

pilot to evaluate the use of this increased delegated authority by ALP CDCs and to identify opportunities for further modification.

For further guidance on ALP Express authority, see the Economic Aid Act and the ALP Express Pilot Program Guide.

## 2. Application Terms and Conditions and Forms

CDCs must use the application forms required for current 504 loan processing and execute an SBA Terms and Conditions document for each ALP Express Pilot Loan, as set forth in SOP 50 10 7. For further guidance on the SBA Terms and Conditions and the required forms, see SOP 50 10 7 and the ALP Express Pilot Program Guide.

### Reporting Requirements

CDCs must document on SBA Form 1244 (by checking the ALP Express box on page 12) whether the ALP CDC is using its ALP Express authority when submitting an application for an ALP Express Pilot Loan. This will allow SBA to track ALP CDCs' use of this increased delegated authority. CDCs must also continue to comply with the reporting requirements in 13 CFR 120.830.

### Lender Oversight

ALP CDC oversight procedures shall follow the requirements set forth in 13 CFR part 120—Subpart I and SOPs 50 53 (Lender Supervision and Enforcement) and 51 00 (On-Site Lender Reviews and Examinations). The SOPs can be found at: <https://archive.sba.gov/tools/resourcelibrary/sops/index.html>. ALP CDCs will be monitored both for performance and other risk characteristics as well as for compliance with the requirements of the ALP Express Pilot Program. The ALP CDC must maintain compliance with the requirement that it only makes ALP Express Pilot Loans in an amount of \$500,000 or less, along with all other Loan Program Requirements. ALP CDCs also will be subject to 13 CFR 120.1400 through 120.1600 and the provisions of SOP 50 53 concerning supervision and enforcement.

### Evaluation Criteria for ALP Express Pilot

SBA is reviewing the following data related to ALP CDCs and their use of ALP Express authority and will use the same evaluation criteria for the ALP Express Pilot:

- (1.) Did the number and/or percentage of 504 loans in the portfolio under \$500,000 increase as a result of the availability of ALP Express authority?
- (2.) How do the default rates of ALP Express loans compare with similarly

sized loans not processed and serviced using this authority?

(3.) Did ALP Express loan approvals and servicing turn times improve, resulting in enhanced customer service?

For data collections to evaluate the effectiveness of this pilot, SBA will use ETran, SBA's electronic system for loan submission and servicing.

**Authority:** 13 CFR 120.3.

**Isabella Casillas Guzman,**  
*Administrator.*

[FR Doc. 2023–22171 Filed 10–5–23; 8:45 am]

**BILLING CODE 8026–09–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 102

**RIN 0991–AC34**

### Annual Civil Monetary Penalties Inflation Adjustment

**AGENCY:** Office of the Assistant Secretary for Financial Resources, Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (HHS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalty (CMP) amounts in its regulations, under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and adds references to new penalty authorities.

#### DATES:

*Effective date:* This final rule is effective October 6, 2023.

*Applicability date:* The adjusted civil monetary penalty amounts apply to penalties assessed on or after the date of publication to the **Federal Register**, if the violation occurred on or after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Katrina Brisbon, Deputy Assistant Secretary, Office of Acquisitions, Office of the Assistant Secretary for Financial Resources, Room 536–H, Hubert Humphrey Building, 200 Independence Avenue SW, Washington DC 20201; (202)260–6677.

#### SUPPLEMENTARY INFORMATION:

### I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (section 701 of Pub. L. 114–74) (the “2015 Act”) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890 (1990)), which is intended to improve

the effectiveness of CMPs and to maintain the deterrent effect of such penalties, requires agencies to adjust the CMPs for inflation annually.

HHS lists the CMP authorities and the amounts administered by all of its agencies in tabular form in 45 CFR 102.3, which was issued in an interim final rule published in the September 6, 2016, **Federal Register** (81 FR 61538). Annual adjustments were subsequently published on February 3, 2017 (82 FR 9175), October 11, 2018 (83 FR 51369), November 5, 2019 (84 FR 59549), January 17, 2020 (85 FR 2869), November 15, 2021 (86 FR 62928), and March 17, 2022 (87 FR 15100).

### II. Calculation of Annual Inflation Adjustment and Other Updates

The annual inflation adjustment for each applicable CMP is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October of the year in which the amount of each CMP was most recently established or modified. In the December 15, 2022, Office of Management and Budget (OMB) Memorandum for the Heads of Executive Agencies and Departments, M–23–05, “Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,” OMB published the multiplier for the required annual adjustment. The cost-of-living adjustment multiplier for 2023, based on the CPI–U for the month of October 2022, not seasonally adjusted, is 1.07745. The multiplier is applied to each applicable penalty amount that was updated and published for fiscal year (FY) 2022 and is rounded to the nearest dollar.

In addition to the inflation adjustments for 2023, this final rule updates the table in 45 CFR 102.3 to add references to new, applicable CMP authorities that were established or implemented since the publication of the March 17, 2022, update and that are being updated in this rule.

First, in the final rule, “Medicare and Medicaid Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model” final rule with comment period (86 FR 63548, November 16, 2021), the Centers for Medicare & Medicaid Services (CMS) finalized a new provision, effective January 1, 2022, at 45 CFR 180.90(c)(ii) to increase the CMP amounts associated with a hospital's noncompliance with

price transparency disclosure and display requirements at 45 CFR 180.40, 180.50, and 180.60.

Second, in the final rule, “Medicare and Medicaid Programs; CY 2022 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model Requirements and Model Expansion; Home Health and Other Quality Reporting Program Requirements; Home Infusion Therapy Services Requirements; Survey and Enforcement Requirements for Hospice Programs; Medicare Provider Enrollment Requirements; and COVID-19 Reporting Requirements for Long-Term Care Facilities” final rule (86 FR 62240, November 9, 2021), CMS finalized a new provision, effective January 1, 2022, establishing enforcement remedies for noncompliant hospice programs, including a CMP remedy at 42 CFR 488.1245. This final rule implemented Division CC, section 407 of the Consolidated Appropriations Act, 2021 which added a new section 1822 of the Social Security Act for hospice program survey and enforcement requirements, specifically authorizing the Secretary to establish CMPs in an amount not to exceed \$10,000 for each day of noncompliance by a hospice program (see 42 U.S.C. 1395i-6(c)(5)(B)(i)).

The table has been modified to reflect these new regulatory and statutory amounts.

**III. Statutory and Executive Order Reviews and Waiver of Proposed Rulemaking**

The 2015 Act requires Federal agencies to publish annual penalty

inflation adjustments notwithstanding section 553 of the Administrative Procedure Act (APA). Section 4(a) of the 2015 Act directs Federal agencies to publish annual adjustments no later than January 15th of each year thereafter. In accordance with section 553 of the APA, most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, section 4(b)(2) of the 2015 Act provides that each agency shall make the annual inflation adjustments “notwithstanding section 553” of the APA. According to OMB’s Memorandum M-23-05, the phrase “notwithstanding section 553” in section 4(b)(2) of the 2015 Act means that “the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.”

Consistent with the language of the 2015 Act and OMB’s implementation guidance, the inflation adjustments set out in this rule are not subject to notice and an opportunity for public comment and will be effective immediately upon publication. Additionally, HHS finds that notice and comment procedures would be impracticable and unnecessary under the APA for making the statutorily required inflation updates to newly established penalty amounts.

Pursuant to OMB Memorandum M-23-05, HHS has determined that the annual inflation adjustment to the civil monetary penalties in its regulations does not trigger any requirements under

procedural statutes and Executive Orders that govern rulemaking procedures.

**IV. Effective and Applicability Dates**

This rule is effective on the date specified in the **DATES** section of this final rule. The adjusted civil monetary penalty amounts apply to penalties assessed on or after the date specified in the **DATES** section of this final rule, if the violation occurred on or after November 2, 2015. If the violation occurred before November 2, 2015, or a penalty was assessed before September 6, 2016, the pre-adjustment civil penalty amounts in effect before September 6, 2016, will apply.

**List of Subjects in 45 CFR Part 102**

Administrative practice and procedure, Penalties.

