

MONTHLY BENEFIT News and Developments

Employee Benefits

Social Security and Medicare Trustees' Reports Released

The Social Security Trustees' annual report of the *Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds* for 2017 found that the OASI Trust Fund alone can pay full benefits until 2035, while depletion of the DI Trust Fund is now projected in 2028. The combined OASDI funds have sufficient funds to cover benefits until 2034. The 2017 *Medicare Trustees Report* projects that the Hospital Insurance (HI) Trust Fund will be depleted in 2029, while the Supplementary Medical Insurance (SMI) Trust Fund will adequately be financed over the next 10 years and beyond because premium income and general revenue income for Parts B and D are reset each year to cover expected costs and ensure a reserve for Part B contingencies.

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.

Legislative Activity on the Benefits Front

The Senate could not advance the Republican leadership's three proposals to repeal and/or replace the Affordable Care Act (ACA), rejecting:

- The "Better Care Reconciliation Act" (BCRA), revised from a draft released in June and including an amendment to allow insurers to sell non-ACA-compliant insurance on the health exchanges as long as they also offered compliant policies. The BCRA also included: extra funds for opioid substance use treatment; a longer phase-out of enhanced federal Medicaid expansion funding; and financial support to enable individuals removed from Medicaid to buy insurance on the exchanges. The bill failed by a vote of 43-57.
- The "Obamacare Repeal Reconciliation Act," a proposal to repeal nearly all of the ACA without a replacement plan but giving Congress two years to develop one. This amendment, rejected by a vote of 45-55, was substantially similar to a bill Republicans pushed through Congress in 2015 but vetoed by President Obama.
- The "Health Care Freedom Act," which repealed the individual mandate and, through 2024, the employer mandate while keeping the healthcare coverage standards and temporarily increasing the maximum contributions for health savings accounts. Before this so-called "skinny" bill was rejected, 49-51, the Senate approved, 52-48, only one amendment: to repeal the tax on "high cost" employer-provided healthcare coverage. Republican leaders had hoped to advance this bill to enable a House-Senate conference to hammer out details of a compromise bill.

The rejection of the three bills by a few Republican senators joining all Democrats was based on a handful of key issues, particularly Medicaid. In addition, the Congressional Budget Office reported that the bills would leave millions of people uninsured (some voluntarily) and would lead to higher premiums and/or unaffordable insurance. Some House and Senate members vowed to work on a bipartisan basis to stabilize immediate concerns facing insurers and individuals under the current exchanges. Prospects for enactment of such measures remain uncertain.

Next Up? Tax Reform

With the ACA repeal/replacement failing for now, Republicans in the House and Senate are expected to focus on tax reform. This effort will be complicated by the potential need to raise more revenues, given that repealing the ACA's tax provisions would have lowered the amount of money needed to be raised in overhauling the tax code on a revenue-neutral basis.

Remaining on Congress's To-Do List

Meanwhile, in addition to raising the debt ceiling, a top priority for Congress is to complete work on a budget for fiscal year 2018 and advance the appropriations bills needed to fund government operations for the year beginning Oct. 1. The House Budget Committee approved a nonbinding budget resolution that includes instructions for other committees to produce deficit-neutral tax reform and at least \$203 billion in mandatory savings and

GAO on Phased Retirement

The Government Accountability Office published *Older Workers - Phased Retirement Programs, Although Uncommon, Provide Flexibility for Workers and Employers*, (GAO-17-536), examining: recent trends in the labor force participation of older workers; the extent to which employers have adopted phased retirement programs and the type of employers offering them; and the challenges and benefits employers face in designing and operating such programs.

GASB Issues OPEB Draft

The Government Accounting Standards Board issued *GASB Exposure Draft – Implementation Guide No. 201X-Z, Accounting and Financial Reporting for Postemployment Benefits other than Pensions (and Certain Issues Related to OPEB Plan Reporting)*, which proposes guidance that clarifies, explains, or elaborates on the requirements of Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions, as amended, and Statement No. 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, as amended. GASB requests comments by Sept. 25, 2017.

