, reported *The Arizona Daily Star*, the state has licensed about 23 home health agencies, according to the state health department. The **Auditor General's Office** found that licensing of home health agencies often falls short. In 1998, the health department renewed the state licenses of 43 agencies without first making sure they complied with state regulations, the audit found. Home care providers in Arizona say they are not surprised by the findings, saying the agencies are "understaffed, and they are behind schedule." Judith Clinco, president of **Catalina Home Health**, said as a result of inspection delays, "you might see unscrupulous agencies that are not functioning in compliance with the rules."

• Fifty registered nurses and support staff from the **Brant County Community Care Access Centre** (CCAC), **Ontario Nurses Association** Local 7, have been locked out by their former employer after negotiations for a collective agreement broke down. The registered nurses had voted 92% in favor of withdrawing their services. The employees of the CCAC have been without a collective agreement since August 31. The registered nurses and support staff coordinate the provision of homemaking, medical supplies, nursing care, and therapies. The registered nurses were placed in a legal position to withdraw services last Thursday. The outstanding issues are work hours and wages.

• In Colorado, home health advocates have described the creation of the interim payment system (IPS) as legislation with unintended consequences, reported *The Gazette* of Colorado Springs. The rules have cut payments to agencies by about 30%, according to **Home Care Association of Colorado**. It has forced law-abiding firms out of business. The association is leery to spend too much more time on a problem politicians probably won't correct, the *Gazette* reported. Sen. Charles Grassley (R-IA), chairman of the Senate Special Committee on Aging, agrees. "I don't see much hope for further IPS reform this year," he said. "I think it's time for Congress to start working together with (the **Health Care Financing Administration**) to ensure that PPS (prospective payment system) works."

• Indiana lawmakers are considering providing $18 million in new funding to help move people out of mental health hospitals and into home health programs. Half of the funding is included in the state's two year budget.

• Tennessee Gov. Don Sundquist's top health aides recommended last week that the state spend $2.8 million for meals and homemaker services to help people stay out of nursing homes, reported the *Associated Press*. The money, however, along with $500,000 for administration, would have to come out of the $11 million the governor recommended in his budget proposal to cover people eligible for Medicaid. Members of the **Tennessee Long-Term Planning Council** will send their plan to the governor, who will pass it to the state Legislature. If it passes, it could benefit as many as 3,000 people eligible for Medicaid.

• Wisconsin is noticing a serious shortage of healthcare workers in nursing homes and the home health industry. And it's getting worse, said state officials. **Society's Assets**, a home care provider in Racine, WI, turned away hundreds of clients last year because it couldn't find enough employees. In many cases, it forced people to enter nursing homes. "Whatever the setting, dedicated healthcare workers are feeling undervalued these days," reported an article in *The Milwaukee Journal Sentinel*.

• **Fortis** will offer long term care insurance policies to New York residents through its affiliate, **First Fortis Life Insurance** (Syracuse, NY). The policies are designed as "pool of money" benefit accounts from which expenses are paid for home health, nursing home, and alternative care services.

• A bill to increase California's investment in quality home care services is working its way through the Legislature. The legislation would help raise wages, improve benefits, and provide training for workers, reducing the turnover rate. It is sponsored by Rep. Mike Honda (D-San Jose) and was addressed last week in a hearing in Sacramento.

• The **United Hospital Fund** (New York) granted $1.15 million in grants to seven New York City hospitals last week to help people who care for relatives at home. Six of the hospitals received $175,000 each for their programs that provide information to family members who care for elderly people. The seventh hospital was given $100,000 to begin a web site for people who care for patients with traumatic brain injury, reported *The New York Times*.

• While Mississippi lawmakers prepare to wrap up the session, scheduled to adjourn on Easter, a bill that would put more money into home care programs for senior citizens still awaits action, reported the *Associated Press*. "If we're going to sell ourselves as a retirement Mecca, we need to offer those senior citizens something more than a nursing home when the time comes," said Sen. Terry Burton (D-Newton). "It's a dignity issue." ■

CALENDAR

• **Invacare** (Elyria, OH) has introduced the Learning Enrichment Education Program (LEEP), a series of three-day Invacare Expos product training. The Expos will travel to nine markets this year, and satellite courses will be available in 36 cities throughout the year. One full day course will focus on clinical guidelines for home respiratory care. The Expos will be offered April 20-22 in Boston, May 4-6 in Indianapolis, June 8-10 in Kansas City, MO, July 20-22 in Los Angeles, Aug. 3-5 in Philadelphia, Aug. 24-26 in Nashville, TN, Sept. 8-10 in Fort Lauderdale, FL, and Oct. 5-7 in Houston. For more information, call the LEEP hotline at (800) 333-6900, Ext. 6697.

