WEST VIRGINIA CODE: §33-25A-23

§33-25A-23. Penalties and enforcement.

(1) The Commissioner may, in lieu of suspension or revocation of a certificate of authority under section eighteen of this article, levy an administrative penalty in an amount not less than $100 nor more than $5,000, if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation. The Commissioner may augment this penalty by an amount equal to the sum that he or she calculates to be the damages suffered by enrollees or other members of the public.

(2) Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $10,000, or imprisoned in jail not more than one year, or both fined and imprisoned.

(3)(a) If the Commissioner has cause to believe that any violation of this article or rules promulgated pursuant to this article has occurred or is threatened, prior to the levy of a penalty or suspension or revocation of a certificate of authority, the Commissioner shall give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in the suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to the suspected violation and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation.

(b) Proceedings under this subsection shall not be governed by any formal procedural requirements and may be conducted in a manner the Commissioner determines appropriate under the circumstances. Enrollees shall be afforded notice by publication of proceedings under this subsection and shall be afforded the opportunity to intervene.

(4)(a) The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this article or regulations promulgated pursuant to this article.

(b) Within ten days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this article have occurred. The hearings shall be conducted pursuant to chapter twenty-nine-a of this code and judicial review shall be available as provided by chapter twenty-nine-a of this code.

(5) In the case of any violation of the provisions of this article or rules promulgated pursuant to this article, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (4) of

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this section, the Commissioner may institute a proceeding to obtain injunctive relief, or seek other appropriate relief, in the circuit court of the county of the principal place of business of the health maintenance organization.

(6) Any enrollee of or resident of the service area of the health maintenance organization may bring an action to enforce any provision, standard or rule enforceable by the Commissioner. In the case of any successful action to enforce this article, or accompanying standards or rules the individual shall be awarded the costs of the action together with a reasonable attorney's fee as determined by the court.

WV Legislature