



Funded by  
The Commonwealth Fund

## **Funding for Innovation: A Review of State Practices with Civil Monetary Penalties**

## **Opportunities to Improve Nursing Home Care**

**With Recommendations  
for State and Federal  
Governments**

**and**

**Strategies for Stakeholders  
to Help Implement  
Recommendations**

Project Staff:

Long Term Care Community Coalition  
Richard Mollot  
Cynthia Rudder  
Meghan Shineman

University of California, San Francisco  
Charlene Harrington  
Theodore Tsoukalas

National Citizens' Coalition for Nursing  
Home Reform  
Alice Hedt  
Gail MacInnes



**Funding for Innovation:  
A Review of State Practices with Civil Monetary  
Penalties**

**Opportunities to Improve Nursing Home Care**

**With Recommendations for State and Federal Governments  
*and*  
Strategies for Stakeholders to Help Implement  
Recommendations**

**TABLE OF CONTENTS**

---



INTRODUCTION ..... 2



ACTION PLAN..... 3

- Introduction ..... 4
- Summary of Findings ..... 5
- Recommendations For States ..... 6
- Recommendations For CMS ..... 7
- Strategies For Stakeholders ..... 8
- For More Information..... 9



RESOURCE BRIEF..... 10

- Introduction ..... 11
- Consumer Education On CMPs/Fines..... 11
- Ombudsman/Citizen Advocate Involvement In Decisions About the Use of CMPs/Fines..... 13
- Ombudsman/Citizen Advocate Knowledge of Uses of CMP/Fine Funds..... 14
- NCCNHR Recommendations For Changes In Policies And Practices ..... 15
- Attachment A..... 16
- Attachment B..... 18
- Attachment C..... 19



CASE STUDIES..... 20

- Introduction ..... 21
- Findings ..... 21
- Discussion..... 27
- Lessons Learned: Steps States Should Take To Encourage Noteworthy Projects/Activities ..... 28

## INTRODUCTION

---

### **What Are CMPs/fines And What Can They Do For Residents?**

In 1986, Congress passed the Nursing Home Reform Act (OBRA, 1986) which allowed the government to issue sanctions against nursing homes that failed to comply with federal Medicare and Medicaid quality of care requirements. Civil money penalties (CMPs, or fines) are one type of sanction established by the government in 1995 to encourage nursing homes to comply with federal requirements and to prevent poor quality of care. State licensing and certification programs have contracts with the federal government (specifically CMS, the Centers for Medicare and Medicaid Services) to inspect nursing homes on a regular basis and to issue CMPs for violations of federal regulations. In addition to federal CMPs, states may also issue and collect state CMPs/fines for violations of state quality of care rules.

For nursing home residents, CMPs/fines offer a two fold opportunity to make their lives better: (1) CMPs/fines may be a powerful deterrent to poor care; and (2) CMPs/fines offer an additional pool of money that can be used to improve their quality of life and care. Yet, many states do not levy CMPs, collect them or, if they do, use them in innovative ways to improve care.

States can use federal CMPs to:

- Maintain the operations of a facility, pending correction of deficiencies or closure;
- Assist in receiverships and relocation of residents;
- Reimburse residents for personal funds lost; and
- Fund other projects that benefit facility residents.

State CMPs/fines are not subject to these restrictions; their use is dictated by each state's laws.

### **Goals of This Project**

While the authors wished that there was no need for CMPs/fines to be imposed (because all homes are providing high quality of care), CMPs/fines can have a wide-ranging, positive impact on the lives of nursing home residents. Funds collected from CMPs/fines are a potentially powerful source of funding that can be targeted for programs or projects that improve the lives of residents. The goals of this project are to inform the public, consumer groups, government officials, ombudsmen and the nursing home industry about the practices and experiences of states' uses of CMPs/fines; to identify the uses of funds from CMPs/fines for special projects that can be replicated to provide lasting and widespread improvements to resident quality of life; and to encourage states to make greater use of CMPs/fines for such projects.

