CEA
Christian Employers Alliance

MEMBER RESOURCE

DOL / EBSA AUDIT READINESS

Audit Readiness Guide & Internal Fire Drill Toolkit

A practical playbook for preparing group health and retirement plans for a U.S. Department of Labor investigation — before one arrives.

Prepared for **Christian Employers Alliance member employers**

IN PARTNERSHIP WITH

EMPLOYERADVOCATES
STRATEGIC BENEFITS & HR SOLUTIONS

July 2026 · Current through EBSA FY2026 enforcement priorities

General information only — not legal advice. See the note on the final page.

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PREFACE

How to Use This Guide

For Plan Administrators

Work through the Master Checklist (Part 6) first. Use it to identify gaps, then read the relevant deep-dive sections to understand context and prioritize remediation.

For HR Leaders & Executives

Start with Parts 1 and 2 to understand the enforcement landscape. Then run the Internal Fire Drill (Part 5) to stress-test your organization's actual readiness.

For Legal & Compliance Counsel

Part 3 (Mental Health Parity) and Part 7 (When the Letter Arrives) are your primary references. The Glossary in the Appendix standardizes terminology for your internal team.

For Faith-Based Employers

Pay special attention to the faith-based notes embedded in Parts 3 and 4. Your religious exemption documentation is a distinct audit category that requires proactive maintenance.

CEA Member Benefit: If your organization receives a DOL/EBSA audit letter, contact CEA immediately. Member support includes response coordination, legal referral, and access to your Employer Advocates benefits team.

PART 1

How a DOL/EBSA Investigation Actually Works

Most employers encounter a DOL investigation as a surprise. Understanding the mechanics in advance changes everything about how you respond.

1.4M
ERISA-covered plans under DOL jurisdiction

3,500+
Civil investigations opened annually (est.)

$1.4B+
Recovered by EBSA in FY2024

PART 1 · SECTION A

Who Is Knocking: Understanding EBSA

The Employee Benefits Security Administration (EBSA) is the enforcement arm of the U.S. Department of Labor responsible for ERISA — the Employee Retirement Income Security Act of 1974. EBSA oversees more than 720,000 retirement plans, 2.5 million health plans, and hundreds of thousands of other welfare benefit plans.

EBSA's investigators (called "Benefits Advisors" in some contexts) are federal employees who can subpoena documents, compel testimony, and refer cases for criminal prosecution through the Department of Justice. They are not auditors in the IRS sense — they are civil law enforcement.

EBSA's Three Investigation Types

Type	Trigger	Scope	Typical Duration
Civil	Participant complaint, referral, random selection, or targeting initiative	Single plan or multiple plans at one employer	6–18 months
Criminal	Referral from civil case; tip; interagency referral	Can extend to plan fiduciaries personally	12–36+ months
Terminated Plan	Form 5500 filing triggers; PBGC referral	Defined-benefit pension plans primarily	Variable

PART 1 · SECTION B

What Triggers an Investigation

Most employers assume investigations are rare and random. They are not. EBSA uses a sophisticated targeting system that combines participant complaint data, Form 5500 analytics, plan type risk scores, and national enforcement initiatives.

HIGH-PROBABILITY TRIGGERS

- Participant complaint filed with EBSA
- Form 5500 late filing or material inconsistency
- Large plan (500+ participants) with no auditor's report
- Prohibited transaction self-reported on Form 5330
- Plan assets significantly overstated on 5500

MODERATE-PROBABILITY TRIGGERS

- Industry or plan-type targeting initiative
- Referral from IRS exam or state agency
- Media coverage of employer benefit dispute
- Bankruptcy filing with active plans
- Prior investigation within 5 years

PART 1 · SECTION C

The Arc of a Case

📬	📁	🔍	📝	✅
Opening Letter	**Production**	**Review**	**Findings**	**Closure**
Document request + notice of investigation	30–90 day window to submit records	EBSA analyzes documents; may request more	Violations cited; VCA or litigation possible	Corrective action, penalty, or no-action letter

Note: EBSA has the authority to extend document requests and issue subpoenas if initial production is incomplete or unresponsive. Voluntary Compliance Agreement (VCA) programs can significantly reduce penalties for self-corrected violations.

