



## Ohio Revised Code

### Section 3901.3812 Administrative remedies.

Effective: July 17, 2009

Legislation: House Bill 1 - 128th General Assembly

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(A) If, after completion of an examination involving information collected from a six-month period, the superintendent finds that a third-party payer has committed a series of violations that, taken together, constitutes a consistent pattern or practice of violating division (A) of section 3901.3811 of the Revised Code, the superintendent may impose on the third-party payer any of the administrative remedies specified in division (B) of this section. In making a finding under this division, the superintendent shall apply the error tolerance standards for claims processing contained in the market conduct examiners handbook issued by the national association of insurance commissioners in effect at the time the claims were processed.

Before imposing an administrative remedy, the superintendent shall provide written notice to the third-party payer informing the third-party payer of the reasons for the superintendent's finding, the administrative remedy the superintendent proposes to impose, and the opportunity to submit a written request for an administrative hearing regarding the finding and proposed remedy. If the third-party payer requests a hearing, the superintendent shall conduct the hearing in accordance with Chapter 119. of the Revised Code not later than fifteen days after receipt of the request.

(B)(1) In imposing administrative remedies under division (A) of this section for violations of section 3901.381 of the Revised Code, the superintendent may do any of the following:

(a) Levy a monetary penalty in an amount determined in accordance with division (B)(3) of this section;

(b) Order the payment of interest directly to the provider in accordance with section 3901.389 of the Revised Code;

(c) Order the third-party payer to cease and desist from engaging in the violations;

(d) If a monetary penalty is not levied under division (B)(1)(a) of this section, impose any of the



administrative remedies provided for in section 3901.22 of the Revised Code, other than those specified in divisions (D)(4) and (5) and (G) of that section.

(2) In imposing administrative remedies under division (A) of this section for violations of sections 3901.384 to 3901.3810 of the Revised Code, the superintendent may do any of the following:

(a) Levy a monetary penalty in an amount determined in accordance with division (B)(3) of this section;

(b) Order the payment of interest directly to the provider in accordance with section 3901.38 of the Revised Code;

(c) Order the third-party payer to cease and desist from engaging in the violations;

(d) If a monetary penalty is not levied under division (B)(2)(a) of this section, impose any of the administrative remedies provided for in section 3901.22 of the Revised Code, other than those specified in divisions (D)(4) and (5) and (G) of that section. For violations of sections 3901.384 to 3901.3810 of the Revised Code that did not comply with section 3901.381 of the Revised Code, the superintendent may also use section 3901.22 of the Revised Code except divisions (D)(4) and (5) of that section.

(3) A finding by the superintendent that a third-party payer has committed a series of violations that, taken together, constitutes a consistent pattern or practice of violating division (A) of section 3901.3811 of the Revised Code, shall constitute a single offense for purposes of levying a fine under division (B)(1)(a) and (B)(2)(a) of this section. For a first offense, the superintendent may levy a fine of not more than one hundred thousand dollars. For a second offense that occurs on or earlier than four years from the first offense, the superintendent may levy a fine of not more than one hundred fifty thousand dollars. For a third or additional offense that occurs on or earlier than seven years after a first offense, the superintendent may levy a fine of not more than three hundred thousand dollars. In determining the amount of a fine to be levied within the specified limits, the superintendent shall consider the following factors:

(a) The extent and frequency of the violations;



- (b) Whether the violations were due to circumstances beyond the third-party payer's control;
  - (c) Any remedial actions taken by the third-party payer to prevent future violations;
  - (d) The actual or potential harm to others resulting from the violations;
  - (e) If the third-party payer knowingly and willingly committed the violations;
  - (f) The third-party payer's financial condition;
  - (g) Any other factors the superintendent considers appropriate.
- (C) The remedies imposed by the superintendent under this section are in addition to, and not in lieu of, such other remedies as providers and beneficiaries may otherwise have by law.
- (D) Any fine collected under this section shall be paid into the state treasury as follows:
- (1) Twenty-five per cent of the total to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code;
  - (2) Sixty-five per cent of the total to the credit of the general revenue fund;
  - (3) Ten per cent of the total to the credit of claims processing education account, which is hereby created within the department of insurance operating fund created by section 3901.021 of the Revised Code.

All money credited to the claims processing education account shall be used by the department of insurance to make technical assistance available to third-party payers, providers, and beneficiaries for effective implementation of the provisions of sections 3901.38 and 3901.381 to 3901.3814 of the Revised Code.