

Monthly Benefit News & Developments

REPORTS ON RETIREMENT INCOME, LIMITED HEALTH PLANS

The Joint Committee on Taxation (JCT) released [*Background Data Relating to Retirement Income*](#), background for a House Ways and Means Committee hearing. The report notes that in retirement, individuals generally may derive the resources to support their living needs from one or more of three sources: income accumulated during their working years under employer pension plans or individual retirement arrangements; Social Security benefits that also are based on an individual's employment history; and other assets.

Separately, the JCT and the Congressional Budget Office released [*How CBO and JCT Analyzed Coverage Effects of New Rules for Association Health Plans and Short-Term Plans*](#), which examines the recent final rules. The report concluded that: over the next decade, roughly 5 million more people each year are projected to be enrolled in AHPs or short-term plans as a result of the two rules; and once the two rules take full effect, premiums in the fully regulated small-group and nongroup markets are projected to be roughly 3% percent higher than they would have been.

UPCOMING KEY DATES

4/1/19 – Effective date of Consumer Financial Protection Bureau's rule providing protections for prepaid cards, including payroll debit cards.

4/1/19 – Beginning date for groups to create self-insured group health plans.

5/31/19 – Extended deadline for submission of EEO-1 Employer Information Report survey for 2018 company data on employment categorized by race/ethnicity, gender, and job category.

7/31/19 – Reporting and payment of (the final) PCORI fee by affected self-insured group health plans and insurance issuers for plan/policy years ending on/after 10/1/18 and on/before 10/1/19.

12/31/19 – Expiration of the tax credit for qualifying health insurance costs purchased by eligible individuals, including Trade Adjustment Assistance recipients, PBGC pension recipients, and workers with certain COBRA coverage.

Legislative Activity on the Benefits Front

The 116th Congress convened on Jan. 3, with Democrats newly controlling the House. But the start was marred by the partial government shutdown that began Dec. 22, lasting until Jan. 25; Congress again approved another short-term funding for the agencies through Feb. 15, and then finally settled on legislation incorporating the seven outstanding fiscal year 2019 appropriations bills that the President agreed to sign. Although there was some discussion about attaching tax extenders or technical corrections, disaster relief, or retirement-related provisions to the final bill, none was added. [Note: The February *MBND* was not published due to the lack of legislative and regulatory activity during the partial federal government shutdown.]

EARLY ON THE LEGISLATIVE AGENDA

A few benefits, compensation, and employment-related items have emerged as legislative priorities, based on hearings held, committee chair statements, or bills introduced thus far:

- **Pensions/retirement savings** – The House Ways and Means Committee and the Senate Special Committee on Aging held hearings on retirement security, and the Senate Finance Committee leaders vowed to act on pension issues. Notably, the committees are aiming to address multiemployer plan underfunding concerns (e.g., the “Rehabilitation for Multiemployer Pensions Act” (H.R.397)) and broader retirement issues (e.g., the “Retirement Enhancement and Savings Act” (H.R.1007)), items carried over from the 115th Congress. Discussions also are underway on possible changes to Social Security and expansions of state-based retirement solutions.
- **Healthcare coverage** – Separate from the Democrats’ “Medicare for All” proposals, key members of Congress are grappling with a broad range of health issues, some of which have direct and indirect implications for employer-sponsored coverage. Debate underway focuses on: repeal of the “Cadillac” tax; health savings or flexible spending accounts and health reimbursement arrangements; prescription drug costs; insurance premiums; “surprise” medical bills; and the impact of regulations permitting association health plans, “skinny” health plans, and short-term insurance policies, or other Administration efforts to reduce the coverage gains under the Affordable Care Act.
- **Other issues** – Congress is expected to address other areas affecting employment, such as: paid family leave; pay equity; a federal minimum wage hike; permanence of the tax cuts enacted under the 2017 tax law and technical corrections to the law; tax “extenders” with employment tax credits; and disaster relief with employee retention credits and access to retirement plan funds.

Congress also will be grappling with legislation having higher priority than those listed above. Notably, the U.S. debt limit resumes March 1, but Treasury presumably will invoke special accounting measures to allow for the payment of bills for several months without breaching the legal debt ceiling. In addition, the President in March will release a budget proposal for the fiscal year that begins Oct. 1, and Congress will be working on its own appropriations measures against a backdrop of growing federal deficits. Treasury showed a \$319 billion deficit for the first three months of FY2019, up from \$225 billion for the same period a year earlier.

GAO REPORTS ON RETIREMENT ISSUES

The Government Accountability Office released:

- [Federal Action Needed to Clarify Tax Treatment of Unclaimed 401\(k\) Plan Savings Transferred to States](#), which examines the amount of retirement savings transferred to states as unclaimed property and what happens to those savings once transferred, and the steps the IRS and DOL have taken to oversee these transfers and what improvements are needed.
- [A Comprehensive Re-evaluation Needed to Better Promote Future Retirement Security](#), testimony presented to the Senate Special Committee on Aging. The GAO asserted that strengthening the retirement system to be more accessible and financially sound is important to: ensuring that all Americans can retire with dignity and security, and managing the government's fiscal exposures from various retirement-related programs.
- [Alternate Price Indexes for Cost-of-Living Adjustments Present Tradeoffs](#), describing the effects of various price indexes on older Americans' retirement security. The GAO found that using an alternate index would likely result in changes to benefits and program costs that accumulate over time, with the largest relative effect on those who receive benefits the longest and those with lower incomes.

GASB ON FIDUCIARY ACTIVITIES

The Governmental Accounting Standards Board's (GASB) [proposed Implementation Guide](#) contains question and answers about the GASB's new standards on accounting and financial reporting for fiduciary activities. The Exposure Draft proposes answers to dozens of questions about GASB Statement No. 84, Fiduciary Activities.

