DOL Reinstates and Extends PAID Self-Audit Program to FMLA Violations

EBIA Weekly (July 31, 2025)

DOL Wage and Hour Division: Payroll Audit Independent Determination (PAID) (July 24, 2025); Questions and Answers About PAID; News Release: US Department of Labor Launches Self-Audit Programs to Help Regulated Community Strengthen Compliance With Federal Labor Laws (July 24, 2025)

PAID Website

Questions and Answers

News Release

The DOL's Wage and Hour Division (WHD) has reinstated its Payroll Audit Independent Determination (PAID) program, which enables employers to self-identify and resolve minimum wage, overtime, and leave violations under the Fair Labor Standards Act (FLSA) and, now, the Family and Medical Leave Act (FMLA). The PAID program, started in 2018 by the first Trump administration and discontinued in 2021 by the Biden administration, initially focused on the early resolution of FLSA compliance issues. As reinstated, the program is also available for FMLA violations, presumably including the failure to maintain or restore group health plan benefits during or after FMLA leave.

To utilize the PAID program for FMLA violations, FMLA-covered employers meeting specified criteria must perform a self-audit to identify compliance issues and report the findings, supporting evidence, and proposed remedies to WHD for consideration. WHD will review the records and, if it accepts the employer into the PAID program, confirm whether the proposed remedies are adequate. Examples of appropriate FMLA remedies include compensating employees or restoring benefits lost because of the violation or reimbursing employees for actual monetary losses sustained as a direct result of the violation. The employer will then work with WHD to seek the participation of affected employees. Employees who accept the proposed resolution must sign a WHD-approved release of liability.

EBIA Comment: The PAID program is intended to allow employers to efficiently correct compliance mistakes while ensuring employees receive adequate compensation. Despite the previous administration's **assertion** that the PAID program "deprived workers of their rights and put employers that play by the rules at a disadvantage," the current administration describes the program as a win-win for employers and employees. According to Q&As, employees benefit because employers must review compliance assistance materials, audit their leave practices, and agree to correct deficiencies, and employers benefit by proactively resolving potential disputes without the risk of civil monetary penalties or costly litigation. Acceptance into the PAID program is not guaranteed; however, WHD states that if it declines an employer's good faith request to participate in the program, the request will not serve as a basis for future investigation of the identified violations unless WHD has reason to believe that health or safety are at risk. Employers considering submission should do so in consultation with trusted advisors.

For more information, see EBIA's Group Health Plan Mandates manual at Section XVII.L ("FMLA: Enforcement").

Contributing Editors: EBIA Staff.