

Monthly Benefit News & Developments

SOCIAL SECURITY: 2020 COLAS

The Social Security Administration (SSA) announced that Social Security benefits will increase by 1.6% beginning with the December 2019 benefits (payable in January 2020). The maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to \$137,700, up from the 2019 figure of \$132,900. The earnings limit that workers may earn without a reduction is \$1,520 per month (\$18,240 per year) if they are receiving or will commence Social Security benefits in 2020 and have not attained Social Security normal retirement age by the end of 2020. The SSA deducts \$1 from benefits for each \$2 earned over \$18,240. The earnings limit for people turning 66 in 2020 will increase to \$48,600. The SSA deducts \$1 from benefits for each \$3 earned over \$48,600 until the month the worker turns age 66. There is no limit on earnings for workers who are "full" retirement age or older for the entire year. (See [Client Action Bulletin 19-3](#).)

UPCOMING KEY DATES

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 the Work Opportunity tax credit.

1/1/20 – Application of tri-agency final rule permitting use of health reimbursement arrangements for coverage purchased on insurance exchanges, Medicare coverage, and limited excepted benefits.

1/1/20 – Expiration of 2019 moratorium, requiring group health insurers to pay the ACA health insurance tax (HIT) for the 2020 plan year.

1/1/20 – "Responsible Reporting Entities" of group health plans to begin reporting expanded primary prescription drug coverage for Medicare-eligible individuals.

Legislative Activity on the Benefits Front

As Congress tackles its high-priority bills to provide funding for the federal agencies in the fiscal year that began Oct. 1 and while it works under a stop-gap measure that will expire Nov. 21, a few pieces of employee benefits or related legislation have advanced.

The House approved along party lines the "Outsourcing Accountability Act" (H.R.3624), which generally would require publicly traded companies that file annual reports under the 1934 Securities Exchange Act to disclose the number of workers they or their subsidiaries employ in each foreign country and in each U.S. state and territory, along with the percentage changes from the previous year.

In addition, the House Ways and Means Committee approved:

- H.R.4716, which would create a safe harbor for high-deductible health plans without a deductible for certain inhalers used for the treatment of any chronic lung disease or drugs treating such diseases delivered through inhalers;
- H.R.1922, which would allow health savings account, health flexible spending account and health reimbursement account disbursements for over-the-counter medicines and include amounts paid for menstrual care products as qualified medical expenses; and
- H.R.3708, which would allow individuals with direct primary care service arrangements (defined as medical care provided by primary care practitioners if the sole compensation for such care is a fixed periodic fee) to remain eligible to contribute to health-savings accounts.

The committee – along with the Education and Labor, and Energy and Commerce panels – also advanced separate bills (H.R.3) aimed at allowing the Secretary of Health and Human Services to negotiate prices for certain prescription drugs under Medicare, as well as group and individual insurance. The bills cleared the committees along party lines; Republicans oppose the measures, and it is uncertain that the final, packaged bill can clear the Senate even if the House approves it. The Senate Finance Committee continues to work on a bipartisan bill (S.2543) that generally focuses only on Medicare drug prices.

Separately, the two committees with jurisdiction over Medicare issues also approved three bills to extend Medicare coverage for dental (H.R.4650), vision (H.R.4665), and hearing (H.R.4618) benefits.

Regulatory Roundup

FROM THE DEPARTMENT OF TREASURY/IRS:

- [Proposed rule](#) allowing a state to establish and maintain a tax-advantaged savings program under which contributions may be made to an ABLE account for paying for the qualified disability expenses of the designated beneficiary.
- [Revenue Procedure 2019-39](#), which sets forth a system of recurring remedial amendment periods for correcting form defects in a 403(b) plan (both for individually designed plans and pre-approved plans) first occurring after March 31, 2020.
- [2019-2020 Priority Guidance Plan](#)
- [Tax-Exempt and Government Entities \(TE-GE\) Fiscal Year 2020 Program Letter](#)

BLS ON EMPLOYMENT AND WAGES IN U.S. FIRMS WITH FOREIGN OWNERSHIP

The Bureau of Labor Statistics released [*Spotlight on Statistics: A look at employment and wages in U.S. establishments with foreign ownership*](#), which shows that foreign companies have entered the heavily consumer-oriented U.S. market. The data collected by BLS show that, in 2012, establishments having at least one foreign owner with at least 10 percent ownership (hereafter referred to as “establishments with foreign ownership”) had total employment of more than 5.5 million, representing approximately 1 of every 20 U.S. private sector jobs.

A PAIR OF CBO REPORTS

The Congressional Budget Office (CBO) released:

- [*A Summary of Selected CBO Reports on Cash and Accrual Budgeting*](#), which notes that the costs of federal activities are recorded in the budget mostly on a cash basis. Using accrual accounting for retirement and insurance programs would accelerate the recognition of long-term costs and display the expected costs of new commitments when they were incurred. For example, the rules that govern how pension plans are funded expose the PBGC to the risk of large losses—losses that far exceed the agency’s ability to absorb them.

