

## MONTHLY BENEFIT NEWS AND DEVELOPMENTS

April 2008

### New Study on the Cost Effectiveness of CDHPs

Milliman, working in concert with the National Business Group on Health (NBGH), released an analysis of the cost effectiveness of consumer-driven health plans (CDHPs). The study found, after adjusting for cost sharing associated with high-deductible health plans and for the healthier lives that enrolled, that the CDHPs saved 4.8%, which is a modest 1.5% better than the reduced utilization expected by such higher deductible plans. This first independent, risk-adjusted study of CDHPs is available at:

[www.milliman.com](http://www.milliman.com)

### Upcoming Key Dates

**4/29/08** – Deadline for a multiemployer DB plan to provide first required funding notices (under PPA) to participants, if the plan is in “endangered” or “critical” status.

**5/23/08** – Deadline to comply with HIPAA national provider identifier standards for small health plans.

**6/30/08** – Deadline for plan sponsors with retiree drug subsidy applications for plan years ending in 2006 to complete the 2006 retiree drug subsidy reconciliation.

**12/15/08** (financial periods beginning after) – Application of GASB Statement 45 for governments with total annual revenues of less than \$10 million.

**12/31/08** – Expiration of 0.2% FUTA (unemployment) surtax.

**12/31/08** – Deadline for compliance with final 409A regulations on nonqualified deferred compensation plans.

### Legislative Activity on the Benefits Front

Before taking a two-week break at the end of March, the House approved the Pension Protection Technical Corrections Act (H.R.3361) by voice vote, setting the stage for negotiations with the Senate on fixing “erroneous” provisions in and making clarifications to the 2006 Pension Protection Act (PPA). The bill includes amendments to the PPA’s requirements relating to: funding for single employer and multiemployer defined benefit pension plans; interest rates; missing participant program; disclosure; investment advice, prohibited transactions, and fiduciary requirements; benefit accrual standards; and diversification requirements. The Senate had approved its version (S.1974) last December.

H.R.3361 and S.1974 are similar, but a key difference is the Senate bill’s “asset smoothing” provision to allow the spreading of gains and losses in defined benefit pension plans over a 24-month period. The IRS’s proposed rule on benefit restrictions, issued last August, interpreted the PPA’s provision to eliminate asset smoothing.

Key lawmakers anticipate being able to resolve the differences in the two bills relatively quickly.

#### Mental Health Parity

The House during March also approved the “Paul Wellstone Mental Health and Addiction Equity Act” (H.R.1424), setting the stage for the bill to be reconciled with the less extensive measure (S.558) the Senate approved last September. During floor debate, the House attached language from the “Genetic Information Nondiscrimination Act” (H.R.493), which had cleared the House last April.

As approved, the bill requires group health plans and insurance to provide the same benefits for mental illness as they do for other medical conditions. Such plans would be required to provide coverage for all mental health conditions and substance abuse disorders set forth in the fourth Diagnostic and Statistical Manual (DSM-IV) if the plan covers any mental health benefits. It also would make permanent the \$100 per day per participant excise tax for group health plans that fail to meet the parity requirement. In addition, the bill would: allow states to establish new remedies that would apply only to mental health coverage for fully insured health plans; prohibit employer-sponsored plans and insurance from restricting enrollment or adjusting premiums based on genetic information or requiring or requesting genetic testing; and prohibit employers from using genetic information to discriminate against an individual in hiring or other employment opportunities. Employers with fewer than 50 workers would be exempt from the bill’s requirements.

