

# Chapter 246-120 WAC

## CIVIL PENALTIES OF HEALTH CARRIERS AND THIRD-PARTY ADMINISTRATORS

### WAC

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**WAC 246-120-010 Purpose.** The purpose of this chapter is to describe the procedures and conditions by which the secretary must issue civil penalties to health carriers and third-party administrators. This chapter is adopted under RCW 70.290.060.

[Statutory Authority: RCW 70.290.060 and chapter 70.290 RCW. WSR 14-13-101, § 246-120-010, filed 6/17/14, effective 7/18/14.]

**WAC 246-120-020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Health carrier" has the same meaning as defined in RCW 70.290.010.

(2) "Secretary" means the secretary of the department of health.

(3) "Third-party administrator" has the same meaning as defined in RCW 70.290.010.

(4) "Washington vaccine association" or "association" means the association created under chapter 70.290 RCW. The association collects and remits adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state.

[Statutory Authority: RCW 70.290.060 and chapter 70.290 RCW. WSR 14-13-101, § 246-120-020, filed 6/17/14, effective 7/18/14.]

**WAC 246-120-030 Penalty—Failure to reimburse audit costs.** (1) Following a compliance audit by Washington vaccine association pursuant to RCW 70.290.060 and upon certification of the audit costs, the Washington vaccine association shall notify the health carrier or third-party administrator in writing that there is an outstanding obligation to reimburse the Washington vaccine association for the cost of the audit.

(2) The health carrier or third-party administrator must reimburse the Washington vaccine association for the cost of the audit within forty-five days after receiving written notice of the obligation.

(3) The Washington vaccine association shall notify the secretary if the health carrier or third-party administrator fails to timely reimburse the Washington vaccine association for the cost of the audit. Upon receipt of such notice, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of the costs of the audit against the health carrier or third-party administrator.

(4) The secretary shall serve notice of the civil penalty for failure to pay the audit costs in writing upon the health

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carrier or third-party administrator by personal service or by certified mail in a manner that shows proof of receipt. The civil penalty is due and payable twenty-eight days at the place specified in the notice after receipt by the health carrier or third-party administrator.

(5) A health carrier or third-party administrator who has received written notification of an assessed civil penalty according to this section may request a brief adjudicative proceeding pursuant to WAC 246-120-050. The sole issue at the brief adjudicative proceeding shall be whether the health carrier or third-party administrator paid the cost of the audit in the required time and manner.

[Statutory Authority: RCW 70.290.060 and chapter 70.290 RCW. WSR 14-13-101, § 246-120-030, filed 6/17/14, effective 7/18/14.]

**WAC 246-120-040 Penalty—Failure to remit assessment.** (1) Following Washington vaccine association's notice of assessment pursuant to RCW 70.290.060 and the plan of operation, the health carrier or third-party administrator must remit the amount of the assessment to the Washington vaccine association within ninety days after receiving the written notice or timely pay in accordance with an approved payment plan with the Washington vaccine association.

(2) The Washington vaccine association shall notify the secretary if the health carrier or third-party administrator fails to pay the amount of the assessment or, after notification from the Washington vaccine association to the health carrier or third-party administrator of an outstanding obligation, the amount owed on the approved payment plan. The notice must provide the amount due to the Washington vaccine association. Upon receipt of such notice, the secretary shall assess a civil penalty of one hundred fifty percent of the assessment amount due against the health carrier or third-party administrator.

(3) The secretary shall serve notice of the civil penalty for failure to pay the assessment or amount owed on the approved payment plan in writing upon the health carrier or third-party administrator by personal service or by certified mail in a manner that shows proof of receipt. The civil penalty is due and payable twenty-eight days at the place specified in the notice after receipt by the health carrier or third-party administrator.

(4) A health carrier or third-party administrator who has received written notification of an assessed civil penalty according to this section may request a brief adjudicative proceeding pursuant to WAC 246-120-050. The sole issue at the brief adjudicative proceeding shall be whether the health carrier or third-party administrator failed to pay the annual assessment or the amount owed on the approved payment plan in the required time and manner.

[Statutory Authority: RCW 70.290.060 and chapter 70.290 RCW. WSR 14-13-101, § 246-120-040, filed 6/17/14, effective 7/18/14.]

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**WAC 246-120-050 Request for a brief adjudicative proceeding.** (1) A health carrier or third-party administrator who has received written notification of an assessed civil penalty according to this chapter may request a brief adjudicative proceeding pursuant to chapter 34.05 RCW.

(2) The application for a brief adjudicative proceeding must:

- (a) Be in writing;
- (b) State the basis for contesting the civil penalty;
- (c) Include a copy of the adverse notice;
- (d) Be served on and received by the department within twenty-eight days of the health carrier or third-party administrator receiving the notice of a civil penalty; and
- (e) Be served in a manner which shows proof of receipt at the following address:

Adjudicative Clerk Office  
310 Israel Rd. S.E.  
Olympia, WA 98504-7879

(3) If a health carrier or third-party administrator files a timely and sufficient application for a brief adjudicative proceeding, the secretary shall not implement the action for the civil penalty until the final order is entered. The presiding or reviewing officer may permit the secretary to implement part or all of the action while the proceedings are pending, if the health carrier or third-party administrator causes an unreasonable delay in the proceedings or for other good cause.

[Statutory Authority: RCW 70.290.060 and chapter 70.290 RCW. WSR 14-13-101, § 246-120-050, filed 6/17/14, effective 7/18/14.]