

(2) Fails to calculate the length of stay from the time of delivery when delivery occurs in a hospital, or from the time of admission when delivery occurs outside the hospital.

(3) Requires an attending provider to obtain authorization to prescribe a hospital length of stay of up to 48 hours (or 96 hours, if applicable) after delivery.

(4) Imposes deductibles, coinsurance, or other cost-sharing measures for any portion of a 48-hour (or 96-hour, if applicable) hospital stay that are less favorable than those imposed on any preceding portion of the stay.

(5) [Reserved]

(6) Penalizes a provider for complying with the law.

(7) Offers incentives to a provider to provide care in a manner inconsistent with the provisions of §148.170 to avoid complying with §148.170.

(8) Denies the mother or newborn eligibility or continued eligibility solely to avoid the requirements of §148.170.

(9) Provides incentives to mothers to encourage them to accept less than the minimum stay requirement.

(10) Fails to provide participants and beneficiaries with a statement describing the requirements of the Newborns' and Mothers' Health Protection Act of 1996, using the language provided at §148.170 (d)(2), not later than March 1, 1999.

(11) Otherwise fails to comply with §148.170.

f. Failure to comply with the Women's Health and Cancer Rights Act of 1998 (section 2752 of the PHS Act, 42 U.S.C. 300gg-52) and any additional implementing regulations.

Subpart D—Administrative Hearings

§ 150.401 Definitions.

In this subpart, unless the context indicates otherwise:

ALJ means administrative law judge of the Departmental Appeals Board of the Department of Health and Human Services.

Filing date means the date post-marked by the U.S. Postal Service, deposited with a carrier for commercial delivery, or hand delivered.

Hearing includes a hearing on a written record as well as an in-person or telephone hearing.

Party means CMS or the respondent.

Receipt date means five days after the date of a document, unless there is a

showing that it was in fact received later.

Respondent means an entity that received a notice of proposed assessment of a civil money penalty issued pursuant to §150.343.

§ 150.403 Scope of ALJ's authority.

(a) The ALJ has the authority, including all of the authority conferred by the Administrative Procedure Act, to adopt whatever procedures may be necessary or proper to carry out in an efficient and effective manner the ALJ's duty to provide a fair and impartial hearing on the record and to issue an initial decision concerning the imposition of a civil money penalty.

(b) The ALJ's authority includes the authority to modify, consistent with the Administrative Procedure Act (5 U.S.C. 552a), any hearing procedures set out in this subpart.

(c) The ALJ does not have the authority to find invalid or refuse to follow Federal statutes or regulations.

§ 150.405 Filing of request for hearing.

(a) A respondent has a right to a hearing before an ALJ if it files a request for hearing that complies with §150.407(a), within 30 days after the date of issuance of either CMS's notice of proposed assessment under §150.343 or notice that an alternative dispute resolution process has terminated. The request for hearing should be addressed as instructed in the notice of proposed determination. "Date of issuance" is five (5) days after the filing date, unless there is a showing that the document was received earlier.

(b) The ALJ may extend the time for filing a request for hearing only if the ALJ finds that the respondent was prevented by events or circumstances beyond its control from filing its request within the time specified above. Any request for an extension of time must be made promptly by written motion.

§ 150.407 Form and content of request for hearing.

(a) The request for hearing must do the following:

(1) Identify any factual or legal bases for the assessment with which the respondent disagrees.