For reasons discussed in the preamble, the Department of Health and Human Services amends subtitle A, title 45 of the Code of Federal Regulations as follows:

**PART 102—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

■ 1. The authority citation for part 102 continues to read as follows:

**Authority:** Pub. L. 101-410, Sec. 701 of Pub. L. 114-74, 31 U.S.C. 3801-3812.

■ 2. Amend § 102.3 by revising table 1 to read as follows:

**§ 102.3 Penalty adjustment and table.**

\* \* \* \* \*

**TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS**

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
21 U.S.C.:						
333(b)(2)(A) .....	.....	FDA	Penalty for violations related to drug samples resulting in a conviction of any representative of manufacturer or distributor in any 10-year period.	2022	115,054	123,965
333(b)(2)(B) .....	.....	FDA	Penalty for violation related to drug samples resulting in a conviction of any representative of manufacturer or distributor after the second conviction in any 10-yr period.	2022	2,301,065	2,479,282
333(b)(3) .....	.....	FDA	Penalty for failure to make a report required by 21 U.S.C. 353(d)(3)(E) relating to drug samples.	2022	230,107	247,929
333(f)(1)(A) .....	.....	FDA	Penalty for any person who violates a requirement related to devices for each such violation.	2022	31,076	33,483
		FDA	Penalty for aggregate of all violations related to devices in a single proceeding.	2022	2,071,819	2,232,281

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
333(f)(2)(A) .....	.....	FDA	Penalty for any individual who introduces or delivers for introduction into interstate commerce food that is adulterated per 21 U.S.C. 342(a)(2)(B) or any individual who does not comply with a recall order under 21 U.S.C. 350l.	2022	87,362	94,128
		FDA	Penalty in the case of any other person (other than an individual) for such introduction or delivery of adulterated food.	2022	436,809	470,640
		FDA	Penalty for aggregate of all such violations related to adulterated food adjudicated in a single proceeding.	2022	873,618	941,280
333(f)(3)(A) .....	.....	FDA	Penalty for all violations adjudicated in a single proceeding for any person who violates 21 U.S.C. 331(j) by failing to submit the certification required by 42 U.S.C. 282(j)(5)(B) or knowingly submitting a false certification; by failing to submit clinical trial information under 42 U.S.C. 282(j); or by submitting clinical trial information under 42 U.S.C. 282(j) that is false or misleading in any particular under 42 U.S.C. 282(j)(5)(D).	2022	13,237	14,262
333(f)(3)(B) .....	.....	FDA	Penalty for each day any above violation is not corrected after a 30-day period following notification until the violation is corrected.	2022	13,237	14,262
333(f)(4)(A)(i) .....	.....	FDA	Penalty for any responsible person that violates a requirement of 21 U.S.C. 355(o) (post-marketing studies, clinical trials, labeling), 21 U.S.C. 355(p) (risk evaluation and mitigation (REMS)), or 21 U.S.C. 355-1 (REMS).	2022	330,948	356,580
		FDA	Penalty for aggregate of all such above violations in a single proceeding.	2022	1,323,791	1,426,319
333(f)(4)(A)(ii) .....	.....	FDA	Penalty for REMS violation that continues after written notice to the responsible person for the first 30-day period (or any portion thereof) the responsible person continues to be in violation.	2022	330,948	356,580
		FDA	Penalty for REMS violation that continues after written notice to responsible person doubles for every 30-day period thereafter the violation continues, but may not exceed penalty amount for any 30-day period.	2022	1,323,791	1,426,319
		FDA	Penalty for aggregate of all such above violations adjudicated in a single proceeding.	2022	13,237,910	14,263,186
333(f)(9)(A) .....	.....	FDA	Penalty for any person who violates a requirement which relates to tobacco products for each such violation.	2022	19,192	20,678
		FDA	Penalty for aggregate of all such violations of tobacco product requirement adjudicated in a single proceeding.	2022	1,279,448	1,378,541
333(f)(9)(B)(i)(I) .....	.....	FDA	Penalty per violation related to violations of tobacco requirements.	2022	319,863	344,636
		FDA	Penalty for aggregate of all such violations of tobacco product requirements adjudicated in a single proceeding.	2022	1,279,448	1,378,541
333(f)(9)(B)(i)(II) .....	.....	FDA	Penalty in the case of a violation of tobacco product requirements that continues after written notice to such person, for the first 30-day period (or any portion thereof) the person continues to be in violation.	2022	319,863	344,636

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
		FDA	Penalty for violation of tobacco product requirements that continues after written notice to such person shall double for every 30-day period thereafter the violation continues, but may not exceed penalty amount for any 30-day period.	2022	1,279,448	1,378,541
		FDA	Penalty for aggregate of all such violations related to tobacco product requirements adjudicated in a single proceeding.	2022	12,794,487	13,785,420
333(f)(9)(B)(ii)(I) .....	.....	FDA	Penalty for any person who either does not conduct post-market surveillance and studies to determine impact of a modified risk tobacco product for which the HHS Secretary has provided them an order to sell, or who does not submit a protocol to the HHS Secretary after being notified of a requirement to conduct post-market surveillance of such tobacco products.	2022	319,863	344,636
		FDA	Penalty for aggregate of for all such above violations adjudicated in a single proceeding.	2022	1,279,448	1,378,541
333(f)(9)(B)(ii)(II) .....	.....	FDA	Penalty for violation of modified risk tobacco product post-market surveillance that continues after written notice to such person for the first 30-day period (or any portion thereof) that the person continues to be in violation.	2022	319,863	344,636
		FDA	Penalty for post-notice violation of modified risk tobacco product post-market surveillance shall double for every 30-day period thereafter that the tobacco product requirement violation continues for any 30-day period, but may not exceed penalty amount for any 30-day period.	2022	1,279,448	1,378,541
		FDA	Penalty for aggregate above tobacco product requirement violations adjudicated in a single proceeding.	2022	12,794,487	13,785,420
333(g)(1) .....	.....	FDA	Penalty for any person who disseminates or causes another party to disseminate a direct-to-consumer advertisement that is false or misleading for the first such violation in any 3-year period.	2022	330,948	356,580
		FDA	Penalty for each subsequent above violation in any 3-year period.	2022	661,896	713,160
333 note .....	.....	FDA	Penalty to be applied for violations of 21 U.S.C. 387f(d)(5) or of violations of restrictions on the sale or distribution of tobacco products promulgated under 21 U.S.C. 387f(d) (e.g., violations of regulations in 21 CFR part 1140) with respect to a retailer with an approved training program in the case of a second regulation violation within a 12-month period.	2022	320	345
		FDA	Penalty in the case of a third violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 24-month period.	2022	638	687
		FDA	Penalty in the case of a fourth violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 24-month period.	2022	2,559	2,757
		FDA	Penalty in the case of a fifth violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 36-month period.	2022	6,397	6,892

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
		FDA	Penalty in the case of a sixth or subsequent violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 48-month period as determined on a case-by-case basis.	2022	12,794	13,785
		FDA	Penalty to be applied for violations of 21 U.S.C. 387f(d)(5) or of violations of restrictions on the sale or distribution of tobacco products promulgated under 21 U.S.C. 387f(d) (e.g., violations of regulations in 21 CFR part 1140) with respect to a retailer that does not have an approved training program in the case of the first regulation violation.	2022	320	345
		FDA	Penalty in the case of a second violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 12-month period.	2022	638	687
		FDA	Penalty in the case of a third violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 24-month period.	2022	1,280	1,379
		FDA	Penalty in the case of a fourth violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 24-month period.	2022	2,559	2,757
		FDA	Penalty in the case of a fifth violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 36-month period.	2022	6,397	6,892
		FDA	Penalty in the case of a sixth or subsequent violation of 21 U.S.C. 387f(d)(5) or of the tobacco product regulations within a 48-month period as determined on a case-by-case basis.	2022	12,794	13,785
335b(a) .....	.....	FDA	Penalty for each violation for any individual who made a false statement or misrepresentation of a material fact, bribed, destroyed, altered, removed, or secreted, or procured the destruction, alteration, removal, or secretion of, any material document, failed to disclose a material fact, obstructed an investigation, employed a consultant who was debarred, debarred individual provided consultant services.	2022	487,638	525,406
		FDA	Penalty in the case of any other person (other than an individual) per above violation.	2022	1,950,548	2,101,618
360pp(b)(1) .....	.....	FDA	Penalty for any person who violates any such requirements for electronic products, with each unlawful act or omission constituting a separate violation.	2022	3,198	3,446
		FDA	Penalty imposed for any related series of violations of requirements relating to electronic products.	2022	1,090,241	1,174,680
42 U.S.C. ....	.....			2022	0	.....
262(d) .....	.....	FDA	Penalty per day for violation of order of recall of biological product presenting imminent or substantial hazard.	2022	250,759	270,180
263b(h)(3) .....	.....	FDA	Penalty for failure to obtain a mammography certificate as required.	2022	19,507	21,018
300aa–28(b)(1) .....	.....	FDA	Penalty per occurrence for any vaccine manufacturer that intentionally destroys, alters, falsifies, or conceals any record or report required.	2022	250,759	270,180
256b(d)(1)(B)(vi) .....	.....	HRSA	Penalty for each instance of overcharging a 340B covered entity.	2022	6,323	6,813

