

July 14, 2016

DOL Inflation Adjustment to Benefits Related Penalties

In 2015, Congress passed the [2015 Inflation Adjustment Act](#) which directs agencies across the federal government to determine the last time their penalties were increased and to adjust their civil monetary penalties for inflation from that date. The Department of Labor (DOL) has now [announced](#) the adjustment of the vast majority of penalties assessed by the DOL's Employee Benefits Security Administration (EBSA). The new civil penalty amounts are applicable only to civil penalties assessed by the DOL after August 1, 2016, whose associated violations occurred after November 2, 2015, the date of enactment of the Inflation Adjustment Act.

Congress often adds penalties to laws to encourage greater compliance. Beginning in 2017, the DOL intends to adjust its existing civil penalties no later than January 15 of each year. According to a [DOL Fact Sheet](#), penalty increases will “deter violations, which will provide a significant benefit not only for workers but also for responsible employers who will have a more level playing field when competing with employers who are not following the law.” Some of the adjusted penalties include:

- Form 5500 Filing Failure. The current penalty of up to \$1,100 per day for failing to file a timely Form 5500 will increase by almost 100% to a maximum of \$2,063 per day.
- Multiple Employer Welfare Arrangements (MEWAs). The current penalty for a MEWA failing or refusing to file a Form M-1 will increase from up to \$1,100 per day to a maximum of \$1,502 per day.
- Group Health Plan Notice. Failing to inform employees of CHIP coverage opportunities will result in a penalty of up to \$110 per day, up from \$100 per day.
- SBC Notice. The penalty for failing to furnish the Summary of Benefits Coverage notice will increase from up to \$1,000 to a maximum of \$1,087 per failure.

Note that in some cases, plan sponsors can pay lower penalties by taking corrective steps. For example, if a plan sponsor fails to timely file Form 5500, the plan sponsor, under certain circumstances, can pay a significantly lower penalty amount by filing the late annual reports through the DOL's Delinquent Filer Voluntary Compliance (DFVC) Program. Also not all penalties were increased. The complete list of all the penalties increased by the rules can be found [here](#). Any penalty that is not included in the chart will continue to be subject to the current amount. For example, the penalty for failing to furnish certain information requested by participants or beneficiaries was not increased. Therefore, the penalty for such violation remains unchanged at a maximum of \$110 per day.

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