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FEW Washington Update
July 1-15, 2020

Rest in Peace John Lewis
Civil Rights Activist and Longtime Congressman
1940 - 2020

In Congress

Lawmakers return to Washington on Monday [July 20] for a sprint to pass another comprehensive pandemic relief package with a price tag over $1 trillion and provisions that could deal with business liability protections, state and local funding, direct payments and unemployment insurance.

At least **nine states had enacted some form of business immunity** for coronavirus cases as of late June, with proposals pending in many more states. Some 16 states also had liability protections **specifically for nursing homes**.

For the next relief package, senators have also discussed **a slew of tax cuts and incentives**: boosting the employee retention tax credit, allowing companies to write off entertainment expenses to encourage restaurant purchases, and perhaps including the payroll tax cut that President Donald Trump has pushed despite bipartisan skepticism about its efficacy.

Partisanship could make this package harder to negotiate if the focus shifts from stabilization to long-term economic boosts.

There could also be changes to the nearly $660 billion Paycheck Protection Program that provides forgivable loans to small businesses. Senior lawmakers in both parties have discussed **allowing a second round of loans** for the smallest and hardest-hit businesses.

Congress might give more flexibility in loan terms or forgiveness requirements, such as lowering the requirement that 60 percent of forgiven funds go to payroll. Acceptable categories might expand to cover certain bad debts like unpaid customer bills. About $140 billion remains available, and lawmakers say they want the money used to support small-business jobs.

The next relief package's final price tag seems likely to end up between $1.5 trillion and $2 trillion, one veteran lobbyist predicted, although the Senate Leader may try to keep it closer to $1 trillion.

Negotiations are likely to be frenetic over the next two or three weeks. The Senate is scheduled to leave town August 7 for Congress' customary month-long break. The House is set to wrap up July 31, but the chamber may stay in town longer to get a deal passed.

Sourced from Law360.

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Paid Leave:

Office of Personnel Management (OPM) has said that it intends to finalize several sets of rules involving federal employee leave policies and official time for employees with union duties.

In the latest "regulatory agenda," OPM said that it would issue rules before October 1 on the upcoming paid parental leave authority for federal employees which is set to begin for births, adoptions or foster placements as of that date. OPM earlier had recommended several changes to the details of that authority as passed late last year, but Congress has not addressed them—it is, however, moving toward extending the authority to several categories of employees inadvertently left out.

OPM also said that it is still working on finalizing rules to carry out changes in paid administrative leave (commonly called excused absence) policies that were enacted into law nearly four years ago. OPM previously finalized rules affecting one new category of leave under that law—weather and safety leave, which some agencies have been paying to some employees whose offices have been closed but whose jobs do not allow for telework.

However, rules to carry out new forms of leave for when employees are being investigated for possible disciplinary action and when such actions have been issued but have not been carried out. Also coming are revisions to administrative leave, which previously was invoked for those and various other situations but which is to be more tightly defined.

Also, still in progress, OPM said, is finalizing proposed rules to carry out Trump administration executive orders of 2018 limiting the amounts and allowable uses of official time, which the rules would designate as “taxpayer-funded union time.”

“The proposed regulation will also address certain employee conduct with regard to use of agency paid time and agency resources when a federal employee is serving as a union representative,” it said.

Other than the parental leave rules, though, OPM did not specify a target date for finalizing those rules. Various changes in hiring and other practices, most of them technical in nature, also are in progress, it said.

Sourced from FedWeek.

Pay Increase:

Ten House members asked leaders to specify a 3 percent federal employee raise in January in the name of pay parity with military personnel, who would be in line for that amount under bills moving in Congress.

Excerpt: “We feel strongly that federal employees have demonstrated they are invaluable to this nation and that they deserve parity with respect to pay increases provided by the federal government . . . This year, in particular, our federal civilian workforce has served this nation at the time when services were most needed,” they said.

