

Employee Benefits And The Risk Of An ERISA Audit: What You Don't Know Can Hurt You

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What is ERISA?

The Employee Retirement Income Security Act (ERISA) is a federal law that sets minimum standards for group health plans.

Why is ERISA Compliance Important?

- Complete and properly distributed ERISA documents provide plan participants with the information they need to successfully access their benefits.
- Complete and properly distributed ERISA documents can protect you, the employer, from costly fines and penalties.

Description of ERISA Violations Subject to Penalty	ERISA Section	2017 Penalty Amount	2018 Penalty Amount
Failure to furnish information requested by DOL under ERISA § 104(a)(6)	ERISA 502(c)(6)	Up to \$149 per day not to exceed \$1,496 per request	Up to \$152 per day not to exceed \$1,527 per request
SBC. Failure to provide Summary of Benefits Coverage. Public Health Services Act section 2715(f), as incorporated into ERISA § 715 and 29 CFR 2590.715-2715(e).	ERISA § 715 (SBC)	Up to \$1,105 per failure	Up to \$1,128 per failure
CHIP. Employer failure to inform employees of CHIP coverage opportunities under ERISA § 701 (f)(3)(B)(i)(I)-each employee a separate violation	ERISA §502(c)(9)(A) (CHIP)	Up to \$112 per day	Up to \$114 per day
GINA. Failure by any group health plan sponsor, or any health insurance issuer, to meet the requirements of ERISA §§ 702 (a)(1)(F), (b)(3), (c) or (d); or § 701; or § 702(b)(1) with respect to genetic information	ERISA 502(c)(10) (B)(I) (GINA)	\$112 per day during non-compliance period	\$114 per day during non-compliance period
GINA. Minimum penalty for de minimis violations of GINA (genetic information requirements) <u>not</u> corrected prior to notice from DOL.	ERISA §502(c)(10) (C)(i) (GINA)	\$2,790 minimum	\$2,847 minimum
GINA. Minimum penalty for <u>non de</u> minimis violations that are <u>not</u> corrected prior to notice from DOL.	ERISA §502 (c)(10) (C) (ii) (GINA)	\$16,742 minimum	\$17,084 minimum
GINA. Cap on unintentional failures to meet genetic information requirements	ERISA §502(c)(10) (D)(iii)(II)	\$558,078 maximum	\$569,468 maximum

Do ERISA Regulations Apply To Me?

If your company offers employee benefits, such as medical, dental or vision insurance, you are likely subject to ERISA regulations. You are exempt from ERISA if you are a **church** or **government organization** .

How Can I Become ERISA Compliant?

All ERISA-covered benefit plans, including group health plans and other employee benefit plans, must, by law, be administered in accordance with a written plan document. This plan document is known as the ERISA Wrap document.

How Can I Become ERISA Compliant?

Among other things, ERISA generally requires a welfare plan document to contain the following provisions:

Named fiduciaries. The document must name one or more fiduciaries that have the authority to control and manage the operation and administration of the plan.

Allocation of responsibilities. The plan must include a procedure for allocating responsibilities for plan administration and operation.

Benefit payment. The plan must state the basis on which benefits are paid to and from the plan.

Claims procedures. The plan must have a specific procedure for processing benefit claims and appeals that complies with DOL regulations.

Portability, special enrollment, and nondiscrimination provisions. The plan must describe certificates of coverage, special enrollment rights, and nondiscrimination rules.

Privacy of health information. Group health plans must contain plan language protecting the medical privacy of plan participants and beneficiaries.

An ERISA Wrap Document

A wrap plan document is designed to meet plan documentation requirements under ERISA and other federal laws and to incorporate all other welfare plans, insurance contracts, and other relevant documents into a single plan.

How Ethix HR Can Help

We work with ERISA attorneys to offer required ERISA Wrap documents. Each document is client specific and reviewed yearly to ensure continued compliance.

ANY FINAL QUESTIONS?

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