



# 2025 Compliance Penalties and Fines

PEPM=Per employee per month - PPPD=Per person per day

Compliance	Penalty/Violation Type	Potential Fines	Who	Due Date	Department
ACA Pay-or-Play Reporting Employer Mandate	4980H(a): Offer of Minimum Essential Coverage (MEC) to 95% of FTEs. If only 1 employee receives a subsidy (premium tax credit), all employees minus the first 30 for each applicable month are assessed the fine. (IRS Letter 226J)	\$241.67 PEPM - \$2900 annually per employee	ALE - 50+	within 30 days	IRS
	4980H(b): Offer of coverage that is unaffordable or does not meet the minimum value (MV). The fine is only per employee receiving a subsidy (premium tax credit) per applicable month, not all FTEs. (IRS Letter 226J)	\$362.50 PEPM - \$4350 annually per employee	ALE - 50+	within 30 days	
ACA Group Health Plan Requirements	For any ACA requirement not being covered: pre-existing, EHBS, preventive, annual & lifetime maximums, dependent age limits, SBC, MLR, and employer mandate.	\$100 PPPD excise tax \$2,500 or \$15,000 minimum if audited by the IRS Maximum: lesser of 10% of the aggregate amount paid by the ER during the preceding tax year for GHP coverage or \$500,000	All ERISA GHPs unless otherwise indicated. Some rules differ for small vs large and grandfathered.	onset of plan	IRS
PCORI	Failure to pay the annual PCORI fee	Excise tax ranging from .5% to 25% plus the original fee	All ERISA GHPs (FI paid by the carrier)	July-31	IRS
Form 5500	Failure to file or filing late the form 5500	\$250 per day - \$150,000 maximum per plan year - IRS	All 100+ employers Under 100 only if funds held in a trust.	July-31	DOL/IRS
		\$2739 per day - DOL			
Multiple Employer Welfare Arrangement (MEWA)	Failure to file the annual MEWA form (M-1)	\$1992 for every day late	Two or more employers that pool their contributions together for benefits.	March-1	DOL
File Forms 1094-C and 1095-C	General	Per Violation: \$330 Annual Maximum: \$3,987,000	ALE - 50+	January 31 (employees) & March 31 (IRS)	IRS
	Corrected within 30 days	Per Violation: \$60 Annual Maximum: \$664,500			
	Corrected after 30 days before August 1st	Per Violation: \$130 Annual Maximum: \$1,993,500			
	Intentional Disregard	Per Violation: \$660 Annual Maximum: No Limit			
File Forms 1094-B and 1095-B	General	Per Violation: \$330 Annual Maximum: \$1,329,000	Non ALE Self-funded & Fully insured (specific parts only)	January 31 (employees) & March 31 (IRS)	IRS
	Corrected within 30 days	Per Violation: \$60 Annual Maximum: \$232,500			
	Corrected after 30 days before August 1st	Per Violation: \$130 Annual Maximum: \$664,500			
	Intentional Disregard	Per Violation: \$660 Annual Maximum: No Limit			
Summary Annual Report (SAR)	Not providing the SAR to employees	\$110 per day	All 100+ employers. Under 100 only if funds are held in a trust.	9 months after the plan end date or 2 months after an extension	DOL/IRS
		Up to \$2140 per day			
Plan Documents - DOL	When documents are requested by the DOL	\$195 for every day late Annual Maximum: \$1,956 per request	All ERISA GHPs	30 days from request	DOL
Plan Documents - Employee	When ERISA plan docs, SPDs, SMM are requested by the employee and not provided timely	up to \$110 per day Max \$1594 per request	All ERISA GHPs	SMM = 210 days (standard changes) Plan Docs & SPD = 30 days	DOL/IRS
CHIP Notice to Employee	Failure to provide the notice to all employees regardless of GHP eligibility	\$145 per employee per day late	All ERISA GHPs	Upon hire, annually thereafter	DOL
Medicare Secondary Payor (MSP)	Incentivizing, financially persuading, or discouraging enrollment from the GHP to enroll in Medicare only	Max: \$11,524 per violation	All 20+ GHPs	At Medicare eligible age	CMS
COBRA	Providing General Notice & Election Notice	Excise tax PPPD.	All employers with 20+ employees	GN: First 90 days of coverage	DOL