### **Included in This Packet**

In this packet you will find an Action Plan (to help stakeholders implement the recommendations of the project), a Resource Brief: "Federal and State Civil Monetary Penalties (CMPs)/Fines: Opportunities for Improving Resident Quality of Life and Care - Long-Term Care Ombudsman and Citizens' Knowledge of and Involvement in States' Use of Civil Money Penalties and Fines for Nursing Homes" (based upon a national survey), and Case Studies (with details on projects/activities using CMPs/fines). Each piece can be used on its own or in conjunction with the other materials. In addition, information is provided on how to get more detailed information about our study, findings and recommendations.



## Action Plan

### To Encourage the Use of Funds from Civil Money Penalties and Fines to Improve Nursing Home Resident Care and Quality of Life

For Consumer Advocates, Nursing Home Staff, Long Term Care Ombudsmen and Citizens

## TABLE OF CONTENTS

---

INTRODUCTION .....	4
SUMMARY OF FINDINGS .....	5
RECOMMENDATIONS FOR STATES .....	6
RECOMMENDATIONS FOR CMS .....	7
STRATEGIES FOR STAKEHOLDERS .....	8
FOR MORE INFORMATION .....	9

### **What Are CMPs/Fines And What Can They Do For Residents?**

In 1986, Congress passed the Nursing Home Reform Act (OBRA, 1986) which allowed the government to issue sanctions against nursing homes that failed to comply with federal Medicare and Medicaid quality of care requirements. Civil money penalties (CMPs) (or fines) were one sanction that was implemented by the government in 1995 to encourage nursing homes to comply with federal requirements and to prevent poor quality of care. State licensing and certification programs have contracts with the federal government Centers for Medicare and Medicaid Services to inspect nursing homes on a regular basis and to issue CMPs for violations of federal regulations. In addition to federal CMPs, states may also issue and collect state CMPs or fines for violations of state quality of care rules.

For nursing home residents, CMPs/fines offer a two fold opportunity to make their lives better: (1) CMPs/fines may be an important deterrent to poor care; and (2) collected CMPs/fines offer an additional pool of money to improve their quality of life and care. Yet, many states do not levy them, collect them or, if they do, use them in innovative ways to improve care.

States can use federal CMPs to:

- Maintain the operations of a facility, pending correction of deficiencies or closure;
- Assist in receiverships and relocation of residents;
- Reimburse residents for personal funds lost; and
- Fund other projects that benefit facility residents.

State fines can be used in ways dictated by each state's laws.

### **Goals of This Project**

Ideally there would be no need for the imposition of CMPs/fines because all facilities would provide high quality of care. Unfortunately, however, because many deficiencies in quality of care exist, CMPs/fines are a necessary and important remedy. CMPs/fines that are collected can have a wide-ranging, positive impact on the lives of nursing home residents. Funds collected from CMPs/fines are a potentially powerful source of funding that can be targeted to making things better for residents. The goals of this project are to inform the public, consumer groups, government officials, ombudsmen and the nursing home industry about the practices and experiences of states' use of CMPs/fines; to encourage states to make greater use of CMPs/fines for projects; and to identify the uses of funds from CMPs/fines for special projects that can be replicated to provide lasting and widespread improvements to resident quality of life.

### **How to Use This CMP Action Plan**

Following are summaries of the findings from our study, including information on states' experiences with CMPs/fines and interviews with stakeholders -- ombudsmen, advocates, providers and government officials. In addition, we have specific recommendations for states and CMS on how to better utilize CMPs/fines. This information will give you the background knowledge necessary to make optimum use of the last section, "Strategies for Stakeholders."

Remember: these materials are meant to provide a foundation of knowledge about CMPs/fines and how they can be used to improve the lives of nursing home residents in your state. It is critical to consider what activities will influence political and regulatory leaders in your community and how to ensure that the monies are utilized in a way that will best help residents.

