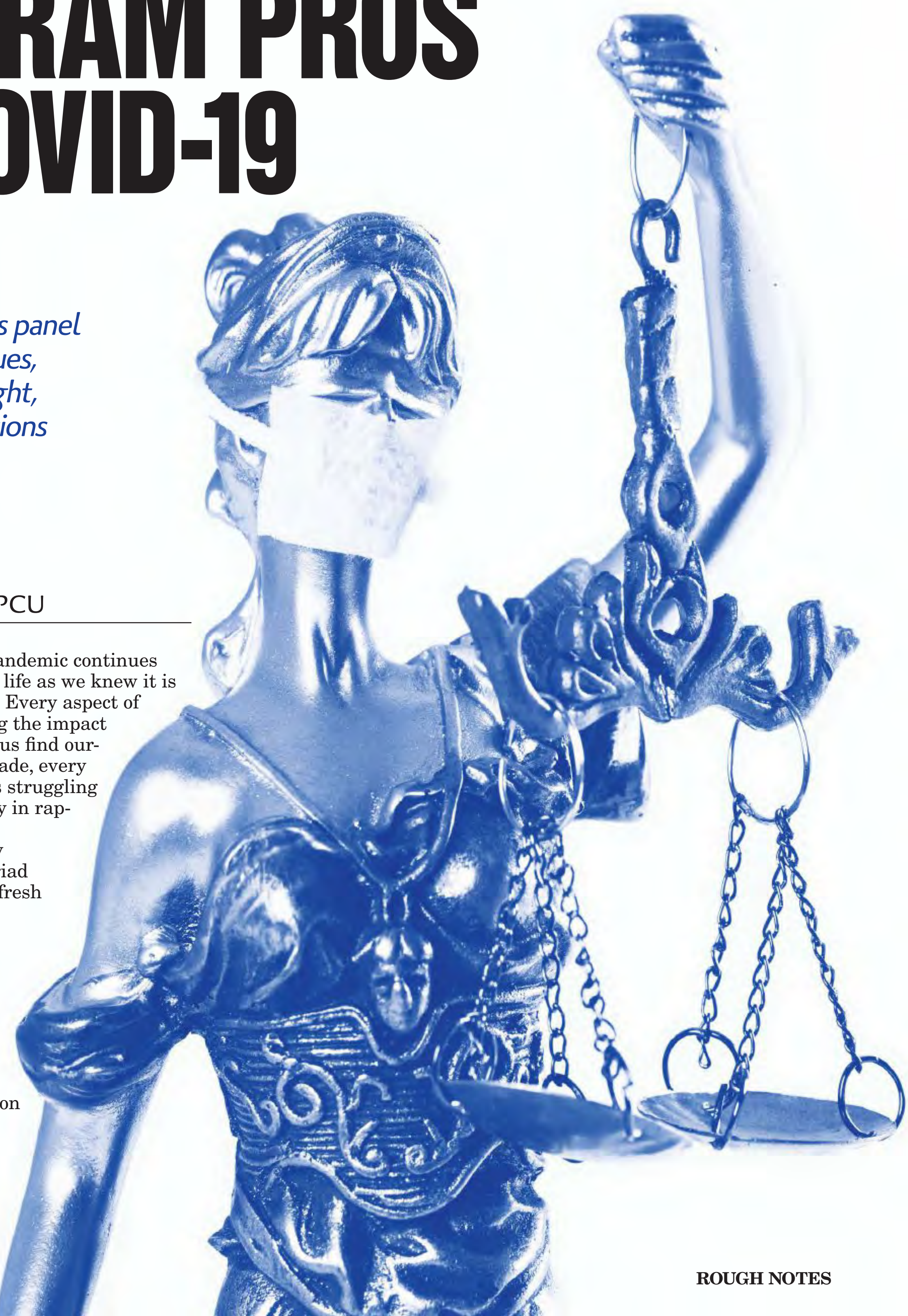
OUTBREAK: PROGRAM PROS ON COVID-19

Target Markets panel tackles issues, shares insight, offers solutions



By Elisabeth Boone, CPCU

As the COVID-19 pandemic continues its deadly march, life as we knew it is becoming a distant memory. Every aspect of our existence is experiencing the impact of a crisis for which most of us find ourselves ill prepared. Every trade, every profession, every industry is struggling to find a measure of stability in rapidly shifting sands.

Like others, our industry confronts challenges on myriad fronts, and each day brings fresh concerns.

Early last month, the Target Markets Program Administrators Association (TMPAA) held a town hall webinar titled "COVID-19 Issues, Impacts, and Solutions." Panelists discussed everything from grace periods and cancellation moratoriums to business income exposures, workers comp and more. Following are edited excerpts from the wide-ranging discussion.

