



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office for Civil Rights

Rocky Mountain Region • 1961 Stout Street
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Via Email and Certified Mail (Return Receipt Requested)

David Gacioch, Esq.
McDermott Will & Emery LLP
200 Clarendon Street
Boston, Massachusetts 02116
< dgacioch@mwe.com >

Re: American Medical Response
OCR Transaction Number: 19-353058

NOTICE OF FINAL DETERMINATION

Dear David Gacioch:

Pursuant to the authority delegated by the Secretary of the United States Department of Health and Human Services (HHS) to the Director of the Office for Civil Rights (OCR), I am writing to inform you that the civil money penalty (CMP) of **\$115,200.00** against American Medical Response (AMR) is final. This letter also contains instructions for AMR to make payment of the CMP amount.

I. AMR is Waiving the Right to Request a Hearing Before an Administrative Law Judge and Petition for Judicial Review

By letter dated October 4, 2023, OCR issued AMR a Notice of Proposed Determination (attached hereto), informing AMR that OCR was proposing to impose a CMP in the amount of **\$115,200.00** and the findings of the facts forming the basis for the CMP. The Notice of Proposed Determination notified AMR of its right to request a hearing on the proposed CMP within ninety (90) days of the date of receipt of the letter and provided instructions on requesting a hearing with the Departmental Appeals Board. The Notice of Proposed Determination further advised that failure to request a hearing within this time period could result in the imposition of the proposed CMP without a hearing under 45 C.F.R. § 160.504 or the right of appeal under 45 C.F.R. § 160.548. AMR received the Notice of Proposed Determination on October 4, 2023, via email, and on October 12, 2023, via a duly registered process server.

By letter dated January 3, 2024, sent via email to OCR, AMR's counsel advised that AMR waives its right to a hearing pursuant to 45 C.F.R. §160.420(b), is not contesting OCR's proposed determination, and will pay the **\$115,200.00** CMP.

Accordingly, by operation of AMR's waiver of its procedural rights to challenge the CMP under 45 C.F.R. Part 160 Subparts D and E and 42 U.S.C. § 1320a-7a, the CMP referenced above is now final. Therefore, pursuant to the authority delegated by the Secretary of HHS to the Director of OCR, I am authorized to impose the CMP against AMR in the full amount of **\$115,200.00**, as set forth in the Notice of Proposed Determination.

II. No Right of Appeal

AMR has no right to appeal the imposition of the CMP under 45 C.F.R. § 160.548 since AMR chose to waive its right to appeal OCR's proposed determination and to request a hearing.

III. Instructions for Payment of the CMP Amount

Payment of the full and aggregate amount of **\$115,200.00** is due upon AMR's receipt of this Notice of Final Determination. Payment can be made in accordance with the instructions on Exhibit 1 to this Notice.

IV. Consequences of Nonpayment

In the event that payment is not received upon AMR's receipt of this Notice of Final Determination, a civil action may be brought in the United States District Court to recover the amount of the penalty.

V. The Legal Basis for This Action

This action is being taken under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), § 262(a), Pub.L. 104-191, 110 Stat. 1936, as amended, codified at 42 U.S.C. § 1320d-5, and under the enforcement regulations at 45 C.F.R. Part 160, subpart D. The Secretary of HHS is authorized to impose CMPs (subject to the limitations at 42 U.S.C. § 1320d-5(b)) against any covered entity, as described at 42 U.S.C. § 1320d-1(a), that violates a provision of Part C (Administrative Simplification) of Title XI of the Social Security Act. See 42 U.S.C. § 1320d-5(a), as amended. This authority extends to violations of the regulations commonly known as the Privacy Rule promulgated at 45 C.F.R. Part 160 and subparts A and E of Part 164, pursuant to Section 264(c) of HIPAA. The Secretary has delegated enforcement responsibility for the Privacy Rule to the Director of OCR. See

Office for Civil Rights; Statement of Delegation of Authority, 65 Fed. Reg. 82381 (Dec. 28, 2000).

If you have questions regarding this letter, please contact Emily Crabbe, OCR Senior Advisor, at (404) 562-7878.

Sincerely,

/s/

Melanie Fontes Rainer, Director
Office for Civil Rights
U.S. Department of Health and Human
Services

Enclosed:
Payment Instructions
Notice of Proposed Determination (October 4, 2023)