

Monthly Benefit News & Developments

CHALLENGES IN THE RETIREMENT SYSTEM

The Joint Committee on Taxation released *Present Law and Background Relating to Challenges in the Retirement System*, which provides information relating to: tax-favored employer-sponsored retirement plans; defined contribution plans; individual retirement arrangements; and early distributions and required minimum distributions. The report also discusses data relating to retirement savings, providing: general data on qualified retirement plan participation; data related to Social Security benefits as a source of retirement income; and assets held outside of qualified plans and IRAs.

Separately, the Government Accountability Office issued *Retirement Security: Some Parental and Spousal Caregivers Face Financial Risks*, which examines what is known about the size and characteristics of the parental and spousal caregiving population, including differences among women and men; (2) examines the extent to which parental or spousal caregiving affects retirement security; and (3) identifies and discusses policy options and initiatives that could improve caregivers' retirement security.

UPCOMING KEY DATES

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.

9/30/19 – Court-ordered deadline for submission of EEO-1 Employer Information Report survey (Component 2) for 2017, providing data on wages and hours worked categorized by employees' race/ethnicity, gender, and job category.

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.

12/31/19 – Sunset date of the temporary freeze of the modified adjust gross incomes threshold (\$170,000 joint/\$85,000 others) for Medicare Part B premiums.

12/31/19 – Expiration of Work Opportunity tax credit.

Legislative Activity on the Benefits Front

The House on May 23 voted 417-3 to approve H.R.1994, the "Setting Every Community Up for Retirement Enhancement (SECURE) Act," sending to bill to the Senate. Although the overwhelming vote appeared to signal quick action in the Senate, a few Senators objected to bringing the bill to the floor for a "unanimous consent" vote.

The SECURE Act that the House approved was a manager's amendment, which modified the language that the House Ways and Means Committee had passed unanimously in April, to: further increase the penalties (from the original bill) for failing to file retirement plan information for filings required after Dec. 31, 2019; correct an unintended tax effect of the 2017 tax cut law on military survivor benefits and certain other income received by children; and remove the provisions that would have allowed section 529 education savings accounts to be used for homeschooling and more elementary and secondary school expenses.

Regarding the penalties for retirement plan filings, the changes are as follows:

- for a failure to file a Form 5500: \$250/day (up from \$25/day), up to a limit of \$150,000 annually (from \$15,000);
- for a failure to file a registration statement: \$10/participant/day (up from \$1/participant/day), up to a limit of \$50,000 annually (from \$5,000); and
- for a failure to file a notification of a change in plan status: \$10/day (up from \$1/day), up to a limit of \$10,000 annually (from \$1,000).

In addition, the bill would increase the penalty for failing to file a withholding notice to \$100/failure (up from \$10/failure), up to a limit of \$50,000 annually (from \$5,000).

The Senate could attempt to work with key House members to resolve any disagreements and move the SECURE Act to the floor relatively quickly, but the Senate also is considering other retirement-related bills that could be packaged into one combined measure. For example, Sens. Rob Portman (R-OH) and Ben Cardin (D-MD) introduced anew the "Retirement Security & Savings Act" (RESA, S.1431), a bill they championed in the last Congress. Also, under separate consideration in the House is a bill (H.R.397, the "Rehabilitation for Multiemployer Pensions Act") aimed at addressing underfunding concerns in the multiemployer pension system.

OTHER ISSUES

The House also approved, with Senate action unlikely, the following bills:

- H.R.986, which would rescind the federal guidance that allows states to seek waivers for health insurance that does not include some of the Affordable Care Act's (ACA) consumer protections and permit individuals purchasing such insurance to qualify for federal subsidies.
- H.R.987, a package of bills that together aim to protect and expand affordable healthcare and lower prescription drug costs. The bill would block the rule that expanded short-term, limited duration health insurance.
- H.R.5, which would expand federal civil rights protections – including nondiscrimination in employment – to cover sexual orientation and gender identity.

ON PAID FAMILY LEAVE

The Department of Health and Human Services' Assistant Secretary for Planning and Evaluation released *Supporting Employment Among Lower-Income Mothers: The Role of Paid Family Leave*, noting the benefits of paid family leave (PFL) such as providing time to: arrange acceptable child care, recover from pregnancy and childbirth, bond with the baby, help the baby transition to nonparental care, and initiate and maintain breastfeeding. A companion piece, *Supporting Employment Among Lower-Income Mothers: Attachment to Work After Childbirth*, explores why mothers do or do not return to work after childbirth, why they returned to their pre-birth employers, and factors that eased—or made more difficult—the transition back to work.

Separately, the Congressional Research Service's *Paid Family Leave in the United States* provides an overview of PFL, summarizes state-level programs, notes policies in other advanced-economy countries, and discusses recent federal legislative action to increase access to PFL.

EARNINGS AND EMPLOYMENT DATA

The Social Security Administration issued *Earnings and Employment Data for Workers Covered Under Social Security and Medicare, by State and County, 2016*, which presents data, by sex and age, the number of wage and salary workers and self-employed persons, the amount of their taxable earnings, and the amount they paid in Social Security and Medicare contributions.

