



LEGAL ADVICE FOR HEALTH PLANS

HIPAA Penalties Effective March 17, 2022*

HIPAA Privacy, Security, Breach Notification, and Transactions Rules (45 C.F.R. Parts 160 – 164)

Culpability for Violation of HIPAA Rules:	Penalty for Each Violation		Annual Limit	Citation**
	Minimum	Maximum		
Covered Entity/Business Associate did not know of violation, notwithstanding reasonable diligence:	\$127	\$63,973	\$1,919,173	45 C.F.R. § 160.404(b)(2)(i)
Violation was due to reasonable cause, rather than willful neglect:	\$1,280	\$63,973	\$1,919,173	45 C.F.R. § 160.404(b)(2)(ii)
Violation was due to willful neglect, but was corrected within 30 days:	\$12,794	\$63,973	\$1,919,173	45 C.F.R. § 160.404(b)(2)(iii)
Violation was due to willful neglect, but was <i>not</i> corrected within 30 days:	\$63,973	\$1,919,173	\$1,919,173	45 C.F.R. § 160.404(b)(2)(iv)

***Penalties apply to violations that *take place* on or after November 2, 2015, and that are *assessed* on or after March 17, 2022.** Violations that occurred prior to November 2, 2015 (the effective date of the Federal Civil Penalties Inflation Act Improvements Act of 2015) will be based on civil penalties in effect prior to September 6, 2016. 87 Fed. Reg. 15100, 15101 (Mar. 17, 2022).

**Penalties are adjusted in accordance with 45 C.F.R. Part 102 as modified at 87 *Federal Register* 15100 ([click here](#)).



LEGAL ADVICE FOR HEALTH PLANS

Medicare Advantage/Part D Penalties Effective March 17, 2022* (42 C.F.R. Parts 422, 423)

Violation	Penalty per Violation	Citation**
Actions by MAO or Part D Sponsor that adversely affects (or is likely to adversely affect) covered individual:	\$40,788	42 C.F.R. § 422.760(b) 42 C.F.R. § 423.760(b)
MAO or Part D Sponsor fails to carry out contract or has done so in a manner inconsistent with the regulations:	\$17,116 per week	42 U.S.C. § 1395w-27(g)(3)(B) 42 U.S.C. §§ 1857(g)(3); 1860D-12(b)(3)(E)
MAO's or Part D Sponsor's early termination of its contract:	\$158,947	42 U.S.C. § 1395w-27(g)(3)(D) 42 U.S.C. §§ 1857(g)(3); 1860D-12(b)(3)(E)

***Penalties apply to violations that *take place* on or after November 2, 2015 *and* that are *assessed* on or after March 17, 2022.** Violations that occurred prior to November 2, 2015 (the effective date of the Federal Civil Penalties Inflation Act Improvements Act of 2015) will be based on civil penalties in effect prior to September 6, 2016. 87 Fed. Reg. 15100, 15101 (Mar. 17, 2022).

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Health Reform Penalties Effective March 17, 2022*

(45 C.F.R. Parts 146 – 156;)

Violation	Penalty per Violation	Citation**
Health plan's failure to comply with certain ACA requirements, including risk adjustment, reinsurance, risk corridors, Exchanges (including QHP standards) and other ACA Subtitle D standards:	\$174	45 C.F.R. § 156.805(c)
Health plan's failure to comply with Public Health Service Act and Affordable Care Act requirements, including the Transparency in Coverage Rule and Consolidated Appropriations Act requirements	\$174	42 U.S.C. § 18041(c)(2) 45 C.F.R. § 150.315
Health plan's failure to provide Summary of Benefits and Coverage to enrollee:	\$1,264	45 C.F.R. § 147.200(e)
Health plan's failure to comply with medical loss ratio and rebating requirements:	\$126	45 C.F.R. § 158.606

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Medicaid MCO Penalties Effective March 17, 2022* (42 C.F.R. Part 438)

Violation	Penalty per Violation	Citation**
Medicaid Managed Care Organization's failure to provide medically necessary items and services:	\$40,282	42 C.F.R. § 438.704
Medicaid MCO's imposition of premiums or charges on enrollees in excess of those permitted:	\$40,282	42 C.F.R. § 438.704
Medicaid MCO that misrepresents or falsifies information to an individual or entity:	\$40,282	42 C.F.R. § 438.704
Medicaid MCO fails to comply with statutory requirements:	\$40,282	42 C.F.R. § 438.704
Medicaid MCO that misrepresents or falsifies information to HHS:	\$161,130	42 C.F.R. § 438.704
Medicaid MCO that discriminates among enrollees based on health status:	\$161,130	42 C.F.R. § 438.704
Discrimination based on health status that results in individual not enrolling:	\$24,169 per individual	42 C.F.R. § 438.704

***Penalties apply to violations that *take place* on or after November 2, 2015 and that are *assessed* on or after March 17, 2022.** Violations that occurred prior to November 2, 2015 (the effective date of the Federal Civil Penalties Inflation Act Improvements Act of 2015) will be based on civil penalties in effect prior to September 6, 2016. 87 Fed. Reg. 15100, 15101 (Mar. 17, 2022).

**Penalties are adjusted in accordance with 45 C.F.R. Part 102 as modified at 87 *Federal Register* 15100 ([click here](#)).