

# WEST VIRGINIA CODE: §33-25D-25

## **§33-25D-25. Penalties and enforcement.**

(a) The commissioner may, in lieu of suspension or revocation of a certificate of authority under section twenty 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 prepaid limited health service 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.

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

(c)(1) If the commissioner, for any reason, has cause to believe that any violation of this article or rules promulgated pursuant thereto has occurred or is threatened, prior to the levy of a penalty or suspension or revocation of a certificate of authority, the commissioner may give notice to the prepaid limited health service 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.

(2) Proceedings under this subsection are not governed by any formal procedural requirements, and may be conducted in a manner as the commissioner considers appropriate under the circumstances. Enrollees shall be afforded notice by publication of proceedings under this subsection and shall be afforded the opportunity to intervene.

(d)(1) The commissioner may issue an order directing a prepaid limited health service organization or a representative of a prepaid limited health service organization to cease and desist from engaging in any act or practice in violation of the provisions of this article or rules promulgated pursuant to this article.

(2) 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 section thirteen, article two of this chapter.

(e) 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 (d) of

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 prepaid limited health service organization.

(f) Any enrollee of or resident of this state may bring an action against the prepaid limited health service organization to enforce any provision, standard or rule enforceable by the commissioner: Provided, That this subsection does not authorize a civil action against the commissioner, his or her employees or any other agency or instrumentality of this state. 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.