## SUMMARY OF FINDINGS

---

### Variations in CMPs/fines

- There is wide variation among states in issuing and collecting CMPs/fines. Most states issue federal CMPs and CMPs/fines for violations of state deficiencies.
- In 2004, about \$17 million in federal CMP funds were collected.
- In 2004, about \$3.6 million in state CMPs/fines funds were collected.

### Funds Available from CMPs/Fines

- Funds collected from CMPs/fines represent a substantial resource available to states for nursing home quality improvement projects. 46 states reported having \$60 million available in accounts from CMPs/fines in 2005.

### Use of Funds from CMPs/Fines

- 32 states reported spending \$28 million in funds from CMPs/fines during the 1999-2005 period.
- 65 percent of funds expended were used for survey and certification activities such as temporary management, relocation, consultation, and other such activities and 35 percent were used for special projects.
- About half of the states reported spending \$10 million of funds for projects to improve nursing home care. Of the total expenditures, 20 percent was spent on provider projects, 5 percent on advocacy projects, and 10 percent on other projects.
- Eight states had not used their funds.
- Funds from state CMPs/fines were used to fund schools in two states, while six states put state CMPs/fines into the state general fund.
- Most states using funds for projects were contiguous states in the Midwest, South, and Middle Atlantic regions.

### Lack of Information about CMPs/Fines

- Most states had difficulty obtaining current information about the number and the amount of federal CMPs issued and collected by CMS.
- This project had to collect some information on fund balances by using FOIA requests because some states were unwilling to provide the information without such a request.
- Ombudsman and citizen advocacy group (CAG) respondents were largely aware of CMPs/fines but most did not know how much was collected or how the funds were used in their states. Most ombudsman and citizen advocate respondents favor making this information public.
- 26% of state ombudsman respondents, 14% of local ombudsman respondents, and 31% of CAG respondents make CMP information available to the public.

### Special Nursing Home Projects<sup>1</sup>

- A wide variety of types of nursing home special projects were funded.
- The average project funded by states for providers was \$48,000, for advocates was \$110,000, and other projects was \$76,000. Some states gave small amounts of funds to many providers and projects. The funding in some cases appeared to be too small to have any measurable impacts.
- Most special projects funded by states appeared to be short-term or one-time funding.
- Most special projects funded by states did not have outcomes reported and did not have formal evaluations.

---

<sup>1</sup> For more information, please request a copy of the paper, "State Uses of Funds from Civil Money Penalties and Fines from Nursing Homes." See end for information on how to request.

## Procedures for Using Funds from CMPs/Fines

- Most reporting state officials stated they do NOT have procedures established to inform stakeholders about the availability of funds from CMP/fines for special projects.
- Most state officials stated that they do NOT involve stakeholders in the decision-making about the use of the CMPs/fines.
- Almost 2/3 of state ombudsman respondents indicated a lack of participation in decision-making on the use of CMPs/fines.

## Examples of State Special Projects

1. *Delaware* – Training workshops for facilities on restraints and pressure ulcers.
2. *Florida* – A university research project to identify the extent of mental illness among residents and to make recommendations for specialized staff training.
3. *Iowa* – CNA recruitment and retention initiatives.
4. *Kansas* – Resident relocation and ombudsman training and resource materials.
5. *Illinois and Kentucky* – Support for local ombudsman programs to increase staff so residents have access to ombudsman services with a goal of 1 paid ombudsman per 2000 LTC beds.
6. *Indiana* – An Alzheimer's and dementia care training program.
7. *Louisiana and Illinois* – Culture change initiatives.
8. *Maryland* – Quality improvement and technical assistance units, family council development, Wellspring projects, pets-on-wheels for facilities, and a hospice network.
9. *Michigan* – A special team for NH remediation and closures, a NH transition program, and evaluation of a NH dining assistant program.
10. *Minnesota* – Production and distribution of a brochure on restraint use and a training video.
11. *New Jersey* – Quality improvement, Eden Alternative grants, and a resident satisfaction survey.
12. *North Carolina* – Five programs for quality improvement initiatives, a university medication error study, and Eden Alternative and Pioneer Network programs.
13. *Ohio* – Technical assistance programs to help improve quality of care.

