

Monthly Benefit News & Developments

CBO BUDGET AND ECONOMIC OUTLOOK

The Congressional Budget Office's *The Budget and Economic Outlook - 2020 to 2030* finds that the federal budget deficit is \$1.0 trillion in 2020 (4.6% of gross domestic product (GDP)) and is projected to average \$1.3 trillion annually between 2021 and 2030, with deficits projected to rise at that time to 5.4%. GDP is expected to grow 2.2% in fiscal year 2020 and 1.9% in 2021, lower than the 3% growth used in the White House's budget request for 2020.

The CBO report also projects that the federal debt held by the public will grow from 81% of GDP in 2020 to 98% in 2030.

The report also discusses the effects on GDP of spending on Social Security, major mandatory health programs, discretionary program spending, and interest payments over the 10-year timeframe.

UPCOMING KEY DATES

3/2/20 – Extended deadline (instead of 1/31/20) for employers, insurers, and other providers of minimum essential coverage to furnish IRS Forms 1095-B or 1095-C for 2019 to covered individuals.

3/31/20 – Last day of the remedial amendment period for 403(b) plans.

4/30/20 – Deadline to apply for an IRS individual determination letter under the second six-year remedial amendment cycle for defined benefit preapproved plans.

10/1/20 (policy years beginning on or before) – Extended deadline for transitional health insurance policies for small group plans that do not comply with ACA standards, provided that the policies expire by 12/31/20.

12/15/20 (fiscal years ending after) – Application date of FASB amended Subtopic 715-20, disclosure requirements for public companies that sponsor defined benefit or other postemployment benefit plans.

12/31/20 – Expiration of "MAP-21" pension funding stabilization provisions for single-employer and multiple-employer defined benefit retirement plans.

Legislative Activity on the Benefits Front

Congress returned from the year-end holiday recess the first full week in January.

The House on Jan. 15 voted 261-155 on a bipartisan basis to approve the "Protecting Older Workers Against Discrimination Act" (H.R.1230), which would lower the burden of proof for employees asserting discrimination based on age or disability. Instead of requiring workers to show that discrimination or retaliation was the sole reason for their firing, demotion, or other adverse action – as required under current law – they would be able to pursue "mixed-motive" claims, under the bill. Thus, once an employee demonstrates there was a discriminatory act, the employer would have the burden of proof to show it still would have taken the adverse action.

During floor debate, the House adopted four amendments to the bill, all of which require federal agencies (e.g., the EEOC, the DoL) to conduct studies and report to Congress on age discrimination claims.

Prospects for the bill in the Senate are uncertain, although there is a bipartisan version (S.485) that has not advanced since its introduction in February 2019. The White House issued a Jan. 13 statement saying the President's advisers would recommend a veto on the bill.

Meanwhile, the House Education and Labor Committee on Jan. 14 approved and sent to the floor the "Pregnant Workers Fairness Act" (H.R.2694), which would require employers to negotiate reasonable accommodations with pregnant employees. In general, the bill would require that an employee seeking a workplace accommodation to notify her employer of her pregnancy, pending childbirth, or other related conditions and to specifically ask for an accommodation. The employer and employee would then negotiate workable accommodations, along the lines currently in use under the Americans with Disabilities Act. An employer would be prohibited from forcing an employee to accept any particular accommodation during these negotiations.

Regulatory Roundup

FROM THE DEPARTMENT OF TREASURY/IRS:

- [Revenue Ruling 2020-02](#) containing the 2020 "covered compensation" tables.
- [Chief Counsel Memorandum 201949019](#) regarding the taxability of cash reimbursements for malfunctioning transit passes.
- [2019 Form W-2](#), Wage and Tax Statement; [2020 Form W-4P](#), Withholding Certificate for Pension or Annuity Payments; and [2020 Publication 15-B](#), Employer's Tax Guide to Fringe Benefits.

FROM THE DEPARTMENT OF LABOR:

- [Final rule](#) to rescind the regulations on nondisplacement of qualified workers under federal service contracts.
- [Final rule](#) and [fact sheet](#) on "joint employer" status under the Fair Labor Standards Act (FLSA).
- [Final rule](#) containing the 2020 civil penalty inflation adjustments.

CRS REPORTS

The Congressional Research Service released:

- [Employer Tax Credit for Paid Family and Medical Leave](#), which provides an overview of the employer credit for paid family and medical leave, and highlights issues employers could consider when evaluating the credit.
- [The Health Coverage Tax Credit \(HCTC\): In Brief](#), which describes the eligibility criteria for the HCTC and the types of health insurance to which the tax credit may be applied. The report describes the administration of the HCTC program and receipt of the credit by eligible taxpayers. The report concludes with a summary of the HCTC's statutory history.

EEOC ENFORCEMENT DATA

The Equal Employment Opportunity Commission (EEOC) released [Fiscal Year 2019 Enforcement and Litigation Data](#), providing details for the 72,675 charges of workplace discrimination the agency received in fiscal year 2019. The data show that retaliation continued to be the most frequently filed charge filed with the agency, followed by disability, race, and sex discrimination.

