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Title 22@ Social Security

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Division 5@ Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies

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Chapter 1@ General Acute Care Hospitals

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Article 10@ Hospital Administrative Penalties

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Section 70959@ Penalties for Violations of Hospital Fair Pricing Policies Requirements

70959 Penalties for Violations of Hospital Fair Pricing Policies Requirements

(a)

Administrative penalties assessed for a violation of Health and Safety Code, division 107, part 2, chapter 2.5, article 1 (§ 127400 et seq.) shall be calculated under this section.

(b)

The initial penalty for each deficiency shall be determined, considering the extent of noncompliance with the requirement violated by the hospital. The categories for extent of noncompliance from requirements and corresponding initial penalties are defined as follows: (1) Major - The action or inaction deviates from the requirement to such an extent that the requirement is completely ignored and none of its provisions are complied with, or the function of the requirement is rendered ineffective because some of its provisions are not complied with. The initial penalty for this category is \$25,000. (2) Moderate - The action or inaction deviates from the requirement, but it complies to some extent, although not all of its important provisions are complied with. The initial penalty for this category is \$12,500. (3) Minimal - The action or inaction deviates somewhat from the requirement. The requirement functions nearly as intended, but not as well as if all provisions had been met. A violation in this category is a minor violation and no administrative penalty is assessed.

(1)

Major - The action or inaction deviates from the requirement to such an extent that the requirement is completely ignored and none of its provisions are complied with, or the function of the requirement is rendered ineffective because some of its provisions are not complied with. The initial penalty for this category is \$25,000.

(2)

Moderate - The action or inaction deviates from the requirement, but it complies to some extent, although not all of its important provisions are complied with. The initial penalty for this category is \$12,500.

(3)

Minimal - The action or inaction deviates somewhat from the requirement. The requirement functions nearly as intended, but not as well as if all provisions had been met. A violation in this category is a minor violation and no administrative penalty is assessed.

(c)

The initial penalty shall be adjusted to calculate the base penalty using the following guidelines: (1) The initial penalty shall be adjusted upward by 5 percent, if the violation caused actual financial harm to the patient, based on information acquired by the department during the normal course of the investigation. (2) The initial penalty shall be adjusted upward by 10 percent if the deficiency was the result of a willful violation.

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(2)

The initial penalty shall be adjusted upward by 10 percent if the deficiency was the result of a willful violation.

(d)

The base penalty for a deficiency is the cumulative adjusted initial penalty as determined under subdivisions (b) and (c). For the purpose of penalty calculation, the base penalty may exceed the statutory maximum, so long as the final penalty does not exceed the statutory maximum.

(e)

The base penalty shall be adjusted considering each of the following adjustment factors: (1) Immediate correction of the violation. When the department determines that a hospital subject to an administrative penalty promptly corrects the noncompliance for which the administrative penalty was imposed, the base penalty shall be adjusted downward by 20 percent, provided that all of the following apply (A) The hospital identified and immediately corrected the noncompliance before it was identified by the department; (B) Within 10 calendar days of the date that the hospital identified the noncompliance, the hospital shall complete corrective action and steps necessary to prevent the violation from recurring, with prompt and detailed documentation of these actions; and (C) A penalty was not imposed for a repeat deficiency that received a penalty reduction under this article within the twelve-month period prior to the date of violation. (2) Compliance History. The base penalty shall be increased ten percent if the hospital has had one or more other violations of Health and Safety Code, division 107, part 2, chapter 2.5, article 1 (§ 127400 et seq.) within the three year period immediately prior to the date of violation.

(1)

Immediate correction of the violation. When the department determines that a hospital

subject to an administrative penalty promptly corrects the noncompliance for which the administrative penalty was imposed, the base penalty shall be adjusted downward by 20 percent, provided that all of the following apply (A) The hospital identified and immediately corrected the noncompliance before it was identified by the department; (B) Within 10 calendar days of the date that the hospital identified the noncompliance, the hospital shall complete corrective action and steps necessary to prevent the violation from recurring, with prompt and detailed documentation of these actions; and (C) A penalty was not imposed for a repeat deficiency that received a penalty reduction under this article within the twelve-month period prior to the date of violation.

(A)

The hospital identified and immediately corrected the noncompliance before it was identified by the department;

(B)

Within 10 calendar days of the date that the hospital identified the noncompliance, the hospital shall complete corrective action and steps necessary to prevent the violation from recurring, with prompt and detailed documentation of these actions; and

(C)

A penalty was not imposed for a repeat deficiency that received a penalty reduction under this article within the twelve-month period prior to the date of violation.

(2)

Compliance History. The base penalty shall be increased ten percent if the hospital has had one or more other violations of Health and Safety Code, division 107, part 2, chapter 2.5, article 1 (§ 127400 et seq.) within the three year period immediately prior to the date of violation.

(f)

The final penalty for a deficiency is the cumulative adjusted base penalty as

determined under subdivision (e), or the maximum penalty specified in Health and Safety Code section 1280.3, whichever is lower.