---

## RECOMMENDATIONS FOR STATES

---

### Remove Variations in CMPs/fines Issued and Collected

- Establish consistency in the way that CMPs/fines are issued and collected for violations of federal and state quality regulations.
- For states that are not using CMPs/fines, use this sanction when appropriate. Work with CMS to establish a training program for state surveyors on the use of CMPs/fines.

### Use of Funds from CMPs/Fines

- Absolutely require that funds be used for purposes directly related to nursing home residents.
- Expend funds for CMPs/fines primarily for special projects & programs that stimulate resident quality of care and quality of life that can ultimately be replicated.
- Limit the use of funds for relocation, temporary management, other licensing and certification activities, and state emergencies to what is necessary.
- Ensure that the state survey and certification agency responsible for levying the CMPs/fines retains control over how those funds are used and is accountable for how they are used.
- Remove state requirements that restrict the use of funds (such as putting the funds in the

state general fund) or prevent the funds from being used for projects to improve quality.

### **Ensure Access to Information about CMPs/Fines**

- Improve collection of data about CMPs.
- Publish annual summary reports on the amount of funds available from CMPs/fines, the specific uses of the funds by year, the organization receiving funds, and details on the project evaluations. This information should include:
  - ▶ Whether there is a special account set up
  - ▶ A quarterly account balance
  - ▶ The process for applying to use the funds
  - ▶ How the funds are used
  - ▶ The state's evaluation of the program/project
- Ensure that these reports are distributed to long term care ombudsmen and advocates.
- State ombudsmen should include information about use of CMPs/fines in routine training offered to local ombudsmen, and offer them suggestions about how to inform the public about these enforcement actions.

### **Process of Using State CMPs/Fines**

- Involve a wide range of knowledgeable stakeholders in setting the criteria for and guidelines for the use of funds including residents and family members, ombudsmen, family council members, members of citizen advocacy groups, providers, and individuals with grant-making experience.

- Establish a public process including public notice of fund availability with a clear annual timeline for applications for funding of innovative projects and an objective review process.
- Establish a broad based advisory committee composed of stakeholder groups such as consumer advocates, ombudsman, providers, etc to establish priorities for the use of funds and to advise on the selection of specific projects.
- Allocate sufficient funds for projects/activities /programs so that they can make a substantial, lasting impact and potentially a widespread impact.
- Allocate funds for programs/projects that are practical and can be sustained and/or replicated by others after the funding has ended.
- Authorize funds for innovative projects that go beyond regulatory requirements and ordinary budget items to improve residents' quality of care and quality of life, encourage person directed care, promote consumer advocacy and involvement and stimulate and support the spread of "culture change."
- Target consumer focused projects such as work with family councils, resident councils, consumer advocacy organizations, and ombudsman projects. Establish an evaluation process for all projects, using outside evaluation experts if possible.
- Encourage programs/projects to be jointly developed with academic organizations, consumers (or their representatives) and established experts.

---

## **RECOMMENDATIONS FOR CMS**

---

- Mandate recommendations for states.
- Publish annual summary reports on the amount of funds available from CMPs/fines, the specific uses of the funds by year, the organization receiving funds, and details on the project evaluations. This information should include:
  - ▶ Whether there is a special account set up
  - ▶ A quarterly account balance
  - ▶ The process for applying to use the funds
  - ▶ How the funds are used
  - ▶ The state's evaluation of the program/project
- Monitor states' compliance with mandates.



## STRATEGIES FOR STAKEHOLDERS

---

To achieve the greatest overall benefits for residents, as many stakeholders as possible must work together to promote this study's recommendations. Identify all the stakeholders in your state. See if you can conduct activities together. Use the summary of findings and recommendations listed above as well as additional specific state information for your advocacy.<sup>2</sup>

### OMBUDSMEN/ADVOCATES

#### 1. Educate the policy makers in your state

Strong collection and beneficial use of CMPs/fines depends on backing and "buy in" of state policy makers. You can use the information from this project as a basis for making the case to policy makers in your state. If possible, bring together other groups and individual consumers to join meetings with policy makers, or provide them with talking points to use on their own. Advocate for legislation that will require fines collected to be used for programs that improve resident quality of life.