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
299c-3(d) .....	.....	AHRQ	Penalty for using or disclosing identifiable information obtained in the course of activities undertaken pursuant to Title IX of the Public Health Service Act, for a purpose other than that for which the information was supplied, without consent to do so.	2022	16,443	17,717
653(l)(2) .....	45 CFR 303.21(f) .....	ACF	Penalty for Misuse of Information in the National Directory of New Hires.	2022	1,687	1,818
262a(l)(1) .....	42 CFR 1003.910 .....	OIG	Penalty for each individual who violates safety and security procedures related to handling dangerous biological agents and toxins.	2022	381,393	410,932
		OIG	Penalty for any other person who violates safety and security procedures related to handling dangerous biological agents and toxins.	2022	762,790	821,868
300j-51 .....	.....	OIG	Penalty per violation for committing information blocking.	2022	1,162,924	1,252,992
1320a-7a(a) .....	42 CFR 1003.210(a)(1) ...	OIG	Penalty for knowingly presenting or causing to be presented to an officer, employee, or agent of the United States a false claim.	2022	22,427	24,164
		OIG	Penalty for knowingly presenting or causing to be presented a request for payment which violates the terms of an assignment, agreement, or PPS agreement.	2022	22,427	24,164
	42 CFR 1003.210(a)(2) ...	OIG	Penalty for knowingly giving or causing to be presented to a participating provider or supplier false or misleading information that could reasonably be expected to influence a discharge decision.	2022	33,641	36,246
	42 CFR 1003.210(a)(3) ...	OIG	Penalty for an excluded party retaining ownership or control interest in a participating entity.	2022	22,427	24,164
	42 CFR 1003.1010 .....	OIG	Penalty for remuneration offered to induce program beneficiaries to use particular providers, practitioners, or suppliers.	2022	22,427	24,164
	42 CFR 1003.210(a)(4) ...	OIG	Penalty for employing or contracting with an excluded individual.	2022	22,427	24,164
	42 CFR 1003.310(a)(3) ...	OIG	Penalty for knowing and willful solicitation, receipt, offer, or payment of remuneration for referring an individual for a service or for purchasing, leasing, or ordering an item to be paid for by a Federal health care program.	2022	112,131	120,816
	42 CFR 1003.210(a)(1) ...	OIG	Penalty for ordering or prescribing medical or other item or service during a period in which the person was excluded.	2022	22,427	24,164
	42 CFR 1003.210(a)(6) ...	OIG	Penalty for knowingly making or causing to be made a false statement, omission or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a provider or supplier.	2022	112,131	120,816
	42 CFR 1003.210(a)(8) ...	OIG	Penalty for knowing of an overpayment and failing to report and return.	2022	22,427	24,164
	42 CFR 1003.210(a)(7) ...	OIG	Penalty for making or using a false record or statement that is material to a false or fraudulent claim.	2022	63,231	68,128
	42 CFR 1003.210(a)(9) ...	OIG	Penalty for failure to grant timely access to HHS OIG for audits, investigations, evaluations, and other statutory functions of HHS OIG.	2022	33,641	36,246
1320a-7a(b) .....	.....	OIG	Penalty for payments by a hospital or critical access hospital to induce a physician to reduce or limit services to individuals under direct care of physician or who are entitled to certain medical assistance benefits.	2022	5,606	6,040

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
		OIG	Penalty for physicians who knowingly receive payments from a hospital or critical access hospital to induce such physician to reduce or limit services to individuals under direct care of physician or who are entitled to certain medical assistance benefits.	2022	5,606	6,040
	42 CFR 1003.210(a)(10)	OIG	Penalty for a physician who executes a document that falsely certifies home health needs for Medicare beneficiaries.	2022	11,213	12,081
1320a-7a(o) .....	.....	OIG	Penalty for knowingly presenting or causing to be presented a false or fraudulent specified claim under a grant, contract, or other agreement for which the Secretary provides funding.	2022	10,937	11,784
		OIG	Penalty for knowingly making, using, or causing to be made or used any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, or other document required to directly or indirectly receive or retain funds provided pursuant to grant, contract, or other agreement.	2022	54,686	58,921
		OIG	Penalty for Knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent specified claim under grant, contract, or other agreement.	2022	54,686	58,921
		OIG	Penalty for knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay or transmit funds or property with respect to grant, contract, or other agreement, or knowingly conceals or improperly avoids or decreases any such obligation.	2022	53,772 each false record or statement, 10,754 per day	61,458 each false record or statement, 12,308 per day
		OIG	Penalty for failure to grant timely access, upon reasonable request, to the I.G. for purposes of audits, investigations, evaluations, or other statutory functions of I.G. in matters involving grants, contracts, or other agreements.	2022	16,406	17,677
1320a-7e(b)(6)(A) .....	42 CFR 1003.810 .....	OIG	Penalty for failure to report any final adverse action taken against a health care provider, supplier, or practitioner.	2022	42,788	46,102
1320b-10(b)(1) .....	42 CFR 1003.610(a) .....	OIG	Penalty for the misuse of words, symbols, or emblems in communications in a manner in which a person could falsely construe that such item is approved, endorsed, or authorized by HHS.	2022	11,506	12,397
1320b-10(b)(2) .....	42 CFR 1003.610(a) .....	OIG	Penalty for the misuse of words, symbols, or emblems in a broadcast or telecast in a manner in which a person could falsely construe that such item is approved, endorsed, or authorized by HHS.	2022	57,527	61,982
1395i-3(b)(3)(B)(ii)(1) .....	42 CFR 1003.210(a)(11)	OIG	Penalty for certification of a false statement in assessment of functional capacity of a Skilled Nursing Facility resident assessment.	2022	2,400	2,586
1395i-3(b)(3)(B)(ii)(2) .....	42 CFR 1003.210(a)(11)	OIG	Penalty for causing another to certify or make a false statement in assessment of functional capacity of a Skilled Nursing Facility resident assessment.	2022	11,995	12,924

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1395i-3(g)(2)(A) .....	42 CFR 1003.1310 .....	OIG	Penalty for any individual who notifies or causes to be notified a Skilled Nursing Facility of the time or date on which a survey is to be conducted.	2022	4,799	5,171
1395w-27(g)(2)(A) .....	42 CFR 1003.410 .....	OIG	Penalty for a Medicare Advantage organization that substantially fails to provide medically necessary, required items and services.	2022	43,678	47,061
		OIG	Penalty for a Medicare Advantage organization that charges excessive premiums.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization that improperly expels or refuses to reenroll a beneficiary.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization that engages in practice that would reasonably be expected to have the effect of denying or discouraging enrollment.	2022	171,156	184,412
		OIG	Penalty per individual who does not enroll as a result of a Medicare Advantage organization's practice that would reasonably be expected to have the effect of denying or discouraging enrollment.	2022	25,673	27,661
		OIG	Penalty for a Medicare Advantage organization misrepresenting or falsifying information to Secretary.	2022	171,156	184,412
		OIG	Penalty for a Medicare Advantage organization misrepresenting or falsifying information to individual or other entity.	2022	42,788	46,102
		OIG	Penalty for Medicare Advantage organization interfering with provider's advice to enrollee and non-MCO affiliated providers that balance bill enrollees.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization that employs or contracts with excluded individual or entity.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization enrolling an individual in without prior written consent.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization transferring an enrollee to another plan without consent or solely for the purpose of earning a commission.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization failing to comply with marketing restrictions or applicable implementing regulations or guidance.	2022	42,788	46,102
		OIG	Penalty for a Medicare Advantage organization employing or contracting with an individual or entity who violates 1395w-27(g)(1)(A)-(J).	2022	42,788	46,102
		1395w-141(i)(3) .....	.....	OIG	Penalty for a prescription drug card sponsor that falsifies or misrepresents marketing materials, overcharges program enrollees, or misuse transitional assistance funds.	2022
1395cc(g) .....	42 CFR 1003.210(a)(5) ...	OIG	Penalty for improper billing by Hospitals, Critical Access Hospitals, or Skilled Nursing Facilities.	2022	5,816	6,266
1395dd(d)(1) .....	42 CFR 1003.510 .....	OIG	Penalty for a hospital with 100 beds or more or responsible physician dumping patients needing emergency medical care.	2022	119,942	129,232
1395dd(d)(1) .....	42 CFR 1003.510 .....	OIG	Penalty for a hospital with less than 100 beds dumping patients needing emergency medical care.	2022	59,973	64,618
			Penalty for a HMO or competitive medical plan if such plan substantially fails to provide medically necessary, required items or services.	2022	59,973	64,618



TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
		OIG	Penalty for HMOs/competitive medical plans that charge premiums in excess of permitted amounts.	2022	59,973	64,618
		OIG	Penalty for a HMO or competitive medical plan that expels or refuses to reenroll an individual per prescribed conditions.	2022	59,973	64,618
		OIG	Penalty for a HMO or competitive medical plan that implements practices to discourage enrollment of individuals needing services in future.	2022	239,885	258,464
		OIG	Penalty per individual not enrolled in a plan as a result of a HMO or competitive medical plan that implements practices to discourage enrollment of individuals needing services in the future.	2022	34,517	37,190
		OIG	Penalty for a HMO or competitive medical plan that misrepresents or falsifies information to the Secretary.	2022	239,885	258,464
		OIG	Penalty for a HMO or competitive medical plan that misrepresents or falsifies information to an individual or any other entity.	2022	59,973	64,618
		OIG	Penalty for failure by HMO or competitive medical plan to assure prompt payment of Medicare risk sharing contracts or incentive plan provisions.	2022	59,973	64,618
		OIG	Penalty for HMO that employs or contracts with excluded individual or entity.	2022	55,052	59,316
1395nn(g)(3) .....	42 CFR 1003.310 .....	OIG	Penalty for submitting or causing to be submitted claims in violation of the Stark Law's restrictions on physician self-referrals.	2022	27,750	29,899
1395nn(g)(4) .....	42 CFR 1003.310 .....	OIG	Penalty for circumvention schemes in violation of the Stark Law's restrictions on physician self-referrals.	2022	185,009	199,338
1395ss(d)(1) .....	42 CFR 1003.1110 .....	OIG	Penalty for a material misrepresentation regarding Medigap compliance policies.	2022	11,506	12,397
1395ss(d)(2) .....	42 CFR 1003.1110 .....	OIG	Penalty for selling Medigap policy under false pretense.	2022	11,506	12,397
1395ss(d)(3)(A)(ii) .....	42 CFR 1003.1110 .....	OIG	Penalty for an issuer that sells health insurance policy that duplicates benefits.	2022	51,796	55,808
		OIG	Penalty for someone other than issuer that sells health insurance that duplicates benefits.	2022	31,076	33,483
1395ss(d)(4)(A) .....	42 CFR 1003.1110 .....	OIG	Penalty for using mail to sell a non-approved Medigap insurance policy.	2022	11,506	12,397
1396b(m)(5)(B)(i) .....	42 CFR 1003.410 .....	OIG	Penalty for a Medicaid MCO that substantially fails to provide medically necessary, required items or services.	2022	57,527	61,982
		OIG	Penalty for a Medicaid MCO that charges excessive premiums.	2022	57,527	61,982
		OIG	Penalty for a Medicaid MCO that improperly expels or refuses to reenroll a beneficiary.	2022	230,107	247,929
		OIG	Penalty per individual who does not enroll as a result of a Medicaid MCO's practice that would reasonably be expected to have the effect of denying or discouraging enrollment.	2022	34,517	37,190
		OIG	Penalty for a Medicaid MCO misrepresenting or falsifying information to the Secretary.	2022	230,107	247,929
		OIG	Penalty for a Medicaid MCO misrepresenting or falsifying information to an individual or another entity.	2022	57,527	61,982
		OIG	Penalty for a Medicaid MCO that fails to comply with contract requirements with respect to physician incentive plans.	2022	51,796	55,808

