

CMS Reinstates Per-Day Fines for Noncompliance in Long-Term Care

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Long-term care facilities face increased potential for daily fines for non-compliance, rather than single fines, under recent action by the Centers for Medicare & Medicaid Services.

Daily fines had been more common until the Trump Administration, in July 2017, instructed regulators to typically impose civil monetary penalties only on a per-instance basis, rather than for each day of non-compliance. (Per-day fines could still be imposed for immediate-jeopardy violations, abuse, persistent deficiencies, or continued non-compliance beyond the survey.)

Now the Biden Administration has reversed that policy. It directed the state survey agencies on July 28, 2021, that they once again had the discretion to issue per-day fines where appropriate. The **new policy** took effect on July 16, 2021.

Maximum amounts of single-instance fines are about \$22,000 but can be many times higher with per-day fines.

The AARP Foundation filed suit in January to end the Trump-era policy of per-instance fines, arguing that it endangered residents.

By contrast, the American Health Care Association and National Center for Assisted Living issued a statement saying the per-day sanctions “only take precious resources away from an already underfunded industry, especially in an unprecedented era where nursing homes need every support to protect their residents.”

We are available to assist you with compliance with federal and state regulations and enforcement actions regarding nursing homes and other long-term care providers.

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