



LEGAL ADVICE FOR HEALTH PLANS

HEALTH LAW ALERT

November 15, 2021

HHS Adjusts Civil Money Penalties for Inflation Applies to Health Plan Compliance with Various Rules

Today, the Department of Health and Human Services (HHS) published a Final Rule establishing Civil Money Penalties that the agency has authority to impose on health plans for violations related to the HIPAA Privacy, Security, Breach Notification, and Transactions Rule, Medicare Advantage and Part D, a variety of Health Reform provisions, such as the Affordable Care Act, insurance coverage in the group and individual markets, the Consolidated Appropriations Act, 2021 (“CAA”), and the Transparency in Coverage Rule, as well as other programs (including provisions related to Medicaid Managed Care Organizations). These penalties will apply to violations that take place after November 2, 2015,¹ provided that the penalties are assessed on or after November 15, 2021. HHS will make annual adjustments to the penalty amounts based on inflation.

The inflation adjustment is authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990 as modified by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The annual adjustments are designed “to improve the effectiveness of civil monetary penalties . . . and to maintain the deterrent effect of such penalties.”

The Final Rule modifies 45 C.F.R. Part 102, which contains a table showing the inflation-adjusted Civil Money Penalty for various types of violations. The Final Rule (and the table showing adjusted Penalties) are published at 86 *Federal Register* 62928 ([click here](#)).

[Click here](#) for my table containing penalties applicable to various types of health plan violations (or go to the “Resources” page of [tbixbylaw.com](#) and look under “**Other Resources**.”

¹ This is the effective date of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which required HHS to adjust penalties for inflation.

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