PART 2

What the DOL Is Focused on Right Now (FY2026)

EBSA publishes enforcement priorities annually. Understanding them lets you focus your readiness efforts where investigative attention is actually concentrated.

Priority Area	Risk Level	What EBSA Is Looking For	Employer Action
Mental Health Parity & NQTLs	HIGH	Comparative analysis documentation; NQTL equivalence between MH/SUD and med/surg benefits	Obtain written NQTL comparative analysis from TPA/insurer
Pharmacy Benefit Transparency (CAA)	HIGH	RxDC report filings; gag clause attestation; broker compensation disclosure	Confirm RxDC submitted; file gag clause attestation annually
Fiduciary Duty (Retirement Plans)	HIGH	Prudent investment process; fee benchmarking; participant disclosures (404a-5)	Document investment committee minutes; benchmark plan fees annually
Timely Remittance of Contributions	MED-HIGH	Employee deferrals deposited within 7 business days (small plans) or as soon as segregable	Audit payroll-to-deposit lag for every pay period in past 3 years
Missing Participants (Retirement)	MED-HIGH	Search procedures; uncashed checks; PBGC missing participant program compliance	Annual missing participant search; document all outreach efforts
Health Plan Transparency (Machine-Readable Files)	MEDIUM	In-network rates, out-of-network billed charges, and prescription drug pricing posted publicly	Confirm TPA/insurer has published MRFs; retain documentation
No Surprises Act Compliance	LOWER	ID card disclosures; balance billing protections; continuity of care provisions	Confirm plan documents and ID cards reflect NSA requirements
COBRA Administration	LOWER	Election notices; qualifying event timing; premium collection	Audit COBRA notice log; confirm TPA compliance

Two Cross-Cutting Themes for FY2026

1. The "Fiduciary First" Standard

EBSA is scrutinizing whether plan sponsors are genuinely overseeing their TPAs and advisors — not just passing responsibility downstream. Documentation of oversight is as important as the actions taken.

2. Self-Insured Plan Accountability

Self-funded employers face higher scrutiny because ERISA places fiduciary duty on the plan sponsor directly — not the insurer. Health plan governance documentation is now a primary audit target.

PART 3

Deep Dive: Mental Health Parity & NQTLs

Mental health parity has become EBSA's single most active enforcement area. Here is what you need to know — and what faith-based employers need to document separately.

Key statute: Mental Health Parity and Addiction Equity Act (MHPAEA), as strengthened by the Consolidated Appropriations Act of 2021 and implementing regulations effective 2024.

The 2025 Pause and What It Changed

In early 2025, the Biden-era MHPAEA final rule (published October 2024) was subject to litigation and administrative review under the new administration. EBSA paused certain enforcement of the NQTL comparative analysis requirements while guidance was under review.

The practical impact for FY2026: EBSA has signaled it will continue to cite plans that lack any NQTL documentation — the pause affected new affirmative mandates, not the underlying MHPAEA statute. The requirement to maintain a comparative analysis has not been suspended.

NQTLs in Plain Terms

A Non-Quantitative Treatment Limitation is any restriction on mental health or substance use disorder (MH/SUD) benefits that is not expressed as a simple number (like a visit cap). Examples include:

Common NQTLs

- Prior authorization requirements
- Step therapy / fail-first protocols
- Network adequacy standards
- Reimbursement rate methodologies
- Fail-first protocols

What EBSA Checks

- Is the NQTL applied comparably to MH/SUD vs. medical/surgical?
- Is the underlying process for setting the limitation equivalent?
- Is there written documentation of the analysis?