COVERAGE FOR OPIOID USE DISORDERS

The Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation's [Use of Medication-Assisted Treatment for Opioid Use Disorders in Employer-Sponsored Health Insurance: Out-of-Pocket Costs](#) assessed changes in the amount paid for medication-assisted treatment for opioid use disorder (OUD) across 2007 and 2014, and projected the changes to 2018. Payments for nearly all types of OUD treatment services rose between 2007 and 2014. In 2014, a greater share of individuals with OUD were enrolled in plans with higher deductibles than in 2007, which would increase their out-of-pocket expenses.

Regulatory Roundup

JOINTLY FROM TREASURY, LABOR, AND HHS DEPARTMENTS:

- A [request for information](#) regarding challenges facing grandfathered group health plans and insurance coverage.

FROM THE DEPARTMENT OF TREASURY/IRS:

- [Revenue Procedures 2019-1 through 2019-4](#), providing guidance on the IRS issuance of rulings, determination letters, and technical advice – including on employee benefits – for 2019.
- [Notice 2019-9](#), interim guidance on excess remuneration and excess parachute payments made by tax-exempt organizations to covered employees.
- A [general information letter 2018-0033](#) on correcting an employer's or administrator's mistaken contributions to a worker's health savings account.
- Updated [frequently asked questions](#) (FAQs) for employers adopting pre-approved retirement plans.
- A [web update](#) of the 401k Plan Fix It Guide, discussing corrective action when participant loans do not conform to the plan document; a [web update](#) of the VCP Submission Kit, addressing a failure to adopt an updated preapproved defined contribution plan by Apr. 30, 2016; and a [web update](#) (with [FAQs](#)) on automatic enrollment, along with FAQs on [EACAs and QACAs](#).
- [2019 Form W-4P](#), Withholding Certificate for Pension or Annuity Payments.

FROM THE DEPARTMENT OF LABOR:

- [Final rule](#) with the 2019 inflation-adjusted civil monetary penalties, including those enforced under ERISA and the Family Medical Leave Act.

FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- [Proposed rule](#) to implement the Multiemployer Pension Reform Act's changes affecting the determination of a withdrawing employer's liability and the annual withdrawal liability payment amount.
- An [announcement](#) that the Pilot Mediation Program is now permanent and has expanded to include fiduciary breach cases.
- Office of the Inspector General's [Evaluation Report: Evaluation of the Early Warning Program](#), which found that PBGC needs to improve communication with companies after an Early Warning Program case is opened and upon case closure.
- [Office of the Inspector General's Audit Report](#), regarding the PBGC's fiscal year 2018 compliance with the Federal Information Security Modernization Act of 2014.
- [2018 Annual Report of the Participant and Plan Sponsor Advocate](#), providing the second part of its study on single-employer pension plan de-risking.

FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- A [proposed rule](#) on the Notice of Benefit and Payment Parameters for the 2020 benefit year, including changes applicable to qualified health plans on the Exchanges, plans in the individual, small group, and large group markets, and self-funded group health plans.
- A [notice](#) containing the 2019 Poverty Guidelines used in determining financial eligibility for certain federal programs.

FROM THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

- A [proposed rule](#) to update private-sector procedural regulations to account for digital transmission of documents and communications between the EEOC and the parties.
- An [announcement](#) that the deadline to submit EEO-1 data will be extended until May 31, 2019.

Other Recent Milliman Publications You May Be Interested in:

- **[2019 key administrative dates and deadlines for calendar-year defined contribution retirement plans](#)** Milliman's calendar lists relevant 2019 administrative dates encountered by most defined contribution retirement plans.
- **[Benefits Perspectives: January 2019](#)** This issue features an article on strategies employers can consider to understand and combat opioid abuse and misuse.
- **[Benefits Perspectives: February 2019](#)** This issue features an article showing how Central and Eastern Europe's experience of the pension reform process can illuminate some of the pitfalls of embracing systemic pension reforms too eagerly, with subsequent reversal of these reforms occurring some years later as governments found themselves increasingly under financial strain.
- **[Pension Funding Index February 2019](#)** and **[January 2019](#)**
- **[Public Pension Funding Index, 4th Quarter 2018](#)**
- **[Multiemployer Review: Know the specifics of your health and welfare stop-loss policy](#)** As fiduciaries, health and welfare plan trustees must understand the details about their stop-loss carrier contracts to ensure the trust is receiving the most competitive price while also receiving sufficient protection against large claims.
- **[Multiemployer Alert: Uncertainty persists for multiemployer pension plans](#)** Many multiemployer pension plans will not be able to pay the full value of promised benefits to future retirees, and additional measures will be needed in order for them to do so.
- **[Multiemployer Alert: PBGC issues proposed rule on methods for calculating withdrawal liability](#)** The Feb. 6, 2019, proposed rule effectively memorializes changes made by the 2006 Pension Protection Act of 2006 and the 2014 Multiemployer Pension Reform Act.
- **[Giving nonqualified deferred compensation plans their due diligence in M&As: Part II - Top-hat and FICA fitness](#)** Will the nonqualified deferred compensation plans (NDCPs) still fit within the top-hat exemption post-merger and have the NDCPs Federal Insurance Contributions Act taxes been properly applied to the benefits?

Milliman Monthly Benefit News and Developments contains general information that is not intended to constitute the rendering of legal, tax, investment, or accounting advice. Application to specific circumstances should rely on further professional guidance.

For more information, please contact your Milliman consultant.

milliman.com

