WEST VIRGINIA CODE: §33-25A-23A

§33-25A-23a. Civil penalty imposed by commissioner.

No provider shall collect or attempt to collect from a health maintenance organization enrollee any money for services covered by the health maintenance organization. If a provider collects or attempts to collect from a health maintenance organization enrollee any money for services covered by the health maintenance organization, then the provider may be subjected to a civil money penalty to be imposed by the commissioner. Upon a determination that there is probable cause to believe that there has been a violation of this section, the commissioner may provide written notice to the alleged violator, stating the nature of the alleged violation and that failure to refund the amount of any improper billing within thirty days may result in imposition of a civil penalty pursuant to the provisions of this section. If the alleged violator fails to make a refund within thirty days, the commissioner shall issue a written notice of hearing stating the nature of the alleged violation and the time and place at which the alleged violator shall appear to show good cause why a civil penalty should not be imposed: Provided, That if the commissioner has previously found on three occasions that probable cause existed to support a violation, the alleged violator shall not be afforded the opportunity to make a refund before issuance of the notice of hearing for any subsequent violation.

If, after notice and hearing, the commissioner determines that a violation of this section has occurred, the commissioner may assess a civil penalty of not less than the amount charged the subscriber but not more than $1,000. Subsequent violations of this section result in fines of not more than $2,000. Any provider so assessed shall be notified of the assessment in writing and the notice shall specify the reasons for the assessment. Any provider may waive the right to a hearing and receive a reduction in penalties of twenty-five percent.

WV Legislature