



Civil Money Penalty (CMP) Fund Frequently Asked Questions

UPDATE: March 18, 2021

CMS has provided the following guidance on CMP funds and who can apply for grants:

- ***Nursing Home Corporate entity with multiple facilities in one application:***
If either the applicant is a first-time applicant or the application contains a new project/product, then the applicant is limited to implementing the project in up to 3 facilities as a pilot program. Once pilot project results have been certified by the State Agency that the project goals and objectives have been met; that the project had adequate participation; and the State Agency recommends further funding, then the applicant may submit an extension project application for additional facilities.
- ***Nursing Home Corporate entity with multiple facilities submitting multiple applications:***
A corporate entity may not continue to submit individual facility applications when an identical project has been approved and received CMP funding; this is considered an extension project (same applicant, same project focus, different nursing home location(s)). Once previous project results have been certified by the State Agency that the project goals and objectives have been met; that the project had adequate participation; and the State Agency recommends further funding, then additional applications may be submitted as extension projects.
- ***Applications from vendors proposing their project across multiple facilities in single application:*** Applicant submitting a project for the first time, or an applicant with a new product is limited to implementing the project in up to 3 facilities as a pilot program. Once pilot project results have been certified by the State Agency that the project goals and objectives have been met; that the project had adequate participation; and the State Agency recommends further funding, then the applicant may submit an extension project application for additional facilities.
- ***Others - foundations, nonprofits, associations, other stakeholders (e.g., academic institutions) - across multiple facilities:*** If either the applicant is a first-time applicant or the application contains a new project/product, then the applicant is limited to implementing the project in up to 3 facilities as a pilot program. Once pilot project results have been certified by the State Agency that the project goals and objectives have been met; that the project had adequate participation; and the State Agency recommends further funding, then the applicant may submit an extension project application for additional facilities.

The guidance to limit project implementation in up to three facilities offers the applicant and the State Agency an opportunity to test the project, gather measurable data, and demonstrate efficacy during the initial pilot phase.

The Civil Money Penalty Reinvestment Application Resource Guide, available on the [Centers for Medicare & Medicaid Services \(CMS\) Civil Money Penalty \(CMP\) website](#) (under 'Downloads') provides the following guidance around the Performance Monitoring and Evaluation of a project: ***Metrics shall be submitted upon completion of the project or as frequently as required by the State Agency.***

What are CIVIL MONEY PENALTY (CMP) funds?

Civil money penalty (CMP) is a monetary penalty the Centers for Medicare & Medicaid Services (CMS) may impose against skilled nursing facilities (SNFs), nursing facilities (NFs), and dually-certified SNF/NF for either the number of days or for each instance a facility is not in substantial compliance with one or more Medicare and Medicaid participation requirements for Long Term Care Facilities (Code of Federal Regulations (CFR) 42 Part 488.430). The requirements for participation with Medicare and Medicaid for Long Term Care (LTC) facilities can be found at 42 CFR Part 483 subpart B.

Why are these funds available and how can they be used?

Sections 1819(h)(2)(B)(ii)(IV)(ff) and 1919(h)(3)(C)(ii)(IV)(ff) of the Social Security Act (the Act) 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 Civil Money Penalties.

The Act and regulation provides that CMP funds may be used to support activities that protect or improve the quality of care or quality of life for residents. This may include any of the following:

- Assistance to support and protect residents of a facility that closes or is decertified;
- Time-limited expenses incurred in the process of relocating residents to home and community-based settings or another facility when a facility is closed or downsized pursuant to an agreement with the State Medicaid Agency;
- Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities;
- Facility improvement initiatives such as joint training of facility staff and surveyors or technical assistance for facilities implementing quality assurance and performance improvement programs;
- Development and maintenance of temporary management or receivership capability. A temporary manager's salary must be paid by the facility unless Centers for Medicare & Medicaid Services (CMS) stops or suspends payments to the facility under 42 CFR Part 489.55 during the temporary manager's duty period, and Centers for Medicare & Medicaid Services (CMS) determines that extraordinary action is necessary to protect the residents until relocation efforts are successful; and
- Expenses incurred by a State related to CMP uses (i.e., administrative expenses related to administering, monitoring, and evaluating CMP projects).

Examples of funded projects can be found in S&C memo 12-13-NH.

Are there prohibited uses of CMP funds?

