Abraham Lincoln wrote a review: “People who like this sort of thing will find this is the sort of thing they like.”

An apt appraisal of our annual attempt at amusement and abridgement, analyzing all it meant.

Jordan’s Journal adjourns our recent trials, and sojourns to nascent trails for the “benefits” of our clients.

Attached you will find:

We hope your enjoy this year’s edition, and will pass it on to others inside and outside your organization who may share your love of detail, both obscure and relevant.

JORDAN'S JOURNAL 2002

Casey Stengel said "they say you can't do it but sometimes it doesn't always work" So I found myself suspended between the twin towers of tragedy and comedy, analyzing a year when the impossible happened and the possible eluded attainment. Thus juxtaposed, I no longer supposed I could support a report as it was usually composed. Reviewing notes of last year's reviews, I was given cause to pause:

> "Thank you for sending your newsletter. I'll waste no time in reading it"
> "To call your poetry doggerel is an insult to the canine world"
> "Keep it short, keep it simple, or just keep it"

This last shamed me into shaving with Occam's Razor, administering his principle of parsimony in pursuing Churchill's prime ministration – "out of intense complexities intense simplicities emerge" Simply put, then, we're in trouble. Harboring pearls of preparedness wisdom, we were still surprised by air, air mail and arrogance. This convergence of calamities bears witness to the end of the bull market, other markets being cowed and marketing challenges for business – and the consumer:

1) Baby boomers may bust the bank with Social Insecurity and MediScare
2) When people can retire is not entirely clear as pension plans plummet
3) Insurance hikes trample business as profits and property become a casualty
4) Premiums rise but jobs fall as Workers get less but file for more Compensation
5) Health care improves but proves there's no easy prescription for insurance inflation

Call them the Pentagonal Perils of Pauline. That complex was simply attacked, so we take a simple tack to the task at hand and nail down its complexities. Our main themes are:

Conflict: *Opposites attract attention*
Each political, economic or legislative broadside has a downside as every stakeholder drove a stake into the other's position

Revolution *What goes around comes around*
Every move we made to break from the past held us fast moving toward the beginning of the end

Despite the many permutations, these themes find constant penetration
It's a matter of when, who, what and how
This year's Odyssey just got worse, we'll construct it chapter with verse
It was good then but Apocalypse Now

Entia non sunt multiplicanda praeter necessitatem – William of Occam

(Keep it Simple)

EXECUTIVE SUMMARY

A lot didn't happen

The federal government failed to enact much of what was promised or held promise at the beginning of the year:

1) Medicare Reform
2) Patient Bill of Rights
3) Medical Purchasing Pools
4) Prescription Drug Distribution

The state government failed to fund what they had passed and passed on the opportunity to do more:

1) Healthy Families stabilizes but does not improve
2) State intentions of health care intervention don't merit a mention
3) Privacy is publicly debated
4) Drug discounts save seniors – at what cost?

San Francisco ordained that organizations of 25 (for profit) or 50 (non profit) employees to provide health care meeting prescribed (read: HMO) standards or going into a municipal pool

There are fewer choices of carriers and carriers offer fewer choices
The intended dot.com/health care revolution was mostly "spin"
Plan designs didn't change much but will
Employers didn't want to change but must

Health care costs rise without abandon and managed care is being abandoned, as are many patients with the failure of IPAs and medical groups and doctor departures

Federal legislation is suspended by:

1) State intervention on key issues (patient rights, drug policy)
2) Judicial interpretation (managed care liability)
3) Market intermediation (changing policy and policies before mandated)

A lot will happen (issues can be evaded but not avoided)

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HISTORY

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise to the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves and thus we shall save our country" (Abraham Lincoln's Second Inaugural Address)

Bush the Elder's Afghan ally is Pitted against the Younger's cry
That our nation will never rest until we flush him from his nest
We've been laden with Bin Laden as prayers are made to God in
The hope that of necessity we'll emerge from this insanity
In a world turned inside out we begin to nurse some doubt
That our senses are operational, when what we've witnessed is sensational
Rudy does his duty and is a hero at Ground Zero
From no political career to Time's Man of the Year
New York's ashes produced hankies, we supported those Damn Yankees
Once the team a nation hated the dream finished Phoenix fated
Though his election cast a pall, George Bush holds us all in thrall
No questions raised rhetorical, he makes a speech historical

And thus we beat on, boats against the current, borne ceaselessly into the past
(F. Scott Fitzgerald)

The question and the quest remain the same, but the answer and the means are so much different. The disastrous dimensions of attack early brought out what Lincoln called "the better angels of our nature" but our true nature naturally returned in matters monetary and political. Economic costs multiplied but solutions divided parties and business. Congressional carping subsided, but neither side sided with the other on subsidies and subsidiary issues. Fears of government intervention may be no invention and individual rights may not be accorded only the right individuals. So what are we fleeing from and what are we fighting for? Before we even even it, it may help to know the score.