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1396r(b)(3)(B)(ii)(I)	42 CFR 1003.210(a)(11)	OIG	Penalty for willfully and knowingly certifying a material and false statement in a Skilled Nursing Facility resident assessment.	2022	2,400	2,586
1396r(b)(3)(B)(ii)(II)	42 CFR 1003.210(a)(11)	OIG	Penalty for willfully and knowingly causing another individual to certify a material and false statement in a Skilled Nursing Facility resident assessment.	2022	11,995	12,924
1396r(g)(2)(A)(i)	42 CFR 1003.1310	OIG	Penalty for notifying or causing to be notified a Skilled Nursing Facility of the time or date on which a survey is to be conducted.	2022	4,799	5,171
1396r-8(b)(3)(B)	42 CFR 1003.1210	OIG	Penalty for the knowing provision of false information or refusing to provide information about charges or prices of a covered outpatient drug.	2022	207,183	223,229
1396r-8(b)(3)(C)(i)	42 CFR 1003.1210	OIG	Penalty per day for failure to timely provide information by drug manufacturer with rebate agreement.	2022	20,719	22,324
1396r-8(b)(3)(C)(ii)	42 CFR 1003.1210	OIG	Penalty for knowing provision of false information by drug manufacturer with rebate agreement.	2022	207,183	223,229
1396t(i)(3)(A)	42 CFR 1003.1310	OIG	Penalty for notifying home and community-based providers or settings of survey.	2022	4,144	4,465
11131(c)	42 CFR 1003.810	OIG	Penalty for failing to report a medical malpractice claim to National Practitioner Data Bank.	2022	25,076	27,018
11137(b)(2)	42 CFR 1003.810	OIG	Penalty for breaching confidentiality of information reported to National Practitioner Data Bank.	2022	25,076	27,018
299b-22(f)(1)	42 CFR 3.404	OCR	Penalty for violation of confidentiality provision of the Patient Safety and Quality Improvement Act.	2022	13,885	14,960
	45 CFR 160.404(b)(1)(i), (ii).	OCR	Penalty for each pre-February 18, 2009 violation of the HIPAA administrative simplification provisions.	2022	174	187
			Calendar Year Cap	2022	43,678	47,061
1320(d)-5(a)	45 CFR 160.404(b)(2)(i)(A), (B).	OCR	Penalty for each February 18, 2009 or later violation of a HIPAA administrative simplification provision in which it is established that the covered entity or business associate did not know and, by exercising reasonable diligence, would not have known that the covered entity or business associate violated such a provision:	2022		
			Minimum	2022	127	137
			Maximum	2022	63,973	68,928
			Calendar Year Cap	2022	1,919,173	2,067,813
	45 CFR 160.404(b)(2)(ii)(A), (B).	OCR	Penalty for each February 18, 2009 or later violation of a HIPAA administrative simplification provision in which it is established that the violation was due to reasonable cause and not to willful neglect:	2022		
			Minimum	2022	1,280	1,379
			Maximum	2022	63,973	68,928
			Calendar Year Cap	2022	1,919,173	2,067,813
	45 CFR 160.404(b)(2)(iii)(A), (B).	OCR	Penalty for each February 18, 2009 or later violation of a HIPAA administrative simplification provision in which it is established that the violation was due to willful neglect and was corrected during the 30-day period beginning on the first date the covered entity or business associate knew, or, by exercising reasonable diligence, would have known that the violation occurred:	2022		
			Minimum	2022	12,794	13,785
			Maximum	2022	63,973	68,928
			Calendar Year Cap	2022	1,919,173	2,067,813

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
	45 CFR 160.404(b)(2)(iv)(A), (B).	OCR	Penalty for each February 18, 2009 or later violation of a HIPAA administrative simplification provision in which it is established that the violation was due to willful neglect and was not corrected during the 30-day period beginning on the first date the covered entity or business associate knew, or, by exercising reasonable diligence, would have known that the violation occurred:	2022		
			Minimum .....	2022	63,973	68,928
			Maximum .....	2022	1,919,173	2,067,813
			Calendar Year Cap .....	2022	1,919,173	2,067,813
42 U.S.C. 300gg–18, 42 U.S.C. 1302.	45 CFR 180.90 .....	CMS	Penalty for a hospital's non-compliance with making public standard charges for hospital items and services.	2022	300	323
	45 CFR 180.90(c)(2)(i) ....	CMS	Per Day (Maximum) .....	2022	5,500	5,926
			Per day penalty for a hospital's non-compliance with making public standard charges for hospital items and services.	2022	304	328
	45 CFR 180.90(c)(2)(ii)(A).	CMS	Per day penalty for hospitals with equal to or less than 30 beds.	2022	300	323
	45 CFR 180.90(c)(2)(ii)(B).	CMS	Per day, per bed penalty for hospitals having at least 31 and up to and including 550 beds.	2022	10	11
	45 CFR 180.90(c)(2)(ii)(C).	CMS	Per day penalty for hospitals having greater than 550 beds.	2022	5,500	5,926
CARES Act, Public Law 116–136, section 3202(b)(2).	45 CFR 182.70 .....	CMS	Penalty for a provider's non-compliance with price transparency requirements regarding diagnostic tests for COVID–19.	2022		
			Per Day (Maximum) .....	2022	300	323
263a(h)(2)(B) & 1395w–2(b)(2)(A)(ii).	42 CFR 493.1834(d)(2)(i).	CMS	Penalty for a clinical laboratory's failure to meet participation and certification requirements and poses immediate jeopardy:	2022		
			Minimum .....	2022	7,018	7,562
			Maximum .....	2022	23,011	24,793
	42 CFR 493.1834(d)(2)(ii)	CMS	Penalty for a clinical laboratory's failure to meet participation and certification requirements and the failure does not pose immediate jeopardy:	2022		
			Minimum .....	2022	116	125
			Maximum .....	2022	6,902	7,437
	42 CFR 493.1834(d)(2)(iii).	CMS	Penalty for a clinical laboratory's failure to meet SARS–CoV–2 test reporting requirements:	2022		
			First day of noncompliance .....	2022		
			Each additional day of noncompliance .....	2022		
300gg–15(f) .....	45 CFR 147.200(e) .....	CMS	Failure to provide the Summary of Benefits and Coverage.	2022	1,264	1,362
300gg–18 .....	45 CFR 158.606 .....	CMS	Penalty for violations of regulations related to the medical loss ratio reporting and rebating.	2022	126	136
	45 CFR 180.90 .....	CMS	Price against hospital identified by CMS as noncompliant according to § 182.50 with respect to price transparency requirements regarding diagnostic tests for COVID–19.	2022		
42 U.S.C. 300gg–118 note, 300gg–134.	.....	CMS	Penalties for failure to comply with No Surprises Act requirements on providers, facilities, providers of air ambulance services.	2022	10,622	11,445
1320a–7h(b)(1) .....	42 CFR 402.105(d)(5), 42 CFR 403.912(a) & (c).	CMS	Penalty for manufacturer or group purchasing organization failing to report information required under 42 U.S.C. 1320a–7h(a), relating to physician ownership or investment interests:	2022		
			Minimum .....	2022	1,264	1,362
			Maximum .....	2022	12,646	13,625
			Calendar Year Cap .....	2022	189,692	204,384