Common Deficiencies EBSA Cites

Deficiency	What It Looks Like	Remediation
No comparative analysis document	Plan sponsor says "the TPA handles it" but cannot produce a written analysis	Request written NQTL analysis from TPA or insurer; retain in plan files
Analysis is generic / off-the-shelf	Template document with no plan-specific data	Require TPA to customize analysis with your plan's actual utilization data
Prior auth disparity	MH/SUD benefits require prior auth; comparable med/surg benefits do not	Align requirements or document clinical basis for difference
Network inadequacy for MH/SUD	In-network MH providers unavailable within reasonable distance/time	Document network adequacy analysis; consider out-of-network cost-sharing adjustment

A Note for Faith-Based Employers

Many CEA member employers have religious exemptions that limit or modify certain MH/SUD benefits (e.g., exclusions for addiction treatment programs that conflict with faith-based recovery approaches, or limitations on certain behavioral health referrals). These exemptions require separate documentation:

- A written religious exemption statement tied to a specific religious belief or practice
- Evidence the exemption is consistently applied and not used as a pretext

- Documentation that the exemption was disclosed to plan participants

Contact CEA's legal team if you have questions about your specific exemption documentation.

PART 4

What to Have Readily Available

An EBSA opening letter typically gives you 30–60 days to produce records. The employers who respond cleanly are those who can locate and produce documents within days — not weeks.

GROUP HEALTH & WELFARE PLAN RECORDS

Document	Retention Period	Notes
Plan document and all amendments	Indefinite	Must reflect all plan changes; keep every prior version
Summary Plan Description (SPD) + all SMMs	Indefinite	SPD must be distributed within 90 days of participant eligibility
Insurance contracts / stop-loss agreements	6 years + current	Include all riders and endorsements
TPA service agreements	6 years + current	Must include compensation disclosure per CAA requirements
NQTL comparative analysis	6 years + current	Must be plan-specific and updated annually or upon plan change
Form 5500 + schedules + auditor report	6 years	Large plans (100+ participants) require independent audit
COBRA notices and elections log	6 years	Every qualifying event must be documented
HIPAA privacy policies and training records	6 years	Applies to self-funded plans with access to PHI
Gag clause attestation confirmation	6 years	Annual filing due December 31; confirm TPA submitted on your behalf
RxDC report confirmation	6 years	Annual data submission; confirm issuer/TPA filed
Broker/consultant compensation disclosures	6 years	Section 202 CAA disclosures required before contract execution
Religious exemption documentation	Indefinite	Faith-based employers: maintain for all exempted benefit provisions

RETIREMENT PLAN RECORDS

Document	Retention Period	Notes
Plan document, adoption agreement, and all amendments	Indefinite	Restatements required every 6 years (prototype/volume submitter plans)
Trust agreement	Indefinite	Must name trustee(s); update on any change
SPD and all SMMs	Indefinite	Must be updated within 210 days of plan year end when material changes occur
Form 5500 + schedules + auditor report	6 years	Large plans (100+ participants) require independent audit
Investment policy statement (IPS)	Indefinite + superseded versions	Should be reviewed and ratified by investment committee annually
Investment committee meeting minutes	Indefinite	Primary evidence of prudent process; must reflect actual deliberation
Fee benchmarking analysis	6 years	Compare plan fees to market; document methodology and outcome

Document	Retention Period	Notes
404a-5 participant fee disclosure records	6 years	Annual disclosure; document delivery method and date
Contribution deposit records (payroll-to-trust)	6 years	Document date of payroll, date of deposit for every pay period
Missing participant search records	6 years	Document all search steps taken for each unlocated participant
Fidelity bond documentation	6 years	Required for every person who handles plan funds; minimum 10% of plan assets, $1,000–$500,000

PART 5

The Internal Fire Drill

A fire drill is a time-bound internal exercise that simulates an actual EBSA document request — testing whether you can actually produce what you say you have.