- a. Meet with legislators
- b. Meet with government agencies
- c. Meet with your governor

#### 2. Educate the public in your state

It is crucial for the public to know that fines against nursing homes can be a source of funding for programs or projects that could improve nursing home care and quality of life. Use the findings from this project to develop your own materials. Learn about how CMPs/fines are levied, collected and used in your state. Put this information in:

- a. Any newsletter you publish
- b. Your web site (feel free to link to CMP Project page on [www.nursinghome411.org](http://www.nursinghome411.org))

- c. An article in newsletters of other groups or communities
- d. Letters to the editor in local papers
- e. Articles in local papers

#### 3. Promote grassroots action

Develop steps the public can take to advocate for implementation of the recommendations of this project. Urge individuals to:

- a. Write letters (if possible, using sample letters you have written) to policy makers in your state – legislators, the governor, aging agencies, health department, etc.
- b. Write letters to the editor of local papers
- c. Meet with their political representatives (as mentioned above under "educate the policymakers in your state.")

#### 4. Participate in the decision-making process on how to use the funds to improve nursing home care and quality of life

If your state is already using the funds and/or begins to use the funds after your advocacy:

- a. Propose projects or programs for funding that meet the study's recommendations for states
- b. Request to be part of the review process for both selection and evaluation of programs/activities
- c. Request information on CMPs/ fines levied and collected in your state – use this information to continue informing the public

#### 5. Additional recommendation for Long Term Care Ombudsmen and others who might have government affiliation

- a. Use your position in state government and/or your government contacts to influence the state to implement civil money penalties (if they are not doing so already) and to use the funds as recommended by this study to improve resident care.

---

<sup>2</sup> See the end for information on how to get specific state information by requesting a copy of "Study of Federal and State Civil Money Penalties and Fines for Nursing Homes in the U.S."

- b. Request to be part of review process in both project selection and evaluation.

## PROVIDERS & PROVIDER ORGANIZATIONS

1. Promote quality of care so that CMPs/fines do not need to be levied.
2. Work with other stakeholders to ensure that CMPs/fines collected are appropriately used to improve the resident experience.
3. Disseminate these materials and other information on CMPs/fines. Distribute information:
  - a. At conferences

- b. On-line and
- c. Through communications with your members (such as newsletters)

4. Meet with government agencies.
  - a. Give them input on what types of projects would most improve the lives of your residents
  - b. Promote the use of CMPs/fines to improve quality of life and consumer involvement
5. Advocate for legislation that will require fines collected to be used for programs that improve resident quality of life.
6. Propose projects for funding that meet the recommendations for states (see above).

---

## FOR MORE INFORMATION

The Long Term Care Community Coalition (LTCCC) and the National Citizens' Coalition for Nursing Home Reform (NCCNHR) both maintain dedicated pages on their websites with information on CMPs/fines and more in-depth information on this study.

Following are the websites where this information is available. Copies of any information, including this Action Plan, may be freely distributed so long as LTCCC is credited and the materials are not charged for.

- [www.nursinghome411.org](http://www.nursinghome411.org)
- [www.nursinghomeaction.org](http://www.nursinghomeaction.org)
- [www.ltccc.org](http://www.ltccc.org)

Our full project, "Funding for Nursing Home Innovation: A Review of State Practices with Federal Civil Monetary Penalties and State Fines" includes a number of different products, available on our websites.