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1320a–7h(b)(2) .....	42 CFR 402.105(h), 42 CFR 403.912(b) & (c).	CMS	Penalty for manufacturer or group purchasing organization knowingly failing to report information required under 42 U.S.C. 1320a–7h(a), relating to physician ownership or investment interests:	2022	.....	.....
			Minimum .....	2022	12,646	13,625
			Maximum .....	2022	126,463	136,258
			Calendar Year Cap .....	2022	1,264,622	1,362,567
		CMS	Penalty for an administrator of a facility that fails to comply with notice requirements for the closure of a facility.	2022	126,463	136,258
1320a–7j(h)(3)(A) .....	42 CFR 488.446(a)(1), (2), & (3).	CMS	Minimum penalty for the first offense of an administrator who fails to provide notice of facility closure.	2022	632	681
			Minimum penalty for the second offense of an administrator who fails to provide notice of facility closure.	2022	1,898	2,045
			Minimum penalty for the third and subsequent offenses of an administrator who fails to provide notice of facility closure.	2022	3,793	4,087
1320a–8(a)(1) .....	.....	CMS	Penalty for an entity knowingly making a false statement or representation of material fact in the determination of the amount of benefits or payments related to old-age, survivors, and disability insurance benefits, special benefits for certain World War II veterans, or supplemental security income for the aged, blind, and disabled.	2022	9,250	9,966
			Penalty for violation of 42 U.S.C. 1320a–8(a)(1) if the violator is a person who receives a fee or other income for services performed in connection with determination of the benefit amount or the person is a physician or other health care provider who submits evidence in connection with such a determination.	2022	8,723	9,399
1320a–8(a)(3) .....	.....	CMS	Penalty for a representative payee (under 42 U.S.C. 405(j), 1007, or 1383(a)(2)) converting any part of a received payment from the benefit programs described in the previous civil monetary penalty to a use other than for the benefit of the beneficiary.	2022	7,244	7,805
1320b–25(c)(1)(A) .....	.....	CMS	Penalty for failure of covered individuals to report to the Secretary and 1 or more law enforcement officials any reasonable suspicion of a crime against a resident, or individual receiving care, from a long-term care facility.	2022	252,925	272,514
1320b–25(c)(2)(A) .....	.....	CMS	Penalty for failure of covered individuals to report to the Secretary and 1 or more law enforcement officials any reasonable suspicion of a crime against a resident, or individual receiving care, from a long-term care facility if such failure exacerbates the harm to the victim of the crime or results in the harm to another individual.	2022	379,386	408,769
1320b–25(d)(2) .....	.....	CMS	Penalty for a long-term care facility that retaliates against any employee because of lawful acts done by the employee, or files a complaint or report with the State professional disciplinary agency against an employee or nurse for lawful acts done by the employee or nurse.	2022	252,925	272,514

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>	
1395b-7(b)(2)(B)	42 CFR 402.105(g)	CMS	Penalty for any person who knowingly and willfully fails to furnish a beneficiary with an itemized statement of items or services within 30 days of the beneficiary's request.	2022	171	184	
1395i-3(h)(2)(B)(ii)(I)	42 CFR 488.408(d)(1)(iii)	CMS	Penalty per day for a Skilled Nursing Facility that has a Category 2 violation of certification requirements:	Minimum	2022	120	129
				Maximum	2022	7,195	7,752
	42 CFR 488.408(d)(1)(iv)	CMS	Penalty per instance of Category 2 noncompliance by a Skilled Nursing Facility:	Minimum	2022	2,400	2,586
				Maximum	2022	23,989	25,847
	42 CFR 488.408(e)(1)(iii)	CMS	Penalty per day for a Skilled Nursing Facility that has a Category 3 violation of certification requirements:	Minimum	2022	7,317	7,884
				Maximum	2022	23,989	25,847
	42 CFR 488.408(e)(1)(iv)	CMS	Penalty per instance of Category 3 noncompliance by a Skilled Nursing Facility:	Minimum	2022	2,400	2,586
				Maximum	2022	23,989	25,847
	42 CFR 488.408(e)(2)(ii)	CMS	Penalty per day and per instance for a Skilled Nursing Facility that has Category 3 noncompliance with Immediate Jeopardy:	Per Day (Minimum)	2022	7,317	7,884
				Per Day (Maximum)	2022	23,989	25,847
				Per Instance (Minimum)	2022	2,400	2,586
				Per Instance (Maximum)	2022	23,989	25,847
	42 CFR 488.438(a)(1)(i)	CMS	Penalty per day of a Skilled Nursing Facility that fails to meet certification requirements. These amounts represent the upper range per day:	Minimum	2022	7,317	7,884
				Maximum	2022	23,989	25,847
42 CFR 488.438(a)(1)(ii)	CMS	Penalty per day of a Skilled Nursing Facility that fails to meet certification requirements. These amounts represent the lower range per day:	Minimum	2022	120	129	
			Maximum	2022	7,195	7,752	
42 CFR 488.438(a)(2)	CMS	Penalty per instance of a Skilled Nursing Facility that fails to meet certification requirements:	Minimum	2022	2,400	2,586	
			Maximum	2022	23,989	25,847	
42 CFR 488.447	CMS	Penalty imposed for failure to comply with infection control weekly reporting requirements at 42 CFR 483.80(g)(1) and (2).	First occurrence	2022	1,075	1,158	
			Incremental increases for each subsequent occurrence.	2022	537	579	
1395i-6(c)(5)(B)(i)	42 CFR 488.1245	CMS	Penalty for noncompliance by hospice program with requirements specified in section 1395x(dd) of 42 USC.	2022	10,000	10,775	
	42 CFR 488.1245(b)(2)(iii).	CMS	Adjustment to penalties. Maximum penalty assessment for each day a hospice is not in substantial compliance with one or more conditions of participation.	2022	10,000	10,775	
	42 CFR 488.1245(b)(3)	CMS	Penalty imposed for hospice condition-level deficiency that is immediate jeopardy. These amounts represent the upper range of penalty.	Minimum	2022	8,500	9,158
				Maximum	2022	10,000	10,775
42 CFR 488.1245(b)(3)(i)	CMS	Penalty imposed for hospice condition-level deficiency that is immediate jeopardy. These amounts represent the upper range of penalty.	2022	10,000	10,775		

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
	42 CFR 488.1245(b)(3)(ii)	CMS	Penalty imposed for hospice condition-level deficiency that is immediate jeopardy. These amounts represent the upper range of penalty.	2022	9,000	9,697
	42 CFR 488.1245(b)(3)(iii).	CMS	Penalty imposed for hospice condition-level deficiency that is immediate jeopardy. These amounts represent the upper range of penalty.	2022	8,500	9,158
	42 CFR 488.1245(b)(4) ...	CMS	Penalty imposed for hospice repeat or condition-level deficiency or both that does not constitute immediate jeopardy but is directly related to poor quality patient care outcomes. These amounts represent the middle range of penalty.	2022	.....	.....
			Minimum .....	2022	1,500	1,616
			Maximum .....	2022	8,500	9,158
	42 CFR 488.1245(b)(5) ...	CMS	Penalty imposed for hospice repeat or condition-level deficiency or both that does not constitute immediate jeopardy and are related predominantly to structure or process-oriented conditions rather than directly related to patient outcomes. These amounts represent the lower range of penalty.	2022	.....	.....
			Minimum .....	2022	500	539
			Maximum .....	2022	4,000	4,310
	42 CFR 488.1245(b)(6) ...	CMS	Penalty range imposed for per instance of hospice noncompliance.	2022	.....	.....
		CMS	Minimum .....	2022	1,000	1,077
		CMS	Maximum .....	2022	10,000	10,775
	42 CFR 488.1245(d)(1)(ii)	CMS	Penalty for each per instance of hospice noncompliance, maximum per day per hospice program.	2022	10,000	10,775
1395(h)(5)(D) .....	42 CFR 402.105(d)(2)(i)	CMS	Penalty for knowingly, willfully, and repeatedly billing for a clinical diagnostic laboratory test other than on an assignment-related basis. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395(i)(6) .....	.....	CMS	Penalty for knowingly and willfully presenting or causing to be presented a bill or request for payment for an intraocular lens inserted during or after cataract surgery for which the Medicare payment rate includes the cost of acquiring the class of lens involved.	2022	4,603	4,960
1395(q)(2)(B)(i) .....	42 CFR 402.105(a) .....	CMS	Penalty for knowingly and willfully failing to provide information about a referring physician when seeking payment on an unassigned basis.	2022	4,404	4,745
1395m(a)(11)(A) .....	42 CFR 402.1(c)(4), 402.105(d)(2)(ii).	CMS	Penalty for any durable medical equipment supplier that knowingly and willfully charges for a covered service that is furnished on a rental basis after the rental payments may no longer be made. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395m(a)(18)(B) .....	42 CFR 402.1(c)(5), 402.105(d)(2)(iii).	CMS	Penalty for any nonparticipating durable medical equipment supplier that knowingly and willfully fails to make a refund to Medicare beneficiaries for a covered service for which payment is precluded due to an unsolicited telephone contact from the supplier. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1395m(b)(5)(C) .....	42 CFR 402.1(c)(6), 402.105(d)(2)(iv).	CMS	Penalty for any nonparticipating physician or supplier that knowingly and willfully charges a Medicare beneficiary more than the limiting charge for radiologist services. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a–7a(a)).	2022	17,472	18,825
1395m(h)(3) .....	42 CFR 402.1(c)(8), 402.105(d)(2)(vi).	CMS	Penalty for any supplier of prosthetic devices, orthotics, and prosthetics that knowingly and willfully charges for a covered prosthetic device, orthotic, or prosthetic that is furnished on a rental basis after the rental payment may no longer be made. (Penalties are assessed in the same manner as 42 U.S.C. 1395m(a)(11)(A), that is in the same manner as 1395u(j)(2)(B), which is assessed according to 1320a–7a(a)).	2022	17,472	18,825
1395m(j)(2)(A)(iii) .....	.....	CMS	Penalty for any supplier of durable medical equipment including a supplier of prosthetic devices, prosthetics, orthotics, or supplies that knowingly and willfully distributes a certificate of medical necessity in violation of Section 1834(j)(2)(A)(i) of the Act or fails to provide the information required under Section 1834(j)(2)(A)(ii) of the Act.	2022	1,850	1,993
1395m(j)(4) .....	42 CFR 402.1(c)(10), 402.105(d)(2)(vii).	CMS	Penalty for any supplier of durable medical equipment, including a supplier of prosthetic devices, prosthetics, orthotics, or supplies that knowingly and willfully fails to make refunds in a timely manner to Medicare beneficiaries for series billed other than on an assignment-related basis under certain conditions. (Penalties are assessed in the same manner as 42 U.S.C. 1395m(j)(4) and 1395u(j)(2)(B), which is assessed according to 1320a–7a(a)).	2022	17,472	18,825
1395m–1(a) .....	42 CFR 414.504(e) .....	CMS	Penalty for an applicable entity that has failed to report or made a misrepresentation or omission in reporting applicable information with respect to a clinical diagnostic laboratory test.	2022	11,649	12,551
	42 CFR 402.1(c)(31), 402.105(d)(3).	CMS	Penalty for any person or entity who knowingly and willfully bills or collects for any outpatient therapy services or comprehensive outpatient rehabilitation services on other than an assignment-related basis. (Penalties are assessed in the same manner as 42 U.S.C. 1395m(k)(6) and 1395u(j)(2)(B), which is assessed according to 1320a–7a(a)).	2022	17,472	18,825
1395m(l)(6) .....	42 CFR 402.1(c)(32), 402.105(d)(4).	CMS	Penalty for any supplier of ambulance services who knowingly and willfully fills or collects for any services on other than an assignment-related basis. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(b)(18)(B), which is assessed according to 1320a–7a(a)).	2022	17,472	18,825