Grace periods, moratoriums, and more

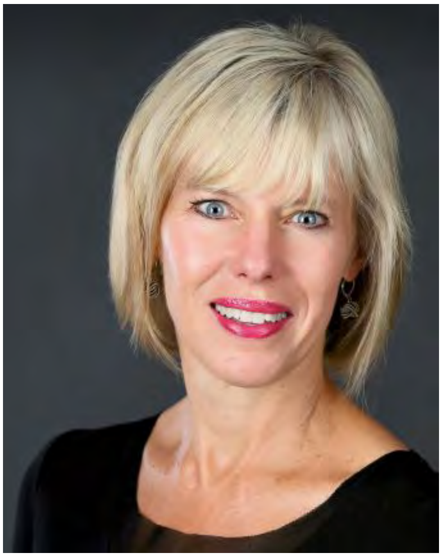
Discussing issues related to client business changes, panelist Heidi Strommen, president of restaurant insurance provider ProHost USA, a division of Distinguished Programs, said, "[T]he overarching issue we need to recognize is the heightened credit risk we're facing during this crisis. … [M]any of the businesses we insure are experiencing cash flow issues that range from mild to severe. It's unclear when the situation will improve, which compounds the problem. …

"We're trying to figure out the best way to minimize the risk and share in it equitably. We want to be good corporate citizens during this crisis," she added.

The challenge of keeping up with disparate and changing state regulations designed to control the virus's spread is real. "The more states you do business in, the more regulations you're trying to monitor," Strommen said, adding that "being up to date today doesn't mean you'll be up to date tomorrow."

Her advice: Ask how to plug into carrier partner resources to stay up to date. "That's especially important if you don't have your own compliance department," she said. Second, work with carrier partners to develop a strategy relative to cancellation notices and payment grace periods that meet guidelines or mandates for most states where you do business. "And agree to follow that strategy voluntarily—even in states [with] lesser requirements," she added.

Finally, negotiate terms of your payments to your carriers so that your terms are aligned with that compliance strategy. Strommen said one approach used after Superstorm Sandy was to have program administrators continue to submit monthly bordereaux (a report that provides premium or loss data with respect to a specific risk) but to remit only collected premium for a period of time.



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—Heidi Strommen
President
ProHost USA

Panel moderator Chris Pesce, TMPAA president and national director of One80 Intermediaries, observed that "cancellation notices are being postponed [during the pandemic], but that doesn't mean the premiums are being forgiven. When all the state regulations are lifted, who is going to bear the burden of collecting the premiums? What about the earned premium? Is the insurers' expectation that this is an accruing balance? Fast forward 60 days; if all of these accrued balances come due at the same time, the collection effort is going to be tremendous."

Panelist David Jordan, president and CEO of Breckenridge Insurance Group, offered ideas to minimize collection exposures. A first step, he said, is to review agreements with carrier partners, specifically portions dealing with account current and collections, and fiduciary responsibility for earned premiums. "That should give you a thorough understanding of what your obligations are," he said.

Second, don't wait. "If you're going to be negotiating modifications … it's best to start the conversation now, before the next account current comes due," he said, stressing the importance of getting results of such negotiations in writing, "whether they are specific to your firm or more broadly applied by the carrier to all firms."

Third is to take a hard look at the potential impact that will be on your finance and accounting staff. "You have to assume there's going to be a significant increase in disputed items, delinquent items, items that have to go to collection, and items that you'll have to notify your carrier about," Jordan said. "How is your staff going to handle this?"

He said to consider training and technology issues, and recommended

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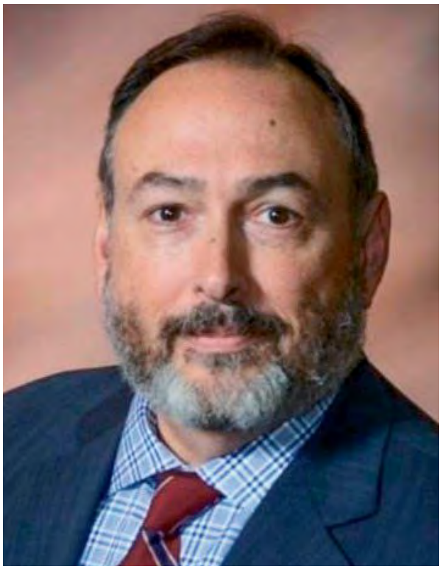
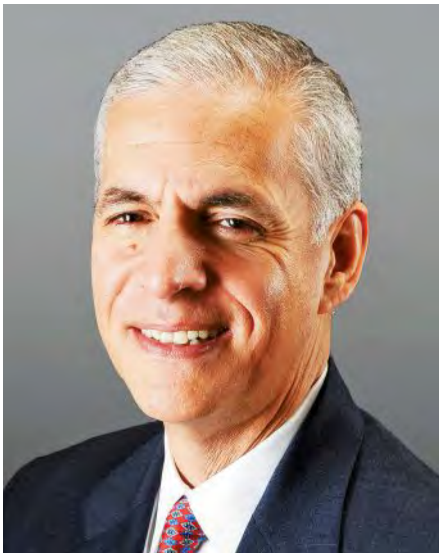
—David Jordan
President & CEO
Breckenridge Insurance Group





