
42 C.F.R. § 488.438

Civil money penalties: Amount of penalty.

(a) *Amount of penalty.* (1) The penalties are within the following ranges, set at \$50 increments:

(i) *Upper range.* Penalties in the range of \$3,050-\$10,000 as adjusted annually under 45 CFR part 102 per day are imposed for deficiencies constituting immediate jeopardy, and as specified in paragraph (d)(2) of this section.

(ii) *Upper range.* Penalties in the range of \$50-\$3,000 as adjusted annually under 45 CFR part 102 per day are imposed for deficiencies that do not constitute immediate jeopardy, but either caused actual harm, or caused no actual harm, but have the potential for more than minimal harm.

(2) *Per instance penalty.* When penalties are imposed for an instance of noncompliance, the penalties will be in the range of \$1,000-\$10,000 as adjusted annually under 45 CFR part 102 per instance.

(b) *Basis for penalty amount.* The amount of penalty is based on CMS's or the State's assessment of factors listed in paragraph (f) of this section.

(c) *Decreased penalty amounts.* (1) Except as specified in paragraph (d)(2) of this section, if immediate jeopardy is removed, but the noncompliance continues, CMS or the State will shift the penalty amount imposed per day to the lower range.

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