

LEGAL UPDATE



ERISA DISCLOSURES

- ERISA requires employers to provide certain plan-related information to participants and beneficiaries upon written request.
- If an employer does not respond to a written request within 30 days, a court may impose monetary penalties of up to \$110 per day.
- To avoid lawsuits and penalties, employers should promptly respond to requests from participants and beneficiaries for plan-related information.

ERISA Penalties Awarded for Failing to Respond to Request for Information on Mental Health Benefits

The U.S. District Court for the District of Montana recently awarded **over \$32,000 in penalties** against an employer's self-insured health plan and its third-party administrator (TPA) for failing to provide information to a plan participant upon request. This case, which involved a dispute over payment for mental health benefits, highlights the importance of promptly responding to participants' requests for plan-related information.

ERISA Requirements

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for employee benefit plans maintained by private-sector employers. To help participants understand how their plan works and their eligibility for benefits, ERISA requires employers to automatically provide certain benefit-related documents to them, such as a summary plan description (SPD). ERISA also requires employers to provide certain documents upon written request by a participant or a beneficiary, including the latest SPD, Form 5500, bargaining agreement, trust agreement, and any contract *or other instrument under which the plan is established or operated*.

If these documents are not provided within **30 days** of receiving the written request, the participant or beneficiary may file a lawsuit under ERISA, and a court may impose monetary penalties of up to **\$110 per day**, beginning on the date of the failure.

District Court Decision

In this [case](#), a plan participant and his daughter sued their self-insured health plan and its TPA after the plan denied coverage for the daughter's mental health treatments. In part, the plaintiffs alleged that the plan violated the federal Mental Health Parity and Addiction Equity Act (MHPAEA) by applying a more restrictive limitation on mental health treatment than on treatment for medical and surgical issues. The plaintiffs requested a copy of documents related to the plan's compliance with MHPAEA, including information regarding the plan's application of nonquantitative treatment limitations.

The court concluded that the requested MHPAEA-related documents fell under ERISA's disclosure requirement, which means that the defendants' failure to respond triggered penalties. The court concluded that the defendants' failure interfered with the plaintiffs' "ability to understand and protect their rights under the Parity Act [MHPAEA] and ERISA." The court also noted that it does not matter whether the failure was based on a good-faith misinterpretation of the law or a bad-faith intention; it only matters that the defendants violated ERISA's disclosure requirement.

The court awarded penalties of \$110 per day for 294 days, from 30 days after the plaintiffs' written request through the date the lawsuit was filed, which totaled \$32,340.