Monthly Benefit News & Developments

2019 COLAs: SOCIAL SECURITY, MEDICARE

The Social Security Administration announced a 2.8% cost-of-living adjustment for benefits beginning in 2019. For 2019, the Social Security taxable wage base will increase to $132,900, up from $128,400 in 2018.

Separately, the Department of Health and Human Services released *Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts, Medicare Part A, Medicare Part B*, announcing the 2019 premiums, deductibles, and coinsurance amounts for the Medicare Part A and Part B programs, adjusted for inflation (see *Client Action Bulletin 18-3*).

UPCOMING KEY DATES

12/15/18 (fiscal years beginning after) – Effective date of FASB Accounting Standards Update 2017-06, Plan Accounting (Topics 960, 962, and 965)—Employee Benefit Plan Master Trust Reporting, for benefit plans that hold interests in bank-managed master trusts, unless earlier adoption elected.

12/15/18 (annual periods after) – Effective date of FASB Accounting Standards Update 2017-07, Compensation—Retirement Benefits (Topic 715), for defined benefit plans or retiree health plans offered by nonpublicly traded companies, unless earlier adoption elected.

12/31/18 – Extended deadline to submit opinion letter applications for preapproved defined contribution plans for the third six-year remedial amendment cycle.

1/1/19 (plan years beginning on/after) – Required use of IRS mortality assumptions by single-employer, multiple-employer, and CSEC pension plans, unless use of substitute tables was approved.

1/1/19 (years beginning on/after) – Penalty for individuals not having healthcare coverage is reduced to $0.

1/1/19 – Final year tax credits are available for certain employers that provide paid family and medical leave.

1/1/19 (through 3/31/19) – Transition period for Voluntary Compliance Program submissions via IRS website before required electronic submissions.

Legislative Activity on the Benefits Front

In its final push before the November mid-term election, Congress acted on a significant bill to address the nation's opioid crisis. Following House approval in late September, the Senate on Oct. 3 voted 98-1 to approve and send to the President a bipartisan compromise bill, the "Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act" (H.R.6). In general, the new law (P.L.115-271) – signed by the President on Oct. 24 – includes changes to Medicare and Medicaid programs to help individuals with opioid addictions or related problems and provides funding for a broad range of programs such as medical professional continuing education, interoperability of state prescription drug monitoring systems, and research.

Provisions in the law require employer-sponsored group health plans to report whether they are the primary payer for benefits related to prescription drug coverage under Medicare Part D. The law does not include an earlier House provision to expand the Medicare Secondary Payer coverage period for group health plans. The law also allows individuals, based on religious reasons, to avoid the Affordable Care Act's mandate to have health insurance, provides grants to study substance abuse in the workplace, and calls for data on investigations of health plans that violate the mental health "parity" requirements. The final agreement also includes an earlier Senate-approved provision calling for the Departments of Labor, Health and Human Services, and Treasury to report to Congress additional information on federal investigations of health plans that violate requirements to provide equal coverage of mental health and substance abuse disorders as medical and surgical benefits.

Separately, the Senate attempted to pass a resolution (S.J.Res.63) disapproving the short-term limited duration health insurance final rule issued by three agencies in August. The rule allows insurance companies to offer coverage for less than 12 months and be renewed for up to 36 months without being subject to certain protections (e.g., essential health benefits) under the ACA. The resolution failed on the floor Oct. 10 by a single vote.

AFTER THE ELECTIONS

Congress will reconvene Nov. 13 for a "lame duck" session and is expected to act on only a few pieces of "must-pass" bills, including fiscal year 2019 appropriations to fund the remaining federal agencies that are operating under a short-term continuing resolution that expires Dec. 7. The measure (H.R.6147) to fund "financial services" agencies such as the IRS, the Securities Exchange Commission, and the Consumer Financial Protection Board appears to have limited implications for employee benefits or compensation programs, but negotiations to reach a final agreement remain ongoing.

The so-called "Tax Reform 2.0" package of bills the House approved in late September is not likely to see Senate action this year, despite bipartisan interest and support for one of the components, the "Family Savings Act" (H.R.6757). More likely, this bill – which contains numerous provisions applicable to retirement plans – will be revisited in the 116th Congress. And multiemployer pension plans will be awaiting the congressional bipartisan task force's legislative recommendations to address funding concerns; the report is due by the end of November.

ASSESSMENT OF 401(k) PLAN COMPLIANCE WITH ANNUAL CONTRIBUTION LIMITS

The Treasury Department's Inspector General for Tax Administration (TIGTA) released *Taxpayers Generally Comply With Annual Contribution Limits for 401(k) Plans; However, Additional Efforts Could Further Improve Compliance* (2019-10-002) to assess whether IRS processes sufficiently identify and address excess contributions to 401(k) plans. TIGTA's analysis showed that the vast majority of taxpayers are complying with tax laws designed to limit the annual amount of compensation that can be contributed. TIGTA identified two areas for improvement: 1) some 401(k) plans did not prevent taxpayers from exceeding the annual limit; and 2) some taxpayers exceed annual limits when contributing to multiple 401(k) plans.