• The **National Association for Home Care** (Washington) is offering a home care business development conference called Expanding Services Beyond Medicare in a Cost Conscious Environment. The conference, which includes the National Private Pay Home and Community Services Conference, the 14th National Home Care Aide Services Conference, and the National Adult Day Care Symposium, is April 18-21 at the Hyatt Regency Crystal City Hotel in Arlington, VA. For more information, call (202) 547-5050.

• The **Health Industry Distributors Association** (Alexandria, VA) is holding its Home Care Washington Conference April 20-21. Among the issues that will be addressed at the conference are competitive bidding, inherent reasonableness, home health agency consolidated billing, and managed care reform. For more information, or to register, call (703) 838-6134.

• The **Arizona Association for Home Care** will hold the Home Health Care Annual Conference May 3 and 4 at the Embassy Suites in Phoenix. For more information, call Susan Brenton or Alice Mendoza at (602) 967-2624, if you are out of state, or (800) 367-0399, if you are in Arizona.

• The **California Association for Health Services at Home** (Sacramento, CA) is holding its 1999 Annual Conference & Home Care Expo May 19-21. The conference will be at the Disneyland Hotel in Anaheim, CA. For more information on the conference, call (800) 622-4724.

• **Medtrade Management Group** (Atlanta) will hold the first Home Healthcare Executive Forum on Nov. 2 at the Earnest M. Morial Convention Center in New Orleans. The forum will be the day prior to the opening of the 1999 Medtrade Exhibition and Conference. Issues addressed at the home care forum will relate to workplace liability, negotiating strategic alliances, legal issues involved in creating new marketing strategies, and confronting case management issues. For more information, call (877) 835-7232. ■

PPM/MSO NEWS

• **Physicians Resource Group** (Dallas) plans to sell a majority of its eye doctor practices in order to satisfy a $100 million debt to its corporate bondholders. The bondholders, led by **Resurgence Asset Management**, agreed to accept $25 million less than they are owed if Physicians can raise $100 million by Sept. 30, reported the *Dallas Morning News*. The company owns or manages 120 eye doctor practices and 40 surgery centers, but does not know how many would be divested or how many employees would lose their jobs.

• **IntegraMed America** (Purchase, NY) has found through a study that, on average, clinical pregnancy rates per cycle initiated for women of all age groups improved 51.8% across the network from 1995 to 1998. The company attributes the improvement to its Assisted Reproductive Technology, and other new technology, at its network of Reproductive Science Centers. The centers saw a significant growth in revenue from 1997 to 1998, said IntegraMed President/CEO Gerardo Canet.

• The bankruptcy of **MedPartners Provider Network** (MPN; Long Beach, CA) has left several hospitals and doctors owed million of dollars. At least four Orange County, CA, hospitals and a large cardiology medical group are owed $10 million. State regulators forced MPN into bankruptcy March 11 because it appeared the company did not have enough cash to pay claims. After last year's bankruptcy of **FPA Medical Management** (San Diego), doctors were stuck with $60 million in unpaid claims. Now, they worry the same thing will happen with MPN, reported the *Orange County Register*. **MedPartners** (Birmingham, AL) has said it reduced its term loans by about 49% to $307 million. It has also reached agreement with its bank creditors to amend the terms of its credit agreement to remove any negative impact from the bankruptcy filing of MPN. On March 19, it completed the sale of the assets of the physician practice management business that provides services to **Cardiovascular Specialists of Tennessee**. **Intecardia** (Memphis, TN) acquired the business for $17 million in cash proceeds.

• **Birman Managed Care** (Cookeville, TN) said last week its operating subsidiary, **Birman & Associates**, has signed two contracts with new hospital clients, one in New Jersey and one in Texas. One agreement is a two-year agreement and the other is structured as a one-year contract with a renewal provision for an additional year. In the first year, the contracts have an aggregate value in excess of $500,000, which, with renewal, will amount to more than $1 million over two years. Under these agreements, Birman & Associates will be implementing its Quality Management Program, which seeks to enhance patient care at hospitals and healthcare facilities. ■

BRIEFLY NOTED

• **Prudential Insurance Co. of America** (Newark, NJ) will offer long term care insurance that includes a monthly home care benefit. The company has received regulatory approval to sell the product, Prudential Long-term Care Insurance, in 29 states, reported *Dow Jones News Service*. The company is marketing the product in Florida, Ohio, Illinois, Connecticut, Missouri, Arizona, and Rhode Island. It plans to offer the product in eight more states by the end of April and across the country over the next eight months.

