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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 70957@ Adjustments to the Base Penalty

## **70957 Adjustments to the Base Penalty**

### **(a)**

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. The correction of the noncompliance must have occurred before the noncompliance was identified by the department. Within ten calendar days of the date that the hospital identified the noncompliance, the hospital shall complete corrective action and take appropriate steps necessary to prevent the violation from recurring, with prompt and detailed documentation of these actions; (B) The noncompliance that was corrected did not constitute immediate jeopardy, or result in the death of a patient; (C) Met mandatory reporting requirements before it was identified by the department; and, (D) 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 with related State and federal laws. A hospital's compliance history refers to its record of compliance with licensure requirements under the Health and Safety Code, and the regulations adopted thereunder, and with federal

laws that set forth the conditions of participation for hospitals in the Medicare program, for a period of three years prior to the date the administrative penalty is issued. (A) The base penalty shall be adjusted downward by five percent if hospital inspections within the last three years noted no state or federal deficiencies that resulted in patient harm or immediate jeopardy (severity levels 3 through 6, inclusive). (B) The base penalty shall be increased five percent if the hospital has three or more repeat deficiencies that pose a risk of more than minimal harm to patient health or safety (severity levels 2 through 6, inclusive) within the three year period immediately prior to the date of violation.

**(1)**

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noncompliance must have occurred before the noncompliance was identified by the department. Within ten calendar days of the date that the hospital identified the noncompliance, the hospital shall complete corrective action and take appropriate steps necessary to prevent the violation from recurring, with prompt and detailed documentation of these actions;

**(B)**

The noncompliance that was corrected did not constitute immediate jeopardy, or result in the death of a patient;

**(C)**

Met mandatory reporting requirements before it was identified by the department; and,

**(D)**

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 with related State and federal laws. A hospital's compliance history refers to its record of compliance with licensure requirements under the Health and Safety Code, and the regulations adopted thereunder, and with federal laws that set forth the conditions of participation for hospitals in the Medicare program, for a period of three years prior to the date the administrative penalty is issued. (A) The base penalty shall be adjusted downward by five percent if hospital inspections within the last three years noted no state or federal deficiencies that resulted in patient harm or immediate jeopardy (severity levels 3 through 6, inclusive). (B) The base penalty shall be increased five percent if the hospital has three or more repeat deficiencies that pose a risk of more than minimal harm to patient health or safety (severity levels 2 through 6, inclusive) within the three year period immediately prior to the date of violation.

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**(B)**

The base penalty shall be increased five percent if the hospital has three or more repeat deficiencies that pose a risk of more than minimal harm to patient health or safety (severity levels 2 through 6, inclusive) within the three year period immediately prior to the date of violation.