

2023 EMPLOYER REPORTING & COMPLIANCE PENALTIES

ITEM	PENALTY
SUMMARY OF BENEFITS AND COVERAGES	<p>Failure to provide the Summary of Benefits and Coverages may lead to a penalty of \$1,362 per failure.</p> <p>There is also a potential Department of Labor (DOL) penalty of \$100/day and IRS penalty of \$110/day.</p>
W-2 REPORTING OF COSTS OF COVERAGE	The penalty for failure to report is \$290 per failure in 2023. The maximum penalty for 2023 is \$3,532,500.
TRANSPARENCY IN COVERAGE (TIC)	Penalties to be determined.
MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT NON-QUANTITATIVE TREATMENT LIMITATION (MHPAEA NQTL)	Fines may be up to \$100 per day for each individual affected by a parity violation.
FAMILY MEDICAL LEAVE ACT (FMLA)	Potential civil penalties.
CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) NOTICE	Failure by an employer to inform employees of CHIP coverage opportunities are up to \$137 per day per employee.
NONDISCRIMINATION TESTING	Plans that fail nondiscrimination testing after the close of the plan year will lose tax-advantaged status for all Highly-Compensated Employees/Individuals or Key Employees, as applicable to the tests used.
SUMMARY PLAN DESCRIPTION / SUMMARY OF MATERIAL MODIFICATIONS	<p>There are various penalties for non-compliance, including:</p> <ul style="list-style-type: none"> - Fines of up to \$5,000 or imprisonment of up to one year for willful violation of ERISA provisions; - Fines of up to \$100,000 and/or imprisonment of up to 10 years; - Fines of up to \$10,000 and/or imprisonment of up to 5 years for making any deliberate false statement or representation of fact. <p>Additionally, an IRS penalty of \$110/day may apply for failure to furnish certain information to participants within 30 days of request.</p> <p>Also, a Department of Labor (DOL) penalty of \$100/day, up to a maximum of \$1,000, may apply if these documents are requested and not provided within 30 days.</p>
ENROLLMENT NOTICES	
COBRA INITIAL NOTICE	
NOTICE OF CREDITABLE COVERAGE	
PLAN DOCUMENT AND CAFETERIA PLAN	
SUMMARY ANNUAL REPORT	

2023 EMPLOYER REPORTING & COMPLIANCE PENALTIES

ITEM	PENALTY
NEW JERSEY EMPLOYER REPORTING	Inconclusive data, though penalties do apply.
FEDERAL EMPLOYER REPORTING 1094/1095 FILINGS	<p>Employers who fail to offer minimum value, affordable coverage to a certain percentage of their employee base at minimum may be liable for an Affordable Care Act (ACA) penalty if even one employee seeks a subsidy on the exchange. There are two types of penalties here - Penalty A, and Penalty B. Penalty A is given when the employer fails to offer coverage to the employee who is seeking a subsidy, and it is \$2,880 per employee in 2023. Penalty B is the penalty for not offering affordable, minimum value coverage. In 2023 it is \$4,320 per employee that receives a subsidy.</p> <p>Penalties for failure to file or incorrect filings, if corrected within 30 days is \$50 per 1095 Form. If corrected after 30 days but before August 1st, the penalty is \$110 per 1095 Form. If corrected after August 1st, the penalty is \$290 per form. If there is intentional disregard found, the penalty is \$580 per 1095 form.</p>
PATIENT CENTERED OUTCOMES RESEARCH INSTITUTE (PCORI) FEE	<p>The PCORI rules do not contain a specific penalty for failure to report or pay the PCORI fee. However, certain tax-related fees are accepted as applicable:</p> <ul style="list-style-type: none"> - 5% of the excise tax due for each month or part of a month the return is late, with a cap of 25% of the unpaid tax. - .5% of the any tax not paid by the due date for each month or part of a month the tax remains unpaid, up to 25% of the unpaid tax.
FORM 5500	<p>The DOL may impose a penalty up to \$2,586 per day for each day this filing is late. There is no statute of limitations.</p>