- NCCNHR Resource Brief describing survey of ombudsmen and citizen advocacy groups
- Case Studies – details of 6 state projects using CMPs

Also available are two papers detailing specific findings on individual state experiences with CMPs. For copies of these papers, which include detailed tables, please contact by email:

Charlene Harrington, Ph.D., R.N.  
Professor, Sociology and Nursing  
Dept. of Social & Behavioral Sciences  
[charlene.harrington@ucsf.edu](mailto:charlene.harrington@ucsf.edu)



## Resource Brief

### Federal and State Civil Monetary Penalties (CMPs)/Fines: Opportunities for Improving Resident Quality of Life and Care

#### Long-Term Care Ombudsman and Citizen Advocates' Knowledge of and Involvement in States' Use of Civil Money Penalties and Fines for Nursing Homes

## TABLE OF CONTENTS

---

INTRODUCTION .....	11
CONSUMER EDUCATION ON CMPS/FINES.....	11
OMBUDSMAN/CITIZEN ADVOCATE INVOLVEMENT IN DECISIONS ABOUT THE USE OF CMPS/FINES.....	13
OMBUDSMAN/CITIZEN ADVOCATE KNOWLEDGE OF USES OF CMP/FINE FUNDS.....	14
NCCNHR RECOMMENDATIONS FOR CHANGES IN POLICIES AND PRACTICES .....	15
ATTACHMENT A .....	16
ATTACHMENT B.....	18
ATTACHMENT C .....	19

## INTRODUCTION

---

Federal and state civil money penalties (CMPs) and fines levied against nursing homes offer nursing home residents a two-fold opportunity to make their lives better: (1) federal and state CMPs/fines may be a deterrence to poor care; and (2) when CMPs/fines become necessary and are collected, they offer an additional pool of money for fiscally constrained states to improve the quality of life and care for nursing home residents. The goal of this project was to determine what is known about which states levy them, collect them, and how and whether they are used to improve care.

In order to determine ombudsman and citizen advocate perceptions of the use of CMP/fine funds and their impact on resident care, the National Citizens' Coalition for Nursing Home Reform (NCCNHR) undertook a survey of state and local long-term care ombudsmen and state-level citizen advocacy groups (CAGs). The survey also looked at ombudsman and citizen advocate perceptions about how the public is (or should be) made aware of the levying and collecting of CMPs/fines. All 53 state long-term care ombudsmen (including DC, PR, and Guam), 120 randomly selected local ombudsmen, and all of the 43 citizen advocacy groups that NCCNHR is aware of were surveyed. Responses were as follows:

Type of Respondent	# Contacted	# of Respondents	Response Rate
State Ombudsman	53	39	74%
Local Ombudsman	120	71	59%
Citizen Advocate	43	26	60%

## CONSUMER EDUCATION ON CMPS/FINES

---

Because access to information about quality is of paramount importance to consumers, NCCNHR surveyed ombudsmen and citizen groups about their opinions on whether or not informing the public about CMPs/fines is important and whether or not they supply this information to the public.

The imposition of swift and significant penalties when quality of care in nursing homes is deficient is an important component of enforcement of public standards of quality. When state enforcement systems work properly, CMPs and fines can act as an influential deterrent to poor care.<sup>1</sup> The provision of information to the public about fines levied and collected plays a crucial role in maximizing the deterrent effect. Armed with this information, consumers can hold public agencies accountable for just application of this remedy, monitor how the funds collected are used, and use this information in choosing a facility that provides quality care.

Recognizing the importance of public information on this issue, respondents from all three groups surveyed were strongly in support of the importance of informing the public about CMPs/fines. Responses were as follows:

Type of Respondent	In Support	Opposed	Don't Know	No Answer
State Ombudsman	30 (77%)	2	1	6
Local Ombudsman	59 (83%)	4	3	5
Citizen Advocate	24 (92%)	1	1	0

Comments from respondents in support of providing information about CMPs/fines to the public include:

- “The public should be aware that facilities are held responsible for bad care.”
- “Taxpayers have the right to know how the money is used and which nursing homes are non-compliant.”

---

<sup>1</sup> Rudder, C., “The Nursing Home Enforcement System in New York State: Does it Work?” Nursing Home Community Coalition of New York State, June 1995.

- “Consumers need all the information they can get when making long-term care decisions.”
- “Transparency in government is important.”

