

Department of Labor Increases Civil Penalties for Non-Compliance

FEBRUARY 8, 2024

Effective January 15, 2024, the United States Department of Labor increased its ERISA health and welfare civil penalties for non-compliance. [See here](#). Below we have outlined the former maximum and minimum penalties, the new maximum and minimum penalties, and the increase.

DESCRIPTION	PRIOR MAXIMUM PENALTY (ROUNDED TO NEAREST DOLLAR)	NEW MAXIMUM PENALTY (ROUNDED TO NEAREST DOLLAR)	INCREASE IN PENALTY AMOUNT
Per-day penalty for failure/refusal to properly file plan annual report (e.g., Form 5500)	\$2,586	\$2,670	\$84
Per-day penalty for each failure to file an annual report for a Multiple Employer Welfare Arrangement (MEWA)	\$1,881	\$1,942	\$61
Per-day penalty for each failure to provide the Secretary of Labor requested documentation, including the	\$184 per day, not to exceed \$1,846 per request	\$190 per day, not to exceed \$1,906 per request	\$6 per day, not to exceed \$60 per request

not-to-exceed per-request maximum			
Per-day penalty for each failure by an employer to inform employees of CHIP coverage opportunities (Note, each employee is considered a separate penalty)	\$137	\$141	\$4
Per-day penalty for each failure by a plan to timely provide to any State the information required to be disclosed under CHIP regarding coverage coordination (Note, each participant/beneficiary is considered a separate penalty)	\$137	\$141	\$4
Failure by any plan sponsor of a group health plan, or any health insurance issuer offering health insurance coverage in connection with the plan, to meet the requirements with respect to genetic information (i.e., discriminating against individual participants and beneficiaries based on health status) (Note, each participant/beneficiary is considered a separate violation)	\$137	\$141	\$4
Cap on unintentional failures to meet genetic information requirements	\$688,012	\$710,310	\$22,298
Failure to provide a Summary of Benefits Coverage	\$1,362	\$1,406	\$44

DESCRIPTION	PRIOR MINIMUM PENALTY (ROUNDED TO NEAREST DOLLAR)	NEW MINIMUM PENALTY (ROUNDED TO NEAREST DOLLAR)	INCREASE IN PENALTY AMOUNT
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Minimum penalty for de minimis failures to meet genetic information requirements not corrected prior to notice from Secretary of Labor	\$3,439	\$3,550	\$111
Minimum penalty for failures to meet genetic information requirements that are not corrected prior to notice from Secretary of Labor and are not de minimis	\$20,641	\$21,310	\$669

WINSTON TAKEAWAY:

Although most compliance failures are not intentional, given these increases in penalties, we suggest taking a look at your current compliance practices and making improvements where necessary. If you have any questions or need assistance in evaluating whether your practices are in compliance, please contact us.

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