

# MONTHLY BENEFIT

News and Developments

Employee Benefits

## Milliman Briefing Paper on ACA Employer Mandate Delay

In light of the Treasury announcement (see the *Regulatory Roundup*) of a one-year delay of the Affordable Care Act's employer mandate, Milliman released a **Healthcare Reform Briefing Paper** that explores the potential implications for employers of the suspension of the penalties. The paper, prepared by a Milliman health practice consultant, also covers other key issues – annual limits, out-of-pocket maximums, the 90-day waiting period, and fees/assessments – that employers should consider and act on this year. Such ACA requirements may affect plan costs, employee communication strategies, and benefit designs.

<http://insight.milliman.com/>

## Upcoming Key Dates

**9/23/13** – Required compliance with final rule on HIPAA privacy requirements by covered entities and business associates.

**10/1/13** – Enrollment begins for 2014 health insurance exchanges.

**12/31/13** – Deadline to amend 401(k), 403(b), or 457 governmental plans to provide loans or hardship distributions due to Hurricane Sandy.

**12/31/13** (unless required later) – Deadline to amend single-employer defined benefit plans to comply with the restrictions on benefit accruals and optional benefit payment forms.

**12/31/13** – Expiration of: health insurance coverage and small business healthcare tax credits; various employment tax credits; employer wage credit for activated military reservists; and temporary increase in the amount excludable for employer-provided mass transit/vanpool benefits.

*This August Monthly Benefit News and Developments covers developments through Aug. 9; with Congress in recess until Sept. 9, the next MBND will be the October issue.*

## Legislative Activity on the Benefits Front

Congress adjourned in early August for a five-week recess. Prior to departing, the Republican-led House again approved bills to limit implementation of the healthcare reform law, but the Senate – controlled by Democrats – is unlikely to act to approve them. The bills passed by the House were:

- The “Authority for Mandate Delay Act” (H.R.2667), which would delay the employer coverage mandate under the Affordable Care Act (ACA) until 2015, echoing the White House’s delay that was announced in July (see the *Regulatory Roundup*).
- The “Fairness for American Families Act” (H.R.2668), which would delay the ACA’s individual mandate for one year. Republicans argued that the delay of the employer mandate should be paired with a delay of the individual mandate requirement.
- The “Keep the IRS Off Your Health Care Act” (H.R.2009), which would prohibit the IRS from enforcing the ACA provisions.
- The “Regulations from the Executive in Need of Scrutiny Act” (H.R.367), which would require Congress to approve all new major regulations. During the floor debate, the House approved an amendment (H.Amdt.450) specifically to require congressional approval for all rules promulgated under the authority of the ACA.

Before recessing, House and Senate negotiators reached an agreement on a student loan interest rate bill (S.1911). Because the compromise legislation produced savings, revenue offsets were not necessary and the final bill, signed into law, dropped a retirement savings distribution requirement that was part of an earlier Senate bill.

## The Fall Agenda

Upon their return, members of the House and Senate will have to confront major issues that might again produce the specter of a government shutdown. A top priority will be funding for the agencies for the 2014 federal fiscal year that begins Oct. 1. Some Republicans are threatening to block bills that include money to implement the ACA. To date, the House has passed four of the 12 bills, while the Senate has approved none. The House bills take into account the lower budget baseline produced by the effects of the across-the-board spending reductions referred to as the sequester; the Senate bills under consideration do not. Thus, even a catch-all omnibus appropriations bill or continuing resolution to keep the government running beyond Sept. 30 might be difficult to achieve.

Another shutdown threat looms before the end of the calendar year, when Congress will have to consider raising the federal debt limit. Other priorities for Congress or the White House before the year ends include immigration reform and tax reform.

## Pension Accounting Items

- The Financial Accounting Standards Board released Accounting Standards Update (No. 2013-09, *Fair Value Measurement (Topic 820): Deferral of the Effective Date of Certain Disclosures for Nonpublic Employee Benefit Plans in Update No. 2011-04*), indefinitely deferring certain disclosures about investments held by nonpublic employee benefit plans in their plan sponsors' own nonpublic equity securities.