48h

Simulate a real opening-letter deadline — produce all key documents within 48 hours

Annual

Run the fire drill once a year, ideally 60 days before your plan year renewal

Score

Every gap found in a drill is a gap closed before an investigator finds it

HOW TO RUN THE FIRE DRILL

1 Assign a Drill Commander

Designate one person (typically HR Director or CFO) to issue the simulated opening letter. This person should not be the one responsible for producing documents — the goal is to simulate a realistic scenario.

2 Issue a Simulated Document Request

Use the Part 4 record lists as your document request. Give the production team 48 hours. Do not provide hints about where documents are stored — simulate the actual condition of receiving a surprise request.

3 Categorize Results

Every document should land in one of three buckets: **Ready** (located and complete), **Incomplete** (exists but has gaps), or **Missing** (cannot be located). Only "Ready" documents pass an actual investigation.

4 Score and Prioritize

Calculate your score using the scoring rubric below. Any document in a HIGH-risk category that scores "Missing" should be addressed within 30 days.

5 Create a Remediation Plan

Document every gap found and assign an owner and a due date. Contact your Employer Advocates benefits team for assistance with any items requiring TPA or insurer coordination.

Fire Drill Scoring Rubric

Score	Meaning	Interpretation	Action Required
90–100%	Audit-Ready	All or nearly all documents ready; no material gaps	Annual maintenance only
75–89%	Substantially Ready	Minor gaps; no HIGH-risk items missing	30-day remediation plan for gaps
60–74%	Needs Attention	Meaningful gaps; at least one HIGH-risk item incomplete	60-day remediation; involve Employer Advocates
Below 60%	Significant Exposure	Material deficiencies across multiple categories	Immediate remediation; consider VCA review

PART 6

Master Audit-Readiness Checklist

Use this checklist as your annual review and fire drill scoring instrument. Check each item against your actual document files — not your memory of having the document.

GROUP HEALTH PLAN CHECKLIST

#	Item	Risk Level	Status (✓ Ready / ~ Incomplete / ✗ Missing)
1	Current plan document on file (all amendments attached)	HIGH	[ ]
2	Current SPD distributed to all eligible employees	HIGH	[ ]
3	NQTL comparative analysis (plan-specific, current year)	HIGH	[ ]
4	TPA service agreement with CAA compensation disclosure	HIGH	[ ]
5	Stop-loss or insurance contract (current year)	HIGH	[ ]
6	Gag clause attestation filed (prior year deadline: Dec 31)	MED-HIGH	[ ]
7	RxDC report submission confirmed	MED-HIGH	[ ]
8	Machine-readable files publicly posted (or confirmed via TPA)	MEDIUM	[ ]
9	COBRA notice log current (all qualifying events documented)	MEDIUM	[ ]
10	HIPAA privacy policies current (self-funded plans)	MEDIUM	[ ]
11	Form 5500 filed on time (with auditor report if large plan)	HIGH	[ ]
12	Religious exemption documentation on file (faith-based employers)	HIGH	[ ]

RETIREMENT PLAN CHECKLIST

#	Item	Risk Level	Status (✓ Ready / ~ Incomplete / ✗ Missing)
1	Current plan document and trust agreement on file	HIGH	[ ]
2	Investment policy statement (current and board-ratified)	HIGH	[ ]
3	Investment committee minutes (last 3 years)	HIGH	[ ]
4	Fee benchmarking analysis (within last 3 years)	HIGH	[ ]
5	404a-5 participant fee disclosure records and delivery log	MED-HIGH	[ ]
6	Contribution deposit records (payroll-to-trust dates for 3 years)	HIGH	[ ]
7	Form 5500 filed on time (with auditor report if large plan)	HIGH	[ ]

#	Item	Risk Level	Status (✓ Ready / ~ Incomplete / ✗ Missing)
8	Missing participant search records (current year)	MED-HIGH	[ ]
9	Fidelity bond documentation (covers all plan fund handlers)	HIGH	[ ]
10	SPD current and distributed to all eligible participants	HIGH	[ ]

PART 7

What to Do When the Letter Arrives

The 48 hours after you receive an EBSA opening letter set the tone for the entire investigation. Here is your immediate action protocol.

