



PROFESSIONAL GROUP PLANS  
*Specializing in Employee Benefits*

# COMPLIANCE CONNECTION

PD Release 2

## Plan Document Compliance

### Key Points

- Regulatory compliance should be one of **the primary concerns** of employers and insurance brokers when it comes to Employee Benefits.
- Government agencies such as the IRS, DOL, and HHS are increasing their enforcement efforts through benefit plan audits and other means. Do not underestimate the effect of whistle-blowers.
- Groups of all sizes—including very small groups—are now being targeted for audits.

### Alarming Statistics

- 75% of audits conducted by the DOL and IRS result in the discovery of an ERISA violation.
- 70% of audits with ERISA violations result in monetary penalties to the employer.
- Bottom Line – **over 50% of DOL/IRS audits will result in employers paying penalties!**

### What Triggers a Health & Welfare Audit?

- Incorporated with an IRS tax audit, DOL Wage & Hour audit, Pension/401K audit, HIPAA audit, etc.
- Active or former employee reporting (i.e. Whistle-blower)
- Flagrant violations (i.e. Fraud, Commingling of Funds)
- Targeted audits by geography or industry

### Did You Know?

- The majority of documents issued by carriers are Certificates of Coverage. These are **not compliant Plan Documents nor are they Summary Plan Descriptions (SPDs)**.
- Employers are obligated to distribute a written SPD for every health and welfare plan and any voluntary plans pre-taxed under a Section 125 Plan:
  - ✓ Within 90 days of enrollments
  - ✓ Within 120 days of a new plan being established
  - ✓ Within 30 days of a request by an employee
- If an employer has never prepared or distributed a fully compliant SPD, violations would apply for all participants.



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## Potential Penalties for Non Compliance - Plan Documents

Document Type	Potential Penalty
Plan Documents	<ul style="list-style-type: none"> <li>• Most violations - \$100 to \$110/day per affected participant</li> <li>• Failure to provide Summary Plan Description upon request - \$147 per day</li> </ul>
Form 5500 Reporting	<ul style="list-style-type: none"> <li>• Up to \$2,063/day per plan for late filing or failure to file</li> </ul>
§125 Non-Discrimination	<ul style="list-style-type: none"> <li>• Potential loss of tax deduction for highly compensated employees</li> </ul>
Required Notices	<ul style="list-style-type: none"> <li>• SBC - \$1,087 per willful failure to provide to participants</li> <li>• CHIPRA - \$110/day for failure to provide notice</li> <li>• Qualified Medical Child Support Orders - \$100,000 for willful violations</li> <li>• COBRA - \$110/day for any failure to comply</li> </ul>
HIPAA Privacy	<ul style="list-style-type: none"> <li>• \$110 - \$55,010 per violation if breach not resolved (up to \$1,650,300 Maximum)</li> </ul>
Wellness Programs	<ul style="list-style-type: none"> <li>• Penalties vary by type of violation</li> </ul>



We offer a variety of tools and resources, through our partnerships, to help support compliance issues. Contact us for more information.

\*Information in this document is general in nature and not intended to replace legal advice in any particular manner.

Contact US With Any Questions

Long Island: 631.951.9200  
New York City: 212: 840.4949  
New Jersey: 908.276.9399  
[www.pgpbenefits.com](http://www.pgpbenefits.com)