[www.fasb.org](http://www.fasb.org)

- The Governmental Accounting Standards Board issued a proposal on the transition to GASB's new pension standards for state and local governments. The proposal would require an entity, when transitioning to the new pension standards (GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*), to recognize a beginning deferred outflow of resources for its pension contributions made during the time between the measurement date of the beginning net pension liability and the beginning of the initial fiscal year of implementation.

[www.gasb.org](http://www.gasb.org)

- The Cost Accounting Standards Board (CASB) announced it will conduct two public, fact-finding meetings for the development of a Staff Discussion Paper on CAS 413, *Pension Adjustments for Extraordinary Events* that will apply to federal government contractors.

[www.whitehouse.gov/omb/procurement\\_casb](http://www.whitehouse.gov/omb/procurement_casb)

## State-Administered Pensions

The Census Bureau released *Public Pensions: State-Administered Defined Benefit Data Summary Report: 2012*, which presents data on state-administered public pension systems. The survey covers, by state: revenues; expenditures; cash and investment holdings; membership information; and liabilities.

[www.census.gov](http://www.census.gov)

## Employment Eligibility Verification Video

The Department of Justice released a new educational video to help employers avoid charges of discrimination in the I-9 employment eligibility verification form process and in the use of E-Verify.

<http://youtu.be/VNHFDusJqRg>

## Regulatory Roundup

### From the Department of the Treasury:

- *Notice 2012-49*, providing updated static mortality tables to be used by defined benefit plans for the years 2014 and 2015.
- *Notice 2013-45*, providing a one-year transition relief for employers (and insurers) from certain information reporting requirements and the employer shared responsibility provisions, following up on an earlier announcement delaying the ACA's employer mandate and penalty application for 2014.
- *Announcement 2013-37*, which extends from Oct. 31, 2013, to Jan. 31, 2014, the deadline to submit on-cycle applications for opinion and advisory letters for sponsors and practitioners maintaining defined benefit mass submitter plans.
- *Chief Counsel Memorandum CCA201330030* on the deduction for employer contributions to an employees' trust or annuity plan and compensation under a deferred-payment plan.
- A set of *30 Frequently Asked Questions* on 403(b) tax-sheltered annuity plans.
- A *web posting* of a sample automatic enrollment and default investment notice designed for use in satisfying the qualified automatic contribution arrangements (QACA) and eligible automatic contribution arrangement (EACA notice) requirements.
- Updated *web postings* relating to: common retirement plan mistakes; the application for an extension of time to file certain employee plan returns (Form 5558); 403(b) preapproved plans; the Voluntary Correction Program; retirement plan loans; the Patient Centered Outcomes Research Trust Fund fee; participant loans; the additional Medicare tax; and designated Roth accounts.

### From the Department of Labor:

- *Field Assistance Bulletin 2013-02*, allowing 401(k) plans to furnish plan participants the annual investment comparative chart no later than Aug. 30, 2013.
- *Advisory Opinion 2013-03A*, examining the circumstances under which revenue sharing is considered plan assets and fiduciary obligations for the service provider oversight.
- Modifiable *model notices* that employers may use to notify employees of their options under state and federally facilitated health insurance exchanges.

### From the Pension Benefit Guaranty Corporation:

- A *proposed rule* on premium rates and payment of premiums, with accompanying draft forms and instructions.
- A *Request for Information* on a new program dealing with missing participants' benefits in terminating individual account plans.
- An *Information Collection Request*, which, if granted by the Office of Management and Budget would enable the PBGC to seek a plan's most recent actuarial valuation report, a plan's most recent cash-flow projections, and participant census data to model potential outcomes of multiemployer pension plans.

### From the Department of Health and Human Services:

- *Technical guidance* updating instructions for calculating county level estimates pertaining to the culturally and linguistically appropriate standards set forth in the internal claims and appeals and external review process under the ACA.
- An *announcement* containing the application and reconciliation information for the Retiree Drug Subsidy Program.
- A *Request for Information* seeking comments on complying with federal civil rights laws and nondiscrimination in certain health programs under the ACA.

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