EEOC: DATA ON SEXUAL HARASSMENT

The Equal Employment Opportunity Commission *announced* preliminary sexual harassment data for fiscal year 2018, highlighting the agency's work to address workplace harassment issues. *What You Should Know: EEOC Leads the Way in Preventing Workplace Harassment* recognizes key milestones of the agency to actively enforce the law, to educate and train workers and employers, and to share its expertise on new solutions to reduce harassing conduct in the workplace.

ACA: FAQs UPDATED

The Congressional Research Service released *Patient Protection and Affordable Care Act (ACA): Resources for Frequently Asked Questions (Updated)*, a resource to help congressional staff respond to constituents' frequently asked questions (FAQs) about the ACA. It lists selected resources regarding consumers, employers, and other stakeholders, with a focus on federal sources, and lists other CRS reports on the ACA's provisions.

LABOR FORCE AND THE DISABLED

The Bureau of Labor Statistics issued *Labor force characteristics of people with a disability*, which examines labor force participation among disabled and nondisabled individuals. The report shows that: the prevalence of disability increases with age; about 80% of people with a disability are neither working nor looking for work; workers with a disability in 2017 were three times less likely to be employed than workers with no disability, 18.7% versus 65.7%; and 20.2% of people with a disability worked in service occupations, compared with 17.3% without a disability.

Regulatory Roundup

FROM MULTIPLE AGENCIES:

- *Fall 2018 Unified Agenda* of regulatory and deregulatory actions, updating the list of actions federal departments and administrative agencies (e.g., the Departments of Treasury, Labor, Pension Benefit Guaranty Corporation and Health and Human Services) plan to issue.

JOINTLY FROM TREASURY, LABOR, AND HHS:

- *Proposed rule* on health reimbursement arrangements and other account-based health plans.

FROM THE DEPARTMENT OF TREASURY/IRS:

- *Notice 2018-76,* on the business expense deduction for meals and entertainment following changes in the Tax Cuts and Jobs Act (TCJA).
- *Publication 1281,* concerning information about the reduced backup withholding rate made by the TCJA for payments such as non-employee compensation.
- *Annual Report for 2018* by an advisory panel that makes recommendations on information reporting and related payroll issues in tax administration.
- *Fiscal Year 2019 Program Letter*, which notes that the Employee Plans division will foster compliance through its voluntary corrections program, issue informal document compliance guidance via Lists of Required Modifications, update Fix-It Guides to assist with operational compliance, and consider input on the potential expansion of the scope of the determination letter program for amended individually designed plans and the self-correction of plan qualification failures.
- *Updated information* about disaster relief for individuals and businesses affected by Hurricanes Florence and Michael.

FROM THE DEPARTMENT OF LABOR:

- *Proposed rule* on multiple-employer defined contribution retirement plans.
- *Updated information* about disaster relief for victims affected by Hurricane Michael, and guidance for *employee benefit plans* and for *employees and beneficiaries* affected by Hurricanes Florence and Michael.
- An *interactive guide* to all Bureau of Labor Statistics data on pay, benefits, wages, earnings, and other terms used to describe compensation.
- A *chart* showing that 51% of private industry workers had access only to a defined contribution retirement plan.

FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- *Final rule* on owner-participant changes to guaranteed benefits and asset allocation.
- *Maximum monthly guarantees* for 2019.
- A *table* showing the applicable present values for 2019 plan years under tax code section 436(d)(3)(A)(ii) and ERISA section 206(g)(3)(C)(i)(II).
- An update of the *Premium Rates* web page to show premium rates for 2019.
- A *revised web page* with information about reporting (under ERISA section 4062(e)) when an employer ceases operations and employees lose their jobs.
- A *checklist* to help identify possible reportable events for plans with 100 or fewer participants.

FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- *Guidance* on how states may obtain a waiver from certain ACA insurance coverage restrictions, thereby potentially allowing for expansions of "association health plans" and short-term limited-duration plans.

Other Recent Milliman Publications You May Be Interested in:

- ***Multiemployer Pension Funding Study: Fall 2018*** The Fall 2018 Multiemployer Pension Funding Study updates the estimated funded status of U.S. multiemployer plans as of June 30, 2018, showing the change in funding levels from December 31, 2017.
- ***Case study: Partnering annuity placement services with co-fiduciary services*** Milliman helps a long-term client that wanted to terminate its pension plan and brings in an annuity placement team to assist.
- ***Pension Funding Index, October 2018***

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

Milliman

© 2018 Milliman, Inc. All Rights Reserved. The materials in this document represent the opinion of the authors and are not representative of the views of Milliman, Inc. Milliman does not certify the information, nor does it guarantee the accuracy and completeness of such information. Use of such information is voluntary and should not be relied upon unless an independent review of its accuracy and completeness has been performed. Materials may not be reproduced without the express consent of Milliman.