

Calculating IJ CMP Amounts



*2016 CMS Division of
Survey and Certification
Provider Association
Meeting*

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Regulatory Resources

- *How does CMS Regional Office enforcement staff determine the number of days an IJ CMP will run?*
 - §488.430 Civil Money Penalties: Basis for Imposing Penalties
 - §488.440 Civil Money Penalties: Effective Date and Duration of Penalty
 - § 488.438 Civil Money Penalties: Amount of Penalty
 - SOM 7510
 - SOM 7518 and 7522

Regulatory Resources

- *How does CMS Regional Office enforcement staff determine the per-day amount of an IJ CMP?*
 - S&C: 16-40-NH/HHA/CLIA
 - 45 CFR Part 102 – effective September 6, 2016
 - Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act)
 - § 488.438 Civil Money Penalties: Amount of Penalty
 - §488.404 Factors to be Considered in Selecting Remedies
 - SOM 7516

CMP Base Amounts

<p>CMP Base Amount (Required)</p>	<ul style="list-style-type: none"> ● Per Day - Regional Office Discretion - \$103 ● Per Day - Regional Office Discretion – Level D - \$203 ● Per Day - Regional Office Discretion – Level E - \$303 ● Per Day - Potential for More than Minimal – Level F - \$403 ● Per Day - Actual Harm - S/S Level G - \$503 ● Per Day - Actual Harm - S/S Level H - \$1253 ● Per Day - Actual Harm - S/S Level I - \$2053 ● Per Day - Immediate Jeopardy - S/S Level J - \$6291 ● Per Day - Immediate Jeopardy - S/S Level K - \$8341 ● Per Day - Immediate Jeopardy - S/S Level L - \$10391
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* CMP Analytical Tool User's Guide, Version 1.1

Hypothetical #1 – Nursing Home 1

- Recertification Survey completed 09/08/2016
 - F441, S/S: K
 - IJ situation 09/06/2016–09/07/2016
 - Continued at S/S: E
 - No F SQC or higher citations in the past 3 years
- Substantial Compliance 09/20/2016
- No other citations in the survey cycle

Hypothetical #2 – Nursing Home 2

- Complaint Survey completed 09/21/2016
 - F314 (S/S: J), F323 (S/S: G)
 - IJ situation 08/20/2016 – 09/20/2016
 - F314 continued at S/S: D
 - Staff showed a disregard for resident care
 - DON knew of the problem but failed to act

Hypothetical #2 – Nursing Home 2

- Significant history of F SQC and higher citations in the past 3 years
- In the previous survey cycle
 - F314 (S/S: G) and a per-day CMP imposed
- Substantial Compliance 10/21/2016

Questions