Economic Well-Being

The U.S. Census Bureau's *Dynamics of Economic Well-Being: Fluctuations in the U.S. Income Distribution: 2009-2012* highlights changes in annual household income by selected demographic characteristics of the householder. The report uses the Survey of Income and Program Participation's longitudinal design that collected detailed monthly data from individuals age 15 and older on wages and salaries, pensions, cash, and in-kind benefits received from social welfare and insurance programs.

CRS Reports

The Congressional Research Service (CRS) released: *Comparison of the American Health Care Act (AHCA) and the Better Care Reconciliation Act (BCRA)*, which compares, respectively, the House and the Senate ACA "repeal" bills to the ACA's provisions regarding: application to the private health insurance market; effects on Medicaid; and public health, taxes, and implementation funding; and *Department of Labor's 2016 Fiduciary Rule: Background and Issues*, which looks at how the rule applies to pensions, individual retirement accounts, and investments.

reforms over 10 years. It also assumes that the House-approved ACA repeal bill's taxes are repealed. If the House and the Senate can agree to a budget resolution (with no Democrats), the Senate will be able to pass a tax reform bill with a simple majority of 51 votes, rather than the 60 otherwise needed; intraparty disagreements between House conservatives (who want steeper cuts) and less conservative members has stalled action.

The resolution's directive to the House Education and the Workforce Committee (with authority over the Department of Labor and the Pension Benefit Guaranty Corporation, among other agencies) calls for deficit reduction amounting to \$20 billion. It also directs deficit reductions of \$20 billion from the Energy and Commerce Committee (with oversight over health insurance matters) and \$52 billion from the Ways and Means Committee (with broad appropriations authority, including tax reform, healthcare, and welfare reform).

Even without a budget resolution agreement, the House has approved appropriations for four agencies. By agreeing to increase funding for "security-related" departments first (such as for Defense), there is growing concern that steeper cuts will be required for other agencies. The House Appropriations Committee approved a bill with an 11% decrease in funding for the Labor Department (mostly for training/jobs programs), but also would block the National Labor Relations Board's expanded definition of "joint employer" and the DoL's fiduciary/conflict-of-interest rule. For Health and Human Services, the bill would prohibit the use of any new discretionary funds to implement the ACA, as well as funds to help people enroll in the exchanges.

Regulatory Roundup

From the White House:

- [Unified Agenda of Regulatory and Deregulatory Actions](#), the first report from the new Administration's Office of Management and Budget specifying expected federal regulatory actions.

From the Department of Treasury/IRS:

- [Final and temporary](#) and [proposed](#) regulations that update the due dates and extensions of time to file various information reporting forms (e.g., W-2, 990, 1120).
- [Revenue Procedure 2017-43](#), which revises procedures for multiemployer pension plans applying to suspend benefits to avoid insolvency.
- [Memorandum \(TE/GA-04-0717-0020\)](#), discussing how to determine the amount available for a qualified retirement plan loan if a participant has received multiple loans during the past year.
- An [announcement](#) that the myRA program, which provides moderate and low-income individuals a means to start saving for retirement, will begin to wind down "after a thorough review by Treasury that found it not to be cost effective."
- [Information Letters 2017-0010](#) and [2017-0013](#), stating that employers remain liable for the Affordable Care Act's (ACA) shared responsibility payments regardless the executive order directing agencies to reduce potential burdens created by the law.

From the Department of Labor:

- [Request for Information](#) (RFI) on minimum wage and overtime requirements for certain executive, administrative, professional, outside sales, and computer employees.

From the Pension Benefit Guaranty Corporation:

- An [RFI](#) on regulatory and deregulatory actions the agency should consider.
- A [web posting](#) noting changes to the "Plan Page" for premium e-filings via My PAA.

From the U.S. Citizenship and Immigration Services:

- A revised version of [Form I-9, Employment Eligibility Verification](#), to be used by employers as of Sept. 18, 2017, along with and updated [Handbook for Employers: Guidance for Completing Form I-9](#).

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