

ACA, HIPAA, COBRA and HSA Penalties: What Do They Mean? - Affordable Care Act, Health Insurance Portability and Accountability Act, Consolidated Omnibus Budget Reconciliation Act, Health Savings Account

Article By:

Roberta P. Granadier

What do all of these acronyms stand for and why do employers and human resource professionals care? These acronyms stand for statutory requirements which apply to employer-provided health plans and stiff penalties can apply for failure to comply with a multitude of coverage, administration, reporting and disclosure requirements. Employers could be faced with a penalty of \$100 per individual per day for refusing to offer mid-year elections for HIPAA special enrollment events or for violating comparable contribution requirements to **Health Savings Accounts (HSAs)**. For example, although COBRA has been around for almost three decades and excise taxes have always applied to COBRA violations, employers are now required to self-report COBRA violations on new IRS Form 8928 and pay the associated excise taxes. The excise tax for failure to offer COBRA coverage to eligible individuals can be as much as \$100 per day per individual during the noncompliance period.

The **Affordable Care Act (ACA)**, commonly referred to as Obamacare, also carries with it a whole host of penalties for non-compliance. Although the federal government postponed until 2015 the mandate which requires large employers (employers with more than 50 employees) to offer affordable coverage to full-time employees and their dependents, many requirements are effective NOW. And these requirements apply to all employers, not just large employers. Failure to comply with the following current requirements can trigger an excise tax of \$100 per individual per day:

- Maximum 90-day waiting period
- No pre-existing condition exclusions
- No annual or lifetime limits on essential health benefits
- Coverage for dependents up to age 26
- No cost-sharing or deductibles for preventive care
- Maximum out of pocket limits

- Summary of Benefits and Coverage (SBC)
- Claims and appeals procedures

With so many rules and regulations, employers and their human resource professionals should be busy developing and monitoring procedures to ensure compliance and to avoid violations. Government agencies are also busy issuing clarifying guidance, new regulations and IRS reporting forms. More guidance is expected regarding ACA compliance, especially reporting requirements and nondiscrimination rules. One thing is certain: There will be increased enforcement in the coming years by government agencies such as the IRS and the Department of Labor to target compliance failures and to collect applicable penalties and excise taxes.

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