#### The Federal Budget Resolution

The House and Senate approved their fiscal year 2009 budget resolutions (H.Con.Res.312 and S.Con.Res.70), which are nonbinding guidelines for crafting their high priority bills this year. Key items included in their respective resolutions tilt heavily toward federal health programs, economic stimulus, and tax breaks for active duty military personnel; these items could have implications for employer-sponsored plans. ■

## FASB Revisits Disclosures about Pension Accounting

The U.S. Financial Accounting Standards Board (FASB) issued a proposed staff position to amend FASB Statement No. 132 (revised 2003), *Employers' Disclosures about Pensions and Other Postretirement Benefits*, requiring additional disclosure for assets by category, along with disclosure of any concentrations of risk within or across categories. Assets would have to be segmented further by the valuation method used to assess the fair value. Asset values which are determined outside an active market exchange would require further disclosure.

Go to: [www.fasb.org](http://www.fasb.org)

## BLS Report on Public-Sector Benefits

The Bureau of Labor Statistics issued Summary 08-02, *National Compensation Survey: Employee Benefits in State and Local Governments in the United States, September 2007*. At the time of the study, 83% of these public employees had access to defined benefit plans and 87% to medical care plans. This is the first release of data on benefits in state and local governments since 1998.

Go to: [www.bls.gov](http://www.bls.gov)

## Social Security and Medicare Annual Trustees' Reports

The Social Security and Medicare Trustees released their respective annual reports on the current and future financial health of the programs. The Trustees estimate that the Social Security Trust Fund will be exhausted in 2041, while the Medicare Trust Fund will be depleted in 2019. Those are the same dates projected in the 2007 reports. Go to:

[www.ssa.gov](http://www.ssa.gov) and [www.hhs.gov](http://www.hhs.gov)

## Regulatory Roundup

### From the Department of the Treasury/IRS:

- *Proposed regulations* for multiemployer pension plans that are in "endangered" or "critical" status, elaborating on the new rules introduced by the Pension Protection Act (PPA) for these plans.
- *Proposed regulations* on the advance notice requirements for PPA-mandated amendments that significantly reduce participants' future benefit accruals.
- *Revenue Procedure 2008-24*, providing guidance on the tax treatment of "partial exchanges" of annuity contracts.
- *Rev. Proc. 2008-25*, providing a safe harbor method of accounting for taxpayers that use an accrual method of accounting for FICA and FUTA payroll tax liabilities.
- *Notice 2008-29*, extending reliance on the disability mortality tables (of Revenue Ruling 97-6) to determine present values for disabled individuals entitled to benefits under a qualified defined benefit plan.
- *Notice 2008-30*, providing guidance about rollovers to Roth IRAs, interest rate assumptions for lump-sum distributions, and other PPA provisions related to distributions (see [Client Action Bulletin 08-09](#)).
- *Announcement 2008-23*, stating that the IRS will soon issue opinion and advisory letters for pre-approved master and prototype and volume submitter defined contribution plans that were timely filed with the IRS to comply with EGTRRA.

### From the Department of Labor:

- *Proposed rule* that would require labor organizations to use the new Form T-1 to file a trust's annual financial reports with the DOL.
- A *model notice* that "endangered" or "critical" underfunded multiemployer pension plan sponsors may use to notify interested parties about the plans' funded status.

### From the Pension Benefit Guaranty Corporation:

- *Technical Update 08-02*, waiving the reporting requirement for missed quarterly contributions for plan years beginning in 2008 for small plans.
- *Proposed rule* to amend regulations on allocating unfunded vested benefits to withdrawing employers in multiemployer pension plans.

### U.S. Supreme Court Allows EEOC Rule to Stand; Permits Retiree Health Plan Coordination with Medicare

Employers may now rely on the Equal Employment Opportunity Commission's (EEOC) final rule allowing retiree health plans to be coordinated with Medicare for Medicare-eligible retirees without violating the Age Discrimination in Employment Act (ADEA). The U.S. Supreme Court declined to review an earlier decision reached by the Third Circuit Court of Appeals (*AARP v. Equal Employment Opportunity Commission* (No. 07-662, *cert. denied* March 24, 2008)), thereby giving employers the go-ahead to design retiree health plans that provide coverage to age-65 retirees that differs from that for younger retirees. (See [Client Action Bulletin 08-10](#).)