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1395u(b)(18)(B) .....	42 CFR 402.1(c)(11), 402.105(d)(2)(viii).	CMS	Penalty for any practitioner specified in Section 1842(b)(18)(C) of the Act or other person that knowingly and willfully bills or collects for any services by the practitioners on other than an assignment-related basis. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395u(j)(2)(B) .....	42 CFR 402.1(c) .....	CMS	Penalty for any physician who charges more than 125% for a non-participating referral. (Penalties are assessed in the same manner as 42 U.S.C. 1320a-7a(a)).	2022	17,472	18,825
1395u(k) .....	42 CFR 402.1(c)(12), 402.105(d)(2)(ix), 1834A(a)(9) and 42 CFR 414.504(e).	CMS	Penalty for any physician who knowingly and willfully presents or causes to be presented a claim for bill for an assistant at a cataract surgery performed on or after March 1, 1987, for which payment may not be made because of section 1862(a)(15). (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395u(l)(3) .....	42 CFR 402.1(c)(13), 402.105(d)(2)(x).	CMS	Penalty for any nonparticipating physician who does not accept payment on an assignment-related basis and who knowingly and willfully fails to refund on a timely basis any amounts collected for services that are not reasonable or medically necessary or are of poor quality under 1842(l)(1)(A). (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395u(m)(3) .....	42 CFR 402.1(c)(14), 402.105(d)(2)(xi).	CMS	Penalty for any nonparticipating physician charging more than \$500 who does not accept payment for an elective surgical procedure on an assignment related basis and who knowingly and willfully fails to disclose the required information regarding charges and coinsurance amounts and fails to refund on a timely basis any amount collected for the procedure in excess of the charges recognized and approved by the Medicare program. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395u(n)(3) .....	42 CFR 402.1(c)(15), 402.105(d)(2)(xii).	CMS	Penalty for any physician who knowingly, willfully, and repeatedly bills one or more beneficiaries for purchased diagnostic tests any amount other than the payment amount specified by the Act. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395u(o)(3)(B) .....	42 CFR 414.707(b) .....	CMS	Penalty for any practitioner specified in Section 1842(b)(18)(C) of the Act or other person that knowingly and willfully bills or collects for any services pertaining to drugs or biologics by the practitioners on other than an assignment-related basis. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(b)(18)(B) and 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825



TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1395u(p)(3)(A) .....	.....	CMS	Penalty for any physician or practitioner who knowingly and willfully fails promptly to provide the appropriate diagnosis codes upon CMS or Medicare administrative contractor request for payment or bill not submitted on an assignment-related basis.	2022	4,603	4,960
1395w-3a(d)(4)(A) .....	42 CFR 414.806 .....	CMS	Penalty for a pharmaceutical manufacturer's misrepresentation of average sales price of a drug, or biologic.	2022	14,950	16,108
1395w-4(g)(1)(B) .....	42 CFR 402.1(c)(17), 402.105(d)(2)(xii).	CMS	Penalty for any nonparticipating physician, supplier, or other person that furnishes physician services not on an assignment-related basis who either knowingly and willfully bills or collects in excess of the statutorily-defined limiting charge or fails to make a timely refund or adjustment. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395w-4(g)(3)(B) .....	42 CFR 402.1(c)(18), 402.105(d)(2)(xiv).	CMS	Penalty for any person that knowingly and willfully bills for statutorily defined State-plan approved physicians' services on any other basis than an assignment-related basis for a Medicare/Medicaid dual eligible beneficiary. (Penalties are assessed in the same manner as 42 U.S.C. 1395u(j)(2)(B), which is assessed according to 1320a-7a(a)).	2022	17,472	18,825
1395w-27(g)(3)(A); 1857(g)(3); 1860D-12(b)(3)(E).	42 CFR 422.760(b); 42 CFR 423.760(b).	CMS	Penalty for each termination determination the Secretary makes that is the result of actions by a Medicare Advantage organization or Part D sponsor that has adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.	2022	42,788	46,102
1395w-27(g)(3)(B); 1857(g)(3); 1860D-12(b)(3)(E).	.....	CMS	Penalty for each week beginning after the initiation of civil money penalty procedures by the Secretary because a Medicare Advantage organization or Part D sponsor has failed to carry out a contract, or has carried out a contract inconsistently with regulations.	2022	17,116	18,442
1395w-27(g)(3)(D); 1857(g)(3); 1860D-12(b)(3)(E).	.....	CMS	Penalty for a Medicare Advantage organization's or Part D sponsor's early termination of its contract.	2022	158,947	171,257
1395y(b)(3)(C) .....	42 CFR 411.103(b) .....	CMS	Penalty for an employer or other entity to offer any financial or other incentive for an individual entitled to benefits not to enroll under a group health plan or large group health plan which would be a primary plan.	2022	10,360	11,162
1395y(b)(5)(C)(ii) .....	42 CFR 402.1(c)(20), 42 CFR 402.105(b)(2).	CMS	Penalty for any non-governmental employer that, before October 1, 1998, willfully or repeatedly failed to provide timely and accurate information requested relating to an employee's group health insurance coverage.	2022	1,687	1,818
1395y(b)(6)(B) .....	42 CFR 402.1(c)(21), 402.105(a).	CMS	Penalty for any entity that knowingly, willfully, and repeatedly fails to complete a claim form relating to the availability of other health benefits in accordance with statute or provides inaccurate information relating to such on the claim form.	2022	3,701	3,988

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
1395y(b)(7)(B)(i) .....	.....	CMS	Penalty for any entity serving as insurer, third party administrator, or fiduciary for a group health plan that fails to provide information that identifies situations where the group health plan is or was a primary plan to Medicare to the HHS Secretary.	2022	1,325	1,428
1395y(b)(8)(E) .....	.....	CMS	Penalty for any non-group health plan that fails to identify claimants who are Medicare beneficiaries and provide information to the HHS Secretary to coordinate benefits and pursue any applicable recovery claim.	2022	1,325	1,428
1395nn(g)(5) .....	42 CFR 411.361 .....	CMS	Penalty for any person that fails to report information required by HHS under Section 1877(f) concerning ownership, investment, and compensation arrangements.	2022	22,021	23,727
1395pp(h) .....	42 CFR 402.1(c)(23), 402.105(d)(2)(xv).	CMS	Penalty for any durable medical equipment supplier, including a supplier of prosthetic devices, prosthetics, orthotics, or supplies, that knowingly and willfully fails to make refunds in a timely manner to Medicare beneficiaries under certain conditions. (42 U.S.C. 1395(m)(18) sanctions apply here in the same manner, which is under 1395u(j)(2) and 1320a-7a(a)).	2022	17,472	18,825
1395ss(a)(2) .....	402.102(f)(1) .....	CMS	Penalty for any person that issues a Medicare supplemental policy that has not been approved by the State regulatory program or does not meet Federal standards after a statutorily defined effective date.	2022	59,972	64,617
1395ss(d)(3)(A)(vi)(II) .....	42 CFR 402.1(c)(25), 402.105(e), 402.105(f)(2).	CMS	Penalty for someone other than issuer that sells or issues a Medicare supplemental policy to beneficiary without a disclosure statement.	2022	31,076	33,483
1395ss(d)(3)(B)(iv) .....	.....	CMS	Penalty for an issuer that sells or issues a Medicare supplemental policy without disclosure statement.	2022	51,796	55,808
1395ss(d)(3)(B)(iv) .....	.....	CMS	Penalty for someone other than issuer that sells or issues a Medicare supplemental policy without acknowledgement form.	2022	31,076	33,483
1395ss(p)(8) .....	42 CFR 402.1(c)(25), 402.105(e).	CMS	Penalty for issuer that sells or issues a Medicare supplemental policy without an acknowledgement form.	2022	51,796	55,808
1395ss(p)(8) .....	42 CFR 402.1(c)(25), 405402.105(f)(2).	CMS	Penalty for someone other than issuer that sells or issues Medicare supplemental policies after a given date that fail to conform to the NAIC or Federal standards established by statute.	2022	31,076	33,483
1395ss(p)(8) .....	42 CFR 402.1(c)(25), 405402.105(f)(2).	CMS	Penalty for an issuer that sells or issues Medicare supplemental policies after a given date that fail to conform to the NAIC or Federal standards established by statute.	2022	51,796	55,808
1395ss(p)(9)(C) .....	42 CFR 402.1(c)(26), 402.105(e), 402.105(f)(3), (4).	CMS	Penalty for someone other than issuer that sells a Medicare supplemental policy and fails to make available for sale the core group of basic benefits when selling other Medicare supplemental policies with additional benefits or fails to provide the individual, before selling the policy, an outline of coverage describing benefits.	2022	31,076	33,483

