

Fines & Penalties

Noncompliance with the laws that regulate group health plans can result in significant legal issues for an employer. The chart below provides examples of compliance failures and their associated consequences. Note that this chart should not be used in connection with church plans or government plans. *

COMPLIANCE FAILURE	FINE, PENALTY, OR EXCISE TAX
Failure to furnish ERISA documents upon written request (SPDs, SMMS, Form 5500s, etc.)	\$110 per day beginning on the 31st day after the request is made
Failure to timely provide certain COBRA required notices	\$110 per qualified beneficiary for each day of the non-compliance period
Failure to charge appropriate premiums and provide required levels of coverage for COBRA	\$100 per qualified beneficiary for each day of the non-compliance period
Failure to timely file a properly completed ERISA Form 5500 (if applicable)	\$2,097 per day beginning on the last day for filing
Failure to comply with ACA (PHSA mandates, such as dependent coverage age, lifetime/annual limits, pre-existing conditions, etc.)	\$100 per participant per day excise tax during the non-compliance period
Violation of HIPAA Portability and Nondiscrimination	\$110 per participant per day excise tax during the non-compliance period
Failure to timely distribute a Summary of Benefits and Coverage (SBC)	\$1,105 per failure , calculated on a per participant or beneficiary basis
Failure to file a 1094 or 1095 return or furnish a statement (if applicable)	Up to \$260 per return/statement
Failure to provide notice and information regarding the Children's Health Insurance Program (CHIPRA)	\$112 per participant per day during the non-compliance period
Violation of GINA Nondiscrimination	\$112 per participant per day during the non-compliance period \$2,745 per participant minimum penalty for non-compliance after receipt of violation notice

*In most cases, the employer is both plan sponsor and plan administrator for a self-insured plan and is responsible for funding plan liabilities. Whether a statute imposes a liability on a plan, plan administrator, employer, or plan sponsor, it's generally the employer who ends up paying.

Note: Various maximums may apply. Regulators generally have discretion to assess penalties less than those listed above based on mitigating circumstances. The material presented above is for educational purposes only. It is not intended as legal advice. Legal counsel should be consulted for advice on specific legal questions.