

MONTHLY BENEFIT

News and Developments
Employee Benefits

2015 Milliman Medical Index

This year's Milliman Medical Index finds that in 2015, costs for a "typical American family of four receiving coverage from an employer-sponsored preferred provider organization" (PPO) will increase by 6.3% from 2014. The \$24,671 total cost consists of \$14,198 in employer subsidies and \$10,473 in employee contributions (\$6,408 in payroll deductions and \$4,065 in out-of-pocket costs such as deductibles and copays). Prescription drug costs experienced a 13.6% increase after a five-year period in which they averaged annual increases of 6.8%. Employees' share of the overall healthcare spending rose from 40.6% in 2010 to 42.5% in 2015.

www.milliman.com

Upcoming Key Dates

7/31/15 (for plan years ending on/after 10/1/14 and on/before 10/1/15) – Third reporting and payment of the outcomes research ("PCORI") fee by self-insured group health plan sponsors and insurers.

9/30/15 – Expiration of E-Verify program that is mandatory for federal contractors and some employers in 19 states that require its use.

10/1/15 – Implementation of ICD-10 standard code sets and procedures by group health plans that engage in electronic transactions.

11/1/15 – 2016 open enrollment begins for health insurance under the ACA exchanges.

11/15/15 – Second annual reporting of enrollment of covered lives (for 2015) by self-insured health plans and group health insurance issuers under the ACA transitional reinsurance program, as well as deadline to make final payment for 2014 if paying under the split schedule.

Legislative Activity on the Benefits Front

As expected, the Senate followed the House in approving a fiscal year 2016 federal budget blueprint (S.Con.Res.11), which includes instructions that will give Congress another chance to repeal the Affordable Care Act (ACA). The resolution directs House and Senate committees with jurisdiction over the ACA and related issues to produce deficit reduction legislation by July 24. Such bills would advance under budget reconciliation rules and not be subject to a filibuster, and thus, Republican leaders are expected to apply this directive to ACA repeal efforts.

The resolution outlines nonbinding spending and revenue targets for the fiscal year that will begin on Oct. 1; congressional appropriations committees have begun drafting and advancing bills that satisfy the overall framework of the agreement, which cuts \$496 billion in nondefense spending over the next 10 years. These cuts set the stage for significant political fights: many Republicans, while making the case they are acting responsibly to tackle the federal deficit, acknowledge the difficulty in advancing bills that adhere to the spending restrictions and will get around the limits only for the Defense Department; most Democrats – including the President – will fight to raise the spending caps, especially for non-Defense funds (e.g., medical research and programs for low-income individuals and workers).

Bills Advancing

Meanwhile, bills that are advancing include:

- The "Defending Public Safety Employees' Retirement Act" (H.R.2146), which the House approved by a vote of 407-5 on May 12. The bill would exempt early distributions from a government retirement plan – including a defined contribution plan – for qualified public safety employees who have reached age 50 from the tax code's 10% penalty tax and expand the exemption to other public safety employees. The Senate is expected to approve this bill in June.
- The "Trade Act of 2015" (H.R.1314), which the Senate approved 62-37 after amending the House-passed version. The Senate bill includes an extension of the health coverage tax credit, retroactively from Jan. 1, 2014, through Dec. 31, 2019. The tax credit would be set at 72.5% of premiums paid for qualifying health insurance. The bill maintains eligibility for employees and their qualified family members affected by jobs moving overseas, including those in the service sector, as well as those aged 55 years old or older receiving benefits from the Pension Benefit Guaranty Corp. The House must approve the Senate-amended bill before it can be presented to the President.
- The "Encouraging Employee Ownership Act" (H.R.1675), which the House Financial Services Committee approved on May 20. The bill would increase the amount of stock options a company may give to employees without having to make additional investor disclosures. The amount would increase the current \$5 million threshold to \$10 million and index the amounts for inflation every five years.

