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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 70955@ Initial Penalty Adjustment Factors

70955 Initial Penalty Adjustment Factors

(a)

The initial penalty shall be adjusted to calculate the base penalty using the following guidelines: (1) Patient's physical and mental condition. (A) The initial penalty shall be adjusted upward by 10 percent, if the violation caused actual harm to the patient at severity level 3 or 5 resulting in a physical or mental impairment that substantially limits one or more of the major life activities of a patient, or the loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from the hospital, or the loss of a body part, or (B) The initial penalty shall be adjusted upward by 5 percent, if the violation caused actual harm to the patient at severity level 3 or 5 resulting in a physical or mental impairment that substantially limits one or more of the major life activities of a patient, or the loss of bodily function, if the impairment or loss lasts more than three days. (2) The initial penalty shall be adjusted upward by 1 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. (3) For factors beyond the hospital's control that restrict the hospital's ability to comply with licensure requirements, the initial penalty shall be adjusted downward by 5 percent, if the hospital developed and maintained disaster and emergency programs as required by state and federal law that were appropriately implemented during a disaster. (4) The initial penalty shall be

adjusted upward by 10 percent if the deficiency was the result of a willful violation.

(1)

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(B)

The initial penalty shall be adjusted upward by 5 percent, if the violation caused actual harm to the patient at severity level 3 or 5 resulting in a physical or mental impairment that substantially limits one or more of the major life activities of a patient, or the loss of bodily function, if the impairment or loss lasts more than three days.

(2)

The initial penalty shall be adjusted upward by 1 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.

(3)

For factors beyond the hospital's control that restrict the hospital's ability to comply with licensure requirements, the initial penalty shall be adjusted downward by 5 percent, if the hospital developed and maintained disaster and emergency programs as required by state and federal law that were appropriately implemented during a disaster.

(4)

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

(b)

Adjustment of the initial penalty in accordance with the factors provided in subdivision (a) may result in an adjusted initial penalty percentage that is higher or lower than the percentage shown in the originally selected matrix cell.