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
	402.105(f)(3), (4) .....	CMS	Penalty for an issuer that sells a Medicare supplemental policy and fails to make available for sale the core group of basic benefits when selling other Medicare supplemental policies with additional benefits or fails to provide the individual, before selling the policy, an outline of coverage describing benefits.	2022	51,796	55,808
1395ss(q)(5)(C) .....	402.105(f)(5) .....	CMS	Penalty for any person that fails to suspend the policy of a policyholder made eligible for medical assistance or automatically reinstates the policy of a policyholder who has lost eligibility for medical assistance, under certain circumstances.	2022	51,796	55,808
1395ss(r)(6)(A) .....	402.105(f)(6) .....	CMS	Penalty for any person that fails to provide refunds or credits as required by section 1882(r)(1)(B).	2022	51,796	55,808
1395ss(s)(4) .....	42 CFR 402.1(c)(29), 402.105(c).	CMS	Penalty for any issuer of a Medicare supplemental policy that does not waive listed time periods if they were already satisfied under a preceding Medicare supplemental policy, or denies a policy, or conditions the issuances or effectiveness of the policy, or discriminates in the pricing of the policy base on health status or other specified criteria.	2022	21,989	23,692
1395ss(t)(2) .....	42 CFR 402.1(c)(30), 402.105(f)(7).	CMS	Penalty for any issuer of a Medicare supplemental policy that fails to fulfill listed responsibilities.	2022	51,796	55,808
1395ss(v)(4)(A) .....	.....	CMS	Penalty someone other than issuer who sells, issues, or renews a medigap Rx policy to an individual who is a Part D enrollee.	2022	22,426	24,163
		CMS	Penalty for an issuer who sells, issues, or renews a Medigap Rx policy who is a Part D enrollee.	2022	37,377	40,272
1395bbb(c)(1) .....	42 CFR 488.725(c) .....	CMS	Penalty for any individual who notifies or causes to be notified a home health agency of the time or date on which a survey of such agency is to be conducted.	2022	4,799	5,171
1395bbb(f)(2)(A)(i) .....	42 CFR 488.845(b)(2)(iii), 42 CFR 488.845(b)(3)–(6); and 42 CFR 488.845(d)(1)(ii).	CMS	Maximum daily penalty amount for each day a home health agency is not in compliance with statutory requirements.	2022	23,011	24,793
	42 CFR 488.845(b)(3) .....	CMS	Penalty per day for home health agency's noncompliance (Upper Range):	2022	.....	.....
			Minimum .....	2022	19,559	21,074
			Maximum .....	2022	23,011	24,793
	42 CFR 488.845(b)(3)(i) .....	CMS	Penalty for a home health agency's deficiency or deficiencies that cause immediate jeopardy and result in actual harm.	2022	23,011	24,793
	42 CFR 488.845(b)(3)(ii) .....	CMS	Penalty for a home health agency's deficiency or deficiencies that cause immediate jeopardy and result in potential for harm.	2022	20,709	22,313
	42 CFR 488.845(b)(3)(iii) .....	CMS	Penalty for an isolated incident of non-compliance in violation of established HHA policy.	2022	19,559	21,074
	42 CFR 488.845(b)(4) .....	CMS	Penalty for a repeat and/or condition-level deficiency that does not constitute immediate jeopardy, but is directly related to poor quality patient care outcomes (Lower Range):	2022	.....	.....
			Minimum .....	2022	3,453	3,720
			Maximum .....	2022	19,559	21,074
	42 CFR 488.845(b)(5) .....	CMS	Penalty for a repeat and/or condition-level deficiency that does not constitute immediate jeopardy and that is related predominately to structure or process-oriented conditions (Lower Range):	2022	.....	.....
			Minimum .....	2022	1,151	1,240

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>	
1395eee(e)(6)(B); 1396u-4(e)(6)(B).	42 CFR 488.845(b)(6) .....	CMS	Maximum .....	2022	2,301	2,479	
			Penalty imposed for instance of non-compliance that may be assessed for one or more singular events of condition-level noncompliance that are identified and where the non-compliance was corrected during the onsite survey:	2022			
	42 CFR 488.845(d)(1)(ii)	CMS	Penalty for each day of noncompliance (Minimum).	2022	2,301	2,479	
			Penalty for each day of noncompliance (Maximum).	2022	23,011	24,793	
	1396r(h)(3)(C)(ii)(I) .....	42 CFR 460.46 .....	CMS	Penalty for PACE organization that discriminates in enrollment or disenrollment, or engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, on the basis of health status or the need for services:	2022	42,788	46,102
				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.	2022		
			CMS	Minimum .....	2022	16,121	17,370
				Maximum .....	2022	107,478	115,802
			CMS	Penalty for a PACE organization that charges excessive premiums.	2022	42,788	46,102
			CMS	Penalty for a PACE organization misrepresenting or falsifying information to CMS or the State.	2022	171,156	184,412
			CMS	Penalty for any other violation specified in 42 C.F.R. 460.40.	2022	42,788	46,102
		42 CFR 488.408(d)(1)(iii)	CMS	Penalty per day for a nursing facility's failure to meet a Category 2 Certification:	2022		
Minimum .....				2022	120	129	
42 CFR 488.408(d)(1)(iv)		CMS	Maximum .....	2022	7,195	7,752	
	Penalty per instance for a nursing facility's failure to meet Category 2 certification:		2022				
42 CFR 488.408(e)(1)(iii)	CMS	Minimum .....	2022	2,400	2,586		
		Maximum .....	2022	23,989	25,847		
42 CFR 488.408(e)(1)(iv)	CMS	Penalty per day for a nursing facility's failure to meet Category 3 certification:	2022				
		Minimum .....	2022	7,317	7,884		
42 CFR 488.408(e)(2)(ii)	CMS	Maximum .....	2022	23,989	25,847		
		Penalty per instance for a nursing facility's failure to meet Category 3 certification, which results in immediate jeopardy:	2022				
42 CFR 488.438(a)(1)(i)	CMS	Minimum .....	2022	2,400	2,586		
		Maximum .....	2022	23,989	25,847		
42 CFR 488.438(a)(1)(ii)	CMS	Penalty per day for nursing facility's failure to meet certification (Upper Range):	2022				
		Minimum .....	2022	7,317	7,884		
42 CFR 488.438(a)(2) .....	CMS	Maximum .....	2022	23,989	25,847		
		Penalty per instance for nursing facility's failure to meet certification:	2022				
		Minimum .....	2022	2,400	2,586		
		Maximum .....	2022	23,989	25,847		

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
	42 CFR 488.447	CMS	Penalty imposed for failure to comply with infection control weekly reporting requirements at 42 CFR 483.80(g)(1) and (2). First occurrence (Minimum) ..... Incremental increases for each subsequent occurrence.	2022 2022 2022	..... 1,075 537	..... 1,158 579
1396r(f)(2)(B)(iii)(l)(c)	42 CFR 483.151(b)(2)(iv) and (b)(3)(iii).	CMS	Grounds to prohibit approval of Nurse Aide Training Program—if assessed a penalty in 1819(h)(2)(B)(i) or 1919(h)(2)(A)(ii) of “not less than \$5,000” [Not CMP authority, but a specific CMP amount (CMP at this level) that is the triggering condition for disapproval].	2022	11,995	12,924
1396r(h)(3)(C)(ii)(l)	42 CFR 483.151(c)(2)	CMS	Grounds to waive disapproval of nurse aide training program—reference to disapproval based on imposition of CMP “not less than \$5,000” [Not CMP authority but CMP imposition at this level determines eligibility to seek waiver of disapproval of nurse aide training program].	2022	11,995	12,924
1396t(j)(2)(C)		CMS	Penalty for each day of noncompliance for a home or community care provider that no longer meets the minimum requirements for home and community care: Minimum ..... Maximum .....	2022 2022 2022	..... 2 20,719	..... 2 22,324
1396u–2(e)(2)(A)(i)	42 CFR 438.704	CMS	Penalty for a Medicaid managed care organization that fails substantially to provide medically necessary items and services.	2022	42,788	46,102
		CMS	Penalty for Medicaid managed care organization that imposes premiums or charges on enrollees in excess of the premiums or charges permitted.	2022	42,788	46,102
		CMS	Penalty for a Medicaid managed care organization that misrepresents or falsifies information to another individual or entity.	2022	42,788	46,102
		CMS	Penalty for a Medicaid managed care organization that fails to comply with the applicable statutory requirements for such organizations.	2022	42,788	46,102
1396u–2(e)(2)(A)(ii)	42 CFR 438.704	CMS	Penalty for a Medicaid managed care organization that misrepresents or falsifies information to the HHS Secretary.	2022	171,156	184,412
		CMS	Penalty for Medicaid managed care organization that acts to discriminate among enrollees on the basis of their health status.	2022	171,156	184,412
1396u–2(e)(2)(A)(iv)	42 CFR 438.704	CMS	Penalty for each individual that does not enroll as a result of a Medicaid managed care organization that acts to discriminate among enrollees on the basis of their health status.	2022	25,673	27,661
1396u(h)(2)	42 CFR Part 441, Subpart I.	CMS	Penalty for a provider not meeting one of the requirements relating to the protection of the health, safety, and welfare of individuals receiving community supported living arrangements services.	2022	23,989	25,847
1396w–2(c)(1)	42 U.S.C. 300gg–22(b)(2)(C)(i) 45 CFR 150.315.	CMS	Penalty for each day, for each individual affected by the failure of a health insurance issuer or non-Federal governmental group health plan to comply with federal market reform provisions in part A or D of title XXVII of the PHS Act   2022   174   177.	2022	12,794	13,785

