



medicare

# Administrative and civil penalties

## The Health Insurance Amendment (Compliance) Act 2011 (the Act) started on 9 April 2011

### Frequently asked questions

#### Background information

The *Health Insurance (Compliance) Act 2011* (the Act) started on 9 April 2011 and amends the *Health Insurance Act 1973*. The Act introduces new administrative and civil penalties and only applies to professional services provided on or after 9 April 2011.

#### What is an administrative penalty?

An administrative penalty is a financial penalty that applies to health professionals who have either received incorrect payments or cannot substantiate services as paid under the Medicare program. This penalty is intended to encourage greater compliance with the requirements of the Medicare Benefits Schedule (MBS).

To substantiate an amount paid, the Department of Human Services requires evidence that a service took place with the patient and that the service provided meets the requirements of the MBS item claimed.

To help you substantiate an amount paid for a claimed Medicare service, a set of guidelines has been developed.

You can find these guidelines at [www.medicare.gov.au](http://www.medicare.gov.au) then **For health professionals > Doing business with Medicare > Compliance > Health professional guidelines**

#### When does an administrative penalty apply?

An administrative penalty can apply to any incorrectly paid or unsubstantiated services when amounts owed total more than \$2500.

#### How can I avoid an administrative penalty?

You will not have to pay an administrative penalty if you voluntarily tell the Department about an incorrect payment before you are contacted about claimed Medicare services, or if you owe amounts less than \$2500.

If the Department contacts you about your claimed Medicare services, you still have the opportunity to tell the Department about any incorrect payments or unsubstantiated services and receive a reduced administrative penalty.

#### How are administrative penalty amounts determined?

The amount of an administrative penalty is a percentage of the amount owed for each incorrect payment or unsubstantiated service. The base penalty is 20 per cent of the amount owed.

### Can administrative penalty amounts be reduced or increased?

Yes, the Act outlines conditions for reducing or increasing the administrative penalty and these conditions are dependent on your circumstances.

Depending on when you voluntarily tell the Department about any incorrect payments, the base penalty will be reduced:

- to nothing, if the Department has not contacted you about your claimed services
- by half to 10 per cent, if the Department has contacted you about claimed services, but you have not received a formal notice to produce documents
- by a quarter to 15 per cent, if you have received a formal notice to produce documents and voluntarily tell the Department about any incorrect payments or unsubstantiated services before the date specified in the notice.

The penalty will increase\* by:

- a quarter to 25 per cent, if you do not respond to the formal notice to produce documents before the date specified in the notice
- a half, to 30 per cent, if you have received one or more debt notices in the previous two years, and the total recoverable amounts for those services is more than \$30 000.

\* Note: penalties may vary according to individual circumstances, for example a person may be subject to both a reduction and increase or multiple increases. For more information about administrative penalties see section 129AEB of the *Health Insurance Act 1973*.

### How do I tell the Department about any incorrect payments?

You must fill out the approved *Voluntary Acknowledgement of Incorrect Payment* form with details of the incorrect payments. Details about how to lodge the form and who to contact for help can be found on the form.

The form is available at [www.medicare.gov.au](http://www.medicare.gov.au) then **For health professionals > Forms, publications and statistics > Medicare forms**

### What is a civil penalty?

A civil penalty is a financial penalty that can apply to an individual or corporation who:

- is responsible for documents relating to claimed Medicare services
- did not provide the service themselves, and
- has not complied with requests in a notice to produce documents

This penalty does not apply to patients who have received the Medicare services.

The purpose of this penalty is to encourage third parties who may control relevant documents to comply with a formal notice to produce documents.

### When can a civil penalty apply?

If a Medicare compliance audit has started, and a formal notice to produce documents has been issued to an individual or corporation and they do not comply within the required timeframe, then the individual or corporation may be subject to a civil penalty.

During a Medicare compliance audit, both civil and administrative penalties may apply.

### How much is a civil penalty?

A civil penalty is a fixed amount that can vary depending on who is found liable. A penalty of \$2200 applies for an individual who is found liable or \$11 000 for a corporation.

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Where can I go for more information?

visit [www.medicare.gov.au](http://www.medicare.gov.au) then **For health professionals > Doing business with Medicare > Compliance > IMCA Initiative**

email [compliance.legislation@humanservices.gov.au](mailto:compliance.legislation@humanservices.gov.au)

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