

Eleventh Circuit Declines COBRA Penalties in the Absence of Harm to Former Employee

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Thibodeaux v. City of Atlanta, 2025 WL 2505600 (11th Cir. 2025)

Available at <https://media.ca11.uscourts.gov/opinions/unpub/files/202412921.pdf>

A former employee sued her employer for, among other things, failing to provide a timely COBRA election notice. The employee claimed she did not receive notices related to her job status or health insurance continuation rights because the employer sent them to an outdated address. Arguing that the employer's failure to provide a timely election notice entitled her to statutory penalties, the employee asserted that she was prejudiced by the delay and the employer's mishandling of her health coverage. The employer countered that despite the notice delay, it had maintained the employee's health insurance coverage at no cost to her for more than two years after termination, and that there was no bad faith or prejudice warranting penalties.

The trial court noted that the employer was aware at the time it mailed the election notice that the address may have been inaccurate and thus held that the employer did not timely provide the notice. Nevertheless, the court exercised its discretion not to impose penalties because, with more than two years of employer-paid coverage, the employee was "better off" than if she had received a timely notice and paid for the continued coverage herself. On appeal, the Eleventh Circuit agreed that the employee had not been prejudiced by the failure to provide a timely notice. While noting that prejudice is not a prerequisite to an award of civil penalties, the court held that the trial court did not abuse its discretion in declining to assess them.

EBIA Comment: The absence of prejudice to a COBRA qualified beneficiary often weighs against the imposition of penalties for notice violations, but, as noted in this opinion, penalty assessment is at the discretion of each deciding court. To avoid disputes and potential liability, employers should ensure that robust COBRA administration procedures are maintained and followed, including the verification of addresses and documentation of notice delivery. For more information, see EBIA's COBRA manual at Sections XVIII.J ("Sending the Election Notice and Proving It Was Sent") and XXV.C ("Statutory Penalties for Failure to Provide Certain COBRA Notices").

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