Civil money penalty funds may not be used for uses prohibited by law, regulation, or Centers for Medicare & Medicaid Services (CMS) policy. These include but are not limited to:

- Projects disapproved by Centers for Medicare & Medicaid Services (CMS);
- Survey and certification operations or State expenses not previously mentioned above;
- Capital expenses of a facility;
- Nursing home services or supplies that are the responsibility of nursing homes, such as laundry, linen, food, heat, staffing costs, etc.;
- Funding projects, items or services that are not directly related to improving the quality of life and care of nursing home residents;
- Projects for which a conflict of interest or the appearance of a conflict of interest exists;
- Long term projects (greater than 3 years);
- Temporary manager salaries (see exceptions above); and
- Supplementary funding of federally required services (e.g., Quality Improvement Organization-Quality Improvement Network Initiatives).

For information on allowable and unallowable uses, please see 42 CFR 488.433 and chapter seven (§ 7535) of the State Operations Manual.

Who may apply for the use of CMP funds?

Funds may be granted to any entity for proper use of Centers for Medicare & Medicaid Services (CMS) approved projects to protect or improve the quality of life for nursing facility residents provided that the responsible receiving entity is:

- Qualified and capable of carrying out the intended project or use;
- Not in any conflict of interest relationship with the entity or entities that will benefit from the intended project or use;
- Not paid by a State or federal source to perform the same function as the CMP project or use. Civil money penalty funds **may not be used** to enlarge or enhance an existing appropriation or statutory purpose.

Examples of eligible organizations include, but are not limited to:

- Consumer advocacy organizations
- Resident or family councils
- Professional or State nursing home associations
- Certified Long Term Care facilities (SNF, NF, SNF/NF)
- Private contractors

For information on who may apply for CIVIL MONEY PENALTY (CMP) funds, please S&C Memo 12-13-NH.

Are non-certified Long Term Care facilities eligible for these funds?

No, CIVIL MONEY PENALTY (CMP) funds can only be used to benefit residents in **certified** Long Term Care facilities. Long Term Care CMP funds cannot be used for assisted living facilities, hospitals, adult day health care, etc. Please see Section 1919(h)(2)(A)(ii) of the Social Security Act for more information.

Do CMP funds need to be used by certified Long Term Care facilities that are not in compliance?

No, although the hope is that additional programs funded CMPs will help with facilities maintaining compliance, all certified Long Term Care facilities are eligible to apply or benefit from the funding.

Does a project need to benefit multiple Long Term Care facilities to be approved?

No, projects can be approved for individual nursing homes or entities that are working with an individual nursing home.

What is the application process like, and where can I apply?

The application and application process for our state can be found at: <http://dhhs.ne.gov/Pages/Medicaid-CMP-Grants.aspx>

I would like to submit a proposal, but I'm looking for project ideas. What can I do?

Centers for Medicare & Medicaid Services (CMS)'s **S&C Memo 12-13-NH** Appendix One lists previously approved programs or you can visit the [Centers for Medicare & Medicaid Services \(CMS\) Civil Money Penalty \(CMP\) website](#) in the *Downloads* section for examples of funded projects.

Can CMP funds be used to fund salaries or the Ombudsman Program?

Civil money penalty funds may not be used for State expenses or by a State or federal source to perform the same function as the CMP project or use. Therefore, States cannot use CMP funds to support Ombudsmen salaries. States can only use CMP funds for personnel to administer and monitor projects utilizing CMP funds. For more information, please see 42 CFR 488.433 and S&C Memo 12-13-NH.

Can the funds be used to pay for other types of salaries?

The CMP funds can be applied to contractors or educators paid to implement the proposed project, but are not intended to cover or take the place of facility staff salaries (temporary managers' salaries are discussed under *Why are these funds available and how can they be used?*).

How long can a project be?

Projects cannot exceed three years, but there is no minimum requirement.

Can projects be renewed after three years?

A project evaluation supplied by the funded entity would have to provide adequate evidence of effectiveness in order to consider the same or similar project for funding again. The project cannot be renewed or continued; instead, a new and complete application will be required. Please see your State's application process for more details.

How much money can be applied for?

Nebraska may select up to three projects per year, awarding no more than \$50,000 in total among the projects.

Resources

S&C Memo 12-13-NH 42 CFR Part 488

State Operations Manual

Section 1819 of the Social Security Act Section 1919 of the Social Security Act

The Affordable Care Act (Sec. 6111. Civil Money Penalties)