COMPLIANCE BULLETIN

DOL Increases Civil Penalty Amounts for 2020

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.
- The maximum penalty for violations of the **poster requirement under the FMLA** increases from $173 to $176 per each offense.

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

Jan. 15, 2020

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

Provided to you by **PCI Insurance, Inc.**

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2020 Penalty Amounts

REQUIREMENT	2019 PENALTY AMOUNT	2020 PENALTY AMOUNT
Wage and 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
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
Failure to furnish plan-related information requested by the DOL *Under ERISA, administrators of employee benefit plans must furnish to the DOL, upon request, any documents relating to the employee benefit plan.	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

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REQUIREMENT	2019 PENALTY AMOUNT	2020 PENALTY AMOUNT
Failure to provide the annual notice regarding CHIP coverage opportunities *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.	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)
For 401(k) plans, failure to provide blackout notice or notice of right to divest employer securities	Up to $139 per day	Up to **$141** per day
Failure to provide summary of benefits and coverage (SBC)	Up to $1,156 per failure	Up to **$1,176** per failure
Employee Safety – OSH Act		
Violation of posting requirement	Up to $13,260 for each violation	Up to **$13,494** for each violation
Other-than-serious violation	Up to $13,260 for each violation	Up to **$13,494** for each violation
Serious violation	Up to $13,260 for each violation	Up to **$13,494** for each violation
Willful violation	Between $9,472 and $132,598 per violation	Between **$9,639** and **$134,937** per violation
Uncorrected violation	Up to $13,260 per day until the violation is corrected	Up to **$13,494** per day until the violation is corrected

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