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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 13@ Medical Information Breach

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Article 1@ Administrative Penalties

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Section 79905@ Small and Rural Hospitals; Primary Care Clinics; and Skilled Nursing Facilities

79905 Small and Rural Hospitals; Primary Care Clinics; and Skilled Nursing Facilities

(a)

In assessing an administrative penalty for a breach of a patient's medical information pursuant to Health and Safety Code section 1280.15 by a health care facility that is a small and rural hospital, as defined by Health and Safety Code section 124840, or its business associates, the Department may modify the penalty upon timely request from the small and rural hospital. (1) The small and rural hospital that has been assessed an administrative penalty may request: (A) Payment of the administrative penalty extended over a period of time if immediate, full payment would cause financial hardship; (B) Reduction of the penalty if extending the penalty payment over a period of time would cause financial hardship; or (C) Both penalty payment extension and reduction of the penalty. (2) The small and rural hospital shall submit its written request for penalty modification to the Department within 10 calendar days after the issuance of an administrative penalty. The request shall describe the specific circumstances showing financial hardship to the hospital and the potential adverse effects on access to quality care in the hospital.

(1)

The small and rural hospital that has been assessed an administrative penalty may request: (A) Payment of the administrative penalty extended over a period of time if

immediate, full payment would cause financial hardship; (B) Reduction of the penalty if extending the penalty payment over a period of time would cause financial hardship; or (C) Both penalty payment extension and reduction of the penalty.

(A)

Payment of the administrative penalty extended over a period of time if immediate, full payment would cause financial hardship;

(B)

Reduction of the penalty if extending the penalty payment over a period of time would cause financial hardship; or

(C)

Both penalty payment extension and reduction of the penalty.

(2)

The small and rural hospital shall submit its written request for penalty modification to the Department within 10 calendar days after the issuance of an administrative penalty. The request shall describe the specific circumstances showing financial hardship to the hospital and the potential adverse effects on access to quality care in the hospital.

(b)

In assessing an administrative penalty for a breach of a patient's medical information pursuant to Health and Safety Code section 1280.15 by a health care facility that is a primary care clinic, as defined by Health and Safety Code section 1204(a), or its business associates, the Department shall reduce the base penalty as provided for in section 79903(b) by one half. The Department shall subsequently determine the final penalty by considering penalty adjustment factors under section 79904 reduced by one half.

(c)

When assessing penalties on a skilled nursing facility or other health care facility subject to Health and Safety Code section 1423, 1424, 1424.1, or 1424.5 and under this Article, the Department shall only issue the higher of either a penalty under this Article or a penalty for a violation of section 1423, 1424, 1424.1, or 1424.5, but not both.