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DOL Penalties Increase for 2022

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The Department of Labor (DOL) published the annual adjustments for 2022 that increase certain penalties applicable to employee benefit plans.

Annual Penalty Adjustments for 2022

The following updated penalties are applicable to health and welfare plans subject to ERISA.

Description	2022 Penalty (New)	2021 Penalty (Old)
Failure to file Form 5500	Up to \$2,400 per day	Up to \$2,259 per day
Failure of a MEWA to file reports	Up to \$1,746 per day	Up to \$1,644 per day
Failure to provide CHIP Notice	Up to \$127 per day per employee	Up to \$120 per day per employee
Failure to disclose CHIP/Medicare coordination to the State	\$127 per day per violation (per participant/beneficiary)	\$120 per day per violation (per participant/beneficiary)
Failure to provide SBCs	Up to \$1,264 per failure	Up to \$1,190 per failure
Failure to furnish plan documents (including SPDs/SMMs)	\$171 per day \$1,713 cap per request	\$161 per day \$1,613 cap per request
Genetic information failures	\$127 per day (per participant/beneficiary)	\$120 per day (per participant/beneficiary)
De minimis failures to meet genetic information requirements	\$3,192 minimum	\$3,005 minimum
Failure to meet genetic information requirements – not de minimis failures	\$19,157 minimum	\$18,035 minimum
Cap on unintentional failures to meet genetic information requirements	\$638,152 maximum	\$601,152 maximum

Employer Action

Private employers, including non-profits, should ensure employees receive required notices timely (SBC, CHIP, SPD, etc.) to prevent civil penalty assessments. In addition, employers should ensure Form 5500s are properly and timely filed, if applicable. Finally, employers facing document requests from EBSA should ensure documents are provided timely, as requested.