First Period – Shock Wave

The stock market suffered its worst week since the Depression, losing $1.2 trillion of value after September 11. Presidential policies shifted as an administration agenda dedicated to domestic reform geared up for war. A declaration evoked defensible declinations from insurers who examined exclusions and expected to deny disaster by claiming "it isn't covered"

Second Period – Wave of Fear

Bush retracts but does not retreat but does not retreat as we can't suffer defeat from an enemy that may be there or may be here, when flu like symptoms won't disappear. Terrorism's tally gives us a peek at insurer's value valley:

1) Overall loss estimates began at $10 billion but have climbed to over $70 billion

2) The scope of the loss cuts across several sectors:

   a) Expected: property, liability, aviation
   b) Not as bad as expected: life insurance, medical
   c) More than expected: Workers Compensation losses may add 4 to 9 cents to every premium dollar
   d) Unexpected: the magnitude of loss in Business Interruption, event and trip cancellation, and the total claims filed for fine art loss

3) Carriers can weather the effects, but whether they have enough for natural weather and other disasters is in doubt…

Third Period – Tidal Wave

Doubt's definition, in insurance terms, means:

1) Higher premiums

   a) Directly to continue the policies that exist
   b) Indirectly as units with heavy losses support others less affected

2) Rate volatility

   a) Carriers can't even figure their total losses yet
   b) Risk remands rapidly to reinsurers, with demands of their own

3) Reserve stability

   a) Much of what was paid came from what had been saved previously
   b) New money must be stashed in case the industry crashed – again
   c) More risks perceived requires more money received – the new reality is that previously determined funding levels are inadequate

4) Market Definition

   a) Exits expose more industries to less protection
   b) Less inclusion is accompanied by more exclusions
   c) Lower limits and higher deductibles

5) Even when carriers recoup losses and build reserves to adequate levels
   Even when carriers show potential or sustained profitability
   The tendency of the market is to continue in crisis mode long after the need for a response is necessitated – so higher premiums will be charged too long

Fourth Quarter – Wavering

Bipartisanship is brief and no Congressional relief is forthcoming, as ongoing issues are downgraded from affordable to advisable, since the government is unable to find funding to simply do what is required. A deficit is projected just to meet the new needs.

1) Flight risk causes airlines to seek refuge but they claim inadequate protection
2) Planes grounded and damaged ground business seek grounds for similar safety
3) What is the cost of the President's precedent and how much will go toward reparation and preparation:

    a) Risk pools were not created
    b) Bioterror bill continues to be debated
    c) Claims for other damages were negated
    d) Federal failure means state risk remains unabated
    e) Economic stimulus may not be resuscitated
    (it includes extended unemployment and COBRA rate relief)

There Goes the Ballgame

What does all this mean, and are there hidden meanings? Rumors are rampant that the results of September 11 are just the beginning. That anthrax was related, that international cabals extend beyond Kabul, and that we are just late to a war that began without our permission and surpasses our understanding. The Irish standoff is tenuous, Russia is our ally in the midst of another major change and the Mideast seems ready to explode at any moment. All of which will touch us, despite our preference for isolation and a distorted desire to return to the peace and quiet of stock market mania, Internet insurrections and a never ending election

1) Bioterror

    a) Uncertainty, paranoia and fear increase public and private sector security costs
    b) The health care industry, state and local governments, must all prepare for potential system demands. Existing systems are dangerously inadequate and the measures needed are drastic and expensive – and not in any budget

2) Holy Terror

    a) The cost of war diverts financial resources from domestic projects
    b) The waging of war diverts political resources from domestic projects
    c) See "bioterror"

3) Government

   a) Officially beginning in March, it marched unseen and then raced ahead when the Net bubble burst and the attacks created more uncertainty

   b) Insurance industry problems will create a drag on the economy, given what they spend in the stock and other markets, and the effect of higher premiums on business cash flow and balance sheets

4) Government

   a) Why bail out one industry and not another?

   b) How do you bail out an entire economy when fighting a war

   c) We elected a President running on a domestic platform – what changes occur, and how well does his strategically placed team, work in an environment like this? We've already seen some Cabinet members propelled forward and others rapidly recede in the background, when roles should be reversed

   d) The party ostensibly for small government must now preside over policies ascribed to big government: supporting industry financially, shifting from reliance on global to domestic oil., extending benefits for displaced workers, mobilizing the armed forces and increasing defense spending. How does the philosophy reconcile with reality, and what will that ultimately mean?

But we won't find ultimate meaning here, or in the near future, and as the events of the recent past confound comprehension. What we know, and what we believe, where we go and how we grieve, all defy description, but one inscription, written in a letter to a friend, helps to clarify it to some degree:

> Only nature has a right to grieve perpetually. For she only is innocent. Soon the ice will melt and the blackbirds will sing along the river, as pleasantly as ever. The same everlasting serenity will appear in the face of God, and we will not be sorrowful if He is not   (Henry David Thoreau)

POLITICAL SCIENCE

Politicians are the same all over - they promise to build a bridge when there is no river
(Nikita Kruschev)

It's no exaggeration to say that the undecideds could go one way or another
(George Bush)

Willard: I just follow the footsteps one at a time, trying to answer the little questions
and staying away from the big ones (Apocalypse Now)

Mark's Riches beg pardon but Harlem's hearts harden
Not cottoning to Bill Clinton's coming
He paid the price for his gifts, he and Hillary switch shifts
She'll make capitol of his second slumming

George's son shines in Florida, Bush is back in the house with a Dubya
Time to take some ballot initiative
Now all the world's a stage and Democrat players he'll engage
If a Republican take what he'll give

Domestic reform is on hold though that's what the President sold
But how can voters tell him when he fails?
As there's some consternation about communication
Since everyone's afraid to use the mails?

