

Penalties Increase for Employers Violating Certain Federal Labor Laws

Employers that do not comply with certain requirements under a number of federal labor laws will face increased fines beginning with civil penalties assessed **after August 1, 2016** (whose associated violations occurred after November 2, 2015).

Key Penalty Increases

Penalty increases announced by the U.S. Department of Labor that may be of particular interest include:

- Repeated or willful violations of the Fair Labor Standards Act (FLSA) minimum wage or overtime pay requirements will be subject to a penalty of **up to \$1,894** per violation (formerly \$1,100);
- Willful violations of the Family and Medical Leave Act (FMLA) posting requirement will be subject to a penalty **not to exceed \$163** for each separate offense (formerly \$110) (note: covered employers must post this general notice **even if no employees are eligible** for FMLA leave);
- Failure to provide employees with a Children's Health Insurance Program (CHIP) notice will be subject to a penalty of **up to \$110 per day** per violation (formerly \$100);
- Failure to provide a Summary of Benefits and Coverage (SBC) will be subject to a penalty of **up to \$1,087 per failure** (formerly \$1,000);
- Failure or refusal to file a Form 5500 will be subject to a penalty of **up to \$2,063 per day** (formerly \$1,100); and
- Violations of the Occupational Safety and Health Administration's posting requirement will be subject to a maximum penalty of **\$12,471** for each violation (formerly \$7,000).

Our Compliance by Company Size chart features a summary of key federal labor laws that may apply to a company based on its number of employees.

Proposed Changes to Form 5500 Include Elimination of Filing Exemption for Small Group Health Plans

The U.S. Department of Labor and other federal agencies have released two proposed rules revising the Form 5500 and Form 5500-SF Annual Returns/Reports that are required to be filed by certain employee benefit plans.

Among other changes, the proposed rules would:

- Introduce basic reporting requirements for **all group health plans that have fewer than 100 participants** and are covered by Title I of the Employee Retirement Income Security Act (ERISA)—most of which are **currently exempt** from reporting requirements;
- Create a **new schedule** (Schedule J), by which applicable group health plans would satisfy certain ERISA reporting requirements added by the Affordable Care Act (ACA); and
- **Revise** the Schedule C reporting requirements to more closely track the information that plan service providers are required to disclose to plan fiduciaries.

The target for implementing the proposed revisions is the **Plan Year 2019** Form 5500 Series Annual Returns/Reports, though some form changes may be made earlier or later.

You may review our Benefits Notices Calendar for additional notice and disclosure requirements that apply to group health plans under federal law.