U.S. Legislative Update

James A. Klein
President
American Benefits Council
Washington, DC
Congressional Gridlock

- Loss of political moderates
- Traditionally, consequential legislation could only pass with bipartisan support (e.g. ERISA, TRA 86, COBRA, etc.)
- Now, legislation only passes if strictly partisan (e.g. ACA, efforts to repeal ACA, Tax Cuts & Jobs Act of 2017 etc.)
- Congress and White House control
Bipartisanship
SECURE Act: 417-3

• Non-discrimination relief for closed DB plans
• 10% auto escalation cap raised to 15%
• Expand coverage for part-time employees
• Life-time income disclosure
• Raise 70-1/2 RMD age to 72
• Fiduciary safe harbor for plan sponsor selection of annuity provider
• Open MEPs (Multiple Employer Plans)
Bipartisanship
Cadillac Tax Repeal: 419-6

• 62 bipartisan Senate co-sponsors
• Impediments in the Senate
  – Estimated tax revenue loss
  – Lack of urgency
• Further delay?
Surprise Billing

- **Unexpected charges**
  - Emergency room, air ambulance
  - Out-of-network providers at in-network facilities

- **All remedial legislation “holds patient harmless”. Employers or insurance carriers to pay.**
  -Providers: Arbitration of disputes
  -Employers and health plans:
    - Require all providers to accept in-network rate
    - Benchmark median in-network rate
Challenges for Defined Benefit Plans

- **Multi-employer system**
  - $53.9 billion PBGC insurance program deficit
  - PBGC insurance program projected to be depleted by 2025
  - Inability to agree on a solution (e.g. federal loans, benefit cuts)

- **Single employer system**
  - $2.4 billion PBGC insurance program surplus
  - Risks
    - Interest rates/funding obligations
    - Premium increases to fund other initiatives
    - “Loan” money to multi-employer program
    - Actuarial assumption litigation
Medicare for All

- Constitutionality of Affordable Care Act (ACA) challenged
- Mere defense of ACA deemed too modest
- Debate over cost/savings of Medicare for All
- More likely scenario: Medicare for More
  - Public option
  - Buy-in for early retirees
- Also, a potential buy-in to Medicaid
Tax Expenditures, 2019-2028
Projected Dollars in Billions

- Exclusion of employer contributions for medical insurance premiums and medical care: $2,787 billion
- Exclusion of employer-sponsored pension plan contributions and earnings (DB & DC): $1,900 billion
- Lower tax rate on investment capital gains to encourage individual investment: $1,152 billion
- Deductibility of mortgage interest on owner-occupied homes: $598 billion
- Deductibility of charitable contributions, other than education and health: $556 billion

Source: U.S. Office of Management and Budget (OMB), Analytical Perspectives, Budget of the United States Government, Fiscal Year 2020
**Tax Revenue Impact**

Employer plans provide several times the value of benefits each year in relation to the value of the tax expenditures.

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<th>Tax Expenditure</th>
<th>Benefits Paid</th>
<th>Benefits Bargain</th>
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<tbody>
<tr>
<td>Health Benefits (2016)</td>
<td>$155 billion</td>
<td>$691 billion</td>
<td><strong>$4.45</strong></td>
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<tr>
<td>Retirement Benefits (2012)</td>
<td>$138 billion</td>
<td>$991 billion</td>
<td><strong>$7.18</strong></td>
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Health Regulatory Action

- **Health Reimbursement Arrangements (HRA)**
  - Movement toward “defined contribution” model of health benefit sponsorship
  - Opposite trend from Medicare for All
  - Irony: May help stabilize individual market
  - Viability of individual market (small employer adoption)

- **Expand use of HSAs for preventive care**

- **Drug prices (e.g. TV advertisements, restrict purchase price for federal programs, etc.)**
Retirement Regulatory Action

- Missing participant guidance
- Consolidation/simplification of plan communication and use of electronic disclosure
- Private Letter Ruling and potential Revenue Ruling on retirement plans and student loan debt
- Regulatory action is subject to change (e.g. determination letters, lump sums in retirement, ESG investments)
State Activity

• **Retirement:** State-sponsored plans for private sector workers

• **Health:** Traditional role regulating insurance; now affecting self-insured plans
  - Individual mandates, employer fees, limiting telemedicine, etc.
  - Taking the lead on surprise billing

• **Paid leave:** Myriad state and local laws
  - Federal mandate—sets minimum benefit
  - Voluntary minimum—ERISAfication of leave programs

• **Evolving employer views on mandates**
What Do Voters Want?

Which of the following approaches would do most to improve access to high-quality health care coverage?

- Compromise and cooperation from both parties (Democrats only 16%, Republicans only 10%)
- Compromise and cooperation from both parties (71%)

Which of the following approaches would do most to improve one’s ability to save for a secure retirement?

- Compromise and cooperation from both parties (Democrats only 10%, Republicans only 10%)
- Compromise and cooperation from both parties (78%)

Source: Public Opinion Strategies
Trust

Which one of the following sources do you trust the most for high-quality health care coverage?

- Employer plan: 48%
- Individual health care market: 20%
- Federal government plan: 15%
- State government plan: 10%

Which one of the following sources do you trust the most to help you achieve a secure retirement?

- Employer plan: 47%
- Individual financial services: 33%
- Federal government plan: 9%
- State government plan: 5%

Source: Public Opinion Strategies