

## **NON – COMPLIANCE PENALTIES & FINES**

Penalties: IRS (Excise tax) - IRS has authority to audit COBRA Programs

- \$100 per day
- Per qualified beneficiary
- Each COBRA violation
- Capped at \$200 per day, if more than one qualified beneficiary in the family
- Paid from employer to IRS

Civil Fines: ERISA (Employee Retirement Income Security Act)

- Sued in Federal Court
- \$110 per day
- Per qualified beneficiary
- Each COBRA violation
- No cap – number of beneficiaries
- Paid from employer to qualified beneficiary
- No jury trial - In some cases, a federal court may award damages and attorney fees

Civil Actions: Public Health Service Act (PHSA)

- Sued in Federal Court
- Appropriate Equitable Relief (includes money for out-of-pocket expenses)
- Per qualified beneficiary
- Paid from employer to qualified beneficiary
- No jury trial, No attorney fees