

MONTHLY BENEFIT

News and Developments

Employee Benefits

Upcoming Key Dates

1/1/17 – Elimination of IRS's 5-year remedial amendment cycle system for most ongoing individually designed retirement plans.

1/1/17 – Elimination of IRS's automatic 30-day filing extension for employer information reporting forms (e.g., W-2, 1099), requiring submission of Form 8809 to obtain a single 30-day extension.

1/1/17 – Application of the EEOC's final rule on wellness plan incentives.

1/1/17 (first fiscal year beginning on/after) – Compliance with SEC's final rule on pay-ratio disclosures by certain publicly traded companies.

1/17/17 – Deadline for health insurance issuers and third-party administrators on behalf of self-insured group health plans to make 2016 transitional reinsurance payments under the unified or split schedule (final year).

1/31/17 – Deadline to submit on-cycle retirement plan determination letter requests to the IRS for plans in Cycle A.

3/2/17 – New deadline to furnish to employees the 2016 forms to employer-provided health insurance offer and coverage.

4/10/17 – Application of the DoL's conflict-of-interest/fiduciary rule other than the "best interest contract" exemption.

4/30/17 – Revised deadline for sponsors of individually designed defined contribution plans to convert the plans into preapproved plans and apply for a determination letter.

6/15/17 (fiscal years beginning after) – Application of GASB Statement 75 by governments, requiring reporting of retiree healthcare liabilities on balance sheets.

Legislative Activity on the Benefits Front

Following the Nov. 8 presidential election, Congress returned for a "lame duck" session with revised priorities in light of the Republican nominee's victory that most pollsters had not predicted. Bolstered also by retaining majorities in the House and Senate for the 115th Congress that will convene on Jan. 3, Republicans are attempting to finish the legislative business for the year. GOP leaders are focusing on "must pass" bills (e.g., funding for federal agencies in the current fiscal year that began Oct. 1) or those that can clear with relatively little opposition or debate.

One bill in the latter category is the "21st Century Cures Act" (H.R.34), which provides significant funding for biomedical research, opioid addiction treatments, and the Vice President's "cancer moonshot" initiative. The House voted 392-26 to approve the bill on Nov. 30; the Senate vote is expected early in December. The bill includes mental health/substance use disorder parity provisions that would:

- direct the relevant federal agencies to coordinate and issue "compliance program guidance" on current mental health parity requirements, with examples/illustrations of informative disclosures and nonquantitative treatment limitations, as well as descriptions of the violations uncovered during the course of compliance investigations;
- require public input on ways to improve consumer access to disclosure documents about mental health and substance use disorder benefits;
- clarify the agencies' authority to audit health plans that have violated existing mental health parity laws; and
- require coverage of eating disorder benefits, including residential treatment, under existing mental health parity requirements.

The bill also would exempt health reimbursement accounts (HRAs) sponsored by qualified small employers from the Affordable Care Act's (ACA) penalties applicable to "group health plans." Employees covered by these HRAs would be able to use the funds to purchase health insurance on the individual market, with a cap set for HRA payments to any given employee at \$4,950 (\$10,000 for family coverage), to be indexed for inflation.

Regulatory Roundup

Jointly from Treasury, Labor, and Health and Human Services:

- [Final rule](#) that defines short-term, limited-duration insurance and specifies standards for supplemental insurance coverage to be "excepted benefits" under the ACA.
- [Frequently Asked Question \(FAQ\) \(Part 34\)](#) on the ACA's market reform provisions and the mental health/substance use disorder treatment requirements.

Jointly from Treasury, Labor, and the PBGC:

- [Advance informational copies of the 2016 Form 5500 and Schedules.](#)

(continued on p. 2)

CBO Explores Overtime Rule Cancellation

The Congressional Budget Office released [*The Economic Effects of Canceling Scheduled Changes to Overtime Regulations*](#), which analyzed the effects for employers, employees, and family incomes through 2022. Although canceling the overtime regulations would reduce workers' pay, employers' payroll and compliance costs and increase profits, it also would increase family income when adjusted to remove the effects of inflation. The CBO said real family income would rise because an increase in firms' profits and a decrease in prices would more than offset the reduction in some workers' earnings. (See [*Benefits Alert 16-2*](#)).

Multiemployer Pension Program Policy Options

The Congressional Research Service issued [*Multiemployer Defined Benefit Pension Plans – A Primer and Analysis of Policy Options*](#), which discusses the PBGC's multiemployer insurance program; current and future financial assistance; plans currently receiving financial assistance; probable exposure to future financial assistance; and the likely insolvency of a few large multiemployer pension plans.