		ERISA \$110 per day, per violation for notice failure.		EN: Within 14 days of QLE	
SBC/Glossary	Failure to provide the SBC and Uniform Glossary	Maximum \$1,443 per incident	All ERISA GHPs	New: First day of coverage Upon request: within 7 days	DOL
		Excise tax of \$100 PPPD		OE/Renewal: first day of OE/Renewal	
Summary of Material Modification (SMM)	Failure to provide the SMM prior to a material change that lessens the employee benefits, alongside a new SBC. If the updated SPD is provided, SMM is not needed	\$1,087 penalty	All ERISA GHPs	60 days prior to the material change	IRS/DOL
		Excise Tax of \$100 PPPD			
GINA	Establishing eligibility rules based on genetic data and requesting genetic data for underwriting	\$145 PPPD	15+ employees	Only if applicable	DOL
FMLA	Not displaying the FMLA poster & violations	\$216 per offense	GHPs 50+	At time of notification or realization	DOL
Section 105(h)	Failing to comply with the nondiscrimination rules related to highly compensated individuals (HCI)	HCI: loss of pre-tax premiums	All Self-Funded ERISA GHPs	Annually	IRS
		\$100 per day per non HCI excise tax Maximum \$500,000 annually			
Section 125 - POP or Cafeteria Plan Document	Allowing pre-tax employee contributions without the document & not completing nondiscrimination testing	Loss of pre-tax premiums for HCIs & key employees. Potential fines & penalties for employer.	All ERISA GHPs	At inception, annually thereafter	IRS
Medicare Notice to Employees & employer filing with CMS	Failure to provide creditable coverage notice or report the notice to CMS	None for not providing/filing	All ERISA GHPs	Employee: By October 14th annually	CMS
		Potential for civil penalty brought on by the employee		CMS: 60 days from plan end date	
Machine Readable Files (MRF)	Disclosure of files on public website accessible without a Cost Estimator/Price Comparison Tools	\$100 a day per person	All ERISA GHPs	January 1, 2022/updated monthly	HHS/DOL
Cost Estimator/Price Comparison Tools	For not having a consumer-facing self-service online cost estimator or comparison tools	\$100 a day per person	All ERISA GHPs	January 1, 2023	HHS/DOL
Gag Clause Prohibition Compliance Attestation (GCPA)	Failure to submit attestation	\$100 per day excise tax	All ERISA GHPs	December-31	HHS/DOL
Mental Health Parity Addictions Equity Act (MHPAEA)	Failure to comply with the parity of quantitative & nonquantitative limitations as well as the attestation	\$100 per day per person excise tax	All 50+ ERISA GHPs	Annually	DOL
RxDC Reporting	Failure to submit reporting requirements	\$100 per day per individual for non-compliance	All ERISA GHPs	June-1	HHS/DOL
HIPAA	Failure to comply with the rules	Civil: \$100-\$50,000 per violation, max \$1.5 million	All GHPs	Notice at time of enrollment & every three years and if a breach occurs	HHS/OCR
		Criminal: max \$250,000 & 10 years			
New York Disability Benefits Law (NYDBL)	Failure to secure a NY DBL policy for employees working at least 30 days in the calendar year	Up to \$500 per period	All employers with employees working in NY	Upon the employee working in NY	NY State
		Full cost of unpaid benefits Employee lawsuit			
Summary Plan Description (SPD)	Failure to distribute upon enrollment or request to participants	up to \$110 PPPD/beneficiary	All ERISA GHPs	within 90 days of enrollment, or 30 days upon request	DOL
Fiduciary Duty	Failure to perform fiduciary duties as defined	Up to \$100,000 in fines & up to 10 years in prison. The organization can incur up to \$500,000 in fines.	All ERISA GHPs	At plan inception and each renewal thereafter	EBSA
The Uniformed Services Employment & Reemployment Rights Act (USERRA)	Not posting a USERRA poster in a common area	None, legal action can occur per person as well as back wages	All employers	Upon hire and everyday thereafter	DOL