



Monthly Newsletter

Brought to you by EB Advisors

February 2017 Issue

New Executive Order Calls for Minimizing Economic Burden of ACA

President Trump has signed an [executive order](#) calling upon federal administrative agencies to minimize the economic burden of the Affordable Care Act (ACA), pending repeal of the law. **Until further guidance is issued or legislation is signed, however, all ACA requirements remain in effect, including penalties for noncompliance.**

In addition to making clear that the Trump administration seeks the prompt repeal of the ACA, the executive order specifically calls upon agencies to exercise authority and discretion to:

- Waive, defer, grant exemptions from, or delay the implementation of any ACA provision or requirement that would impose a fiscal or regulatory burden on states, individuals, health care providers, health insurers, and medical device and product producers **(including fees, taxes, and penalties)**;
- Provide greater flexibility to states, and cooperate with them in implementing health care programs; and
- Encourage the development of a free and open market for the offering of health care services and health insurance.



The executive order must be implemented in a manner **consistent with applicable law**, including the Administrative Procedure Act, which requires extended review of and public comment on any federal rules which may be proposed as a result of the executive order.

For more information on the ACA, check out our [Health Care Reform](#) section.

DOL Adjusts Labor Law Penalties for 2017

The U.S. Department of Labor (DOL) has published a [final rule](#) adjusting for inflation the civil monetary penalties assessed for violations of a number of federal labor laws. The increases generally apply to civil penalties assessed **after January 13, 2017**, whose associated violations occurred after November 2, 2015.



Key Penalty Increases

Penalty increases that may be of particular interest to employers include:

- **FLSA Requirements.** Repeated or willful violations of the FLSA's [minimum wage](#) or [overtime](#) pay requirements are subject to a penalty of **up to \$1,925** per violation (formerly \$1,894);
- **FMLA Posting.** Willful violations of the FMLA's [posting requirement](#) are subject to a penalty not to exceed **\$166** for each separate offense (formerly \$163) (note: covered employers must post this general notice **even if no employees are eligible for FMLA leave**);
- **Employer CHIP Notice.** Failure to provide employees with an [Employer Children's Health Insurance Program \(CHIP\) Notice](#) is subject to a penalty of **up to \$112 per day** per violation (formerly \$110);
- **SBCs.** Failure to provide a [Summary of Benefits and Coverage](#) (SBC) is subject to a penalty of **up to \$1,105 per failure** (formerly \$1,087);
- **Form 5500.** Failure or refusal to file an annual report ([Form 5500](#)) with the DOL is subject to a penalty of **up to \$2,097 per day** (formerly \$2,063); and
- **OSH Act Posting.** Violations of the OSH Act's [posting requirement](#) are subject to a maximum penalty of **\$12,675** for each violation (formerly \$12,471).

Review our [Compliance by Company Size](#) chart for a summary of key federal labor laws that may apply to your company.

New Expiration Date for Employer CHIP, COBRA General, and COBRA Election Notices

The U.S. Department of Labor (DOL) has extended the effective dates of its model [Employer CHIP Notice](#), [General Notice of COBRA Rights](#), and [COBRA Election Notice](#) through **December 31, 2019**. Previously, these model notices expired on December 31, 2016.

No other changes have been made to these notices. For the latest guidance regarding these notices, please visit the DOL's [Children's Health Insurance Program Reauthorization Act](#) and [COBRA Continuation Coverage](#) webpages, or contact the DOL directly at 1-866-487-2365.

Our [Benefits Notices by Company Size](#) section features additional model notices for employers of all sizes.

Reminder to Employers: Post OSHA 300A Summary Starting Feb. 1

Employers subject to the [recordkeeping requirements](#) of the federal Occupational Safety and Health Act are reminded to post the OSHA [Form 300A, Summary of Work-Related Injuries and Illnesses](#), between **February 1, 2017 and April 30, 2017**. The Form 300A lists the total number of job-related injuries and illnesses that occurred during the previous year and must be posted even if no work-related injuries or illnesses occurred during the year. It should be displayed in a common area where notices to employees are usually posted so that employees are aware of the injuries and illnesses occurring in the workplace.



A company executive must [certify](#) that he or she has examined the OSHA 300 Log and that he or she reasonably believes—based on his or her knowledge of the process by which the information was recorded—that the annual summary is correct and complete.

To read more about worker safety and health, please visit our section on [Safety & Wellness](#).

Medicare Part D Online Disclosure to CMS Due Mar. 1

The Medicare Modernization Act requires employers that provide prescription drug coverage to Medicare-eligible individuals to complete the [Online Disclosure Form](#) to the U.S. Centers for Medicare & Medicaid Services (CMS) to report whether such coverage is creditable prescription drug coverage (“creditable coverage”). Creditable coverage is coverage that is expected to pay, on average, as much as the standard Medicare prescription drug coverage.



This disclosure is required annually, **no later than 60 days from the beginning of a plan year**—typically **March 1st for calendar year plans**—and at [certain other times](#).

Visit our section on [Medicare](#) for more information about how the law affects employer-provided group health plans.