

Court Declines to Award COBRA Statutory Penalties Absent Harm to Participant or Plan Administrator's Bad Faith

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Savino v. Joint Indus. Bd. of the Elec. Indus., 2025 WL 90242 (E.D.N.Y. 2025)

A federal trial court has declined to award statutory penalties in a COBRA lawsuit brought by a participant in a collectively bargained health plan against the trade union that served as plan administrator. The participant had been injured on the job and, in accordance with the agreement between the union and the participant's employer, received free family health coverage under the plan for two years. After the coverage ended, the participant purportedly informed the union that he had not received a COBRA election notice, so the union extended his free coverage for an additional nine months. After that coverage ended, the participant—who allegedly discovered his lack of coverage only through the receipt of uncovered medical bills—sued the union, alleging that the union had twice failed to provide an election notice. The union asked the court to rule in its favor without a trial, producing evidence of its standard mailing procedures and copies of the two notices addressed to the participant, but no evidence that the notices actually were mailed. The union further argued that, even if provision of the notices was in dispute, the participant had not shown that the union acted in bad faith or that he had been harmed by not receiving the notices.

The court held that there was “at least a close question” as to whether the union met COBRA's notice requirements in that the mailing procedures and notice copies did not prove that the notices actually had been sent. While acknowledging that some other courts have found such evidence sufficient, the court declined to rule on that basis. However, the court agreed that the participant had not proven the union's bad faith or that he had been harmed by the alleged notice failures. The participant conceded that he had no reason to believe the union had withheld the notices on purpose and further stated that, even if he had received the notices, he would not have elected COBRA coverage due to the cost. The court emphasized that the cost of COBRA coverage would have far exceeded the cost of the participant's unpaid medical bills. Finding no evidence of bad faith or prejudice, the court dismissed the case.

EBIA Comment: An award of statutory penalties for failure to provide a COBRA notice is up to the discretion of the court. Under varying circumstances, courts have imposed penalties for notice violations even when there was no bad faith or prejudice, so other plan administrators may not escape liability so easily. Plan administrators, employers, and TPAs should coordinate to maintain records sufficient to prove that adequate notice has been timely sent to each qualified beneficiary. 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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