The call came just after a House subcommittee approved a spending bill that doesn’t specify an increase for federal employees but that leaves room for one—following a strategy often used in recent years of effectively endorsing the administration’s recommendation on a raise without explicitly saying so. Under federal pay law, if Congress does not specify a figure for the following year by the end of one year, the President’s recommendation will take effect by default.

In this case, President Trump earlier this year recommended a 1 percent federal employee raise—to be paid across the board with no differences by locality—and also at the same time issued a statement that if Congress does not legislate a figure, he would impose that amount as the default raise. That was a departure from past practice.

Allowing a default raise would in effect mean that 1 percent would be the upper limit for a federal employee raise. Meanwhile defense budget bills advancing in Congress would provide 3 percent for the military as the President recommended.

The subcommittee' action was just the first of many steps toward deciding on a raise for January. The Senate has not started writing its own version of the bill.

Pay parity is a practice that has often—but not always—been followed in past years to bring the federal employee amount up to the amount proposed for military personnel.

Earlier, some members of Congress and federal employee organizations had advocated for a 3.5 percent federal employee raise but that figure now seems to be off the table given the 3 percent raise in the works for the military. There has been no recent year in which the federal raise exceeded the military raise.

Sourced from FedWeek.

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Benefits:

A survey of federal employees has again found that the Thrift Savings Plan (TSP), retirement annuities and the Federal Employees Health Benefits Program (FEHB) health insurance are the most highly valued benefits and that employees overall view them as meeting their needs and providing a good value.

The TSP was rated as important or extremely important by 96 percent, retirement annuities (FERS or CSRS) by 95 percent, FEHB coverage in retirement by 92 percent and FEHB in general by 90 percent. At the bottom were dependent care and health care flexible spending accounts, at 22 and 39 percent; the most notable changes from 2017 were that the FEDVIP dental and vision insurance programs gained 5 and 4 percentage points.

Similarly, the FEHB was viewed as meeting needs to a great or moderate extent by 96 percent and the TSP by 93 percent; while the TSP was rated a good or excellent value by 88 percent and FEHB by 74 percent (since the survey went only to active employees they were not asked whether the FERS or CSRS annuities met their needs or were a good value).

Those results from last year's Federal Employee Benefits Survey were consistent with prior versions of the survey, which is administered once every several years. Also consistent with past surveys, the FEHB was a moderate or great influence on 70 percent of respondents' decisions to take a federal job and was even more influential in a decision to remain with the government, cited as a moderate or great influence by 79 percent. The figures for availability of retirement annuities were 79 and 89 percent, and for the TSP 69 and 82 percent.

About 10,000 employees, a fifth of those receiving the survey, responded to it.

Sourced from FedWeek.

Federal Employee Health Programs

Whenever the government shuts down next, employees and annuitants should have some greater peace of mind about their federal health and life insurance benefits.

New draft regulations from the OPM, which are scheduled for publication on Monday, make several important changes to ensure employees experience no major interruptions in their federal health, dental, vision, life and long-term care insurance during any future government shutdown.

The regulations implement certain provisions of the 2020 National Defense Authorization Act, which instructed OPM to make certain federal health and life insurance services "essential" under the Antideficiency Act.

Specifically, OPM's new regulations designate services under the FEBH and the Federal Employees' Group Life Insurance (FEGLI) Program as essential during any future lapse in appropriation.

"These services include, but are not limited to, any activities related to enrollment, changing enrollment, temporary extension of coverage and conversion, eligibility, certification of coverage and matters relating to reemployed annuitants and survivor annuitants," OPM said.

The federal employees who process new dependents or FEHB enrollment changes are also considered "excepted" workers, and agencies should continue to employ them during future government shutdowns, OPM said.

Under current regulations, employees who are furloughed or working without pay are placed in "non-pay" status and usually can't enroll or make enrollment changes to the FEHB. But moving forward, federal employees will be able to make those changes during future shutdowns.

Federal employees make most FEHB changes during open season, which typically runs from mid-November to mid-December.

But some had difficulty enrolling new dependents during the last 35-day government shutdown, because the employees who would otherwise enroll new dependents were, in some cases, furloughed.

