

MONTHLY BENEFIT

News and Developments

Employee Benefits

Modeling the PBGC's Multiemployer Program Costs

The Congressional Budget Office released [*Modeling the Costs of the Pension Benefit Guaranty Corporation's Multiemployer Program \(Working Paper 2017-04\)*](#), which describes the simulation model that CBO uses to develop its baseline budget projections for the PBGC's multiemployer insurance program. The model also may be useful for analyzing the budgetary effects of proposed legislation related to the PBGC's program and for providing additional information about pension plans, participants, and the PBGC's finances.

Upcoming Key Dates

10/1/17 – Effective date of the CFPB's final rule on consumer protections for prepaid accounts (e.g., payroll cards).

11/15/17 – Deadline for health insurance issuers and third-party administrators on behalf of self-insured group health plans to make 2016 (and final) transitional reinsurance payments under the split payment schedule.

12/15/17 (annual periods after) – Effective date of FASB accounting rule on pension costs for publicly traded companies, unless earlier adoption is elected.

1/1/18 – By statute, PBGC flat-rate premiums for single-employer plans increase to \$74 per participant, and variable-rate premiums increase by inflation plus \$4. Multiemployer plan premiums are inflation-adjusted.

1/1/18 – DoL begins enforcement of most of its fiduciary/ conflict-of-interest final rule.

4/30/18 – Deadline for publicly traded companies to provide pay-ratio disclosures on SEC Form 10-K and/or registration, proxy, or information statements for fiscal years beginning on or after 1/1/2017.

Legislative Activity on the Benefits Front

Senate Majority Leader Mitch McConnell released Senate Republicans' draft legislation to repeal and replace the Affordable Care Act (ACA) and raised hopes for a vote before the week-long Independence Day recess. The proposed "Better Care Reconciliation Act" (BCRA), however, met resistance from conservative and more moderate GOP members, forcing expected revisions and a delay of floor action. Concerns also were raised when the Congressional Budget Office estimated that the bill would leave 22 million more uninsured than under the ACA by 2026, while decreasing the federal deficit by \$321 billion.

The BCRA is similar to the House-approved American Health Care Act but differs in some key respects. Of particular interest to employers are the BCRA's provisions to repeal:

- most ACA's taxes, such as the 3.8% net investment income tax and the 0.9% Medicare surtax, but delaying the "Cadillac" tax on high-cost employer-provided health plans;
- the employer and the individual mandates, retroactively to 2016;
- the requirement that health savings accounts (HSAs) require a prescription for the reimbursement of medicine/drugs, while lowering the tax for HSA amounts not used for qualified medical expenses; and
- the limits on contributions to health flexible spending accounts (FSAs).

In addition, it would increase the maximum contribution limit to HSAs; allow both spouses to make catch-up contributions to the same HSA; reinstate the employer deduction for retiree health expenses allocable to Medicare Part D subsidies; and modify the rules for small business risk-sharing pools.

The BCRA also makes significant changes to the funding of Medicaid, grants states broad flexibility to seek waivers, modifies the income eligibility requirements for tax credits, and changes the ACA's requirements on insurance (such as the benchmark plan used to determine covered medical costs, the age-variation ratio for premiums, and medical-loss ratio determinations).

House Limits State Taxation of Mobile Workforce

The House approved by voice vote the "Mobile Workforce State Income Tax Simplification Act" (H.R.1393), sending the bill to the Senate. The bill would:

- prohibit the remuneration earned by employees who work in more than one state from being subject to income tax in a state other than that of their residence or the state within which they work and are paid for more than 30 days during a calendar year; and
- exempt employers from state income tax withholding and information reporting requirements for employees who are not subject to income tax in the state.

The bill includes an exemption for certain individuals, such as professional athletes and entertainers; film production employees; and public figures who perform services for wages or other remuneration on a per-event basis.

BLS Releases

The Bureau of Labor Statistics published:

- [*National Compensation Survey: Retirement Plan Provisions in State and Local Government in the United States, 2016*](#), which examines specific provisions of defined benefit and defined contribution retirement plans covering employees in state and local governments.
- [*How pay and benefits change as job level rises: data from the National Compensation Survey*](#), which provides some context to the nature of compensation among private-sector workers.
- [*Understanding the Labor Productivity and Compensation Gap*](#), which analyses underlying trends over the 1987–2015 period in 183 industries that are driving some of the widening gap between labor productivity and compensation observed in the nonfarm business sector.
- [*Employed Workers Leaving Labor Force: An Analysis of Recent Trends*](#), which assesses the large increase in the number of people who moved from employed to not in the labor force during the 2013–14 to 2015–16 period, both overall and for workers aged 25–54.

