

DOL Increases Civil Penalty Amounts for 2020



JANUARY 24, 2020 | COMPLIANCE UPDATE

On Jan. 15, 2020, the Department of Labor (DOL) released its 2020 inflation-adjusted civil monetary penalties that may be assessed on employers for violations of a wide range of federal laws, including:

- The Fair Labor Standards Act (FLSA);
- The Employee Retirement Income Security Act (ERISA);
- The Family and Medical Leave Act (FMLA); and
- The Occupational Safety and Health Act (OSH Act).

To maintain their deterrent effect, the DOL is required to adjust these penalties for inflation, no later than Jan. 15 of each year. Key penalty increases include the following:

- The maximum penalty for violations of federal minimum wage or overtime requirements increases from \$2,014 to \$2,050 per violation;
- The maximum penalty for failing to file a Form 5500 for an employee benefit plan increases from \$2,194 to \$2,233 per day; and
- The maximum penalty for violations of the poster requirement under the FMLA increases from \$173 to \$176 per each offense.

(continued)

ACTION STEPS

Employers should become familiar with the new penalty amounts and review their pay practices, benefit plan administration and safety protocols to ensure compliance with federal requirements.

HIGHLIGHTS

Annual Updates

The DOL must adjust its civil penalty amounts for inflation each year.

Possible Penalties

The DOL may assess these penalties on employers that violate federal laws that the DOL enforces, such as the FLSA, ERISA, the FMLA and the OSH Act.

Compliance Review

To minimize potential liability, employers should review their compliance with laws enforced by the DOL.

EFFECTIVE DATE

JANUARY 15, 2020

The increased amounts apply to civil penalties that are assessed after Jan. 15, 2020 (for violations occurring after Nov. 2, 2015).

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2020 PENALTY AMOUNTS *(continued)*

REQUIREMENT	2019 PENALTY AMOUNT	2020 PENALTY AMOUNT
WAGE & HOUR		
Repeated or willful violations of minimum wage or overtime requirements (FLSA)	Up to \$2,014 for each violation	Up to \$2,050 for each violation
Violations of child labor laws	Up to \$12,845 for each employee subject to the violation	Up to \$13,072 for each employee subject to the violation
Violations of child labor laws that cause death or serious injury to an employee under age 18	Up to \$58,383 for each violation (doubled to \$116,766 if the violation is repeated or willful)	Up to \$59,413 for each violation (doubled to \$118,826 if the violation is repeated or willful)
Willful failure to post FMLA general notice	Up to \$173 for each separate offense	Up to \$176 for each separate offense
Violations of the Employee Polygraph Protection Act (EPPA)	Up to \$21,039 for each violation	Up to \$21,410 for each violation
Repeated or willful violations of minimum wage or overtime requirements (FLSA)	Up to \$2,014 for each violation	Up to \$2,050 for each violation
EMPLOYEE BENEFITS		
Failure to file an annual report (Form 5500) with the DOL (unless a filing exemption applies)	Up to \$2,194 per day	Up to \$2,233 per day
Failure of a multiple employer welfare arrangement (MEWA) to file an annual report (Form M-1) with the DOL	Up to \$1,597 per day	Up to \$1,625 per day

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2020 PENALTY AMOUNTS

REQUIREMENT	2019 PENALTY AMOUNT	2020 PENALTY AMOUNT
<p>Failure to furnish plan-related information requested by the DOL</p> <p>*Under ERISA, administrators of employee benefit plans must furnish to the DOL, upon request, any documents relating to the employee benefit plan.</p>	Up to \$156 per day, but not to exceed \$1,566 per request	Up to \$159 per day, but not to exceed \$1,594 per request
<p>Failure to provide the annual notice regarding CHIP coverage opportunities</p> <p>*This notice applies to employers with group health plans that cover residents of states that provide a premium assistance subsidy under a Medicaid or CHIP program.</p>	Up to \$117 per day for each failure (each employee is a separate violation)	Up to \$119 per day for each failure (each employee is a separate violation)
<p>For 401(k) plans, failure to provide blackout notice or notice of right to divest employer securities</p>	Up to \$139 per day	Up to \$141 per day
<p>Failure to provide summary of benefits and coverage (SBC)</p>	Up to \$1,156 per failure	Up to \$1,176 per failure
EMPLOYEE SAFETY – OSH ACT		
<p>Violation of Posting Requirement</p>	Up to \$13,260 for each violation	Up to \$13,494 for each violation
<p>Other-Than-Serious Violation</p>	Up to \$13,260 for each violation	Up to \$13,494 for each violation
<p>Serious Violation</p>	Up to \$13,260 for each violation	Up to \$13,494 for each violation
<p>Willful Violation</p>	Between \$9,472 and \$132,598 per violation	Between \$9,639 and \$134,937 per violation
<p>Uncorrected Violation</p>	Up to \$13,260 per day until the violation is corrected	Up to \$13,494 per day until the violation is corrected