For employees who are furloughed or are “excepted” and working without pay during future government shutdowns, their coverage under the Federal Employees Dental and Vision Insurance Program (FEDVIP) and Federal Long Term Care Insurance Program (FLTCIP) will also continue.

According to OPM regulations, employees won’t lose their coverage if they’re placed in “non-pay” status and, as a result, they’re not paying their premiums.

Currently, most federal insurance programs will continue during government shutdowns, but if the lapse goes on for two consecutive pay periods, these programs could go on to directly bill their enrollees for missing premiums.

The length of the last government shutdown prompted OPM to extend that number to three consecutive pay periods. If the shutdown had extended a few days longer, FEDVIP enrollees would have received a bill for missing premiums.

But that scenario is no longer a possibility under these new regulations. Coverage under FEDVIP and FLTCIP for furloughed and excepted employees will simply continue.

Once the government shutdown ends, FEDVIP and FLTCIP premiums will be paid from the participants’ back pay — or some other source if enrollees make direct FLTCIP payments, OPM said.

Under a bill passed into law in 2019, Congress appeared to guarantee back pay for all excepted and non-excepted employees during future government shutdowns.

The 2020 provisions originated as standalone legislation, which a bipartisan, bicameral group of lawmakers had introduced in reaction to 2018-2019 government shutdown. The group included the late House Oversight and Reform Committee Chairman Elijah Cummings (D-Md.), former congressman and now White House Chief of Staff Mark Meadows (R-N.C.) and several other members of Congress from the Maryland and Virginia delegations.

Lawmakers were clearly reacting to the most recent government shutdown, which, because of its length, created several problems for federal employees trying to enroll new dependents or make other important changes to their insurance.

Members of the public will have 30 days to comment on OPM’s proposed regulations.

Sourced from Federal News Network.

Gender Pay Gap:

Women in the U.S. earn 81 cents for every dollar men make in 2020.

That's the raw gender pay gap, "which looks at the median salary for all men and women regardless of job type or worker seniority," Payscale explains in a 2020 report on the state of the pay gap.

The gap forms early and continues to grow: As data from the Bureau of Labor Statistics shows, men earn more from the start. And women not only earn less, but their peak earning age is lower than that of the average man.

Here's the median income American men are earning, broken down by age group, as of the second quarter of 2020.

- 16 to 19 years: $518 weekly ($26,936 annually)
- 20 to 24 years: $662 weekly ($34,424 annually)
- 25 to 34 years: $963 weekly ($50,076 annually)
- 35 to 44 years: $1,239 weekly ($64,428 annually)
- 45 to 54 years: $1,271 weekly ($66,092 annually)
- 55 to 64 years: $1,220 weekly ($63,440 annually)
- 65 years and older: $1,034 weekly ($53,768 annually)

And here's how much women earn at various ages:

- 16 to 19 years: $481 weekly ($25,012 annually)
- 20 to 24 years: $610 weekly ($31,720 annually)
- 25 to 34 years: $867 weekly ($45,084 annually)
- 35 to 44 years: $1,011 weekly ($52,572 annually)
- 45 to 54 years: $1,005 weekly ($52,260 annually)
- 55 to 64 years: $972 weekly ($50,544 annually)
- 65 years and older: $998 weekly ($51,896 annually)

Women could be disadvantaged even more due to the coronavirus pandemic. "Women have a higher risk of suffering greater penalties in earnings," Payscale notes in its report, since they make up a larger percentage of occupations in fields like social services, education and office and administrative support, which are positions that are more likely to be suspended or asked to work reduced hours.

"Women are also more likely to have to take time off work, or even resign their positions, in order to care for children who are no longer in school as well as other family members," Payscale adds.

The gender pay gap widens for people of color

Women overall in the U.S. earn less than men, but the disparity in pay widens for minorities. Black women, for example, earn 61 cents for every dollar that their White male counterparts are paid, according to the National Women's Law Center's analysis of 2018 Census Bureau data. That could amount to $946,120 in lost wages over a 40-year career.