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—John Colis
President & CEO
Euclid Insurance Services

having "a robust and ongoing dialogue with your internal collections staff, externally with third-party collection firms, and with the carrier." Each must be prepared to handle an increased workload, given that the pandemic could be an ongoing problem for some time.

Jordan encouraged program administrators to be proactive. "Go through your account listing and your accounts current for 90 to 120 days and identify large transactions—maybe $50,000 of premium due to the carrier," he advised. "Take that list and go to the retail agent to get a read on what's happening with the insureds' operations. Are they still open? What's their cash flow? What's the likelihood that the premium is going to be paid?"

He said that carriers would appreciate having this information earlier rather than later, "and it may help you in your discussions with them about modification of payment terms, increased use of collection services, and potentially having the carrier step into your shoes from a collection standpoint."

The two key points to remember, Jordan declared, are: "Document, document, document, and keep the lines of communication open with your carriers. Now is not the time to be assuming anything."

Responding to an audience question about whether program administrators would be on the hook for uncollected premiums during the pandemic, Pesce said, "Absent any agreement to the contrary, the answer is yes—and subsequently the retailers with whom they have agreements will be on the hook. This is the challenge in letting these unpaid balances accrue."

John Colis, president and CEO of Euclid Insurance Services, said part of the risk that program administrators have is because "retail brokers, particularly smaller ones, will be caught in a very difficult situation and will be reluctant to cancel clients they've had for five, ten, or fifteen years—many of whom are good friends. PAs need to keep a focused eye on the solvency of their brokers because if the insured pays the broker and the broker doesn't pay us, we can't cancel the insured and we're on the hook to the carrier."

Jordan agreed, adding, "Often retail agents have streamlined producer agreements on their brokerage business that require them to pay only the cash they've collected. They may not understand the additional burden on program administrators, which is typically to pay the premiums that have been booked and billed, regardless of whether they've been collected."

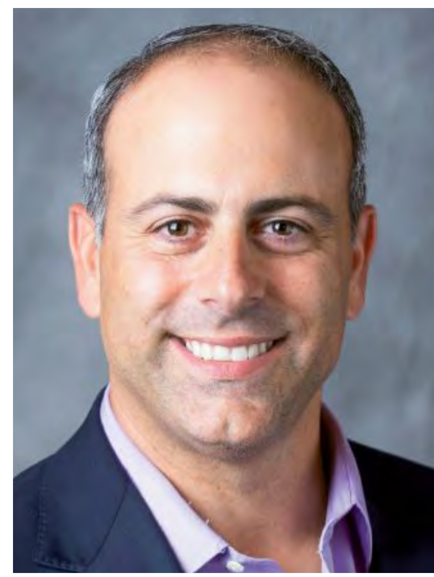
Business income exposures

The topic of legislative intervention made the panel agenda. "We're hearing a lot from state legislators about draft bills that would create coverage for business income losses that result from the COVID-19 disruption," Pesce said. "These bills basically come in three different flavors." First, some legislators want to pass laws requiring insurers to cover business income losses related to the coronavirus, regardless of policy wording.

Second, some lawmakers won't throw out policy wording but are crafting language to help promote coverage. "An example would be that they deem a virus in the workplace to be considered property damage, thus creating a path for coverage under most policies," Pesce explained.

Third, he noted, are states like Massachusetts that want carriers to pay business income losses resulting from the disruption and seek state reimbursement for losses paid.

Asked about the likelihood of any of these becoming law, Paul White, a partner at law firm Wilson Elser, said, "In some ways we're in brand new territory. There have been instances in the past where state legislators have been able to enact laws to aid citizens in times of crisis. In this instance, however, the three [proposals] … do more than that. They seek to actually change the terms of the insurance contract."



"Some insureds will allege that their agent never offered them pandemic insurance; they'll say: 'If I'd known it was available, I would have bought it.' I think this is a line of litigation that we'll likely see."

—Chris Pesce
National Director
One80 Intermediaries