

AGING AND LONG-TERM SUPPORT ADMINISTRATION
RESIDENTIAL CARE SERVICES
"Transforming Lives"

**CHAPTER 25 – CIVIL MONEY PENALTY/STATE CIVIL PENALTY
REINVESTMENT PROGRAM**

OVERVIEW

A federal civil money penalty (CMP) is a monetary penalty the Centers for Medicare and Medicaid Services (CMS) may impose against nursing homes for not being in substantial compliance with certain Medicare or Medicaid participation requirements. After CMP's are collected, CMS sends a portion back to the state. The state must reinvest these funds to support projects that benefit nursing home residents and that protect or improve their quality of care or quality of life.

A state civil penalty is a monetary fine imposed when an Adult Family Home (AFH) or Certified Community Residential Services and Supports (CCRSS) provider is noncompliant with the requirements of their respective chapter statute, rules or other state and federal laws. All receipts from state civil penalties are deposited into an account in the custody of the state treasurer and the department shall use the special account only for promoting the quality of life and care of residents living in AFH's or clients receiving care and services from certified providers.

The following Revised Code of Washington (RCW), Washington Administrative Code (WAC) chapters, and federal laws and regulations authorize DSHS to collect and reinvest civil money penalty funds to improve quality of care and life for residents living in adult family and nursing homes and clients receiving care and services from CCRSS providers:

- SECTIONS 1819 AND 1919 OF THE SOCIAL SECURITY ACT
- CODE OF FEDERAL REGULATIONS 488.433
- CHAPTER 70.128 RCW ADULT FAMILY HOMES
- CHAPTER 70.129 RCW LONG-TERM CARE RESIDENT RIGHTS
- CHAPTER 74.34 RCW ABUSE OF VULNERABLE ADULTS
- CHAPTER 71A.12 RCW STATE SERVICES
- CHAPTER 388-76 WAC ADULT FAMILY HOMES (AFH)
- CHAPTER 388-101 WAC CERTIFIED COMMUNITY RESIDENTIAL SERVICES AND SUPPORTS (CCRSS)
- CHAPTER 388-101D WAC REQUIREMENTS FOR PROVIDERS OF RESIDENTIAL SERVICES AND SUPPORTS

SUBJECT MATTER EXPERTS

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**CHAPTER 25 CIVIL MONEY PENALTY/STATE CIVIL PENALTY REINVESTMENT
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25A-STANDARD OPERATING PROCEDURES

BACKGROUND

A federal CMP may be imposed against nursing homes for not being in substantial compliance with certain Medicare or Medicaid participation requirements for long-term care facilities. Sections 1819 and 1919 of the Social Security Act incorporate specific provisions of the Patient Protection and Affordable Care Act pertaining to the collection and uses of CMP's, as a portion is sent back to the state. 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. RCS awards these funds through a contracting process as grants to approved applicants.

The department may take action, including imposing state civil penalties (fines) when the department finds an AFH or CCRSS provider is non-compliant with applicable chapters of RCW, WAC, other federal, state, and local laws, requirements or ordinances. All receipts from civil penalties are deposited into a specific account and the department shall use this account only for promoting quality of life and care of residents and clients living in the respective settings. This program is titled the State Civil Penalty Reinvestment Program (SCPRP) and funds will be provided as grants through a contract with DSHS.

Nursing facility/home, AFH, and CCRSS providers, stakeholders, and other organizations are encouraged to submit CMP/SCPRP grant applications for the development and implementation of quality improvement initiatives that directly or indirectly benefit nursing home, AFH, and CCRSS residents/clients.

CRITERIA

The CMP grant and SCPRP funds are only available for nursing homes, adult family homes, and CCRSS settings.

CMP and SCPRP grant funds may be used to support activities that protect or improve the quality of care or quality of life for residents and clients that may include any of the following:

- Assistance to support and protect residents/clients of a facility or home that closes or is decertified.
- Time-limited expenses incurred in the process of relocating residents to home and community-based settings or another facility/home when a facility or home is closed or downsized pursuant to an agreement with the State Medicaid Agency.
- Projects that support resident and family councils and other consumer/resident/client involvement in assuring quality of care in facilities or homes.

- Facility/home/provider staff and surveyors/licensors or technical assistance for facilities/homes/providers implementing quality assurance and performance improvement programs.
- Development and maintenance of temporary management or receivership capability.

CMP/SCPRP grant funds may not be used for items prohibited by law, regulation, or CMS or RCS policy. These include but are not limited to:

- Projects disapproved by CMS.
- Survey and certification operations.
- Capital expenses.
- Services or supplies that are the responsibility of the facility/home/provider, such as food, heat, staffing costs, etc.
- Projects for which a conflict of interest or the appearance of a conflict of interest exist.
- Long-term projects (CMP grant funds can be approved for up to 36 months)
- Supplementary funding of federally or state required services.

Organizations that may qualify for use of CMP/SCPRP grant funds include, but are not limited to:

- Consumer advocacy organizations.
- Resident or family councils.
- Professional or state nursing home associations.
- Professional or state AFH/CCRSS associations.
- State Long-Term Care Ombuds program.
- State Developmental Disabilities Ombuds program.
- Quality improvement organizations.
- University graduate programs.
- Private contractors.
- Corporations, both non-profit and for-profit.

FOR SCPRP ONLY:

Grant funding for projects are time-limited for the SCPRP in accordance with the amount of funds available. A reserve of \$30,000 will be maintained in the AFH fund account and the CCRSS fund account for emergency purposes.

- CCRSS grant funds may be approved for up to 12 months for projects.
- AFH grant funds may be approved for up to 18 months for projects.

