



Benefits Administration: PENALTIES FOR COBRA NON-COMPLIANCE

- HR MANAGEMENT
- PAYROLL SERVICES
- BENEFIT ADMINISTRATION

There are two different types of COBRA non-compliance penalties: the DOL assesses “ERISA statutory penalties,” and IRS levies “excise taxes.” COBRA non-compliance can also result in costly civil lawsuits and employers can be sued and held responsible for legal fees and medical claims.

Internal Revenue Service Code Penalties

The Department of Labor can penalize an employer up to \$110 per day per beneficiary for non-compliance.

The IRS is authorized by TAMRA (Technical and Miscellaneous Revenue Act of 1988) to assess COBRA excise taxes for failure to follow COBRA rules. The minimum tax levied by the IRS for non-compliance discovered after a notice of examination is generally \$2,500. Penalties can be up to \$2,500 for each beneficiary affected by non-compliance, or the total amount based on the number or days of noncompliance, whichever is less. If the IRS finds a violation that it considers to be more than minimal, employers may be subject to a penalty up to \$15,000. The maximum any employer could be taxed in a given year is ten percent of the health plan costs in the previous year or \$500,000, whichever is less. The IRS will not assess a tax only if the COBRA violation proves to be inadvertent or negligent and the employer corrects the violation within a 30 day grace period of discovering the violation. There is no 30-day grace period if the IRS concludes that the violation was willful. IRS agents can reduce or waive excise taxes based on their perception of inadvertent or willful noncompliance.

Internal Revenue Service COBRA Audits

According to the IRS, an examination of COBRA procedures may be included as part of a general business audit by the IRS. The IRS can also initiate a COBRA audit often triggered by a Complaint or lawsuit filed by a former employee who claims to have been wrongfully denied benefits.

The best way to avoid COBRA audits and fines is to make sure that your program is in full compliance with current COBRA regulations covering documentation, processes and procedures, communications, and recordkeeping. A COBRA third-party administrator (TPA) can provide the systems, knowledge and expertise to keep your program completely in compliance.

<p>COBRA</p> <p>HIPAA</p> <p>FSA/HRA/HSA</p> <p>LEAVE OF ABSENCE AND RETIREE PREMIUM BILLING</p> <p>PARKING AND TRANSIT</p>	<p>THE INTEGRATION OF BUSINESS AND TECHNOLOGY</p>
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