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Torrillo & Associates

Benefit Plan Audit Specialists

- [Home](#)
- [About](#)
 - [Specialists](#)
 - [Our Team](#)
 - [Careers](#)
- [Services](#)
 - [401\(k\) Audits](#)
 - [403\(b\) Audits](#)
 - [Pension Plan Audits](#)
 - [Audit Process](#)
 - [CPA Firm Assistance](#)
- [Clients](#)
- [Videos](#)
- [Blog](#)
- [FAQs](#)
- [Contact Us](#)

Select Page

**DOL Updates National
Enforcement Projects for
Employee Benefit Plans**



The U.S. Department of Labor's Employee Benefits Security Administration ("EBSA") recently announced the overhaul of its national enforcement projects for fiscal year 2026.

The changes to the [national enforcement projects](#), the most significant EBSA has made in recent years, highlight where EBSA will focus its enforcement resources to increase broad-based employee benefit plan compliance, address abusive practices and bad actors, and deliver results that increase security for participants and beneficiaries.

Under the updated enforcement projects, investigators will prioritize cases related to:

- Cybersecurity
- Barriers to mental health and substance use disorder benefits
- Protecting benefit distributions
- Retirement asset management
- Surprise billing
- Criminal abuse of contributory benefit plans

Although not a national project, EBSA will continue its long-standing commitment to identifying abusive [Multiple Employer Welfare Arrangements and preventing fraudulent MEWA operators](#) from opening new arrangements in other states.

EBSA removed Employee Stock Ownership Plans from the national

enforcement project list and will reduce its focus on missing participants following the establishment of the [Retirement Savings Lost and Found Database](#).

EBSA is responsible for protecting more than 156 million workers, retirees, and their families who are covered by approximately 2.6 million health plans, 801,000 private retirement plans, and 514,000 additional welfare benefit plans. Together, these plans hold about \$13.8 trillion in assets.

Below are more specifics on the national enforcement projects.

EBSA focuses its enforcement resources where they can have the greatest impact on protecting plan assets and participants' benefits. The national projects below highlight the priority areas that guide our enforcement work. In FY 2026, EBSA revised its national projects and priorities.

Cybersecurity

This project addresses the growing risks cyberattacks pose to employee benefit plans and participants. It promotes best cybersecurity practices for plans and service providers to protect sensitive information and reduce the risk of fraud and financial loss. As part of its investigations, EBSA reviews how plans and service providers protect their systems and data from cyber threats. This project builds on [cybersecurity guidance](#) issued in 2021 and updated in 2024.

Barriers to Mental Health and Substance Use Disorder Benefits

This project focuses on targeting the most serious violations by plans and service providers that block participants and beneficiaries from accessing their promised mental health and substance use disorder benefits. These violations cause serious harm to participants and beneficiaries, including vulnerable groups like children and teens.

As part of this project, EBSA will ensure that plans and service providers meet their legal obligations to provide these important benefits and remove barriers to accessing care such as burdensome claims processes, unjustified treatment exclusions, inaccurate provider lists, and unreasonable limits on care.

This project aligns with the priorities in Executive Order 14212, "Establishing the President's Make America Healthy Again Commission," and builds on recent enforcement work under the Mental Health Parity and Addiction Equity Act.

[Mental health and substance use disorder tools and resources.](#)

Surprise Billing

EBSA's work in this area centers on enforcing the protections under the No Surprises Act (NSA), which prevents participants and beneficiaries from receiving unexpected medical bills in certain situations, such as emergency and air ambulance services or non-emergency services performed by out-of-network providers at in-network facilities.

EBSA will review whether plans and issuers:

- Follow the prudent layperson standard, which requires plans to treat a situation as an emergency if a reasonable person would believe they need immediate medical care.
- Apply in-network cost-sharing charges to services protected under the NSA.
- Provide proper notices and disclosures.
- Comply with other NSA protections, such as prohibitions on prior authorization and more restrictive administrative requirements.
- Comply with payment timelines during open negotiation and the independent dispute resolution process.

EBSA will also examine improper plan exclusions that

wrongfully deny emergency services coverage, consistent with the 2021 interim final rule issued under the Consolidated Appropriates Act.

EBSA seeks, when possible, to address NSA claims and payment processing issues at a service provider level the achieve widespread correction impacting many plans.

[NSA resources on the Department's website.](#)

Protecting Benefit Distributions

Retirement benefits often go unpaid when plan sponsors fail to act, struggle financially, or abandon their plans. Through this project, EBSA ensures participants receive the benefits they are owed. The Protecting Benefit Distributions (PDB) project has four main areas of focus:

Terminated Vested Participants (TVP)

TVPs are former employees who earned a pension under a defined benefit plan but left their employers before getting their payments. This aspect of the PDB project focuses on ensuring defined benefit plans keep sufficient census records and use effective methods to contact TVPs.

EBSA reviews whether plans implement these practices and notify individuals as they reach their plan's normal retirement age (commonly age 65) and their required minimum distribution (RMD) age, when distributions must begin. In FY 2025, EBSA launched the Retirement Savings Lost and Found Database. This online tool helps people search for missing retirement accounts, making it easier for TVPs to receive payments owed to them.

In light of [issued guidance](#), and the launch of the [Lost and Found Database](#) relevant to compliance in this area, EBSA expects necessary enforcement action in this area to reduce.

Distressed Plan Sponsors

This part of the PBD project protects participant benefits when plan sponsors face financial distress, including bankruptcy or receivership. Financial trouble can result in missed contributions, unpaid claims, and loss of health coverage for participants.

