

# MONTHLY BENEFIT

## News and Developments

Employee Benefits

### 2016 Milliman Medical Index

Milliman released its *Milliman Medical Index*, reporting that the 2016 cost of healthcare for a typical American family of four covered by an average employer-sponsored preferred provider organization (PPO) plan is \$25,826. Costs for this family increases by 4.7% from 2015 – the lowest rate of increase in the study's history – though the \$1,155 total dollar increase marks the 11th consecutive year that the total dollar increase exceeded \$1,100. The employer pays \$14,793 of the total 2016 healthcare costs, and the employee – through payroll deductions and cost sharing at the time of service – pays \$11,033.

### Upcoming Key Dates

**8/1/16** (for plan years ending on/after 10/1/15 and on/before 10/1/16) – Fourth reporting and payment of the outcomes research (“PCORI”) fee by self-insured group health plan sponsors and insurers.

**9/30/16** – Expiration of E-Verify program, unless extended by Congress.

**10/14/16** – Compliance by money market funds with the SEC's final rule requiring institutional funds' prices to float.

**11/1/16** – 2017 open enrollment begins for health insurance under the ACA exchanges.

**11/1/16** – Delayed date for application of increased late-filing penalties for failure to file the 2015 ACA forms (1094-B and C, and 1095-B and C).

**11/15/16** – Final annual reporting of enrollment of covered lives (for 2016) by self-insured and insured group health plans under the ACA transitional reinsurance program, as well as deadline to make final payment for 2015 if paying under the split schedule.

### Legislative Activity on the Benefits Front

House and Senate Republicans continued to work on appropriations bills to keep federal agencies operating in the fiscal year 2017 that begins Oct. 1, despite not having reached agreement on a budget. As time slips – Congress returns June 6 for about 20 days, breaking for a week over the Independence Day holiday and then in mid-July to attend the party conventions and recess until after Labor Day – interest is growing to package some of the spending bills, rather than have votes on the 12 separate agency funding measures. In all likelihood, the key bill for sponsors of employee benefits will be among the last ones Congress will tackle, as the Departments of Labor (DoL) and Health and Human Services in recent years have drawn controversial policy riders (e.g., regarding: abortions; the Affordable Care Act (ACA); lesbian, gay, bisexual, and transgender rights; or regulation implementation limitations). Both departments also could face more restrictive funding, as money could already have been earmarked for other agencies' budgets.

The Senate, following the April approval of a resolution (H.J.Res.88) to block the DoL's fiduciary conflict-of-interest rule, voted 56-41 for the measure, sending it to the White House where it faces a certain veto. Neither the House nor the Senate has the two-thirds supermajority vote needed to override a veto.

*Meanwhile*, Sen. Bill Cassidy (R-LA) and Rep. Pete Sessions (R-TX) unveiled the “World's Greatest Healthcare Plan” (H.R.5284), which is intended as an alternative to the Affordable Care Act (ACA). The bill, which is separate from one being crafted as a white paper by a Republican task force, would eliminate the ACA's employer and individual mandates, providing a tax credit to individuals enrolling in a plan and that could be assigned to an employer, placed in a health savings account, or paid out as an annual distribution. The bill's sponsors said the legislation would retain the ACA's “essential consumer protections, which include guaranteed issue, guaranteed renewability, and the prohibition on discriminating against those with pre-existing conditions.”

### U.S. Supreme Court Punts on Contraceptives Mandate

The U.S. Supreme Court, in an unsigned decision, unanimously sent back to the federal appeals courts the various (consolidated) cases brought by religious nonprofit groups challenging the ACA's contraceptives coverage requirement (*Zubik v. Burwell* (Nos. 14–1418, 14–1453, 14–1505, 15–35, 15–105, 15–119, and 15–191, 5/16/2016)). The Court directed the U.S. Courts of Appeals for the Third, Fifth, Tenth, and District of Columbia to reconsider the cases in light of the petitioners' and the federal government's indication that a compromise or an alternative accommodation is feasible. The opinion also emphasized that the Court “expresses no view on the merits” and “does not decide whether petitioners' religious exercise has been substantially burdened, whether the government has a compelling interest, or whether the current regulations are the least restrictive means of serving that interest.” Thus, the appeals courts could again reach decisions that would necessitate the high court rehearing the case(s).

