
42 C.F.R. § 402.111

Factors considered in determinations regarding the amount of penalties and assessments.

(a) *Basic factors.* In determining the amount of any penalty or assessment, CMS or OIG takes into account the following:

- (1) The nature of the claim, request for payment, or information given and the circumstances under which it was presented or given.
- (2) The degree of culpability, history of prior offenses, and financial condition of the person submitting the claim or request for payment or giving the information.
- (3) The resources available to the person submitting the claim or request for payment or giving the information.
- (4) Such other matters as justice may require.

(b) *Criteria to be considered.* As guidelines for taking into account the factors listed in paragraph (a) of this section, CMS or OIG considers the following circumstances:

- (1) *Aggravating circumstances of the incident.* An aggravating circumstance is any of the following:
 - (i) The services or incidents were of several types, occurring over a lengthy period of time.

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