BLS REPORTS

The Bureau of Labor Statistics issued:

- [Spotlight on Statistics: Workers' Access To And Use Of Leave From Their Jobs In 2017–18](#), which examines workers' access to and use of leave in 2017–18 and explores the reasons for which workers can take leave, their use of leave, and the reasons they did not take available leave even when they needed to do so.
- [Union Membership, 2019](#) and [chart](#), which show that for 2019 the percent of wage and salary workers who were members of unions – the union membership rate – was 10.3%, down by 0.2 percentage points from 2018. For public-sector workers, however, the union membership rate, at 33.6%, continued to be more than five times higher than the rate of private-sector workers (6.2%).
- [Women in the Labor Force – A Databook](#) shows the rapid rise in women's labor force participation during the second half of the 20th century. Women's labor force participation increased significantly from the 1960s through the 1980s, before slowing in the 1990s. After reaching a peak of 60% in 1999, labor force participation among women began a gradual decline. In 2016, 56.8% of all women participated in the labor force.

Regulatory Roundup – contd.

- [Proposed rule](#) on equal participation of faith-based organizations in the department's programs and activities.
- A [notice](#) on the agency's proposed participant assistance program customer survey, which will collect data from a sample of callers asking about their private sector employer provided benefits (e.g., retirement and health plans).
- [Advisory Opinion 2020-01A](#), rejecting a certain limited partnership program as a group health plan sponsored by a single employer.
- [Consolidated State Minimum Wage](#) update table for 2020.
- Three opinion letters: [FLSA2020-1](#), addressing calculating overtime pay for a nondiscretionary lump-sum bonus paid at the end of a multiweek training period; [FLSA2020-2](#), on whether per-project payments satisfy the salary basis test for exemption; and [FMLA 2020-1-A](#), on Family Medical Leave Act (FMLA) eligibility.
- Two new tools: one [tool](#) that allows the public to search Form 5500 series returns/reports since Jan. 1, 2010; and another [tool](#) that allows users to search and view "top hat" pension plan statements filed with the agency.

FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- [Final rule](#) on 2020 civil penalty inflation adjustments.
- [Technical Update 20-1](#), guidance for cooperative and small-employer charity (CSEC) plans on filing 2019 and 2020 plan year premiums that reflect the premium changes under the SECURE Act.
- [Second installment](#) of the 2017 Data Tables for the Single-Employer and Multiemployer Programs and the private defined benefit pension system, and an [update](#) to the ME Administrative Expense Supplement for 2017.
- An [announcement](#) of the first approved facilitated merger under the 2014 Multiemployer Pension Reform Act.
- A [web posting](#) of the Comprehensive Premium Filing Instructions for the 2020 plan year.

FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- [Proposed rule](#) ensuring equal treatment of faith-based organizations.
- [Proposed rule](#) providing the Notice of Benefit and Payment Parameters for 2021; Notice Requirement for Non-Federal Governmental Plans.
- [Final Rule](#) providing the annual civil monetary penalties inflation adjustment.
- A [notice](#) providing the poverty guidelines for 2020 used as an eligibility criterion by Medicaid and a number of other Federal programs.
- A [notice](#) updating the women's preventive services guidelines that addresses health needs specific to women.
- Application forms and guidance for [2021 Medicare Advantage Plans](#) (including for employer group waiver plans (EGWPs)) and [Prescription Drug Plans](#) (including for EGWPs).

FROM THE SECURITIES AND EXCHANGE COMMISSION:

- [Frequently asked questions](#) stating that Regulation Best Interest that the Customer Relationship Summary, or Form CRS, will not satisfy a broker's Regulation Best Interest disclosure obligations.

FROM THE U.S. CITIZENSHIP AND IMMIGRATION SERVICES:

- An [announcement](#) that employers, as of Jan. 31, 2020, should use the Oct. 21, 2019 version of Form I-9, Employment Eligibility Verification, to verify the identity and employment authorization of their employees.

Other Recent Milliman Publications You May Be Interested in:

- **Client Action Bulletin 20-1: SECURE Act and Federal Spending Law Affects Employer-Sponsored Retirement and Health Benefit Plans**
- **Pension Funding Index, January 2020**
- **Understanding the connections between health and financial wellness** This paper examines the various connections between health and wealth as well as the repercussions of ignoring those connections.
- **Considerations for better health and wealth planning** People expect their financial advisers to create more comprehensive financial plans that will help them achieve this goal.
- **Household dynamics in the prevalence of mental health conditions and substance use disorders** This paper studies the prevalence of mental health and substance use disorders within commercially insured families in the United States to understand the likelihood of a household being affected by these conditions.
- **A case study on the actuarial implications of a Medicare Advantage buy-in option for older adults** Actuarial investigation can be essential in understanding the potential financial and risk management implications of a proposal, including whether it is likely to achieve its stated goals.
- **How to implement a wellness programme** What are the best practices for designing and implementing a wellness programme?
- **Medicare for All sounds expensive. How expensive? Here are three questions you need to answer.** While a comprehensive Medicare for All proposal will add significant cost to the federal government, many of these costs already exist within the current healthcare system but are paid by other entities, such as employers, states, and individuals.



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