

Who is liable?

Employers are generally the ERISA plan administrator with direct responsibility for ensuring compliance with the federal laws that govern their plans. A plan administrator that fails to fulfill its statutory duties is liable for penalties assessed by a court or the ruling government agency.

PENALTY	FINE
Failure to furnish ERISA documents upon written request (SPDs, SMMS, Form 5500s, etc.)	\$110 per day beginning on the 31st day after the request is made
Failure to timely provide COBRA required notices, charge appropriate premiums, and provide required levels of coverage	\$100 per qualified beneficiary for each day of the non-compliance period
Failure to timely file a properly completed ERISA Form 5500 (if applicable)	\$1,100 per day beginning on the last day for filing
Failure to comply with ACA (PHSA mandates, such as dependent coverage age, lifetime/annual limits, pre-existing conditions, etc.)	\$100 per participant per day excise tax during the non-compliance period
Violation of HIPAA Portability/Nondiscrimination statutes, such as GINA, Women's Health & Cancer Rights Act, Mental Health Parity	\$100 per participant per day excise tax during the non-compliance period \$2,500 per participant minimum penalty for non-compliance after receipt of violation notice with possible penalty up to \$15,000 per participant
Failure to timely distribute a Summary of Benefits and Coverage (SBC)	\$1,000 per failure , calculated on a per participant or beneficiary basis
Failure to file a 1094 or 1095 return or furnish a statement (if applicable)	Up to \$250 per return/statement , with a maximum penalty of \$3 million.
Failure to provide notice and information regarding the Children's Health Insurance Program (CHIPRA)	\$100 per participant per day during the non-compliance period

