

# LEGAL UPDATE

## HHS Increases Civil Penalties for HIPAA Violations

On Jan. 17, 2020, the Department of Health and Human Services (HHS) published a [final rule](#) increasing the civil monetary penalties for violations of laws enforced by HHS, including the HIPAA [privacy](#) and [security](#) rules. HHS is required to adjust these penalties for inflation each year to improve their effectiveness and maintain their deterrent effect. The new penalty amounts are effective for **penalties assessed on or after Jan. 17, 2020.**

### 2020 HIPAA Civil Penalties

HHS may assess civil penalties when it discovers a HIPAA violation. The penalty amount depends on the facts involved.

- For violations where the covered entity does not know about the violation (and by exercising reasonable diligence, would not have known about the violation) the penalty amount is between \$119 and \$59,522 for each violation.
- If the violation is due to reasonable cause, the penalty amount is between \$1,191 and \$59,522 for each violation.
- For corrected violations that are caused by willful neglect, the penalty amount is between \$11,904 and \$59,522 for each violation.
- For violations caused by willful neglect that are not corrected, the penalty amount is \$59,522 per violation, with an annual cap of \$1,785,651 for all violations of an identical requirement.

### Resolution Agreements

Instead of imposing civil penalties for HIPAA violations, HHS will often pursue a [resolution agreement](#) that requires the covered entity to take corrective action and pay a settlement amount (which is usually much less than the applicable penalty amount). However, if an agreement cannot be reached, HHS may pursue civil penalties.

### Common HIPAA Violations

According to HHS, the compliance problems most frequently reported under HIPAA are:

- Impermissible uses or disclosures of protected health information (PHI)
- Lack of safeguards on PHI
- Lack of patient access to their PHI
- Lack of administrative safeguards for electronic PHI
- Use or disclosure of more than the minimum necessary PHI

*Because HIPAA's civil penalties are substantial, employers with group health plans should periodically review their compliance with HIPAA's rules.*

Provided to you by [Creative Benefits, Inc.](#)

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. ©2020 Zywave, Inc. All rights reserved.