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
42 U.S.C. 300gg–22(b)(2)(C)(i) .....	45 CFR 150.315 .....	CMS	Penalty for each day, for each individual affected by the failure of a health insurance issuer or non-Federal governmental group health plan to comply with federal market reform provisions in part A or D of title XXVII of the PHS Act.	2022	174	177
18041(c)(2) .....	45 CFR 156.805(c) .....	CMS	Failure to comply with ACA requirements related to risk adjustment, reinsurance, risk corridors, Exchanges (including QHP standards) and other ACA Subtitle D standards; Penalty for violations of rules or standards of behavior associated with issuer compliance with risk adjustment, reinsurance, risk corridors, Exchanges (including QHP standards) and other ACA Subtitle D standards.	2022	174	187
18081(h)(1)(A)(i)(II) .....	45 CFR 155.285 .....	CMS	Penalty for providing false information on Exchange application.	2022	31,616	34,065
18081(h)(1)(B) .....	45 CFR 155.285 .....	CMS	Penalty for knowingly or willfully providing false information on Exchange application.	2022	316,155	340,641
18081(h)(2) .....	45 CFR 155.260 .....	CMS	Penalty for knowingly or willfully disclosing protected information from Exchange.	2022	.....	.....
18041(c)(2) .....	45 CFR 155.206(i) .....	CMS	Minimum .....	2022	31,616	34,065
		CMS	Maximum .....	2022	323	348
		CMS	Penalties for violation of applicable Exchange standards by consumer assistance entities in Federally-facilitated Exchanges.	2022	38,771	41,774
31 U.S.C. ....	45 CFR 93.400(e) .....	HHS	Maximum (Per Day) .....	2022	107	115
			Penalty for the first time an individual makes an expenditure prohibited by regulations regarding lobbying disclosure, absent aggravating circumstances.	2022	323	348
1352 .....	45 CFR 93.400(e) .....	HHS	Penalty for the first time an individual makes an expenditure prohibited by regulations regarding lobbying disclosure, absent aggravating circumstances.	2022	22,021	23,727
Penalty for second and subsequent offenses by individuals who make an expenditure prohibited by regulations regarding lobbying disclosure:			2022	.....	.....	
Minimum .....			2022	22,021	23,727	
Maximum .....			2022	220,213	237,268	
Penalty for the first time an individual fails to file or amend a lobbying disclosure form, absent aggravating circumstances.			2022	22,021	23,727	
Penalty for second and subsequent offenses by individuals who fail to file or amend a lobbying disclosure form, absent aggravating circumstances:			2022	.....	.....	
Minimum .....			2022	22,021	23,727	
Maximum .....			2022	220,213	237,268	
Penalty for failure to provide certification regarding lobbying in the award documents for all sub-awards of all tiers:			2022	.....	.....	
Minimum .....			2022	22,021	23,727	
Maximum .....	2022	220,213	237,268			
3801–3812 .....	45 CFR 79.3(a)(1)(iv) .....	HHS	Penalty for failure to provide statement regarding lobbying for loan guarantee and loan insurance transactions:	2022	.....	.....
			Minimum .....	2022	22,021	23,727
			Maximum .....	2022	220,213	237,268
			Penalty against any individual who— with knowledge or reason to know— makes, presents or submits a false, fictitious or fraudulent claim to the Department.	2022	11,507	12,398

TABLE 1 TO § 102.3—CIVIL MONETARY PENALTY AUTHORITIES ADMINISTERED BY HHS—Continued

U.S.C. section(s)	CFR <sup>1</sup>	HHS agency	Description <sup>2</sup>	Date of last penalty figure or adjustment <sup>3</sup>	2022 Maximum adjusted penalty (\$)	2023 Maximum adjusted penalty (\$) <sup>4</sup>
	45 CFR 79.3(b)(1)(ii) .....	HHS	Penalty against any individual who— with knowledge or reason to know— makes, presents or submits a false, fictitious or fraudulent claim to the Department.	2022	11,507	12,398

<sup>1</sup> Some HHS components have not promulgated regulations regarding their civil monetary penalty-specific statutory authorities.  
<sup>2</sup> The description is not intended to be a comprehensive explanation of the underlying violation; the statute and corresponding regulation, if applicable, should be consulted.  
<sup>3</sup> Statutory or Inflation Act Adjustment.  
<sup>4</sup> OMB Memorandum *M-16-06*, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, published February 24, 2016, guided agencies on initial “catch-up” adjustment requirements, and *M-17-11*, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, published December 16, 2016; followed by *M-18-03*, *M-19-04*, *M-20-05*, *M-21-10*, *M-22-07*, and *M-23-05* guided agencies on annual adjustment requirements.  
<sup>5</sup> *OMB Circular A-136*, Financial Reporting Requirements, Section II.4.9, directs that agencies must make annual inflation adjustments to civil monetary penalties and report on the adjustments in the Agency Financial Report (AFR) or Performance and Accountability Report (PAR).  
<sup>6</sup> Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, § 701(b)(1)(A) (codified as amended at 28 U.S.C. 2461 note).  
<sup>7</sup> Annual inflation adjustments are based on the percent change between each published October’s CPI-U. In this case, October 2022 CPI-U (298.012) / October 2021 CPI-U (276.589) = 1.07745.

Dated: October 2, 2023.  
**Xavier Becerra**,  
*Secretary, Department of Health and Human Services.*  
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**DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**50 CFR Part 622**  
**[Docket No. 230427-0115]**  
**RIN 0648-BL89**  
**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Temporary Measures To Reduce Overfishing of Gag**  
**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.  
**ACTION:** Temporary rule; interim measures extended.

**SUMMARY:** NMFS issues this temporary rule to extend the expiration date of interim measures to reduce overfishing of gag in Federal waters of the Gulf of Mexico. This temporary rule extends the commercial and recreational harvest levels and the revised recreational fishing season for gag for an additional 186 days. The purpose of this temporary rule extension is to reduce overfishing of gag while NMFS implements management measures to end overfishing of gag on a permanent basis.  
**DATES:** As of October 6, 2023, the expiration date for the final temporary rule published at 88 FR 27701 on May

3, 2023, is extended from October 30, 2023, through May 2, 2024, unless NMFS publishes a superseding document in the **Federal Register**.  
**ADDRESSES:** An electronic copy of the environmental assessment (EA) supporting these temporary measures may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/interim-action-reduce-overfishing-gag-gulf-mexico>. The EA includes a regulatory impact review and a Regulatory Flexibility Act (RFA) analysis.  
**FOR FURTHER INFORMATION CONTACT:** Dan Luers, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: [daniel.luers@noaa.gov](mailto:daniel.luers@noaa.gov).  
**SUPPLEMENTARY INFORMATION:** The reef fish fishery in the Gulf of Mexico (Gulf) is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP) and includes gag and other federally managed reef fish species. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).  
 All weights described in this temporary rule are in gutted weight.  
 On May 3, 2023, NMFS published the final temporary rule for interim measures to reduce overfishing of gag in Gulf Federal waters (88 FR 27701). The final temporary rule reduced the total annual catch limit (ACL) for gag to 661,901 lb (300,233 kg). In addition, the final temporary rule specified the commercial and recreational ACLs, commercial quota, and recreational annual catch target (ACT) using the existing sector allocations of the total

ACL of 39 percent commercial and 61 percent recreational. Therefore, during the effectiveness of the final temporary rule and this temporary rule extension, the commercial ACL and commercial quota are 258,000 lb (117,027 kg) and 199,000 lb (90,265 kg), respectively. The recreational ACL and ACT are 403,759 lb (183,142 kg) and 362,374 lb (164,370 kg), respectively.  
 In addition to the reduced catch limits for gag, the final temporary rule changed the gag recreational fishing season for the 2023 fishing year. This temporary rule extension continues the same recreational fishing season of September 1 through November 9, 2023, unless NMFS projects that recreational landings of gag will reach the recreational ACL sooner than November 9, 2023, and will close the recreational sector as required by the accountability measures specified in 50 CFR 622.41(r)(2).  
 This temporary rule extension continues the measures in the final temporary rule unchanged for an additional 186 days, unless this temporary rule extension is superseded by subsequent rulemaking. The purpose of these interim measures is to reduce the overfishing of gag in Gulf Federal waters while NMFS implements long-term management measures to end overfishing and rebuild the Gulf gag stock.  
 Amendment 56 was approved by the Council at the June 2023 meeting and includes management measures to end overfishing of gag on a long-term basis. NMFS is currently reviewing Amendment 56 and developing the proposed rule for Amendment 56 and, if approved, expects to implement a final rule before the expiration of the interim measures in this temporary rule extension in the 2024 fishing year.