



June 01, 2021

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dr. U. Phillip Igbinadolor
U. Phillip Igbinadolor, D.M.D. & Associates, P.A.

2416 West Sugar Creek Rd.
Charlotte, NC 28262

701 E. Roosevelt Blvd., Building 800-B
Monroe, NC 28112

OCR Transaction Number: 16-225168

NOTICE OF FINAL DETERMINATION

Dear Dr. Igbinadolor:

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 **\$50,000** against U. Phillip Igbinadolor, D.M.D. & Associates, P.A. (hereafter referred to as "UPI") is final. This letter also contains instructions for UPI to make payment of the CMP amount.

I. UPI's Failure to Request a Hearing

By letter dated October 22, 2020, OCR issued a Notice of Proposed Determination (attached hereto) informing UPI that OCR was proposing to impose a CMP of \$50,000 against UPI and explained the findings of the fact forming the basis for the CMP. The Notice of Proposed Determination explained that UPI had a right to request a hearing on the proposed CMP within ninety (90) days of the date of receipt of the Notice of Proposed Determination, and provided instructions on requesting a hearing with the Departmental Appeals Board. The Notice of Proposed Determination further explained 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.

UPI received the Notice of Proposed Determination on October 26, 2020 at UPI's Monroe location via certified mail. And UPI received the Notice of Proposed Determination on October 23, 2020, at 1:00 p.m., at UPI's Charlotte, North Carolina location via process server. UPI failed to file a timely request for a hearing in accordance with the instructions in the Notice of Proposed Determination.

II. No Right of Appeal

UPI has no right to appeal the imposition of the CMP under 45 C.F.R. § 160.548, since UPI failed to timely request a hearing.

III. Instructions for Payment of the CMP Amount

Payment of the full and aggregate amount of **\$50,000** is due upon UPI's receipt of this Notice of Final Determination. Payment can be made in accordance with the instructions in Exhibit 1 to this Notice of Final Determination.

IV. Consequences of Nonpayment

In the event that payment is not received upon UPI's receipt of this Notice of Final Determination, the amount of the penalty may be deducted from any sum then or later owing by the United States or by a State agency, and 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. § 1320d5, 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. § 1320d5(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 any questions concerning this letter, please contact Marisa M. Smith, Ph.D., Regional Manager, OCR, Southwest Region, at (214)767-6973.

Sincerely,



Robinsue Frohboese, J.D., Ph.D.
Acting Director and Principal Deputy Director
Office for Civil Rights
U.S. Department of Health and Human Services

Enclosed:
Exhibit 1- Payment Instructions
Attachment-Notice of Proposed Determination