• *The Healthcare Companion*, a publication which describes the treatment and diagnosis of 88 conditions and alerts people of the need for home healthcare, is now available through **Milliman & Robertson** (Seattle). The publication addresses when symptoms indicate a need for a doctor, when to go to the emergency room, and when the use of home care might be necessary. Cost is $35. For more information, call (800) 598-2292.

• The **National Home Infusion Association** (NHIA; Alexandria, VA) and **B. Braun/McGaw** (Bethlehem, PA) have introduced the first ever university-based Inter-company Operational Benchmarking Project for Infusion Therapy, a new resource for home infusion organizations. The project will provide infusion organizations with critical information that will allow them to manage more efficiently and effectively. Those interested in participating in the project should call NHIA at (703) 549-3740 or Braun/McGaw at (610) 691-5400. ■

Lawsuits

Continued from Page 1

going in as a co-defendant on behalf of home care," explained NAHC attorney Bill Dombi at the recent National Policy Conference in Washington, DC. But Dombi said that it is a necessary step because, if CMA is successful, home health agencies would be forced to deliver care without reimbursement pending the appeal of cases brought by Medicare beneficiaries.

These appeals could last a year or more, said Dombi, and home health agencies can not afford to do that within the current IPS limits, if at all. "I also don't think it is very rational to deal with the issue overall," he added.

NAHC also has several other cases pending that could be decided within weeks. The association is awaiting an imminent decision on the "last surviving" interim payment system (IPS) lawsuit, which is currently before the federal District Court in Washington on cross-motions for summary judgment. In that suit, NAHC argued that HCFA violated the Regulatory Flexibility Act (RFA), which requires the Medicare program and other government agencies to undertake an impact analysis for any law that will have a significant impact on regulated entities, and then choose the path which has the lesser impact. NAHC argued that HCFA was required to consider alternative interpretations to the IPS, which could have had a less adverse impact on home health agencies. HCFA argued those alternatives did not exist because the law did not allow that much discretion in implementing the IPS.

"The 'downside' to this suit," said Dombi, "is that several weeks ago a federal District Court in Texas decided a similar case against home care."

But he added that if NAHC is successful, it has "great opportunity" in other areas, such as OASIS. Dombi said NAHC believes HCFA has the authority to exempt non-Medicare patients from OASIS. "They don't have any need for that data in the near term." He also noted that NAHC is pursuing this issue with the Small Business Administration and the Small Business Committees in both the House and the Senate.

Another case before the court for cross-motions on summary judgment is O'Neil vs. Shalala, which attempts to expand the Medicare benefit to disabled individuals not considered homebound because they leave the home frequently for non-medical purposes. NAHC argued that absent home health services these patients would be completely homebound.

"You can not use a post-qualification service to determine a pre-qualification condition," asserted Dombi. "You can't use the services somebody is seeking reimbursement for to determine they are not eligible for that reimbursement." According to Dombi, there are several million disabled Medicare beneficiaries who could qualify for home health services if NAHC's argument prevails.

Finally, there is NAHC's class action lawsuit, which will be filed within the next few weeks, that challenges the recoupment of overpayments under the IPS. This suit points to a Medicare provision that would wave recoupment of overpayments if the provider of services is without fault in receiving those payments.

"HCFA's position is that the law applies only to overpayments that relate to claims determinations," explained Dombi. "We read the law to say it applies to overpayments regardless of the basis of that overpayment, and a home health agency should be entitled to a determination as to whether they are without fault in receiving the overpayment."

The "classic example," he said, are home health agencies in New England that have yet to be told what their per beneficiary limits are, but who are under IPS and nevertheless receiving recoupment letters.

