

REPORT TO THE THIRTY-FIRST LEGISLATURE
STATE OF HAWAII
2021

PURSUANT TO SECTION 321-30.2, HAWAII REVISED STATUTES, REQUESTING THE DEPARTMENT OF HEALTH TO SUBMIT AN ANNUAL REPORT THAT OUTLINES THE STATUS OF THE CIVIL MONETARY PENALTY SPECIAL FUND, INCLUDING THE AMOUNT OF MONEYS DEPOSITED INTO AND EXPENDED FROM THE FUND, AND SOURCES OF RECEIPTS AND USES OF EXPENDITURES.

PREPARED BY:
STATE OF HAWAII
DEPARTMENT OF HEALTH
JANUARY 2021

EXECUTIVE SUMMARY

In accordance with Section 321-30.2, HRS, the Department of Health is submitting a report to the 2021 Legislature that identifies the amount of moneys deposited into and expended from the Civil Monetary Penalty Special Fund and the sources of receipts and uses of expenditures.

Act 71 of the 2015 Legislative Session established the civil monetary penalty (CMP) special fund in order that moneys collected would be deposited and expended for projects approved by the U.S. Centers for Medicare and Medicaid Services (CMS) to protect or improve nursing home services for skilled nursing home residents. Act 71 was codified as Section 321-30.2, HRS.

CMP funds shall only be used pursuant to Sections 1819(h)(2)(B)(ii)(IV)(ft) and 1919(h)(3)(C)(ii)(IV)(ft) of the Social Security Act (the Act) which incorporate specific provisions of the Patient Protection and Affordable Care Act, (the Affordable Care Act) (Pub. L. 111-148) pertaining to the collection and uses of CMPs imposed by CMS when nursing homes do not meet certification requirements for Long Term Care Facilities. The Act provides that collected CMP funds must be used to promote quality care and support activities that benefit residents. These activities include the following:

- Assistance to support and protect residents of a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility),
- Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities, and facility improvement initiatives approved by the Secretary (including joint training of facility staff and surveyors, and,
- Technical assistance for facilities implementing quality assurance programs, and the appointment of temporary management firms, and other activities approved by the Secretary).

The Department of Health is required to maintain an acceptable plan for the effective use of CMP funds pursuant to 42 Code of Federal Regulations Section 488.433. States that fail to spend CMP funds according to this CFR may have future disbursements withheld by CMS.

The CMP special fund balance as of June 30, 2020, was \$1,243,161.

**REPORT TO THE LEGISLATURE
IN COMPLIANCE WITH SECTION 321-30.2, HRS**

Introduction:

The Department of Health (DOH) is committed to ensure the health, welfare and safety of all individuals receiving health care services in all settings in the State. To achieve this goal, the department has established minimal standards for licensure and certification that is monitored through inspections and investigations. As deficiencies are identified, the Department cites facilities and requires corrective action to bring the facility back into compliance.

DOH also conducts federal certification inspections and investigations on behalf of CMS as authorized by the U.S. Social Security Act Section 1864 (1864 Agreement). Inspections include inspections on skilled nursing facilities.

CMPs are imposed by CMS when nursing facilities do not meet requirements for Long Term Care Facilities as identified by DOH. CMS collects CMPs and shares these funds with states to be used to promote quality care and support activities that benefit nursing facility residents. CMS must approve these activities before any funds can be granted by DOH to nursing facilities.

Conclusion:

CMS shared CMPs totaling \$178,203 during state fiscal year 2020. These funds were deposited into the CMP special fund along with \$34,876 in interest on the fund balance for total revenue of \$213,079 in FY2020.

DOH expended \$24,799 on COVID-19 communication devices for nursing facilities so that nursing facility residents could have virtual visits with family and friends when in-person visitation was suspended due to the COVID-19 pandemic.

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