## GAO Report on Retirement Security Challenges

The Government Accountability Office (GAO) released [Retirement Security: Low Defined Contribution Savings May Pose Challenges](#) (GAO-16-408), which focuses on recent trends in defined contribution (DC) plan participation and account savings, the amount households could potentially save in DC plans over their careers, and the effects of key individual and employer decisions on retirement saving. According to the GAO's projections, households in the lowest earning group could accumulate DC plan savings that would generate lifetime income in retirement, as measured by an annuity equivalent, of about \$560 per month on average (in 2015 dollars). Yet, 35% of this group had no DC plan savings at retirement. In contrast, households in the highest earning group saved enough to receive about 11 times more per month in retirement and only 8% had no DC plan savings.

## Federal Reserve Board on Retirement Savings

The Federal Reserve released [Report on the Economic Well-Being of U.S. Households, 2015](#), which provides information about how individuals and their families are faring in the economy. The study examines the overall well-being of individual consumers, income and savings behaviors, economic preparedness, access to banking and credit, education and human capital, student loans, and retirement planning. The survey finds that many individuals have no retirement savings, and—among those who are saving—a number of respondents indicated that they lack confidence in their ability to manage their retirement investments. Just over one-quarter of adults with self-directed retirement accounts do not seek out investment advice, and 52% of them say they either cannot afford assistance or would like help but do not know where to get it.

## IRS Determination Letter Program Report Forthcoming

The IRS's Advisory Committee on Tax Exempt and Government Entities ("ACT")—composed of external stakeholders to advise the agency on operational policy and procedural improvements—will release its annual report and recommendations in June. The ACT's subcommittee on Employee Plans is expected to present its report providing an analysis and recommendations regarding changes to the IRS's determination letter program.

## Regulatory Roundup

### Jointly from Treasury, Federal Reserve, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, National Credit Union Administration, and Securities and Exchange Commission:

- Announcements that the agencies' [advance copy of a proposed rule](#) on incentive-based compensation practices in covered financial institutions will be published in the *Federal Register* soon.

### From the Department of Treasury/IRS:

- [Final rule](#) eliminating the allocation rule for disbursements from designated Roth accounts to multiple destinations.
- [Final rule](#) on apportioning benefit suspensions when a troubled multiemployer pension plan seeks to suspend benefits to avoid insolvency.
- A [letter](#) denying the Central States Pension Plan's application to reduce benefits under the Multiemployer Pension Reform Act.
- Updated guidance ([AIR Submission Composition and Reference Guide Version 4.4](#)) to the Affordable Care Act's information reporting system.
- A web posting of [new guidelines](#) for IRS reviewers of pension equity plan (PEP) determination letters.
- A web posting containing [checklists](#) for IRS reviewers of retirement plan documents, categorized into subject matter packages, which plan sponsors may use before submitting a determination letter application.

### From the Department of Labor:

- [Final rule](#) and [other related resources](#) on the Fair Labor Standards Act's overtime pay requirements and the updated compensation levels for executive, administrative, and professional workers to be exempt (see [Client Action Bulletin 16-2](#)).
- [Final rule](#) making technical corrections to the instructions for Form LM-30, *Labor Organization Officer and Employee Report*.

### From the Pension Benefit Guaranty Corporation:

- [Interim final rule](#) adjusting the maximum daily amount of civil penalties that may be assessed when plans fail to provide the agency certain required information (e.g., reportable event filings, ERISA 4010 filings, or certain multiemployer plan notices).
- Updated [Data Book](#), which compares current and historical pension data (mostly through 2014), and includes a new multiemployer table with data through 2013 on participants in plans by the 2006 Pension Protection Act's zone status.

### From the Department of Health and Human Services:

- A [notice](#) stating that the agency is revising a frequently asked question on health insurance market reform and marketplace standards to no longer allow a waiting period for pediatric orthodontia as an essential health benefit.

### From the Equal Employment Opportunity Commission:

- Final rules under the Americans with Disabilities Act ([ADA](#)) and the Genetic Information Nondiscrimination Act ([GINA](#)) pertaining to incentives provided by employer-sponsored wellness programs, along with related [ADA frequently asked questions](#) and [GINA FAQs](#).
- [Guidance](#) on the agency's enforcement protections for lesbian, gay, bisexual, and transgender (LGBT) workers, along with a [fact sheet](#) on transgender employees' bathroom access rights under Title VII of the 1964 Civil Rights Act.
- A [resource document](#) that addresses rights under the ADA if a disabled employee seeks leave as a reasonable accommodation under an employer's leave policy.

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