

§ 460.46

42 CFR Ch. IV (10–1–10 Edition)

§ 460.46 Civil money penalties.

(a) CMS may impose civil money penalties up to the following maximum amounts:

(1) For each violation regarding enrollment or disenrollment specified in § 460.40 (c) or (d), \$100,000 plus \$15,000 for each individual not enrolled as a result of the PACE organization's discrimination in enrollment or disenrollment or practice that would deny or discourage enrollment.

(2) For each violation regarding excessive premiums specified in § 460.40(e), \$25,000 plus double the excess amount above the permitted premium charged a participant by the PACE organization. (The excess amount charged is deducted from the penalty and returned to the participant).

(3) For each misrepresentation or falsification of information, specified in § 460.40(f)(1), \$100,000.

(4) For any other violation specified in § 460.40, \$25,000.

(b) The provisions of section 1128A of the Act (other than subsections (a) and (b)) apply to a civil money penalty under this section in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

§ 460.48 Additional actions by CMS or the State.

After consultation with the State administering agency, if CMS determines that the PACE organization is not in substantial compliance with requirements in this part, CMS or the State administering agency may take one or more of the following actions:

(a) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

(b) Withhold some or all payments under the PACE program agreement until the organization corrects the deficiency.

(c) Terminate the PACE program agreement.

§ 460.50 Termination of PACE program agreement.

(a) *Termination of agreement by CMS or State.* CMS or a State administering agency may terminate at any time a PACE program agreement for cause, including, but not limited to the cir-

cumstances in paragraphs (b) or (c) of this section.

(b) *Termination due to uncorrected deficiencies.* CMS or the State administering agency may terminate a PACE program agreement if CMS or the State administering agency determines that both of the following circumstances exist:

(1) Either—

(i) There are significant deficiencies in the quality of care furnished to participants; or

(ii) The PACE organization failed to comply substantially with conditions for a PACE program or PACE organization under this part, or with terms of its PACE program agreement.

(2) Within 30 days of the date of the receipt of written notice of a determination made under paragraph (b)(1) of this section, the PACE organization failed to develop and successfully initiate a plan to correct the deficiencies, or failed to continue implementation of the plan of correction.

(c) *Termination due to health and safety risk.* CMS or a State administering agency may terminate a PACE program agreement if CMS or the State administering agency determines that the PACE organization cannot ensure the health and safety of its participants. This determination may result from the identification of deficiencies that CMS or the State administering agency determines cannot be corrected.

(d) *Termination of agreement by PACE organization.* A PACE organization may terminate an agreement after timely notice to CMS, the State administering agency, and participants, as follows:

(1) To CMS and the State administering agency, 90 days before termination.

(2) To participants, 60 days before termination.

§ 460.52 Transitional care during termination.

(a) The PACE organization must develop a detailed written plan for phase-down in the event of termination, which describes how the organization plans to take the following actions:

(1) Inform participants, the community, CMS and the State administering