- [*CBO’s Medicare Beneficiary Cost-Sharing Model: A Technical Description*](#), which provides background information on Medicare’s current cost sharing and sources of supplemental coverage among Medicare enrollees, consisting of Medicaid, Medigap, and employer-sponsored retiree health insurance—including retirees in the federal employees’ health plan and TRICARE (the health care program for uniformed service members, military retirees, and their family members). It also provides an overview of the model and describes the development of the “base case”—the current-law estimate of Medicare spending and enrollee cost-sharing obligations for Parts A and B services in each year of CBO’s 10-year budget window.

ACCOUNTING FROM FASB

The Financial Accounting Standards Board (FASB) released descriptions of remodeling in connection with phase 3 of the topical focus project for retirement benefits, including multiemployer plan line items to indicate whether a pension plan is considered an individually significant or insignificant plan. The releases are [*Accounting Standards Update Adoption Transition Modeling \(Taxonomy Implementation Guide\)*](#) and [*Retirement Benefits—Phase 3 \(Taxonomy Implementation Guide\)*](#).

Regulatory Roundup – contd.

FROM THE DEPARTMENT OF LABOR:

- [*Proposed rule*](#) and [*fact sheet*](#) on default electronic disclosure by employee pension benefit plans under ERISA.
- [*Proposed rule*](#), [*fact sheet*](#) and [*frequently asked questions*](#) for tip provisions of the Fair Labor Standards Act.
- Two charts – on [*retirement benefits*](#) and [*healthcare benefits*](#) – for union and nonunion members.

FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- [*Proposed rule*](#) to clarify and make changes to the review process for certain agency determinations and the procedures for requesting administrative review.
- [*Premium rates*](#) for single-employer and multiemployer plans applicable for the 2020 plan years.
- [*2017 Data Tables*](#), which include statistics for single-employer and multiemployer programs and for the private defined benefit pension system.
- [*2018 Actuarial Report*](#), which shows the present value of future benefits for both the single-employer and multiemployer programs and of nonrecoverable future financial assistance under the multiemployer program.
- [*Technical Update 19-1*](#), waiving the requirement to report certain financial information separately for each nonexempt member of the filer’s controlled group.
- A [*web posting*](#) of the guarantee limits for single-employer plans that fail in 2020; the limits for multiemployer plans are not indexed and therefore have not changed.

FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- [*Final rule*](#) that rescinds the adopted standard unique health plan identifier (HPID) and the implementation specifications and requirements for its use and the other entity identifier (OEID) and implementation specifications for its use.

FROM THE SECURITIES AND EXCHANGE COMMISSION:

- [*Frequently Asked Questions*](#) regarding disclosure of financial conflicts related to investment adviser compensation.

At the U.S. Supreme Court

The U.S. Supreme Court opened its 2019-2020 term on Oct. 7, with the following cases on its docket:

- [*Intel Corp. Investment Policy Committee v. Sulyma*](#) (No. 18-1116), which considers when participants have “actual knowledge” of a fiduciary breach. At issue is whether ERISA’s three-year limitations period – which begins from “the earliest date on which participants had actual knowledge of the breach or violation” – bars suits when the plan fiduciary disclosed the relevant information more than three years before the participants filed the complaint but they chose not to read or could not recall having read the information.
- [*Retirement Plans Committee of IBM v. Jander*](#) (No. 18-1165), which considers whether the “more harm than good” pleading standard (in [*Fifth Third Bancorp v. Dudenhoeffer*](#)) for when a fiduciary must disclose information related to employer stock can be satisfied by generalized allegations that the harm of an inevitable disclosure of an alleged fraud generally increases over time.
- [*Thole v. U.S. Bank*](#) (No. 17-1712), which considers whether an ERISA pension plan participant has standing to bring a claim for breach of fiduciary duty without demonstrating a financial loss due to the plan being overfunded.

Other Recent Milliman Publications You May Be Interested in:

- [***Health and Group Benefits News and Developments, October 2019***](#)
- [***Multiemployer Pension Funding Study, Fall 2019***](#)
- [***Market Commentary, 3rd Quarter 2019***](#)
- [***Pension Funding Index, October 2019***](#)
- [***What can plan sponsors do with plummeting interest rates?***](#) In this article, we present our perspectives on the challenges of the current interest rate environment. Because every pension plan's situation is unique, sponsors need plan-specific data in order to make informed decisions. We also explain how, thanks to advances in technology, consulting actuaries can now generate realistic estimates of actuarial valuation results, funded status, expected investment returns, and other key factors, and deliver them in real time to support critical business decisions.
- [***How employers can address plan selection bias with risk adjustment***](#) Employees value choice when it comes to health benefits. When employers facilitate these choices, the method for setting employee premium contributions can create selection bias toward certain options. In order to reduce the selection bias, employers should adjust each option for morbidity.



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