EBSA's early investigative efforts help prevent plan losses caused by asset diversion, unreasonable expenses, and delayed collection of delinquent contributions. Early action also supports timely benefit distributions and required notices, reducing the work needed later by bankruptcy trustees and other successor plan administrators.

Custodial Abandoned Plans

Custodial service providers may not have proper procedures in place for handling plans that sponsors have abandoned. In some cases, these custodial service providers continue charging fees for services no longer performed or increase fees for these abandoned plans, which harms participants.

EBSA works to ensure that custodial service providers refund unreasonable or prohibited fees and establish adequate procedures for identifying and handling abandoned plans. This can include participation in EBSA's Abandoned Plan Program.

Work in this area frequently results in large recoveries impacting hundreds, and sometimes thousands, of plans and produces long-term procedural changes that benefit plans going forward.

Abandoned Plans

This component of the PBD project addresses plans that have been abandoned by plan sponsors or fiduciaries, including situations where fiduciaries have abdicated their responsibilities. EBSA works to locate abandoned plans because of death, neglect, bankruptcy, incarceration or other

circumstances, and determines whether a fiduciary is still available to make necessary decisions, such as terminating the plan or distributing plan assets. EBSA then works with available fiduciaries to complete required filings, so participants can receive the benefits they were promised. If any plan official fails to meet their fiduciary responsibilities to plan participants, EBSA may impose penalties as appropriate.

Retirement Asset Management

This enforcement area focuses on protecting retirement income by ensuring fiduciaries select and monitor plan investments prudently. Poor investment choices, high fees, and conflicts of interest can reduce participants' future retirement income.

EBSA reviews whether fiduciaries act prudently and avoid conflicts of interest when choosing investment options, monitoring performance, and managing fees. This work includes reviewing 404(c) plans and underfunded defined benefit plans, as well as evaluating the actions of 3(21) and 3(38) fiduciaries. EBSA will also seek to educate plan-level fiduciaries through this project and utilize process agreements when appropriate.

404(c) plans

Because most participants rely on 404(c) plans for their retirement savings, EBSA reviews whether fiduciaries follow a reasonable process when choosing and overseeing the plan's investment lineup. Issues with these processes may be common, especially in midsize plans that may lack the resources of larger plans. EBSA evaluates these practices under the 404(c) regulation and recent Court decisions.

Underfunded defined benefit plans

EBSA focuses investigative resources on underfunded defined benefit plans because participants face a high risk of reduced or lost benefits. EBSA wants to ensure plans do not pursue

risky or unsuitable investment strategies as a way to improve funding status. EBSA examines systemic risks across the entire portfolio and reviews the procedures fiduciaries use to adopt and monitor the investment strategy.

3(21) and 3(38) fiduciaries

EBSA also reviews the actions of 3(21) and 3(38) fiduciaries at a service provider level and through its investigations of 404(c) plans and underfunded defined benefit plans. These reviews look for conflicts of interest, including efforts to increase compensation or direct investments to affiliated funds.

EBSA will continue to conduct criminal investigations of potential fraud, kickback, and embezzlement involving investment managers and advisers to plans and participants.

Contributory Plans Criminal Project

The Contributory Plans Criminal Project (CPCP), launched in FY 2010, is EBSA's first national criminal project. It focuses on protecting American workers who contribute to employer-sponsored retirement and health benefit plans from criminal abuse.

CPCP investigations have led to numerous federal, state, and local prosecutions. EBSA targets the most serious cases to deter future criminal activity and protect participants.

[Factsheet on the Contributory Plans Criminal Project.](#)

Multiple Employer Welfare Arrangements

Although not a national project, EBSA continues its long-standing work to identify and shut down abusive Multiple Employer Welfare Arrangements (MEWAs) and prevent fraudulent MEWA operators from simply opening new arrangements in other states.

EBSA's criminal investigations of MEWAs have uncovered a range of fraud and resulted in federal prosecutions. EBSA also investigates cases where medical providers or other service providers commit fraud against self-funded health plans.

- [Fact Sheet](#)
- [MEWA Guide to Federal and State Regulation](#)
- [Focus on Healthcare Fraud](#)

Voluntary Fiduciary Correction Program (VFCP) – The Office of Enforcement oversees the administration of the [Voluntary Fiduciary Correction Program](#), a voluntary program intended to protect the financial security of workers through the identification and correction of transactions that violate Part 4 of Title I of ERISA. Applications to the VFCP should be mailed to the appropriate EBSA office.


- [VFCP Online Calculator](#)

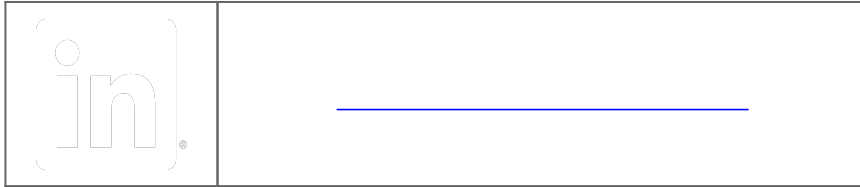


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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

Recent Articles

- [DOL Issues Proposed Rule for Fiduciary Duties in Selecting Designated Investment Alternatives](#)
- [DOL Updates National Enforcement Projects for Employee Benefit Plans](#)
- [2025 Required Amendments List Issued by the IRS](#)
- [401\(k\) Limit Increases to \\$24,500 for 2026](#)

Site Navigation

- [Home](#)
- [About](#)
- [Services](#)
- [Careers](#)
- [Clients](#)
- [Videos](#)
- [Blog](#)
- [FAQs](#)
- [Contact Us](#)
- [Privacy Policy](#)
- [Terms of Use](#)

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