HDHP Statistics

The National Center for Health Statistics, Centers for Disease Control and Prevention released [*High-deductible Health Plans and Financial Barriers to Medical Care: Early Release of Estimates from the National Health Interview Survey, 2016*](#), which found an increase – from 26.3% in 2011 to 39.3% in 2016 – in the percentage of adults aged 18–64 with employment-based coverage enrolled in an HDHP. Those enrolled in HDHPs were more likely to experience forgoing or delaying care and/or be in a family having problems paying medical bills than those in a traditional plan. Income distributions were similar between those with an HDHP and those with a traditional plan.

Public Pensions, 1st Quarter

The U.S. Census Bureau's [*Summary of the Quarterly Survey of Public Pensions for 2017 - First Quarter*](#) provides national data on the revenues, expenditures, and composition of assets of the largest defined benefit public employee pension systems for state and local governments. The report includes tables with data on cash and security holdings, as well as on earnings on investments, contributions, and payments.

Regulatory Roundup

Jointly from the Treasury/IRS, Labor, and Health and Human Services:

- [*Frequently Asked Questions \(Part 38\)*](#) soliciting comments on improving disclosures under the Mental Health Parity and Addiction Equity Act and other related laws, as well as clarifying that the law treats eating disorders as mental health conditions.
- [*Draft MHPAEA Disclosure Model Form*](#) that individuals may use to request information about nonquantitative treatment limitations that affect their health plans' mental health or substance use disorder benefits.

From the Department of Treasury/IRS:

- [*Revenue Procedure 2017-41*](#), updating procedures for issuing opinion/advisory letters on the qualification of retirement plans submitted under the preapproved plan program, and combining the master and prototype and volume submitter preapproved programs.
- [*Notice 17-37*](#), which contains the cumulative list of changes in plan qualification requirements for preapproved defined contribution plans for 2017.
- A [*proposed rule*](#) seeking recommendations for regulations that can be eliminated, modified, or streamlined to reduce burdens.
- [*2017 Report of Recommendations*](#) by an IRS advisory group, suggesting updated rules for Federal Insurance Contributions Act replacement plans to address certain state and local government retirement plan designs that have developed over the last 25 years.
- An [*announcement*](#) that user fees for letter rulings and similar requests must be paid electronically, rather than by check or money order, starting Aug. 15, 2017.
- A [*web posting*](#) linking to preapproved 403(b) plans, updated as of May 28, 2017.

From the Department of Labor:

- A [*final rule*](#) revoking the Aug. 30 and Dec. 20, 2016 final rules on, respectively, state- and states' political subdivision-established retirement savings arrangements for nongovernmental employees.
- A [*request for information*](#) on possible new exemptions or changes/revisions to the fiduciary rule and Prohibited Transaction Exemptions, and input extending the applicability date for the provisions slated to go into effect on Jan. 1, 2018.
- An [*announcement*](#) that the Wage and Hour Division is reinstating the issuance of opinion letters covering the Fair Labor Standards Act and other statutes.
- An [*announcement*](#) to withdraw the DoL's 2015 and 2016 informal guidance on joint employment and independent contractors.

From the Pension Benefit Guaranty Corporation:

- A [*final rule*](#) providing for an electronic reading room for certain Freedom of Information Act records and updating the standard for FOIA disclosures.

From the Securities and Exchange Commission:

- A [*statement*](#) requesting comments from retail investors and related parties on standards of conduct and other issues raised by Labor Department's fiduciary rule.

Church-Affiliated Groups' Benefit Plans Exempt from ERISA

Defined benefit retirement plans established and maintained by church-affiliated organizations for their employees are "church" plans exempt from ERISA, the U.S. Supreme Court unanimously ruled in three consolidated cases ([*Advocate Health Care Network et al. v. Stapleton et al.*](#) (No. 16-86, 6/5/2017)), reversing the decisions reached by three appellate courts that had held otherwise. The Court concluded that ERISA's exemption for churches applies not only to plans the churches operate for their own employees, but also to plans operated by entities affiliated with churches – such as hospitals – even if such entities are themselves not churches.

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