The governor has no control, as blackouts are now on a roll
Current events spark statewide debate
His budget balancing act lacks political tact
A fall from this high wire fuels his fate

This tunnel's end has no light, our state's dazed into night
Gray darkens our towns without pity
It's true he's no charmer but he's getting no warmer
What's missing is electricity

San Francisco propositions make business elect new positions
Unchained they whip right across the Bay
Though his power is in doubt it's too soon to count Brown out
Willie or won't he get jobs back his way

With Bozo the Clown off the air and political potshots prohibited, we've exhibited a dangerous tendency to take things too seriously. But seriously, the pressure to put a lid on long range concerns concerns us. Terrorism is a devastating distraction and mid year elections could herald rancor's return when party leadership counts returns more valuable than bipartisanship. So we wander from misanthropic meandering to political pandering. Bush's edge is more in his voice than the body politic. States aren't stationary and the judiciary is jumping on the legislative bandwagon, leaving the President to still take a stand while Congress is at a standstill.

FEDERAL

Jeffords bailed so Republicans failed to hold the Senate. On a hopeful note, new Majority Leader Tom Daschle said "let us agree that we will work together to write a new chapter of progress for the American people." Proving that Congress is the opposite, or that they can't read very far along, they didn't:

1) Bush's first act is to deactivate a last minute healthy flurry of Bill's bills and health care regulations

2) The new team ingredients included political expedients so the Administration could unify it's own party – why else appoint John Ashcroft, who won't be soft on crime but is hard on liberty as well.

3) Bush lost his head and the surplus was dead just after his arrival. His economic team also ran out of steam early, but formed a definite impression when the tax ax they wielded yielded as much effect as a tack hammer

   <u>EGTRRA</u>

   Where there's a will there's a way. The estate tax repeal is repealed in 2011, so dying in this decade is to your benefit. If you have the misfortune to die later, the current exemption will be higher. The new pension and credit levels may also allow more comfort if you survive, if not to your survivors:

   1) Incremental deferral increase
   2) Incremental increase in the allowed income base
   3) Adds the Roth 401k in 2006
   4) Profit sharing contribution raised from 15% maximum to 25%
   5) Roth IRA and IRA limits raised from $2,000 to $3,000 and later over $5,000
   6) Education IRA amount raised from $500 to $2,000
   7) Child care credit raised from $500 to $600
   8) Day care credit from $2,400 to $3,000 and percentage maximum to 35%
   9) Adoption credit raised from $5,000 to $10,000

   Repeal may succumb to appeals to get the money back unless the White House can re-form their reform.

4) The President promised to give us back our money and simultaneously restore our rights. The only thing that passed was time, though in times past we didn't see McCain patiently allied with Kennedy on such reforms

<u>Patient Bill of Rights</u>

The battle behind the scenes has enough action and drama for next week's West Wing, but with the seeds of debate sown for spring, here's where things fall:

Common Principles:

The right to full external review
Shielding providers from direct liability for indirect involvement
Unfettered access to emergency room, pediatricians and OB/GYNs
Continuity of care when providers or carriers change contracts
No "gag" provisions on providers advocating patient care

Common Principals:

McCain, Edwards and Kennedy in the Senate
Ganske and Dingell in the House
With an assist from Frist, a throw from Breaux and Norwood did what he could

House and Senate hesitation
It's not a question of "if" but "when"
It's less a question of "when" than "where"
It's still a question of "who" and "how much"

The debating points are so meticulous they border on the ridiculous:

a) Should civil suits be tried in federal court when normally they are not
b) Should medical judgements be stated in state court, which limits not
c) What is the extent of employer extenuation
d) Definition of negligence is a true "article" of contention

   The Senate says it is A proximate cause of injury or death
   The House says it is THE proximate cause of injury or death

e) Compromise is comprised of definite limits on class definition, location and amounts but both bills face Presidential veto if they continue to hold <u>employers</u> liable for damages

State Legislation and Judicial Dispensation:

Ten states now have laws providing individuals the means to sue health plans State courts are ruling in many local and regional disputes over managed care liability, writing the law in the process. Many of these disputes cite varying areas of law, which would not be adequately addressed in the federal bills, which may may ultimately be in conflict with decisions being made by the US Supreme Court

5) Health care is not just paid in the private sector -- The President promised to reform Medicare as well. Of course, Congress went off course in hopes they could do it perfectly not partially, and so the camps divide among a multiplicity of measures. In frustration, new DHS Secretary Thompson asked "if not this year, with something everyone wants to pass, when will it be?" Not this year. How and how much to spend, where to spend it and will that cover the costs, are all debated, exacerbated by the markets march down an actuarial path:

   a) Bush proposal: Spend $153 billion over 10 years. The Congressional Budget Office immediately said the amount was insufficient to offset coming catastrophe, or providing enough catastrophic coverage to meet anyone's individual needs (in short, it is like the administration's tax cut)

   b) Breaux-Frist (first spurned by Clinton) Spend $163 billion and add a premium of $38.20 per Medicare member per month. Also replaces government control with a "Competitive Medicare Agency" to run it.

   c) Graham Chafee: $318 billion and adds a premium of $52.80 per month
   d) Thomas (House Ways and Means): $158.6 billion with $35-40 premium
   e) Senate Democrats: $245.8 billion with premium of $40
   f) Baucus (Senate Finance): $318 billion
   g) "Lock in" bills allow Medicare to convert to managed care (HMO)

   Different amounts, different charges, and some believe managed care can help spread the risk. There is some dissension, as some pay attention to the fact that carriers are cutting their involvement in the Medicare Risk (HMO) market: 400,000 dropped this year, 900,000 last year. Medicare+Choice, which changes even while championed has reduced choice, has created uncertainty and fostered inequity entering markets facing saturation – and now evaporation (leaving California Congressman Pete Stark to starkly remark: "there is no evidence Medicare has done anything to help Medicare -- why we keep looking at managed care as a solution eludes me")

   The only meaningful change made to Medicare this year was a new name for the Health Care Finance Administration (HCFA) It is now the Centers for Medicare and Medicaid Services Administration (CMS) – the cost of conversion and naming the agency was not disclosed.

