



e-Alert

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DOL Issues 2021 Adjusted Penalty Amounts

Background

The U.S. Department of Labor (DOL) has released the 2021 annual adjustments to the maximum civil penalties employers can face when violating federal law that fall under their jurisdiction. Penalties can be enforced for violating a wide range of laws, such as ERISA and the Affordable Care Act (ACA). The most common incurred penalties are due to Employee benefit plans, where sometimes the employer fails to provide mandated disclosures and notices.

Summary

Penalties Assessed After January 15, 2021

Type of health or welfare benefit plan failure	Maximum penalty	
	2021 (after Jan. 15)	2020 (after Jan. 15)
Failure to file Form 5500	\$2,259/day late	\$2,233/day late
Failure to file a multiple employer welfare arrangement (MEWA) annual report (Form M-1)	\$1,644/day late	\$1,625/day late

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Failure to provide plan document to DOL within 30 days after request	\$161/day late (not to exceed \$1,613/request)	\$159/day late (not to exceed \$1,594/request)
Failure to inform employees of Children's Health Insurance Program (CHIP) coverage opportunities (each employee is a separate violation)	\$120/day late	\$119/day late
Failure to timely provide to any state information about coverage coordination with Medicaid or CHIP (each participant or beneficiary is a separate violation)	\$120/day late	\$119/day late
Failure to provide summary of benefits and coverage (SBC) with uniform glossary	\$1,190 per failure	\$1,176 per failure
Failure to meet genetic information restrictions (on discriminating in eligibility, coverage, or premiums, requesting or requiring genetic tests; collecting genetic information, etc.)	\$120/day of noncompliance	\$119/day of noncompliance
Minimum penalty for de minimis failure not corrected before notice for DOL	\$3,005	\$2,970
Minimum penalty for non-de minimus failure not corrected before notice from DOL	\$18,035	\$17,824
Cap on penalties for unintentional failures	\$601,152	\$594,129

The penalties listed cover a wide range of benefit plan compliance failures. The DOL has issued some leniency in some instances such as programs designed to encourage Form 5500 filing, so not all violations will result in the maximum permitted penalty.

Employers should also take into consideration relief granted during the COVID-19 pandemic which allowed for more time to provide these disclosures, could result in triggering penalties if terms of that relief have not been met.

Employer Next Steps

- Please contact our [Benefits Team](#) if you need assistance.

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