

Law & Policy Group




DOL sets 2022 penalties for health and welfare benefit plan violations

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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 2022, thanks to new inflation adjustments. The higher rates apply to penalties assessed after Jan. 15, 2022, 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.

2022 adjustments for health and welfare benefits. The year-over-year inflation increase for 2022 is 6.222%. 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 in the October CPI-U from 2020 to 2021. The following chart shows the 2022 and 2021 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)	
	2022 (after Jan. 15)	2021 (after Jan. 15)
Failure to file Form 5500	\$2,400/day late	\$2,259/day late
Failure to file a multiple employer welfare arrangement (MEWA) annual report (Form M-1)	\$1,746/day late	\$1,644/day late
Failure to provide plan documents to DOL within 30 days after request	\$171/day late, capped at \$1,713/request	\$161/day late, capped at \$1,613/request
Failure to inform employees of Children's Health Insurance Program (CHIP) coverage opportunities (each employee is a separate violation)	\$127/day late	\$120/day late

Type of health or welfare benefit plan failure	Maximum penalty (unless otherwise indicated)	
	2022 (after Jan. 15)	2021 (after Jan. 15)
Failure to timely provide to any state information about coverage coordination with Medicaid or CHIP (each participant or beneficiary is a separate violation)	\$127/day late	\$120/day late
Failure to meet genetic information restrictions (on discriminating in eligibility, coverage or premiums; requesting or requiring genetic tests; collecting genetic information; etc.)	\$127/day of noncompliance	\$120/day of noncompliance
Minimum penalty for <i>de minimis</i> failure not corrected before notice from DOL	\$3,192	\$3,005
Minimum penalty for non- <i>de minimis</i> failure not corrected before notice from DOL	\$19,157	\$18,035
Cap on penalties for unintentional failures	\$638,556	\$601,152
Failure to provide summary of benefits and coverage (SBC) with uniform glossary	\$1,264 per failure	\$1,190 per failure

Related resources

Non-Mercer resources

- [DOL civil penalties annual adjustments for 2022](#) (Federal Register, Jan. 14, 2022)

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- [HHS adjusts 2021 HIPAA, certain ACA and MSP monetary penalties](#) (Nov. 30, 2021)
- [DOL sets 2021 penalties for health and group benefit plan violations](#) (Jan. 19, 2021)

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