6) Economic Stimulus: spring forward, fall back, times change post attack

Following the great tax giveaway and the sudden surplus takeaway, the Administration disclosed a recession. Stimulating discussion ensued on ways to revive the economy and let the newly disenfranchised survive. Some parts build on EGTRRA, some add something extra, and some will have grown cold by the time the weather warms:

a) Increase the number and amount of tax deductions
b) Expand MSA provisions and make it permanent
c) Allows $3 billion for health insurance for the unemployed, $16 billion to expand unemployment and $14.3 billion in cash directly to those affected
d) The President wants to shift money found for Children's Health during the last Administration to their parents

The bill only passed the House by 2 votes and Senate stalling may bring the President calling to keep hope from falling this spring

7) Bioterror

The traditional governmental role of protection, safety and structure was put to the test but it failed to pass legislation. Congress dithered because bills differed and we stay scared while left unprepared. We do know the total cost will be $3 to $4 billion and pay for:

a) Food safety measures
b) Hospital preparedness
c) State grants (about $1 billion)
d) Drug stockpile (anthrax/smallpox vaccines)
e) Public Health lab network
f) CDC bioterror capacity

8) Wait'll Next Year

While some made much, no one would touch lingering legislative issues. Lacking sponsorship, support or strength to command general attention, programs previously proposed posed no possibility of passage:

a) Long Term Care: tax deductibility is as far as this was taken, though this may help the private market to provide support over the long term

b) Medical Savings Accounts: Noble experiment or ignoble means to further foster financial differences, the saturation point is discussed with dry humor as the current rumor is only 10% of the allowed amount has been surmounted.

c) Health Associations/Health Marts: seen as a way to let small groups hold sway and rival the purchasing power of large organizations. The sum may be less than the whole of its parts, as they are already part of pools provided by large health plans. This proposal possesses less than a sliver of hope to help companies cope with costs – "gilt by association" won't be built

d) Mental Health: was in short supply but parity rules were extended beyond the horizon of September's sunset provision. Ccomprehensive rules introduced were never formally addressed, so full parity remains a rarity but will return

Terror takes its toll as power shifts control and the President's final role in 2002:

1) Who is running the Treasury? Robert Rubin returns unofficially and appointed officials are rarely seen

2) Greenspans over several rate cuts but budget bleeds red despite the Fed

3) Armey retreated and Tom is seated with little DeLay

4) The appointed may flee and the anointed see defections in the wake of mid year elections

STATE

Something will have to be right here when nothing's left. Political ideology has led to practical idiocy as we sold our future just to make a present of deregulations passed. Gridlock was picked as a means to manage competition, when the transfer of power went haywire and now we're forced to pay for what we paid for before and then more. Politicians proposed to impose their vision of a market without foresight, and even hindsight may not see us through. The outages caused outrage but we never gauged the full fallout from a lack of reactors. Money was in as short supply as power, causing definite budget deficits, rolling to back out many social programs off the front burner.

Alternate current events rival what DC faces, and now states switch places over which will be the bearer of the bill for bioterror. This state isn't prepared to state its state of preparedness, but only because it cannot measure the magnitude.

There was a power outage at a department store this summer. Twenty people were trapped on the escalator.

California's legislature acted as quietly as those hearing that joke, at least in the benefits department.   Early attempts to further encroach on the private sector's approach were discouraged, diluted or defeated

1) Senior Moments

    a) Allow the use of "any willing provider" to be seen under managed care
    b) Tax credit for prescription drug use

2) Unhealthy Expectations

    a) Cal Health: combine Medicaid and "Healthy Families" into one unit
    b) "Healthy Californians" expands "Healthy Families" clientele
    c) "Parental Permission" – Healthy Families covers eligible parents

3) Relations Cessation

    a) Several bills mandated "continuity of care" when providers terminate
    b) Requires the new Department of Managed Health Care to intervene in provider terminations (mediation, etc)

4) MSA Free for All: won't amount to much without federal aid and such

Final budget cuts finished fostered hopes of these and other pieces, but Jackie Speiered two and others got some too:

1) Health plans must pay all expenses related to cancer trials
2) Those on Medicare may use Medi-Cal's state discount for prescription drugs
3) When the FDA approves an AIDS vaccine, health plans must pay for it
4) Children's Health Initiative Matching Fund: Federal funds directed to agencies for children's health coverage with qualifying financial position not qualified for Medi-Cal or Healthy Families

What we fail to pass, of course, we pass to the ballot, where a simple majority (some simpler than others) of a small percentage of voters (some smaller minded than others) can cause California's officials to be beneficial to a simple minority (some more minor than others), unleashing complex effects on those who didn't even take the initiative to consider the measure initially. Little has been posited, but among those deposited next November will be Workers Compensation increases. If spring scenarios fail to blossom we may see more, which will raise the score needed to succeed in the business climate.