Here's the median income of American White men broken down by age group, according to Q2 2020 data from the BLS:

- 16 to 24 years: $639 weekly ($33,228 annually)
- 25 to 54 years: $1,154 weekly ($60,008 annually)
- 55 years and older: $1,242 weekly ($64,584 annually)

Here's the median income of American Black men broken down by age group:

- 16 to 24 years: $606 weekly ($31,512 annually)
- 25 to 54 years: $865 weekly ($44,980 annually)
- 55 years and older: $905 weekly ($47,060 annually)

Here's the median income of American White women broken down by age group:

- 16 to 24 years: $593 weekly ($30,836 annually)
- 25 to 54 years: $968 weekly ($50,336 annually)
- 55 years and older: $981 weekly ($51,012 annually)

Here's the median income of American Black women broken down by age group:

- 16 to 24 years: $552 weekly ($28,704 annually)
- 25 to 54 years: $777 weekly ($40,404 annually)
- 55 years and older: $969 weekly ($50,388 annually)

Closing the gender pay gap

Pay transparency, or openly sharing employee salaries, could be the top solution to closing the gap, 2020 data from PayScale shows. When companies are open about the salaries they give employees, the wage gap in most industries and at all job levels disappears, the report finds.

Another way women are able to close the gender gap, though time-consuming and oftentimes expensive, is by getting one more degree.

A 2018 wage gap report from the Georgetown Center on Education and the Workforce (CEW) found that in order to earn the same salary as men, women essentially need to get one more degree. "A woman with a bachelor's degree earns $61,000 per year on average, roughly equivalent to that of a man with an associate's degree," the Georgetown CEW reports. "The same rule holds true for women with master's degrees compared to men with bachelor's degrees and for each successive level of educational attainment."

To help narrow the gap, there are a few things women can do besides getting another degree, the report notes. For starters, pick a college major that pays well: “Women majoring in STEM (science, technology, engineering and mathematics) fields earn $840,000 more from the base year to retirement than women who major in the liberal arts, regardless of the occupations they choose.”

And when you land your first job, negotiate your starting pay well. As the Georgetown CEW report finds, “The first salary is a very important leverage point for upward mobility and can result in a slower trajectory if women aim lower to begin with.”

If you’re well past day one on the job and think you’re being paid less than you should be, you can still negotiate for a fair salary. First, do your research on comparable salaries. A salary calculator can help you gauge your market value.

Before initiating a conversation with your manager, document a list of achievements, such as new projects you’ve taken on or any measurable goals you’ve achieved since you started.

Read up on more negotiation strategies and remember: Although only half of job seekers negotiate, the majority of those who do succeed in getting a raise.

Sourced from FedWeek.

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Retirement:

OPM has loosened some of the standard rules regarding processing of federal employee retirement applications in light of the continuing high rate of teleworking, including among HR and payroll office employees involved in preparing an application to be sent to OPM.

A benefits administration letter addresses a concern being raised by employees at or near their retirement points regarding potential delays in a process that for years has been criticized as too slow, resulting in new retirees receiving only partial benefits in some cases for many months until OPM issues a final determination of benefits.

OPM suspended the requirements that paper documents with “wet” signatures—that is, originals signed in ink—for agency-submitted immediate retirement applications, as well as for death in service claims.

The suspension is only temporary, it added, and standard policies will return “once OPM determines normal operations can resume.”

OPM still will accept original signed documents, it said, as well as those that are signed and then scanned in, and pdf signatures meeting certain standards, it said.

However, it will not accept applications with signature blocks with notations such as "signature not available" and applications that contain incorrect information or are otherwise incomplete still will be deemed invalid and agencies will be required to resubmit documentation.

Further, agencies must maintain the proper chain of custody before submitting an application to OPM.

Sourced from FedWeek.

FEW receives information from the following sources and contacts: Federal News Network, Law360, and FedWeek.