

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: WISCONSIN

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Civil Money Penalty: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

Civil Money Penalty. (Authority to assess a civil money penalty is found in Chapter 49, Wis. Stats., and 42 CFR 488.406 and 488.430.)

All federal deficiencies determined to fall within 42 CFR 488.404(b)(1)(ii),(iii), or (iv) may be subject to civil money penalties. Federal deficiencies constituting immediate jeopardy to resident health and safety will be liable for a civil money penalty between \$3,050-10,000 per day of violation. Additionally, the range of the civil money penalty for deficiencies constituting immediate jeopardy will depend on the factors specified in 42 CFR 488.438(c) and (d). Federal deficiencies constituting actual harm that is not immediate jeopardy or no actual harm with the potential for more than minimal harm that is not immediate jeopardy will be liable for a civil money penalty between \$50-3000 per day of violation. Additionally, the range of the civil money penalty for deficiencies that do not constitute immediate jeopardy will depend on the factors specified in 42 CFR 488.438(f).

Assessment of a civil monetary penalty is always an option and is not automatic. The decision to assess or not assess a monetary penalty, and the amount if assessment is appropriate, will be based upon a review of four factors. These factors, as specified in 42 CFR 488.438(f), are:

1. The facility's history of noncompliance, including repeated deficiencies.
2. The circumstances and condition of the facility's financial condition.
3. The factors specified in 42 CFR 488.404.
4. The facility's degree of culpability. Culpability for purposes of this factor includes, but is not limited to, neglect, indifference, or disregard for resident care, comfort or safety. The absence of culpability is not a mitigating circumstance in reducing the amount of the penalty.

TN No. 95-016
Supersedes
TN No. 91-013

Approval Date: 12/18/95

Effective Date: 7/1/95