We may have done little here, but that does not belittle the efforts of other states to pick up the slack left by the DC Beltway:

1) Two more states now permit lawsuits against managed care plans (total 10)
2) Two more states passed a Patient Bill of Rights
3) New Jersey authorized the creation of an insurance pool
4) Maine permits Domestic Partner rights
5) New York allows uninsured companies to purchase a plan free of mandates
6) Louisiana requires an audit of mandated benefits to verify cost and efficiency

The attempts to cap drug cost, or at least effect savings, continue to preoccupy both Federal and State legislators. Three states, including California, passed new laws to reduce rates this year, but such reforms fail to fix drug difficulties. By shifting discounts to one part of the population, what does the retailer or manufacturer do with the others (and the plan that foots the bill):

1) Price controls: California, Florida and Oregon do this for Medicaid
2) Medicaid rebates apply to other sales: Vermont
3) Medicare patients get Medicare rates: California and Washington
4) Discount with select populations: Maine and Missouri
5) Supplemental Medicaid rebate: Florida
6) Multi State Pooling: the biggest trend of the moment:

    a) Maine, Vermont and New Hampshire have one pool
    b) West Virginia
    c) Legislators in Eastern states, including New York and Pennsylvania, are forming a coalition with the goal of reducing drug costs by 40% for most of their residents

Regrettably, not all states acted responsibly, as the National Council of State Legislators found that 63% of the tobacco settlement money paid so far has gone up in smoke. Purportedly paying for prevention or health, much has barreled along to process local pork projects.

San Francisco

I went to San Francisco. I found someone's heart   (Steven Wright)

Maybe worn on the City's sleeve, as no supervisory advisory was issued before the board took issue with the problem of the uninsured. Organizations doing business with the city (20 employees if for profit, 50 employees if non profit), must provide health coverage to their employees BUT it must meet certain standards (which look a lot like an HMO) OR the employer contributes $60 per week per employee to a commonly managed pool administered by the city.

On a similar front, San Francisco also added a provision to their own health plans requiring payment of up to $50,000 for transgender surgery (after on plan 1 year)

JUDICIAL

The REPAIR team repaired to the back pages, but we won't soon despair for lack of managed care liability suits, but consider which court is better suited to judge the parade of litigation regulations run riot while the quest goes quiet for ground-breaking interpretations. Below is a smattering of those issues mattering:

HIPAA

Employer privacy protection rules take effect between 4/14/03 and 4/14/04. Simplified, the rules publicize privacy, providing employees the right to request:

1) Nondisclosure of health information
2) Alternate forms of communication of such data
3) Access to medical records and the ability to make amendments
4) Accounting

Essentially, employers must create procedures for gathering, keeping and disseminating employee and family health information in their possession.
Means and methods to access are required as well as the need to appoint a "privacy officer"

Managed Care

24 class action suits were rolled into one in Florida (this was not subject to election) and then were fragmented on legal issues. RICO (racketeering) was rejected, most of ERISAS was erased and the discovery rules the class created were bifurcated. It's not over yet, but you can bet the carriers will carry more of the day than they were previously willing to say. Of course, doctors are staying the course of conflict, as a national class action with 600,000 physicians and 3 state medical associations (including California) has been filed against various carriers for violation of the RICO racketeering statute.

Contraceptives

The issue proves bigger than originally conceived, inspired by Viagra's rise to prominence and Pregnancy Discrimination dominance. The Equal Employment Opportunity Commission (EEOC) issued a directive that a contraceptive should be covered the same as those practices promoting pregnancy. This does not have the effect of law, but courts find flaw with greater frequency with companies' tendency to allow one rule without the other

Flexible Benefit Plans

After years of temporary, proposed and interim regulations and their inter-pretations, the IRS published final rules (and then confirmed in writing that they were final). Other issues don't seem to go away, but now may with new rulings:

1) Health club fees for specific items OK, not membership (LTR 2001-0105)
2) Weight loss expenses OK if obesity considered a disease (2001-0155)
3) Vitamins are not covered
4) Screening for specific risk (e.g. heart disease or stroke) are allowed regardless of type of scope (Private Letter Ruling 200140017)

COBRA

You'd think they'd have figured this out originally, but:

1) A policy cannot be terminated due to a shortfall of premium payment if it is insignificant. Significantly, that is now defined as under $50, or 10% of the total premium due

2) A notice mailed to all COBRA beneficiaries at the same address precludes postage needs – but the notices must still be separate

3) Gross misconduct finally finds a court case (*Bryant v. Food Lion)*. The court affirmed Food Lion's decision to decline a COBRA offer to an employee who violated one of 8 published rules of conduct, for which violation was clearly shown to be discharge

Claims

Rules were issued to speed claims payment or subject the plan or employer to penalties. These have been pushed back to January 1, 2003

Marijuana

The "Supremes" presiding, deciding the Controlled Substances Act will prevail and we still can't inhale ("marijuana has no medical benefits worth an exception") thus effectively killing cannabis clubs

MATHEMATICS

For every complex problem there is a simple solution – and it is always wrong
(H.L. Mencken)

About the time we think we can make ends meet someone moves the ends
(Herbert Hoover)

Willard: He was right, the Chief: 'never go into the jungle unless you're ready to go all the way (Apocalypse Now)

Tech took flight like Icarus, meltdown waxed them Deadalus
Market makers mark dot-com's demise
While bitter, better them than us, they rock and roll like Sisyphus
The Fed's inclined to decline interest's rise

Pension tension makes things tight, health care costs are out of sight
Depressed about recession we're dragged deeper
Workers take less compensation and there is anticipation
That premium hikes are traveling still steeper

Carrier consolidation caused by terror's devastation
Leads to less choice but there's more to follow
Coming contracting contests protract professional protests
To appeals to wring a profit as too hollow

ECONOMICS

Keynes reigns until the Schumpeter trumpeter makes everyone reach for the Librium to defend against "dynamic disequilibrium" and "creative destruction"
"Stabilized captialism is a contradiction in terms" is the economic mantra