"It is unfortunate we have to move back in to a litigation mindset, but this is the nature of the times in dealing with the Medicare program," said Dombi. ■

TECH UPDATE

• **qmed** (Laurence Harbor, NJ) reported a net loss of $2.6 million, 26 cents per share, in FY98 ended Nov. 30, compared to a net loss of $2.8 million, 29 cents per share, in FY97. Revenues were $2.04 million in FY98, compared to $2.4 million in FY97. President/CEO Michael Cox said the managed care industry's acceptance of the company's ohms/cad disease management system is not reflected in the results, but that it should appear in 2Q99. "While our cost containment efforts did narrow the loss year-over-year, our emphasis continues to be the building of our business which should be visible in announcements of several new contracts we expect in the next few months." In other news, qmed announced last week that all medical devices either manufactured or distributed by the company have been validated free of date format problems for 2000. Its ohms/cad system was designed to be fully compliant, qmed officials said. In addition, qmed has appointed David Feldman to its board of directors as chairman. Feldman is the director of a number of mutual funds in the **Dreyfus Group** and of **Heitman Financial**. He replaces Howard Waltman, who has been chairman since June 1996.

• **Tenet Healthcare** (Santa Barbara, CA) has decided to outsource the operation of its data network to **Perot Systems** (Dallas), allowing the company to run a centralized shared environment. For instance, it can run its home healthcare program on a central RS/6000. Its individual agencies, even the small sites where it would have been too costly to set up, can access it. "We can repeat that story over and over again," said Tenet CIO Stephen Brown. "We pick a solid, scalable technology and then structure it so it can be offered at a cost-point lower than any individual facility could acquire it for," he told *InfoWorld*.

• **Technology Transfer** (Lafayette, IN) has already sold 400 of its new, pocket-sized heart monitors, called the Personal Arrhythmia Monitor (PAM). Home health companies like PAM because patients don't have to go to the hospital. Instead, nurses can pass printouts to doctors, reported the Indianapolis Star. The monitor can be used to track how drugs affect the heart. It is essentially a one-pound electrocardiogram machine.

• **AutoData Systems** (Minneapolis, MN), a division of **Electro-Sensors** and **3M Home Health Systems** (Elmhurst, IL), have formed a partnership to provide automated data collection solutions for home care agencies. 3M will sell scanning solutions created by AutoData. The solutions allow home care agencies to meet regulatory requirements. 3M will also integrate the software into its Datacron Home Care Management System software. It will give agencies the ability to someday have fully automated patient data entry. ■

CORPORATE LADDER

• Craig Newbold has returned from retirement to serve as president of **Personnel Group of America**'s (PGA; Charlotte, NC) **BEST Consulting** unit. Newbold, co-founder of the unit, previously served as its president

• The **Sisters of Mercy Health System** (St. Louis, MO) will, for the first time, give lay leaders control of day-to-day operations. Sister Mary Roch Rocklage will step down as president/CEO on July 1 and will continue as board chairwoman. Ronald Ashworth will take her place as president/CEO. He has worked as the health system's executive vice president/COO since 1991. Carrol Aulbaugh, the system's CFO, will succeed Ashworth as COO. Both Ashworth and Aulbaugh have significant experience in Catholic healthcare. ■

Spin off

Continued from Page 1

Staff Builders share owned as of a certain date, which hasn't yet been determined, the shareholder will receive one share of TLC, Clift said. Staff Builders expects to complete the spin off at the end of 1Q99 or early in 2Q99. The company's supplemental staffing business will remain with Staff Builders. The completion of the spin off is subject to Staff Builders obtaining certain regulatory approvals and separate bank financing for both Staff Builders and Tender Loving Care.

Clift said the split will not change day-to-day operations of the company, since "it is run pretty much separately now." There will be two management teams, he said, except for Chairman/CEO Stephen Savitsky, who, after the spin off, will become chairman/CEO of both companies. Clift will be president/COO/CFO of TLC, and David Savitsky will be president/COO of Staff Builders.

Following the spin off, Staff Builders said, it expects Tender Loving Care's stock to list on the over-the-counter bulletin board. Staff Builders' stock was delisted from Nasdaq's National Market in late January, and it has since been trading on the bulletin board. ■

CBO

Continued from Page 1

changes in the Medicare home health benefit are limiting access to home health services and penalizing efficient, low-cost providers.

The two resolutions must be reconciled in a joint House-Senate Conference Committee, and home care's battle is far from over. But it is a good sign that these measures were likely boosted by the latest **Congressional Budget Office** (CBO; Washington) projection that IPS will strip $47 billion from the Medicare home health benefit between 1998 and 2002. When the Balanced Budget Act of 1997 was being debated, CBO projected only a $16.1 billion reduction over this period. ■