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CMS Reinstates Tougher Penalties for Past Nursing Home Deficiencies

Earlier this year, the National Consumer Voice for Quality Long-Term Care (Consumer Voice) and California Advocates for Nursing Home Reform (CANHR) filed with the assistance of counsel AARP Foundation and Constantine Cannon LLP a lawsuit challenging a Centers for Medicare and Medicaid Services (CMS) 2017 directive that weakened the enforcement standards of the Nursing Home Reform Act and put residents at risk of harm. Last week, [CMS reversed course](#), rescinding the directive and reinstating stronger penalties for nursing home violations.

The guidance at the center of the lawsuit restricted the use of civil money penalties for past non-compliance to a “per instance” maximum fine rather than allowing fines for each day of noncompliance. This policy significantly reduced the penalties imposed for violations that placed residents at risk of harm and removed incentives for nursing homes to detect and fix serious problems quickly.

“This action by CMS will provide incentive for nursing homes to identify and correct problems in a timely manner, as required by the Nursing Home Reform Act,” said Lori Smetanka, Executive Director of the Consumer Voice. “A strong enforcement system is necessary to protect residents from harm. The Consumer Voice commends CMS for this important action.”

In rescinding the guidance, [CMS stated](#) “upon further consideration ... the agency should retain the discretion at this time to impose a per-day penalty where appropriate to address specific circumstances of prior noncompliance.”

For more information, contact Lori Smetanka, lsmetanka@theconsumervoice.org.

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About the Consumer Voice

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) is the leading national voice representing consumers in issues related to long-term care and services. We advocate for quality care, quality of life, and the rights of nursing home residents and other long-term care consumers.

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.