It seems so long ago…now dot-com's messiahs prove pariahs but prove Darwinism works, as they failed to improve the old paradigm (or why did Yahoo have a magazine, or eTrade open a New York retail office?). Years ago, Einstein observed "it has become appallingly obvious that our technology has exceeded our humanity" Perhaps. But the human equation remains a factor, defying reason when there is good reason to know better. M & A won'' go away, some companies can't stay, and we still seek a better way to do business, assuming the market made much ado about nothing. The first order of business is a recap:

1) Yes, profits matter

2) Telecoms got a busy signal (Lucent lost luminescence)

3) 911 (words can’t express it)

4) Enron makes a killing, exploring business besides drilling, but Jeffrey Skilling lacks the skill to fill Ken Lay’s shoes

5) Ripple effects from the wave of uncertainty that hit us economically, politically and personally

6) Insurance losses have several consequences:

    a) Higher premiums increase the cost of doing business
    b) Less free cash to freely spend has a freezing effect
    c) Carriers invest in business like other companies (including Enron)
    d) Insurance companies also handle a lot of pension assets

That’s the segue, as the insurance industry weighs in with weighty issues of its own – and some things won’t change

Consolidation

1) “The Blues” are singing happily as state plans become regional which take over other regions. California’s Wellpoint (Blue Cross) will have more business in other states than here

2) Big Pharma messes with our kharma and mergers continue

3) Weaker carriers won’t survive, allowing larger carriers to thrive with less opposition to charging higher premiums (where do you go?)

4) e-Commerce partnerships with traditional carriers (clicks to bricks)

Abdication

1) e-Commerce partnerships with traditional agencies (who hit the bricks as they stick to larger clients and kick out the smaller)

2) Carriers leaving Medicare HMO without a care (NO) – 400,000 nationally and 180,000 in California

3) Reliance National goes out of business even before 9/11

4) Wellpoint gets the Food and Drug Administration to fast track the movement of Claritin, Allegra and Zyrtec to over the counter drugs (giving the pharmacy industry an allergic reaction and leading to less relief for consumers, who will not only have to pay cash but can’t deduct the expense)

Permutation

1) Prudential, Principal Financial and Phoenix Home Life all went public
2) MetLife started a bank
3) Anthem, which already owns several Blue Cross/Blue Shield plans, issued stock in their company

Desperation

Is the industry really in trouble? Challenges are certainly on the horizon:

1) Threats to the existing framework:

    a) Direct Contracting
    b) Defined Contribution
    c) Public Perception (managed care companies tie with tobacco in polls)
    d) Regulation and legislation

2) Provider pullouts
3) Inflation
4) New unexpected losses

Resuscitation

But they can always rely on old tricks:

1) Wall Street primes the pump because they like cyclical industries, hailing the higher premiums charged and the repurchase of shares

2) Public expectations can be shaped, particularly given the publicity reaped on all fronts (pity the poor carrier?)

Or let's just do it again. Over $2 billion has been invested in new carriers who are unencumbered by recent losses or raids on reserves. With no track record, no financial data, and no business plan except to overthrow the old order, they expect to wage price war offshore. Wait, didn't we hear this before? Except this time it's different. Like Yogi Berra said, you can see a lot just by observing.

ARITHMETIC

It's either enlightening or frightening, to see all the numbers in one place, but even here they don't add up nor point to a simple solution. We can't equate statistics with logistics, though logic may find its place even as inflation continues apace. We'll break down the breakdown categroically:

Medicare

1) Lost $100 million in administrative cost incurred by 10 Medicare+Choice plans because they moved from "fee for service reimbursement" (again, why is Congress viewing Medicare+Choice as our salvation?)

2) Insolvency is still projected, but we have moved it from 2011 to 2029 – but that was before the presence of the surplus' absence

3) Millions spend on ineligible patients: prisoners, fugitives and the deceased (stay, go or die – we don't care)

4) Medicare spending went up 7.6% over fiscal year 2000 and will increase 10% in 2002, without explanation (can I see that bankruptcy slide again?)

5) Failure to account for discounts pharmacies receive from drug makers cost state Medicaid premiums $1 billion in 1999 (as states seek prescriptive remedies by tying reimbursement rates to Medicaid discounts)

6) Would have saved $1.6 billion in 1999 on 24 drugs if it used the VA reimbursement system (they thought they could soldier on without it)

7) The cost of reform? Depends on whom you ask (and who they ask and how)

8) Medicare+Choice pullouts 900,000 nationally in 2000 and 400,000 in 2001

Surplus

1) Figures changed even while the President promoted EGTRRA

2) The new Congressional Budget forecast says there is no available surplus beyond what has been allocated for Social Security and Medicare

3) That amount may dip by $41 billion

4) The original projection was that the surplus would be $4.2 billion after the EGTRRA tax cut

5) President Bush is now asking for deficit spending going into 2003

Uninsured

Measurements differ and length has a variable impact, but its existence is a constant in inflation. With economic boom there was ore room, but what looms dooms more to join their ranks. The total went from 39.3 million in 1999 to 38.7 million in 2000, but 725,000 lost coverage since the recession began in March

Managed Care

1) HMO enrollment down from 31% nationally in 1996 to 23% in 2001
2) PPO enrollment up in the same period from 28% to 48%
3) Doctor contracts with HMOs are down from 66% in 1999 to 50% in 2001

Insurance Carriers

1) Losses from the September 11 attacks will exceed $70 billion

2) Enron's bankruptcy triggers $2 billion in various liability coverages and $3.5 billion in investment exposure from insurance companies alone

3) Profits declined 42% ($6 billion) from mid 2000 to mid 2001 and that was before recession took full effect

