

## Eli's Hospice Insider

### Legislation: Civil, Criminal Penalties Will Cost You More Thanks To Recent Law

#### Do you know the increases?

The Bipartisan Budget Act of 2018 changed more than just reimbursement. Get to know the substantial civil and criminal penalty updates for things as minor as improperly filed claims.

Among the changes impacting Medicare providers in BBA 18 are some major increases to the Civil Monetary Penalty Law (CMPL) and punishments under the Anti-Kickback Statute (AKS).

Despite a recent increase due to inflation, the changes are pretty significant, suggest attorneys **Benjamin Fee, Ross C. D'Emanuele**, and **Laura B. Morgan** of **Dorsey and Whitney** in online analysis for the Dorsey Healthlaw Group blog. "The previous statutory maximum penalties had already been increased from the amounts set forth in the statute, and now have been increased even further," Fee, D'Emanuele, and Morgan note in the blog post. "It is not clear how inflation adjustments will be applied in 2018 to the new statutory penalty maximums under these laws."

Here is a quick overview of the biggest changes:

**Civil.** CMP increases for improperly filed claims under Section 1128A of the SSA (42 U.S.C. 1320a-7a(a)), according to the Budget Act text: \$10,000 to \$20,000; \$15,000 to \$30,000; and \$50,000 to \$100,000.

Maximum penalty increases for providers to reduce or limit services to Medicare beneficiaries under Section 1128A of the SSA (42 U.S.C. 1320a-7a(b)): \$2,000 to \$5,000; and \$5,000 to \$10,000.

**Criminal.** Under the Budget Act, "criminal penalties for acts involving federal health care programs under [1128B of the SSA] 42 U.S.C. § 1320a-7b, including but not limited to the Anti-Kickback Statute" were raised, the Dorsey and Whitney attorneys note in the blog. Those increases include: \$25,000 to \$100,000; \$10,000 to \$20,000; and \$2,000 to \$4,000.

For false statements and representations, AKS abuses, and excess charges, the maximum prison sentences went from "not more than 5 years" to "not more than 10 years," states the BBA 18 text.

**Warning:** "These provisions of the 2018 Budget Act demonstrate the federal government's continued commitment to aggressively pursue alleged fraud, waste, and abuse affecting federal healthcare programs," cautions law firm **Chilivis, Cochran, Larkins & Bever** in analysis of the changes in a blog post.