GAO Report on the Contingent Workforce

The Government Accountability Office released *Contingent Workforce: Size, Characteristics, Earnings, and Benefits* (GAO-15-168R), which examines temporary or other nonstandard employment arrangements. The report notes that these contingent work arrangements in many cases do not provide retirement and health benefits or safeguards such as job-protected leave under the Family and Medical Leave Act, even if workers have a traditional employer-employee relationship. The report provides information on the contingent workforce size, the characteristics and employment experiences of such workers, and differences in earnings, benefits, and measures of poverty between contingent and standard workers.

www.gao.gov

Retirement Plan Coverage by Employer Size

The Social Security Administration published *Retirement Plan Coverage by Firm Size: An Update*, which discusses the relationship between pension plan coverage and firm size among private-sector workers, using updated data from 2006, 2009, and 2012. The study examines: the proportions of employers that offered a retirement plan; the proportions of employees who participated in a plan; and the proportions of employees who participated in a plan if their employers offered one. Although offer and participation rates differed substantially by firm size through the study period, take-up rates (conditional on plans being offered) differed little among workers in firms with 10 or more employees.

www.ssa.gov

Economic Security and Retirement Preparedness

The Federal Reserve issued *2014 Survey of Household Economics and Decision Making*, which looks at a broad range of economic security items, including retirement preparedness. About 38% of the more than 5,800 survey respondents either have no intention to retire or plan to keep working for as long as possible, suggesting that many are inadequately prepared for retirement. Thirty-one percent of nonretirees have no retirement savings or pension, including nearly a quarter of those older than age 45.

www.federalreserve.gov

Regulatory Roundup

Jointly from Treasury, Labor, and Health and Human Services

- *Frequently Asked Questions (FAQs) Part XXVI* on certain preventive services and *Part XXVII* on cost-sharing limitations and provider nondiscrimination, under the Affordable Care Act (ACA).

From the Treasury/IRS:

- *Revenue Procedure 2015-30*, which contains the 2016 inflation-adjusted amounts for health savings accounts.
- *Chief Counsel Memorandum 201518013*, on income inclusion when a section 409A nonqualified deferred compensation plan's operational failure is corrected in the year of vesting.
- Updated *FAQs* on reporting of offers of health insurance coverage by employers, covering basics of employer reporting; who is required to report; methods of reporting; and how and when to report the required information.

From the Department of Labor:

- An *announcement* that extends by 15 days the agency's comment period – to July 20 – for the proposed rule on investment advice (see [Client Action Bulletin 15-5](#)).
- A *proposed rule* on how federal government contractors should assess the severity of labor law violations.
- New *model notices and medical certification forms*, which will expire May 31, 2018, under the Family and Medical Leave Act.
- *Assessing the Quality of Employee Benefit Plan Audits*, a report that indicates there are quality concerns of many audits performed by certified public accountants and suggests legislative changes to address these issues.

From the Pension Benefit Guaranty Corporation:

- A web update to clarify that the proposed rule (published Apr. 3, 2015) on mandatory e-filing of certain multiemployer plan notices applies only to notices filed with the agency.

From the Department of Health and Human Services:

- A *request for public comments* on the health plan identifier (HPID), including requirements for health plan enumeration and the requirement to use the HPID in electronic healthcare transactions.

From the Equal Employment Opportunity Commission:

- *What You Should Know about EEOC and the Enforcement Protections for LGBT Workers*, providing guidance under the 1964 Civil Rights Act's Title VII and the agency's enforcement of antidiscrimination laws concerning lesbians, gays, bisexual, and transgender individuals.
- An *announcement* of a pilot program, "ACT Digital," to transmit documents electronically between the agency and employers regarding discrimination charges.

Supreme Court Rules on the Fiduciary Duty to Monitor Plan Investments

The U.S. Supreme Court unanimously held that although the initial selection of a 401(k) plan's investments occurred beyond ERISA's six-year statute of limitations, a lawsuit by participants may proceed on whether the fiduciaries breached their continuing duty to monitor trust investments and to remove imprudent ones (*Tibble v. Edison Int'l.* (No. 13-550, 5/18/2015)). The Court determined that trust law – from which ERISA's fiduciary duty is derived – provides a continuing obligation on fiduciaries. The Court sent the case back to the Ninth Circuit to determine whether the fiduciaries breached their duties to monitor the funds within the six-year period, recognizing the importance of trust law in applying ERISA's fiduciary standards. (See [CAB 15-6](#).)

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