

(Effective January 1, 2027)

WAC 182-40-1400 Written notice of noncompliance, overpayments, and fines. (1) When the authority determines that a contractor or hospital failed to comply with a requirement in this chapter, the authority provides written notice of noncompliance to the contractor or hospital explaining the nature of the violation.

(2) The authority may assess overpayments or fines against the contractor or hospital as follows:

(a) **Consecutive plan years of hospital overpayments.** For two or more years of consecutive noncompliance, the authority may fine a contractor up to 500 percent of the overpayment amount for the impacted plan years, in addition to collecting the overpayments from the contractor.

(b) **Consecutive plan years of primary care or behavioral health underpayments.** For two or more years of consecutive noncompliance, the authority may fine a contractor up to 500 percent of the underpayment amount for the impacted plan years.

(c) The authority considers the following factors when determining the amount of the fine that will be assessed for consecutive plan years of hospital overpayments or primary care and behavioral health underpayments:

(i) The number of facilities or providers over or underpaid;

(ii) The duration of underpayments or overpayments;

(iii) The volume of over or underpayments; and

(iv) The types of contract or payment terms that led to over or underpayment.

(d) **Hospital balance billing.** If the authority finds a hospital to be in violation of WAC 182-40-1300, the authority may assess a fine on that hospital in an amount not to exceed \$10,000 per violation. In assessing a fine, the authority considers mitigating circumstances, such as the nature of claims and the circumstances under which these claims were presented to the authority, the degree of culpability, any history of prior offenses, the frequency of violations (i.e., whether the issue represents a pattern or is an isolated incident), and other factors as necessary.

(e) **Reporting penalties.** For failure to meet the requirements in WAC 182-40-0700, the authority may assess the following fines:

Number of failures	Fine assessed
First	\$10,000
Second	\$25,000
Third	\$50,000
Fourth and subsequent incidents	\$100,000

(f) **Untimely responses to an authority request.** If the authority determines that a contractor has failed to fully and timely respond to the authority's request for information or documentation, the authority may impose an immediate fine for each failure to comply with the requirements of this section as follows:

Number of failures	Fine assessed
First	\$10,000
Second	\$25,000
Third	\$50,000

Number of failures	Fine assessed
Fourth and subsequent incidents	\$100,000

(g) Fines under this section are cumulative.

(3) The authority must receive payment of any assessed fine within 28 calendar days of the date the party received the written notice of noncompliance assessing a fine.

(4) Notices are sent either electronically or in another manner that provides proof of receipt.

(5) Contractors and hospitals may appeal a notice of noncompliance, overpayment, or fine in accordance with WAC 182-40-1500.

(6) Payment of fines or overpayments is stayed through the administrative process only if a contractor or hospital timely files an appeal under this section.

(7) The authority may impose a one percent interest charge for each month fines are unpaid after the due date.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 41.05.028. WSR 25-24-066, s 182-40-1400, filed 12/1/25, effective 1/1/27.]