4) Assets in mutual insurance companies represent 16% of the total, down from 37% in 1998, as carriers convert to public stock companies

Inflation

My doctor said the operation cost $5,000. I said I couldn't afford it. He offered to touch up my X-rays for $500 (Henny Youngman)

Good News

The economy may be tanking, but health care's ranking improves, accounting for 45% of all new jobs last year

Prescription drug inflation slowing – because of generic use and just because

Lower administrative costs will result from tech's boom, more infrastructure room and the preparation for doom that was Y2K

Good Spin

"What is important now is not the absolute rate of increase but instead whether or not costs are increasing at an increased or decreased rate" (Cato Institute)

Employer reaction to higher prices will widen the cost spread and thus improve carrier margins (various economic forecasts)

Improved health care access can improve health which can improve productivity

Spin Out

But at what cost? The better use we get the longer we live the more we get sick and the more we cost as we lose productivity…

The Spin We're In

The traditional health care cost cycle has been three years. That's also the cycle for the property/casualty side of the industry, and look how well they're doing. This cycle has more traction, and there are wheels within wheels as different deals deal us blows too hard and often to catch our breath. The breadth of contributing factors multiplied this year. Nonetheless, we saw no less of the now "traditional" causes of cost effects

<u>Prescriptions</u>

1) The cost of the average drug has increased 12% (per Express Scripts)
2) 50 most heavily advertised drugs are 32% of drug spending (Commerce Dept)
3) Consumer ad spending is up 39% ($2.5 billion in 2000 vs. $1.8 billion in 1999
4) Merck Medco predicts a doubling of US drug spending by 2006
5) Government predicts average increase to be 12-13% annually through 2010
6) Most of the increase is from more spending on fewer drugs

    a) 51% of increased spending is in 8 drug categories
    b) 50% of increased spending is for 23 drugs
    c) 22% of increase is caused by 1 year increase in cost of individual drugs

<u>Provider Clout</u>

The shift this year is that providers are better able to pass on their costs to the carriers rather than the other way around:

1) Consolidation solidifies the market and thus negotiating position
2) Drug manufacturing mergers have the same effect on drug pricing
3) More sophistication with new role recognition

Provider Rout

1) Hospitals hit with cutbacks in Medicare funding (some of this is returning)

2) National nursing shortage allows the waging of wage wars:

   a) Union recognition is up 300% in the last 10 years
   b) Higher average age means less hours worked, so more needed
   c) Unemployment at 1% in this sector

3) Doctors leaving managed care, leaving individual practice or just leaving, which creates more local pressure

4) Increase in uninsured population raises free care and lowers free cash

5) Who pays for bioterror preparation? (In Sonoma County on a typical day, all ICU beds are full, so where do we put the new patients?)

6) Seismic retrofitting: In California, the 2005 mandate is expected to account for 8% of the insurance premium dollar

7) HIPAA compliance for privacy and reporting is also not accounted for in premiums, but will cost billions

8) Ripple effect of California state budget cuts

Technology

One estimate is that new technology could account for 25% of future rate increases over the next five years. This does not account for the major advances being made in pharmacology and other areas of medical science

Inflation: prices just rise
Population: as does the age of our citizens
Expectation: who cause demands on the system while making their own demands

But enough about quantity – what about quality? A Robert Wood Johnson survey said 50% of providers and administrators said the quality of health care is not very good, and 80% said fundamental changes are needed. So what are we paying for?

MEDICAL AND SOCIAL SCIENCE

Willard: Chief, try to keep out of where we're going. Why we're going and what's gonna be the is the big surprise
Chief: All right with me. I used to drive a taxi. (Apocalypse Now)

Depressed by the discovery of no rapid recovery
Wracked by the wreck of ruin and recession
Employers were beckoning employees' day of reckoning
Proceed with change or make a cost concession

Managed care is no cure, insuring changes for sure
The practice of medicine's ailing
At the levels they're paid, doctors can't make the grade
Instead they are perfectly failing

Our new resolve to find solutions dissolves in defined contributions
Those compliance champions challenge us to change
Chemicals cause alterations for surgical operations
Embodying tailored systems of exchange

Sometimes a great notion will thrive, if it's body and spirit survive
And so all things must pass the Acid Test
But when sixties symbols die, how's it possible to fly
Over and not into the cuckoo's nest?

Suddenly we saw it: this should work, so let's do it, and in the short run it did, but in the long run it could not sustain itself, and another spoke in the wheel was created until we went full circle. Just as our defenses against the terrorist attacks founders, turning our backs on the nation's founders where it concerns individual rights, privacy and freedom, so, too, does the health care system. Capitation is crippling, reforms are rippling, market mumblings turn into revolutionary rumblings while carriers are crumbling. Witness:

1) Various state patient rights initiatives break down barriers to specialists
2) Patient rights allow the patient to sue health plans for failure to exercise due care
3) IPAs consolidate, corrode and correct past wrongs as they right their fees
4) Hospitals are failing, but not failing to bring down carriers with them with new fees
5) Medicare reimbursements still don't match health care disbursements
6) Federal government can't fix what they don't understand
7) Patients want it both ways but government and employers can't do it either way

All great “revolutions” in health care have been replaced by other, equally compelling shifts in the delivery system. Vertical integration, national IPAs, managed care, health care/insurance systems, employer based benefits, Medicare/Medicaid, group insurance reform, have all been qualified successes and unqualified failures. France forsook royalty for Bonaparte, Lenin should have missed the Moscow train, the reign in Spain remains an afterthought – so democracy works by default? So revolution is as much an upheaval as a return to the beginning.

