

Publications

Health Care Alert: Spending Bill Dramatically Increases Penalties for Health Care Fraud and Abuse

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The Bipartisan Budget Act of 2018 (the act), signed into law by President Trump on February 9, 2018 includes provisions that more than double the penalties to which health care providers may be subject under the federal health care fraud and abuse laws.

Under Section 50412 of the act, any provider previously subject to a Civil Monetary Penalty (CMP) of up to \$2,000 per violation may now be assessed a CMP up to \$5,000. Likewise, CMPs previously capped at \$5,000 may now run as high as \$10,000; \$10,000, as high as \$20,000; \$15,000, as high as \$30,000; and \$50,000, as high as \$100,000. CMPs may be assessed against a provider for, among other things, submitting reimbursement claims for medically unnecessary services, employing a practitioner excluded from the federal health care programs, and failing to report and return an identified overpayment within 60 days.

Criminal penalties are also increased under the Act. Criminal fines under the Anti-Kickback Statute, previously set at “not more than \$25,000” may now range up to \$100,000. Felonies involving fraud and abuse, previously punishable by not more than five years’ imprisonment, may now result in sentences of up to ten years.

The increased penalties are applicable to any violations committed after the date the act was enacted - February 9, 2018.