HEALTH AND DENTAL COVERAGE

The National Center for Health Statistics, released *Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey, 2018*, which found that among adults aged 18–64, 68.9% (136.6 million) were covered by private health insurance plans, including 4.2% (8.4 million) covered by private health insurance plans obtained via the federal or state-based exchanges. The percentage of persons enrolled in a high-deductible health plan increased from 43.7% in 2017 to 45.8% in 2018.

And the Centers for Disease Control and Prevention's National Center for Health Statistics released *Regional Variation in Private Dental Coverage and Care among Dentate Adults Aged 18–64 in the United States, 2014–2017*, which provides data on adults' utilization of dental care and unmet dental needs due to cost in the past year.

Regulatory Roundup

DEPARTMENT OF TREASURY/IRS:

- A *final rule* relating to certified professional employer organizations (CPEOs).
- A *proposed rule* on tax withholding on certain periodic and nonperiodic distributions under tax code section 3405, other than eligible rollover distributions, to recipients with certain addresses in or outside the U.S.
- *Revenue Procedure 2019-25*, providing the 2020 inflation adjusted amounts for health savings accounts (HSAs) and high-deductible health plans (HDHPs).
- *Revenue Procedure 2019-20*, which provides an expansion of the determination letter program for statutory hybrid plans during a limited period and for merged plans on an ongoing basis, and a limited extension of the remedial amendment period under specified circumstances.
- A *notice* requesting comments concerning the Employee Plans Compliance Resolution System (EPCRS).
- A *notice* requesting comments on the Form 5500 Annual Return/Report of Employee Benefit Plan.
- *2018 IRS Data Book*, providing a snapshot of agency activities for the fiscal year, specifically showing information on determination letters issued on employee retirement plans, by type and disposition of plan.
- A *draft Form W-4* to be used starting in 2020, and *frequently asked questions*.

FROM THE DEPARTMENT OF LABOR:

- A *proposed rule* on Form T-1 annual financial reporting for labor organizations' trusts, under the Labor Management Reporting and Disclosure Act.
- *Annual report* on self-insured employee health benefit plans and financial information regarding their sponsoring employers, along with: *Appendix A, Group Health Plans Report: Abstract of 2016 Form 5500 Annual Reports Reflecting Statistical Year Filings*; and *Appendix B, Self-Insured Health Benefit Plans 2019: Based on Filings through Statistical Year 2016*.
- A *posting* of Association Health Plan Questions and Answers to Court Ruling – Part 2.

FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- A *final rule* regarding terminated and insolvent multiemployer plans and duties of plan sponsors.
- An *announcement* about changes to the ERISA 4043 reportable events Forms 10 (notably, requiring controlled group and financial information as an attachment on all filings), 10-Advance, and 200.
- *2016 Single-Employer Guarantee Study*, which examines how well the single-employer guarantee protects pensions of participants in PBGC-trusted plans, as well as *2016 Data Tables*.

FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- A *final rule* on protecting conscience rights for healthcare workers objecting to performing services they object to on religious or moral grounds and setting forth anti-discrimination, enforcement, and recordkeeping requirements.
- A *proposed rule* that would remove gender identity from the classes protected from discrimination by the Affordable Care Act (ACA), and a related *fact sheet*.
- A *fact sheet* on direct liability of business associates under the Health Insurance Portability and Accountability Act (HIPAA).

FROM THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

- A *web posting* announcing that the agency expects to activate by mid-July a *web-based portal* for the collection of 2017 and 2018 EEO-1 Component 2 report data (employees' wages and hours worked categorized by employees' race/ethnicity, gender, and job category).

Other Recent Milliman Publications You May Be Interested in:

- **[Critical Point Episode 13: HR communication for Millennials, Gen-Xers and more](#)** What makes HR communication effective for Millennials, Gen-Xers, and Boomers today?
- **[Public Pension Funding Index, 1st Quarter 2019](#)**
- **[PBGC final rule on Plan Sponsor's Duties for Terminated and Insolvent Multiemployer Plans](#)** The Pension Benefit Guaranty Corporation's final rule addresses reporting and disclosure requirements for plan sponsors of certain terminated and/or insolvent multiemployer pension plans.
- **[Multiemployer Pension Funding Study: Spring 2019](#)** The Spring 2019 Multiemployer Pension Funding Study reports on the estimated funding status of all U.S. multiemployer plans as of December 31, 2018.
- **[Client Action Bulletin 19-1: IRS expands self-correction program for retirement plans](#)** The IRS has expanded the Self-Correction Program to enable retirement plan sponsors to more easily fix certain common plan document and operational failures.
- **[Pension Funding Index, May 2019](#)**
- **[Is your pension plan ready to terminate?](#)** For plan sponsors that have resolved to terminate their plans, they typically turn their attention to two important factors: financial and operational readiness.
- **[Considering trend guarantees in your next TPA selection analysis](#)** There is increased interest from both self-insured employers and third-party administrators (TPAs) in incorporating medical trend guarantees into TPA selection analyses.
- **[Health plan participation in the employer stop-loss market](#)** While there can be hurdles for a health plan to overcome when trying to enter the employer stop-loss market or grow an existing stop-loss block, the market can provide meaningful opportunities.
- **[Observations on the employer stop-loss market: 2019 survey](#)** This paper summarizes the findings from Milliman's 2019 stop-loss survey.



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