Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010

June 25, 2010

Special Report

HIGHLIGHTS

- Single Employer Plan Relief
- Multiemployer Plan Relief
- CMS-IRS Data Match

INSIDE

President Signs Doc Fix/Pension Funding Relief Bill

On June 25, President Obama signed the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (H.R. 3962) a package of defined benefit pension funding relief measures and the so-called Medicare "doc fix." The pension funding measures in the bill were originally part of the American Jobs and Closing Tax Loopholes Act of 2010 (H.R. 4213), a/k/a, the tax extenders bill. The House approved the measure on June 24 by a 417-1 vote after the Senate approved it by unanimous consent on June 18.

IMPACT. *The "doc fix" reverses a 21 percent cut in Medicare physician reimbursements that took effect June 1, 2010. H.R. 3962, which is fully funded, not only reverses the payment reduction, it also provides a 2.2 percent update to physician payment rates through November 30, 2010. The "doc fix" passed by the Senate is retroactive to June 1, 2010. The Senate tax leaders applauded the House for passage of the legislation. "This bill ensures seniors and military families get the access they depend on to the doctors they trust," Senate Finance Committee Chair Max Baucus, D-Mont., said.*

IMPACT. *The pension funding relief measures are intended to give sponsors of defined benefit plans additional time to amortize pension funding shortfalls. The funding relief provisions do not waive or alter an employer's obligation to fully fund its pension plan. The measures are projected to raise approximately $2.1 billion over 10 years.*

COMMENT. *After the tax extenders bill failed two key test votes in the Senate, the Senate Democratic leadership removed the pension funding provisions from the jobs/extenders bill and used them to offset the "doc fix." House leaders had initially resisted taking up the "doc fix" bill unless the Senate passed the jobs bill. When Senate Republicans again blocked the jobs bill June 24, the House caved in and approved the "doc fix." After the House action, House Speaker Nancy Pelosi, D-Calif., expressed a reluctance to proceed with further emergency legislation, such as an extension of unemployment insurance benefits, unless Senate approval was likely.*

COMMENT. *Industry groups applauded the action. "These relief provisions .. will help many large American employers manage artificially inflated pension obligations and reduce layoffs," American Benefits Council President James Klein said in a statement. "This legislation will allow employers to responsibly fund their retirement plans while also driving economic growth," Klein said.*

PENSION FUNDING RELIEF

Single Employer Plans

H.R. 3962 provides single employer plans with an extended period to amortize certain funding shortfalls. Generally, plan sponsors may elect between two different schedules: a "2 plus 7" schedule or a 15 year schedule. The "2 plus 7"schedule provides for interest-only payments for two years after which seven-year amortization would apply. The 15 year schedule provides for amortizing a funding shortfall base in level installments over 15 years subject to various conditions.

IMPACT. *The measure generally allows plan sponsors to elect relief for up to two years during the four-plan-year period from 2008 to 2011.*

COMMENT. *The installments must be increased if an employer pays excess compensation, extraordinary dividends or redeems stock.*

Plans Subject to Prior Funding Rules

Funding rules in the Pension Protection Act of 2006 (PPA) were delayed for multiemployer plans of certain cooperatives, PBGC settlement plans, and single employer plans of government contractors. H.R. 3962 applies the extended amortization period to plans subject to prior funding rules. Generally, plan sponsors may elect relief for plan years beginning during the three-plan-year period from 2008 to 2011.

COMMENT. *The pending legislation also delays the PPA effective date and provides special interest rate rules for eligible national charities and their local chapters. The charity provisions apply to plan years beginning after December 31, 2007.*

> "The pension funding relief measures are intended to give sponsors of defined benefit plans additional time to amortize pension funding shortfalls."

Lookback for Certain Benefit Restrictions

If a plan's funded percentage falls below 60 percent, benefit accruals generally must cease and certain payments cannot be made. Congress provided targeted relief in the Worker, Retiree and Employer Recovery Act of 2008 (WRERA) for years beginning October 1, 2008 through September 30, 2009 by substituting the plan's adjusted funding target attainment percentage (AFTAP) from the plan's preceding plan year if certain conditions were met. H.R. 3962 extends the relief in WRERA temporarily.

MULTIEMPLOYER PLANS

H.R. 3962 also targets relief to multiemployer plans. The bill allows multiemployer plans to elect a 30-year period for certain losses incurred in either of the first two plan years ending on or after August 31, 2008. The bills also extend the maximum smoothing period for determining plan asset values from five years to 10 years for the first two plan years ending on or after August 31, 2008.

CMS-IRS DATA MATCH

H.R. 3962 establishes a data match between the IRS and the Centers for Medicare and Medicaid Services (CMS) to identify fraudulent providers. The bill authorizes the IRS to disclose return information concerning outstanding tax debts to enhance the integrity of Medicare.

IMPACT. *Return information authorized to be disclosed would be limited to taxpayer identity information; the amount of delinquent tax debt owed by the taxpayer; and the tax year to which the delinquent tax debt pertains. Generally, a delinquent tax debt means an outstanding debt for which a notice of tax lien has been filed.*

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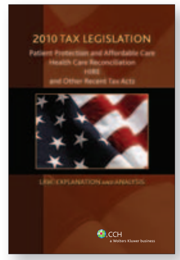

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