Application period:

Organizations applying for AFH grant funds may apply for funds during the annual application period of June 1 through July 31. Organizations applying for CCRSS grant

funds may apply for funds during the annual application period of September 1 through October 31.

PROCEDURE

APPLICATION PROCESS:

Project proposals should demonstrate current and sound evidence-based practices that promote the quality of care and quality of life of residents and clients. Grant funds are only available for quality improvement initiatives that are outside the scope of normal facility/home/provider operations. They cannot be used to fund goods or services that the applicant already offers or is required to provide by state or federal law or regulation.

- A. States must obtain approval from CMS before using federally-imposed CMP funds to pay for projects. The department will evaluate applications using criteria developed by CMS and published in CMS QSO-1919 NH and CMS S&C 12-13-NH. Use of SCPRP funds will utilize similar criteria when evaluating applications.
 - 1 Complete and submit an application for the designated setting:
 - a. CMP application form [CMP Reinvestment Application Template](#)
 - b. SCPRP (AFH) application form DSHS 14-551 [Application Application Instructions](#)
 - c. SCPRP (CCRSS) application form DSHS 10-653 [Application](#) / [Application Instructions](#)
 2. For CMP grants, CMS will respond no later than 45 days after receiving a request with either approval, denial, or a request for more information. If additional information is provided, the CMS Regional Office will respond to the State with a final decision within 30 calendar days.
 3. Complete and submit a budget:
 - a. CMP/nursing facility form [CMP Reinvestment Application Budget Template](#)
 - b. SCPRP form [Budget Summary Template](#) (DSHS 19-237)
 4. Letters of support from stakeholders

Upon Approval for the Designated Grant Funds:

- A. Once the application has been reviewed by the CMPRP or SCPRP committee and the project is approved:
 1. Create an approval letter for the RCS Director's signature. Email the approval letter to the director and their AA. Once it is signed, send to the applicant.
 2. Determine if the applicant has a contract on file with the department. Contact the Contracts Unit if necessary to confirm.
 - a) If the applicant does not have a contract on file, send the applicant the Contractor Intake form (DSHS 27-043) and the Statewide Payee Registration

W9 form. The applicant completes the forms and returns them to the Contracts Unit.

3. Once the contractor's/applicant's information is on file with the Contracts Unit, the RCS CMP Grant Specialist/SCPRP Policy Program Manager will complete the applicable contract forms including:
 - a. Contract Request and Approval (CRS) form
 - b. Performance-Based Contracts Checklist
 - c. Program Services Risk Assessment Worksheet
 - d. Contractor Risk Assessment Worksheet and Monitoring Plan.
 - e. Statement of work (Special Terms document)

When the documents are complete, forward to the Contracts Unit.

4. Confirm with the Contracts Unit to ensure all of the requirements are met and the contract can be issued and signed.

Monitoring and Compliance:

CMP grant contracts are monitored by the CMP Grant Specialist and the CMPRP committee composed of:

- RCS Director;
- Office Chief for Policy, Training, Quality Assurance & Behavioral Health;
- Office Chief for Field Operations;
- Nursing Home Policy Program Manager; and
- CMP Grant Specialist.

The SCPRP grant contracts are monitored by the Policy Program Managers for AFH and CCRSS, respectively, and the SCPRP committee composed of:

- RCS Director;
- Office Chief for Policy, Training, Quality Assurance, & Behavioral Health;
- Office Chief for Field Operations (AFH); OR Office Chief for Headquarters Operations (CCRSS); and
- Policy Program Manager for the respective program.

Quarterly progress reports are required to be submitted by each grantee/contractor at the end of each three-month period by the 15th day of the following month. The requirements for the report are outlined in the Special Terms of the contract and a final comprehensive close out report with project results (as available) is due within 30 days of the grant/contract end date. All expenditures, including completing and submitting a A19 invoice voucher, are required to be submitted for payment via the state invoice system. These are reviewed and approved by the Grant Specialist or Policy Program Manager, and submitted to the department's accounting office for processing. Reports and invoices are reviewed and periodic program/project site visits are made to ensure compliance with the project.

FIELD MANAGER RESPONSIBILITY

1. Be aware of CMP and SCPRP grant funds and process for application.
2. Refer to CMP Grant Specialist or designated Policy Program Manager for questions or information.

QUALITY ASSURANCE REVIEW

This procedure will be reviewed for accuracy and compliance at least every two years.

[Change Log](#)

APPENDIX A-FORMS AND RESOURCES

RESOURCES

CMP:

[Website](#)

[CMP Reinvestment Application Resource Guide](#)

[Examples of Non-Allowable Uses of CMP Reinvestment Funds](#)

[CMP FAQ](#)

[Did You Know?](#)

[Toolkits, Breakthrough Communities & Technical Assistance](#)

SCPRP:

AFH:

[Website](#)

[Fact Sheet](#)

[FAQ \(SCPRP Basics\)](#)

CCRSS:

[Website](#)

[Fact sheet](#)

[FAQ](#)

FORMS

SCPRP AFH [Application](#) (DSHS 14-551)

SCPRP AFH [Application Instructions](#)

[Budget Summary Template](#) (DSHS 19-237) (AFH and CCRSS)

SCPRP CCRSS [Application](#) (DSHS 10-653)

SCPRP CCRSS [Application Instructions](#)

[CMP Reinvestment Application Budget Template](#)

[CMP Application Review Checklist](#)

[CMP Reinvestment Application Template](#)

APPENDIX B: CHANGE LOG

EFFECTIVE DATE	CHPT SECT #	WHAT CHANGED? BRIEF DESCRIPTION	REASON FOR CHANGE?	COMMUNICATION & TRAINING PLAN
9/2020	Full Chapter	New SOP		<ul style="list-style-type: none"> SOP will be posted. MB/DPL will inform staff and providers.

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