2022 EMPLOYER REPORTING & COMPLIANCE PENALTIES

ITEM	PENALTY
SUMMARY OF BENEFITS AND COVERAGES	<p>Failure to provide the Summary of Benefits and Coverages may lead to a penalty of \$1,190 per failure.</p> <p>There is also a potential Department of Labor (DOL) penalty of \$100/day and IRS penalty of \$110/day.</p>
W-2 REPORTING OF COSTS OF COVERAGE	<p>The penalty for failure to report is \$280 per failure in 2022 and \$290 per failure in 2023. The maximum penalty for 2023 is \$3,532,500.</p>
TRANSPARENCY IN COVERAGE (TIC)	<p>Penalties to be determined.</p>
MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT NON-QUANTITATIVE TREATMENT LIMITATION (MHPAEA NQTL)	<p>Fines may be up to \$100 per day for each individual affected by a parity violation.</p>
FAMILY MEDICAL LEAVE ACT (FMLA)	<p>Potential civil penalties.</p>
CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) NOTICE	<p>Failure by an employer to inform employees of CHIP coverage opportunities are up to \$127 per day per employee.</p>
NONDISCRIMINATION TESTING	<p>Plans that fail nondiscrimination testing after the close of the plan year will lose tax-advantaged status for all Highly-Compensated Employees/Individuals or Key Employees, as applicable to the tests used.</p>
SUMMARY PLAN DESCRIPTION / SUMMARY OF MATERIAL MODIFICATIONS	<p>There are various penalties for non-compliance, including:</p> <ul style="list-style-type: none"> - Fines of up to \$5,000 or imprisonment of up to one year for willful violation of ERISA provisions; - Fines of up to \$100,000 and/or imprisonment of up to 10 years; - Fines of up to \$10,000 and/or imprisonment of up to 5 years for making any deliberate false statement or representation of fact. <p>Additionally, an IRS penalty of \$110/day may apply for failure to furnish certain information to participants within 30 days of request.</p> <p>Also, a Department of Labor (DOL) penalty of \$100/day, up to a maximum of \$1,000, may apply if these documents are requested and not provided within 30 days.</p>
ENROLLMENT NOTICES	
COBRA INITIAL NOTICE	
NOTICE OF CREDITABLE COVERAGE	
PLAN DOCUMENT AND CAFETERIA PLAN	
SUMMARY ANNUAL REPORT	

2022 EMPLOYER REPORTING & COMPLIANCE PENALTIES

ITEM	PENALTY
NEW JERSEY EMPLOYER REPORTING	Inconclusive data, though penalties do apply.
FEDERAL EMPLOYER REPORTING 1094/1095 FILINGS	<p>Employers who fail to offer minimum value, affordable coverage to a certain percentage of their employee base at minimum may be liable for an Affordable Care Act (ACA) penalty if even one employee seeks a subsidy on the exchange.</p> <p>There are two types of penalties; Penalty A and Penalty B.</p> <ul style="list-style-type: none"> - Penalty A is given when the employer fails to offer coverage to the employee who is seeking a subsidy, and it is \$2,750 per employee in 2022. - Penalty B is the penalty for not offering affordable, minimum value coverage. In 2022 it is \$4,120 per employee that receives a subsidy. <p>Penalties for failure to file or incorrect filings, if corrected within 30 days, is \$50 per 1095 Form. If corrected after 30 days but before August 1st, the penalty is \$110 per 1095 Form. If corrected after August 1, the penalty is \$280 per form. If there is intentional disregard found, the penalty is \$570 per 1095 form.</p>
PATIENT CENTERED OUTCOMES RESEARCH INSTITUTE (PCORI) FEE	<p>The PCORI rules do not contain a specific penalty for failure to report or pay the PCORI fee. However, certain tax-related fees are accepted as applicable:</p> <ul style="list-style-type: none"> - 5% of the excise tax due for each month or part of a month the return is late, with a cap of 25% of the unpaid tax. - .5% of the any tax not paid by the due date for each month or part of a month the tax remains unpaid, up to 25% of the unpaid tax.
FORM 5500	<p>The DOL may impose a penalty up to \$2,400 per day for each day this filing is late.</p> <p>There is no statute of limitations.</p>