



DOL sets 2023 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 2023, thanks to new inflation adjustments. The higher rates apply to penalties assessed after Jan. 15, 2023, 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.

2023 adjustments for health and welfare benefits. The year-over-year inflation increase for 2023 is 7.745%. Annual inflation adjustments are based on the percent change between the October Consumer Price Index for All Urban Consumers (CPI-U) before the adjustment date and the prior year's October CPI-U. In this case, the adjustment reflects the percent change in the October CPI-U from 2021 to 2022. The following chart shows the 2023 and 2022 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)	
	2023 (after Jan. 15)	2022 (after Jan. 15)
Failure to file Form 5500	\$2,586/day late	\$2,400/day late
Failure to file a multiple employer welfare arrangement (MEWA) annual report (Form M-1)	\$1,881/day late	\$1,746/day late
Failure to provide plan documents to DOL within 30 days after request	\$184/day late, capped at \$1,846/request	\$171/day late, capped at \$1,713/request
Failure to inform an employee about Children's Health Insurance Program (CHIP) coverage opportunities (each employee is a separate violation)	\$137/day late	\$127/day late

Type of health or welfare benefit plan failure	Maximum penalty (unless otherwise indicated)	
	2023 (after Jan. 15)	2022 (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)	\$137/day late	\$127/day late
Failure to meet genetic information restrictions (on discriminating in eligibility, coverage or premiums; requesting or requiring genetic tests; collecting genetic information; etc.)	\$137/day of noncompliance	\$127/day of noncompliance
Minimum penalty for <i>de minimis</i> failure not corrected before notice from DOL	\$3,439	\$3,192
Minimum penalty for non- <i>de minimis</i> failure not corrected before notice from DOL	\$20,641	\$19,157
Cap on penalties for unintentional failures	\$688,012	\$638,556
Failure to provide summary of benefits and coverage (SBC) with uniform glossary	\$1,362 per failure	\$1,264 per failure

Related resources

Non-Mercer resources

- [Federal civil penalties annual inflation adjustments for 2023](#) (Federal Register, Jan. 13, 2023)

Mercer Law & Policy resources

- [HHS adjusts 2022 HIPAA, certain ACA and MSP monetary penalties](#) (March 23, 2022)
- [DOL sets 2022 penalties for health and group benefit plan violations](#) (Jan. 18, 2022)

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