

**Large employers want to do more for their employees to support them during the COVID crisis. However, they are stymied by existing Health and Retirement policies that are not flexible enough for them to use to provide better benefits for their workforce, or that trigger excessive contributions to maintain benefit plans.**

**Congress should adopt these policies to enable employers to use their benefit plans to best support their workforce.**

### **Retirement**

- **Streamline loan procedures and liberalize hardship distribution rules.** As we've seen in other emergencies, allowing participants to have immediate access and to relax repayment rules would be helpful – particularly to those who might not be getting paid at this time.
- **Temporary waiver of minimum distribution rules.** In light of the significant decline in the stock market due to concerns over the COVID-19 pandemic, there is widespread concern about individuals taking these required distributions when there has not been enough time to recover losses.
- **Relief for Defined Benefit (DB) plans from negative interest rates.** With the cliff drop in asset values in the last two weeks and corresponding continued declines in interest rates, our DB plan sponsors are looking at hefty contribution requirements. We recommend freezing the interest rate at pre-Coronavirus levels.
- **Relief from PBGC premiums** – Remove or reduce PBGC premium for 2020.
- **Extend filing and notification deadlines.** Extension of time to file the Form 5500 and the 4010 filing with the PBGC. In addition, we request an extension of time to provide the annual funding notice. Although plan sponsors are working on this information, having additional time for these filings would free up to resources to contend with the Coronavirus crisis.

### **Health**

- **Exempt all telehealth from High Deductible Health Plan (HDHP) rules.** Right now, employers have to charge HDHP beneficiaries a "fair market value" for telehealth services, until they hit their deductible. This prevents employers from incentivizing use via steerage, discounts, and free care. Employers want their employees and families to use telehealth, especially now. It might also help keep people from infecting others, alert hospitals to prepare for possibly infected people arriving, etc. It's a one-line fix in 26 USC 223 (c)(1)(B)(2) **certain coverage disregarded:** just add the word "telehealth". [Note: IRS guidance is allowing very narrow 1<sup>st</sup>-dollar coverage of telehealth for COVID treatment, temporarily. We need a permanent statutory fix] [Also note: Excepting the benefit should allow us to expand telehealth offerings to part-time, seasonal, etc. **Right now, telehealth is considered a "plan" under ACA, so it CANNOT be offered standalone**]

- **Clarify that all COVID/future pandemic testing/diagnostics are "preventive" under the IRS definition.** Currently, we have temporary guidance allowing this, so a statutory change to clarify in statute that **all** infectious disease testing, screening, and diagnostics are preventive is common sense. The statutory fix would be to amend Section 1861 of the Social Security Act, section (ww), and add in a broader "infectious diseases and pandemics" bullet, or add it to bullet A.
- **Add \*treatment\* of highly infectious diseases to the definition of preventive.** Employers are currently relying on temporary guidance that is otherwise violating the statute. A statutory fix would be in Section 1861 of SSA -- go into (ddd) and add a (4), something like "shall also include treatments to contain and mitigate highly infectious diseases and pandemics."
- **Expand telehealth access.** Several more proactive steps are needed to ensure access to telehealth:
  1. **Create national reciprocity for physician licensing in telehealth.** Currently, only a physician licensed in a state can administer telehealth care to a patient in that state. This limitation adversely affects patients when various states hit their capacity. The rule should be if a doctor is licensed in one state as, for example, an epidemiologist, then she can perform these services via telemedicine in other states too. Experts at: <https://www.cchpca.org/> can help to flush out the concept as can leg counsel.
  2. **Create national standards for telehealth.** Some states have onerous and inexplicable barriers to telehealth, such as requiring video (which hurts patients with no broadband), requiring the first visit be in-person (defeats purpose of telehealth for social distancing), etc. We need a national set of standards to regulate telehealth, which should be an interstate practice anyway. ERIC's proposed standards are [linked here](#). This would be an amendment to the Public Health Service Act.
- **Allow retroactive plan amendments for COVID benefit enhancements.** When self-insured plans increase benefits to cover COVID testing and treatment without cost-sharing, increased telehealth access, etc. during this crisis, they need to file paperwork for the plan and notices to the beneficiaries. In the interest of speed in mitigating the crisis, Congress should direct the Secretary of Labor to grant temporary relief to plan sponsors, to ensure they are comfortable moving forward with improving benefits, and make sure they aren't punished for being proactive. Some plan sponsors have rushed to make changes, while others are waiting on the sidelines due to the administrative burdens of doing this.

For more information about these policies, please contact Aliya Robinson, Senior Vice President for Retirement and Compensation Policy, or James Gelfand, Senior Vice President for Health Policy at The ERISA Industry Committee (ERIC).

### **About The ERISA Industry Committee**

*ERIC is a national advocacy organization that exclusively represents large employers that provide health, retirement, paid leave, and other benefits to their nationwide workforces. With member companies that are leaders in every sector of the economy, ERIC advocates on the federal, state, and local levels for policies that promote flexibility and uniformity in the administration of their employee benefit plans. Learn more at [eric.org](http://eric.org).*