FIRST 48 HOURS

Hour 1: Make Two Calls

1. Call your ERISA counsel (or request a referral from CEA)
2. Call your Employer Advocates benefits representative

Do not communicate with EBSA until you have spoken with counsel.

Hour 2: Issue a Litigation Hold

Suspend any document destruction or routine purging that could affect plan records. Notify HR, IT, and your TPA in writing. Document the date you issued the hold.

Day 1: Read the Request Carefully

Identify every document requested, the plan(s) under review, the plan years at issue, and the response deadline. Do not assume you understand the scope — have counsel parse the request.

Day 2: Request an Extension if Needed

EBSA routinely grants 30-day extensions on the initial production deadline. Counsel should make this request in writing. It demonstrates cooperation and buys critical preparation time.

DO'S AND DON'TS

DO

- Engage ERISA counsel before responding
- Be cooperative and professional with investigators
- Produce documents in an organized, indexed format
- Request extensions in writing when needed
- Keep a log of all communications with EBSA
- Notify your D&O and fiduciary liability insurers

DO NOT

- Speak to investigators without counsel present
- Destroy or alter any documents after receiving notice
- Speculate or guess in responses — produce what you have
- Volunteer information beyond the scope of the request
- Ignore the letter or miss the response deadline
- Allow your TPA to respond on your behalf without oversight

CEA Member Support When the Letter Arrives

CEA membership includes direct response support when you receive a DOL/EBSA investigation notice. Contact us immediately:

ERISA Counsel Referral

Benefits Team Coordination

Religious Liberty Guidance

Access to vetted ERISA defense attorneys familiar with faith-based employer issues	Your Employer Advocates team can assist with document retrieval and TPA coordination	Faith-based exemption documentation review and defense strategy support

APPENDIX

Glossary of Key Terms

Term	Definition
CAA	Consolidated Appropriations Act (2021) — federal law that added transparency, broker compensation disclosure, and mental health parity requirements to ERISA plans.
EBSA	Employee Benefits Security Administration — the enforcement arm of the U.S. Department of Labor that regulates ERISA-covered benefit plans.
ERISA	Employee Retirement Income Security Act of 1974 — the federal law governing most private employer benefit plans.
Fiduciary	Any person who exercises discretion or control over a plan, its assets, or its administration. Plan sponsors, trustees, and investment committees are typically fiduciaries.
Form 5500	Annual report filed with the DOL for most ERISA-covered plans. Large plans (100+ participants) must attach an independent auditor's report.
Gag Clause Attestation	Annual certification required by the CAA that the plan's contracts do not include clauses restricting the sharing of certain cost and quality information.
MHPAEA	Mental Health Parity and Addiction Equity Act — requires that mental health and substance use disorder benefits be no more restrictive than medical/surgical benefits.
NQTL	Non-Quantitative Treatment Limitation — any benefit restriction not expressed as a number (e.g., prior authorization, step therapy, network standards).
RxDC	Prescription Drug Data Collection — annual drug and health care spending data submission required for all ERISA group health plans.
SPD	Summary Plan Description — the plain-language document describing plan benefits, rights, and obligations that must be distributed to all participants.
Stop-Loss Insurance	Insurance purchased by self-funded employers to cap their exposure to high individual or aggregate claims.
TPA	Third-Party Administrator — a company that processes claims and administers benefits for self-funded health plans on behalf of the employer/plan sponsor.
VCA	Voluntary Compliance Agreement — a remediation program offered by EBSA that can reduce penalties for employers who self-correct plan violations.

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MEMBER RESOURCE · JULY 2026

Your Benefits Team Is Here to Help

CEA membership gives you direct access to the Employer Advocates team — your first call when you receive an audit notice, need an NQTL analysis, or have questions about plan compliance.

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This guide is provided for general informational purposes only and does not constitute legal advice. Plan sponsors should consult qualified ERISA counsel regarding their specific obligations. CEA member support does not create an attorney-client relationship.