

**§ 488.444**

**42 CFR Ch. IV (10–1–14 Edition)**

(2) State costs related to the operation of a facility pending correction of deficiencies or closure; and

(3) Reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or by individuals used by the facility to provide services to residents.

[59 FR 56243, Nov. 10, 1994; 60 FR 50119, Sept. 28, 1995, as amended at 64 FR 13361, Mar. 18, 1999; 76 FR 15128, Mar. 18, 2011]

**§ 488.444 Civil money penalties: Settlement of penalties.**

(a) CMS has authority to settle cases at any time prior to a final administrative decision for Medicare-only SNFs, State-operated facilities, or other facilities for which CMS's enforcement action prevails, in accordance with § 488.330.

(b) The State has the authority to settle cases at any time prior to the evidentiary hearing decision for all cases in which the State's enforcement action prevails.

**§ 488.446 Administrator sanctions: long-term care facility closures.**

Any individual who is or was the administrator of a facility and fails or failed to comply with the requirements at § 483.75(r) of this chapter—

(a) Will be subject to a civil monetary penalty as follows:

(1) A minimum of \$500 for the first offense.

(2) A minimum of \$1,500 for the second offense.

(3) A minimum of \$3,000 for the third and subsequent offenses.

(b) May be subject to exclusion from participation in any Federal health care program (as defined in section 1128B(f) of the Act); and

(c) Will be subject to any other penalties that may be prescribed by law.

[76 FR 9511, Feb. 18, 2011]

**§ 488.450 Continuation of payments to a facility with deficiencies.**

(a) *Criteria.* (1) CMS may continue payments to a facility not in substantial compliance for the periods specified in paragraph (c) of this section if the following criteria are met:

(i) The State survey agency finds that it is more appropriate to impose

alternative remedies than to terminate the facility;

(ii) The State has submitted a plan and timetable for corrective action approved by CMS; and

(iii) The facility, in the case of a Medicare SNF, or the State, in the case of a Medicaid NF, agrees to repay the Federal government payments received under this provision if corrective action is not taken in accordance with the approved plan and timetable for corrective action.

(2) CMS or the State may terminate the SNF or NF agreement before the end of the correction period if the criteria in paragraph (a)(1) of this section are not met.

(b) *Cessation of payments.* If termination is not sought, either by itself or along with another remedy or remedies, or any of the criteria set forth in paragraph (a)(1) of this section are not met or agreed to by either the facility or the State, the facility or State will receive no Medicare or Federal Medicaid payments, as applicable, from the last day of the survey.

(c) *Period of continued payments—(1) Non-compliance.* If the conditions in paragraph (a)(1) of this section are met, CMS may continue payments to a Medicare facility or the State for a Medicaid facility with noncompliance that does not constitute immediate jeopardy for up to 6 months from the last day of the survey.

(2) *Facility closure.* In the case of a facility closure, the Secretary may, as the Secretary determines appropriate, continue to make payments with respect to residents of a long-term care facility that has submitted a notification of closure during the period beginning on the date such notification is submitted to CMS and ending on the date on which the residents are successfully relocated.

(d) *Failure to achieve substantial compliance.* If the facility does not achieve substantial compliance by the end of the period specified in paragraph (c) of this section,

(1) CMS will—

(i) Terminate the provider agreement of the Medicare SNF in accordance with § 488.456; or

(ii) Discontinue Federal funding to the SNF for Medicare; and