GAO on 401(k) Plans

The Government Accountability Office released [*401\(K\) Plans – Effects of Eligibility and Vesting Policies on Workers' Retirement Savings*](#) (GAO-17-69), which found that among the 80 plans surveyed, many had policies that affect workers' ability to save, receive employer contributions, and keep employer contributions if participants left their jobs. The GAO suggested that Congress consider amending ERISA to change the minimum age for plan eligibility and limit plans' use of a last-day policy for individuals to receive employer contributions.

Enforcement of Improper Health Plan Claims Denials

The Labor Department's Office of the Inspector General's Office of Audit released [*EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims*](#), which found that the Employee Benefits Security Administration (EBSA) lacked any primary knowledge of denials in health benefit claims in any of the plans under its oversight authority. The report recommended that the DoL revise its health plan reporting requirements.

Regulatory Roundup – continued

Jointly from the Departments of Treasury and Labor:

- [*Automatic Enrollment in 401\(k\) Plans for Small Businesses*](#), a booklet that includes a checklist to assist plan sponsors adopting an automatic enrollment feature.

From the Department of Treasury/IRS:

- [*Proposed rule*](#) on minimum present value requirements for pension plan distributions.
- 2016 [*Forms 1094-C*](#) and [*1095-C*](#) (and [*Instructions*](#)) to report about offers of and enrollment in healthcare coverage; [*General Rules and Specifications for ACA Substitute*](#) 2016 Forms 1095-A, 1094-B, 1095-B, 1094-C, and 1095-C; and [*Notice 2016-70*](#), extending, from Jan. 31 to Mar. 2, 2017, the dates to furnish the 2016 Forms 1095-B and 1095-C to individuals;
- [*Notice 2016-67*](#) on the market rate of return limitation rules for pension equity plans, and [*Field Directive TE-GE-07-1016-0026*](#) on the application of the accrued benefit rules to pending determination letter requests by PEPs.
- [*Notice 2016-64*](#), announcing the ACA's annual PCORI fee of \$2.26 for the policy/plan year beginning Oct. 1, 2016.
- [*Notice 2016-62*](#), providing the 2017 cost-of-living adjusted figures for retirement plans and other employee benefits (see [*Client Action Bulletin 16-7*](#)), as well as [*Revenue Procedure 2016-55*](#) for employee fringe benefits.
- A [*web posting*](#) directing plan sponsors not to answer the compliance questions to Forms 5500, 5500-SF, and 5500-EZ, and Schedules H, I, and R for plan years 2015 and 2016.

From the Department of Labor:

- [*FAQs \(Part 1\) on Fiduciary Rule*](#), focusing on conflict of interest exemptions.
- An [*announcement*](#) about an online tool to help employers and workers understand medical- and disability-related leaves.
- [*Private Pension Plan Bulletin Abstract of 2014 Form 5500 Annual Report, 2016*](#).

From the Pension Benefit Guaranty Corporation:

- [*Final rule*](#) with the table for determining participants' expected retirement ages in plans undergoing a distress or involuntary termination with 2017 valuation dates.
- An [*announcement*](#) of the 2017 premium rates for single-employer and multiemployer defined benefit plans, as well as an [*announcement*](#) and a [*table*](#) specifying the guaranteed limits for single-employer plans that fail in 2017.
- [*Annual Report 2016: Keeping Our Commitment to America's Workers*](#), summarizing the agency's performance and finances, including deficits in the multiemployer and single-employer insurance programs.

From Health and Human Services and Social Security Administration:

- [*2017 Medicare Part A and B*](#) premiums, deductibles, and coinsurance (see [*CAB 16-9*](#)); and Social Security adjustments in a [*press release*](#) and [*fact sheet*](#) (see [*CAB 16-7*](#)).

From the Equal Employment Opportunity Commission:

- An [*announcement*](#), [*proposed new sample EEO-1 form*](#), and [*Q&As*](#) about the agency's collection of summary employee pay data starting in March 2018.

From the Securities and Exchange Commission:

- New [*Q&As*](#) on compliance and disclosure interpretations on pay-ratio disclosure.

From the Consumer Financial Protection Board:

- [*Final rule*](#) on consumer protections for prepaid debit or "virtual" payroll cards.

From the U.S. Citizenship and Immigration Services:

- [*Revised version of Form I-9*](#), Employment Eligibility Verification, which employers must use beginning Jan. 22, 2017.

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