



Law & Policy Group

GRIST

DOL sets 2021 penalties for health and welfare benefit plan violations

By Mercer's Dorian Z. Smith and Katharine Marshall
Jan. 19, 2021

Employers violating Department of Labor (DOL) regulations — including employee benefit, wage and hour, mine safety, occupational safety and health, and workers' compensation rules — could face stiffer penalties in 2021, thanks to new inflation adjustments. The higher rates apply for penalties assessed after Jan. 15, 2021, for violations occurring after Nov. 2, 2015. DOL rarely assesses the maximum and often waives penalties entirely for failures due to reasonable cause. But the penalty threat is an important enforcement and deterrent tool.

2021 adjustments for health and welfare benefits. The year-over-year inflation increase for 2021 is 1.182%. Annual inflation adjustments are based on the percent change between the October Consumer Price Index for All Urban Consumers (CPI-U) preceding the date of the adjustment, and the prior year's October CPI-U; in this case, the percent change between the October 2020 CPI-U and the October 2019 CPI-U. The following chart shows the 2021 and 2020 maximum (and in some cases, minimum) penalties for certain health and welfare plan violations assessed after Jan. 15.

Type of health or welfare benefit plan failure	Maximum penalty (unless otherwise indicated)	
	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
Failure to provide plan documents 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)

Type of health or welfare benefit plan failure	Maximum penalty (unless otherwise indicated)	
	2021 (after Jan. 15)	2020 (after Jan. 15)
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 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
<ul style="list-style-type: none"> Minimum penalty for de minimis failure not corrected before notice from DOL 	\$3,005	\$2,970
<ul style="list-style-type: none"> Minimum penalty for non-de minimis failure not corrected before notice from DOL 	\$18,035	\$17,824
<ul style="list-style-type: none"> Cap on penalties for unintentional failures 	\$601,152	\$594,129
Failure to provide summary of benefits and coverage (SBC) with uniform glossary	\$1,190 per failure	\$1,176 per failure

Related resources

Non-Mercer resources

- [DOL civil penalties annual adjustments for 2021](#) (Federal Register, Jan. 14, 2021)

Mercer Law & Policy resources

- [DOL sets 2020 penalties for health and group benefit plan violations](#) (Jan. 23, 2020)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.