The Plans Arrayed

1) Originally designed to protect patients from catastrophic loss
2) Policies became more comprehensive to meet consumer and business demand
3) PPO discounts and third party cost controls impose greater provider burdens
4) PPO discounts morph to greater reductions using HMOs
5) HMOs (now “managed care”) capitate (pay a flat rate) doctors
6) Capitation becomes the rage, adopted by hospitals and then assuming drug risk
7) National IPAs are formed and “for profit rollups” rolled out

At the apogee of this chronology someone says STOP – then we see

6) Hospital chains and Pharmacy Benefit Managers reassert cost “control”
5) Local IPAs expire, conspire or are inspired to negotiate new contracts
4) Capitation is targeted for abandonment in favor of discounts
3) Third party and HMO gatekeepers are questioned and the answer is abandonment
2) Policies are dis-integrated into component parts, becoming less comprehensive
1) State mandate exceptions, Medical Savings Accounts, defined contribution plans, and partial self funding encourage personal responsibility and catastrophic coverage

We begin again, this time with greater tools, lesser fools and different risk pools in which to sink or swim.

Tools of the Trade

Carriers’ claims of claims service disappeared when they got nervous about managing risk. Declaiming e-industry’s encroachment they finally reached rapprochement and developed or appropriated appropriate technologies, reclaiming their stake at the heart of health care commerce. The two primary fields of e-service are transaction and information. Sites we’ve searched and researched have shown promise or promised what they could not deliver amidst a failed business premise or promotion. Carriers have begun mastering the intricacies of interaction but have still left some of the action to Internet purveyors, slice off their piece of a transaction or may not link to competitors.

Tools for some of the people all of the time or all of the people some of the time, but at no time can we watch the continual…

Fools Parade

The noble art of healing devolved to double dealing as doctors decried the lack of time to practice. From carefree capitalism to managed monetarism, doctors ceded freedom as they sought ways to cope with the new financing of medical care. Economic theory did not work well in medical practice, as exhibited by:

1) Over 130 physician groups have become insolvent since 1995

2) 12 hospitals have gone bankrupt in Northern California since 1996

3) Only 48% of all “risk bearing organizations” meet all 4 basic financial criteria created by the Department of Managed Health Care (per DHMC Study 2001)

4) Only 66% of all risk bearing groups met the single criteria of “positive working capital” (per DHMC report) and 25% are in “serious financial trouble”

5) Notable area developments: the bankruptcy of Napa Valley, San Francisco, San Mateo and San Jose IPAs

6) Doctors are leaving the area or retiring with few arriving to replace them. In both Marin and Sonoma counties, a fund has been created to attract and retain new physicians

Hospital/doctor dis-integration, cruel capitation and lacking legislation to help, medical providers are in a desperate position – and taking desperate measures

Fool’s Paradise

Employers will always pay more for health insurance
It’s a seller’s market and employee is king or queen
National legislation will cure the country’s health care cost woes
The price of prevention and the cost of intervention are invented by insurers
Managed care will manage cost without sacrificing care
Benefit burdens should be borne by business
For every plan rule there is always an exception
All exceptions are granted, because they are happening to you

That was a refreshing respite from reality –
But these views persist in the face of contrary evidence, leaving us to discover

Paradise Lost

1) The drug wars are being won by Big Pharma

   Consumer advertising rises, and no one wants wimpy generics when the newest and best drug is what we all need (see "inflation")

2) Litigation is on the rise (which is really no surprise)

   A rush to market produces a rush to judgements against drug manufacturers and carrier exposure to liability is not yet fully explored

2) Legislative mandates are candidates for elimination, as they add little value but bigger benefit budgets

4) Employers are reacting (and going nuclear)

   Facing a business slowdown and resulting revenue reductions, they pass the burden to consumers when they can and employees where they must

Paradise Regained – New Bodies

Smart organs and prosthetics can replace parts, part of the whole or the hole in your heart. Getting to the heart of the matter, consider the reality of an artificial advance:

1) $500,000 per heart
2) 100,000 people await a new one
3) Organ harvesting only yields 2,000 to meet the current demand
4) Total price tag for the other 98,000 = $49 billion

New Bodies of Knowledge

That's just what we see on the horizon, but with Artificial Intelligence and new pathways to discovery, who's to say we're looking in the right direction?

CONCLUSION

"I really did have a sense that what we were doing was important, in a way that still hasn't been understood or recognized. The sixties aren't over…" (Ken Kesey)

Not yet, but the icons are dying, and we're lying in wait to celebrate ideals coalescing around a country convalescing. We continue to come full circle, gathering in our midst the recognition of responsibility – and its cost. The freedom we have lost, and the sacred temples tossed, questioning like the children of the Sixties, the answers we thought we knew and look anew on the future and what it holds: promise, hope and a return to values we thought abandoned, but challenges to do it better, do it differently and do it right. The battles we fight are the battles we fought, with new names and in new territory:

1) The cost of health care continues to climb	who pays how much?
2) Medical miracles multiply	who pays anything?
3) The market outpaces legislation	who pays attention?
4) Providers need better provisions	who pays whom?
5) We live longer and more often	who gets the payment?

Rationing, responsibility and reason underlie the truth of our situation. Hoping to avoid the world stage, we find ourselves within it. Hoping to avoid the markets next stage, we find ourselves without it. Hoping to have others stage a solution to our health care problems, we look within to see what we can do without and find ourselves with each other as the best hope for an answer.

Come back Ken Kesey – it ain't over yet.