

HHS Announces Inflation-Adjusted HIPAA Penalty Amounts

The Department of Health & Human Services (“HHS”) released the inflation-adjusted civil money penalty amounts for violations of the administrative simplification rules under the Health Insurance Portability and Accountability Act (“HIPAA”). The penalties generally apply to violations of HIPAA’s privacy, security, and/or breach notification provisions. Businesses that sponsor group health plans (i.e. HIPAA covered entities) as well as business associates should review their HIPAA obligations to help avoid potential penalties.

In determining the amount of any civil money penalty, HHS will consider the following factors:

- a) Nature and extent of the violation which may include: (i) the number of individuals affected, and (ii) the time period during which the violation occurred;
- b) Nature and extent of the harm resulting from the violation;
- c) History of prior compliance with the HIPAA administrative simplification provisions;
- d) Financial condition of the covered entity or business associate; and
- e) Any other factors HHS deems appropriate.

More information about the HIPAA privacy, security and breach notification rules may be found [here](#). The updated penalty amounts are effective as of October 11, 2018 for violations that occurred on or after February 18, 2009.

Type of Violation <i>Based on Degree of Culpability</i>	HIPAA Penalty <i>Based on Nature & Extent of Violation & Harm</i>
<p>Covered Entity or Business Associate Did Not Know and by Exercising Reasonable Diligence Would Not Have Known of The Violation <i>(May mitigate penalties if corrected within 30 days*)</i></p>	<ul style="list-style-type: none"> • Minimum: \$114 per violation • Maximum: \$57,051 per violation up to \$1,711,533 per calendar year for identical violations <p><i>2017 amounts: \$112; \$55,910; \$1,677,299</i></p>
<p>Violation Due To Reasonable Cause and Not Willful Neglect <i>(May mitigate penalties if corrected within 30 days*)</i></p>	<ul style="list-style-type: none"> • Minimum: \$1,141 per violation • Maximum: \$57,051 per violation up to \$1,711,533 per calendar year for identical violations <p><i>2017 amounts: \$1,118; \$55,910; \$1,677,299</i></p>
<p>Violation Due To Willful Neglect <i>(Corrected within 30 days*)</i></p>	<ul style="list-style-type: none"> • Minimum: \$11,410 per violation • Maximum: \$57,051 per violation up to \$1,711,533 per calendar year for identical violations <p><i>2017 amounts: \$11,182; \$55,910; \$1,677,299</i></p>
<p>Violation Due To Willful Neglect <i>(Not corrected within 30 days*)</i></p>	<ul style="list-style-type: none"> • \$57,051 per violation up to \$1,711,533 per calendar year for identical violations <p><i>2017 amounts: \$55,910; \$1,677,299</i></p>

**The 30-day correction period begins on the first date the covered entity or business associate liable for the penalty knew, or, by exercising reasonable diligence, would have known that the violation occurred.*

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ADDITIONAL INFORMATION

Information contained in this Update is not intended to render tax or legal advice. Employers should consult with qualified legal and/or tax counsel for guidance with respect to matters of law, tax and related regulation. Cherry Bekaert Benefits Consulting, LLC provides comprehensive consulting and administrative services with respect to all forms of employee benefits, risk management, qualified and non-qualified retirement plans, private client services, transaction services, and compensation and human resources.

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