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## Health care reform still setting agenda for employee benefits

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**Abstract:** Developments related to the nation's health care reform law dominated benefits management news once again in 2015, with the most important Patient Protection and Affordable Care Act development happening during the summer. That was when the Supreme Court upheld 2012 IRS rules authorizing ACA premium subsidies to lower-income uninsured individuals who purchase health insurance in the federally operated public exchange as well as state-operated public exchanges.

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**Full text:** Developments related to the nation's health care reform law dominated benefits management news once again in 2015, with the most important Patient Protection and Affordable Care Act development happening during the summer.

That was when the Supreme Court upheld 2012 IRS rules authorizing ACA premium subsidies to lower-income uninsured individuals who purchase health insurance in the federally operated public exchange as well as state-operated public exchanges.

That assured continuation of \$20 billion a year in government subsidies to some 6.4 million people who gained health insurance in nearly three dozen states where the federal exchange operates.

Indeed, the Census Bureau in September reported a big drop in the nation's uninsured rate to 10.3% in 2014 from 13.3% the prior year, due in part to the subsidies.

Other major benefits management developments during 2015 include:

### Automatic enrollment

Reacting in part to longstanding employer complaints, Congress in October repealed the ACA requirement that employers automatically enroll employees in a group health plan if employees do not respond when asked to choose a plan.

Employers complained about issues that included the lack of guidance on how much discretion they had to choose a plan for an employee, which delayed implementation of the requirement.

While lawmakers heard employer complaints, experts say the driving force behind the bipartisan move to repeal automatic enrollment was the \$8 billion in revenue that the Congressional Budget Office said would be generated by increased taxable income for employers.

"There was a lot of uncertainty about how employees could unenroll," said Ann Marie Breheny, a senior legislative adviser at Towers Watson & Co. in Arlington, Virginia.

"The automatic enrollment requirement ... was not ready to be implemented," said Annette Guarisco Fildes, president and CEO of the ERISA Industry Committee in Washington.

### Excise tax

In rapid action last week, Congress voted to delay an ACA provision known as the "Cadillac" tax. The 40% excise tax is to be imposed on the portion of group health plan premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage. Congress voted to delay the start of the tax from 2018 to 2020.

### Mergers

While mergers among health insurers have been common for years, two blockbuster 2015 deals look to winnow the five largest health insurers to three -- assuming the mergers survive antitrust scrutiny.

During the summer, Anthem Inc. and Cigna Corp. proposed merging in a \$54 billion deal while Aetna Inc. and Humana Inc. proposed combining in a \$37 billion deal.

If the Anthem-Cigna merger is not blocked by federal regulators, with a decision expected sometime in 2016, it would result in the nation's largest publicly traded health insurer in enrollees with an estimated 48 million people.

#### Multiemployer pensions

Alarmed by the exposure of the Pension Benefit Guaranty Corp. to huge losses from failed multiemployer pension plans, Congress a year ago passed legislation to allow plans to seek Treasury Department approval to cut participants' benefits in order to survive.

In September, one of the nation's biggest and most financially troubled plans, the Central States, Southwest and Southwest Areas Pension Plan, sought approval to do that. The plan is massively underfunded with \$35 billion in benefit liabilities and \$17.8 billion in assets at year-end 2014. Without cutting benefits, plan officials project the plan will go broke in about a decade. The Treasury Department has until early May to make a decision.

#### PBGC premiums

Up and up. That is what Congress has been doing to premiums employers with defined benefit pension plans pay the PBGC.

As part of a broader measure Congress approved in October, the flat-rate premium will rise from \$57 this year to \$80 in 2019. In addition, the law increases the variable-rate premium from \$24 this year to \$41 in 2019.

#### Hospital insurers

While longtime health insurers merge, hospitals are entering the insurance market and, in some cases, are growing rapidly.

A recent Standard & Poor's Corp. report examined 16 health care systems that had started health insurance companies, finding they had more than \$25 billion in premiums and more than 7 million enrollees in their plans.

#### Benefits captives

Employers returned to their captive insurers in 2015 to fund employee benefit risks.

Hormel Foods Corp., Healthcare Services Group Inc. and Sealed Air Corp. won Labor Department approval to fund benefits through their captives -- the highest number since 2012.

#### Health costs

Group health care plan cost increases in 2015 continued to be modest but still higher than the overall rate of inflation.

Plan costs rose an average of 3.8% in 2015, the third consecutive year of increases under 4%, according to Mercer L.L.C. surveys.

Shifting workers to high-deductible health plans, implementing wellness programs and providing consumerism tools, such as cost comparison tools, have helped employers limit increases in health costs, experts said.

#### Prescription contraceptives

In 2015, the Supreme Court said it would rule on a long-running controversy: the legality of Department of Health and Human Services rules on coverage of prescription contraceptives by nonprofit religious organizations, such as religiously affiliated hospitals and health care systems.

In the latest twist, plaintiffs are challenging a July rule that allows religious organizations to pass on the obligation to provide prescription contraceptive coverage to health insurers or their third-party health plan administrators. That notification, the groups maintain, violates their religious rights.

#### Gay marriage

And the Supreme Court's June ruling in *James Obergefell et al. v. Richard Hodges et al.* invalidated state laws that denied marriage rights to gay and lesbian couples.

Experts said the ruling may prompt employers offering spousal-equivalent benefits to same-sex domestic partners to eliminate that coverage.

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