

January 31, 2017

## DOL Issues the First Annual Inflation Adjustment to Benefits Related Penalties

The Department of Labor (DOL) has [issued](#) the first annual adjustment of civil monetary penalties for a wide range of benefit-related violations. The adjustments outlined in this announcement are effective for penalties assessed after January 13, 2017, with respect to violations occurring after November 2, 2015.

**Background.** In 2015, Congress passed the [2015 Inflation Adjustment Act](#), which directed agencies across the federal government to determine the last time their penalties were increased and to adjust their civil monetary penalties for inflation from that date. DOL announced the adjustment of the vast majority of penalties assessed by the DOL's Employee Benefits Security Administration (EBSA) last summer. See Conner Strong & Buckelew's [Update](#) on that announcement. The DOL now intends to adjust its existing civil penalties no later than January 15 of each year.

Outlined below are some of the annual adjustments for 2017:

- **Form 5500 Filing Failure.** The penalty for failing to file a timely Form 5500 increases to \$2,097 (from \$2,063) for each day that the Form 5500 is late.
- **Multiple Employer Welfare Arrangements (MEWAs).** The penalty for failing or refusing to meet applicable filing requirements, which include filing a Form M-1 increases to \$1,527 per day (from \$1,502).
- **Group Health Plans.** The penalty for failing to inform employees regarding the availability of Medicaid or Children's Health Insurance Program (CHIP) assistance increases to \$112 per participant per day (from \$110).
- **SBC Notice.** The penalty for failing to provide the Summary of Benefits and Coverage (SBC) as required under the Affordable Care Act increases to \$1,087 per failure (from \$1,105).

Note that in some cases, plan sponsors can lower penalties by taking corrective steps. For example, if a plan sponsor fails to timely file Form 5500, the plan sponsor, under certain circumstances, can pay a significantly lower penalty amount by filing the late annual reports through the DOL's Delinquent Filer Voluntary Compliance (DFVC) Program.

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