
42 C.F.R. § 423.760

Determinations regarding the amount of civil money penalties and assessment imposed by CMS.

(a) *Determining the appropriate amount of any penalty.* In determining the amount of penalty imposed under § 423.752(c)(1), CMS considers the following as appropriate:

- (1) The nature of the conduct.
- (2) The degree of culpability of the Part D sponsor.
- (3) The adverse effect to enrollees which resulted or could have resulted from the conduct of the Part D sponsor.
- (4) The financial condition of the Part D sponsor.
- (5) The history of prior offenses by the Part D sponsor or principals of the Part D sponsor.
- (6) Such other matters as justice may require.

(b) *Amount of penalty.* CMS may impose civil money penalties in the following amounts:

- (1) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more Part D enrollees—up to \$25,000 as adjusted annually under 45 CFR part 102 for each determination.

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