Although most respondents support the provision of information about CMPs/fines to the public, relatively few are providing the public with this information. When asked whether they inform the public about CMPs/fines, responses were as follows:

Type of Respondent	Yes	No	Don't Know	No Answer	Not Applicable	Total
State Ombudsman	10 (26%)	25 (66%)	1	2	1	39
Local Ombudsman	10 (14%)	56 (79%)	3	2	0	71
Citizen Advocate	8 (31%)	17 (65%)	1	0	0	26

Organizations that are providing this information to the public include:

- **Long Term Care Community Coalition (LTCCC), New York, New York:** LTCCC makes information on federal and state CMPs/fines available to the public on a quarterly basis through their newsletter (distribution of 1,500) and their website at <http://www.ltccc.org/enforcements/index.shtml>. LTCCC obtained these data on state CMPs/fines and other enforcement actions from the state by making a formal request under New York State’s Freedom of Information Law (FOIL). LTCCC staff report that the information is provided fairly consistently. The request includes language saying “under FOIL please send all enforcement actions taken against nursing homes.” Since New York State only recently began proposing the imposition of federal CMPs, LTCCC requested such information from CMS which had been levying CMPs. Information on these federal actions is procured by making a request directly to the relevant personnel in the CMS regional office. This request is made citing the federal Freedom of Information Act (FOIA). The request is “Please send copies of all due and payable letters.” Due and payable letters are letters sent by CMS to nursing homes when all appeals are finished and the CMPs are due. See Attachment A on page 16.
- **California Advocates for Nursing Home Reform (CANHR), San Francisco, California:** CANHR publicizes information about state and federal enforcement actions, including CMPs and fines, on their website at [www.nursinghomeguide.org](http://www.nursinghomeguide.org). Some state information about fines is temporarily out of date because of a multi-year transition to a new data system by the state agency. CANHR obtains federal CMP information from the CMS regional office. CANHR also lists most state CMP/fine collections for individual citations on their website. In addition to publishing this information on their website, CANHR also sometimes lists collected amounts of state and federal CMPs/fines in other reports. CANHR publishes the information as a public service for use by consumers as one factor in evaluating a facility. See Attachment B on page 18.
- **Kansas Advocates for Better Care (KABC), Lawrence, Kansas:** KABC informs the public about CMPs through their newsletter (distribution 700) and website at: <http://www.kabc.org/enforce.htm>. They send out news releases about the availability of the information and note it in all their materials. KABC is also listed in the yellow pages under “nursing home information and referral” including a toll-free 800 number. KABC staff inform consumers who make contact through these listings about CMPs/fines as well. KABC’s motivation in informing the public is to help them choose good facilities, if they have a choice, or help them ask questions of the facility if they don’t. They believe that people understand the severity of deficiencies when there are monetary penalties.

KABC obtains CMP/fine information from news releases sent out by the survey agency and by requesting and receiving copies of the “recommended remedies” letters sent to the facilities. In order to receive this information, KABC had to make a request citing FOIA. The survey agency makes copies of the letters and KABC staff pick them up. KABC has to pay for the copies. It costs the organization approximately \$500/year. See Attachment C on page 19.

- **Oklahoma State Long-Term Care Ombudsman Program:** Although it has not been published recently, the Oklahoma State Long-Term Care Ombudsman Program has historically published three listings as part of their annual report: 1) Oklahoma facilities with the most verified complaints, 2) owners of facilities with patterns of poor care, and 3) enforcement actions (including CMPs and fines levied) taken against particular facilities. The program has immediate access to this data because of a state law passed in 1980 that gives the state ombudsman program “clearinghouse” responsibility. Therefore, the state department of health and any other agency which completes an inspection or survey of a nursing home must forward their report of the results to the state long-term care ombudsman office. The state ombudsman and assistant state ombudsman personally compile and check all of the information to ensure accuracy. The language of the law is as follows:

**“§63-1-1941. Copies of complaints, inspection or survey results to Ombudsman Program of Special Unit on Aging.** All state agencies receiving complaints on, or conducting surveys or inspections of, nursing home facilities shall forward complete copies of complaints or of inspection or survey results to the Ombudsman Program of the Special Unit on Aging. *Laws 1980, c. 241, § 41, eff. Oct. 1, 1980.*”

- **Pierce County Long-Term Care Ombudsman Program, Tacoma, WA:** This local ombudsman program shares CMP information with consumers and others who contact the program for information about specific facilities. Program staff informs them about citations and the issues involved, as well as fine information if it is available. While they always share citation/issue information, they do not always share the fine information. The program does not consistently receive information on fines levied from surveyors on the local or state level. The program is working to receive a routine distribution of survey, licensing and citation information.

Ways that other long-term care ombudsmen and citizen groups are informing the public about CMPs/fines include:

- ▶ Sharing CMP/fine information with consumers who contact the program/group with complaints, questions about how to find a facility, or for general information
- ▶ Informing the public about the existence of CMPs/fines during public presentations and how they can access the information

Suggestions for other possible approaches to informing the public include:

- ▶ Asking state and local newspapers to periodically publish fines levied/collected;
- ▶ If there is a state website that provides information on nursing homes, advocating that CMP/fine information be posted there.

## OMBUDSMAN/CITIZEN ADVOCATE INVOLVEMENT IN DECISIONS ABOUT THE USE OF CMPS/FINES

Ombudsmen and citizen group members can play a role in providing public oversight by becoming involved in decisions about the use of CMPs/fines. Survey respondents indicated that few states involve ombudsmen or citizen group members in these decisions. Responses were as follows:

Type of Respondent	Advocates Involved	Not Involved	Don't Know	No Answer	Not Applicable	Total
State Ombudsman	12 (31%)	25 (64%)	0	1	1	39
Local Ombudsman	10 (14%)	44 (62%)	10	7	0	71
Citizen Advocate	3 (12%)*	17 (65%)	6	0	0	26

\* The three citizen advocate respondents who indicated advocate involvement in decision making in their states noted that ombudsmen are involved, but not citizen advocates.

Although few are currently included in the decision making process, respondents offered a number of comments on how ombudsmen and citizen advocates currently are or could be involved, including:

- Help determine the priorities for use of the funds in order to ensure residents benefit
- Be part of a designated advisory body to state decision makers to review applications, advise implementation
- Work on a system for funds to be used for culture change grants
- Decide how funds are used when they are granted to the long-term care ombudsman program
- Help develop a plan for coordinated response to facility closures
- Recommend facilities that should have monitors, receivers or temporary managers
- Serve on the advisory board to direct funds
- Advocate for funds to go back into quality of care improvement
- Provide information on where resources are needed
- Encourage facilities, advocacy groups and communities to submit grant proposals for funds to improve resident quality of life
- Help evaluate proposals submitted and help evaluate the value to residents of those that are accepted and implemented.
- Stimulate discussions of how CMPs can be used to improve nursing home care

### **OMBUDSMAN/CITIZEN ADVOCATE KNOWLEDGE OF USES OF CMP/FINE FUNDS**

Ombudsman and citizen advocate responses about their familiarity with how federal (Fed) and state (State) CMP/fine funds are used were mixed. Most state ombudsman respondents are aware of how funds are used, but many fewer local ombudsman respondents or citizen group respondents had knowledge in this area. Responses were as follows:

Type of Respondent	Know Uses	Don't Know Uses	No Answer	Not Applicable	Total
State Ombudsman	31 (79%)	7	1	0	39
Local Ombudsman	Fed – 5 (7%), State – 17 (24%)	Fed – 63, State - 48	Fed – 2 State – 4	Fed – 1, State – 2	Fed – 71, State – 71
Citizen Advocate	Fed – 10 (38%), State – 9 (36%)	Fed – 15, State – 16	1	0	Fed – 26, State – 25

Respondents who were familiar with how the funds are being used in their states indicated that funds are being used for the following:

- deposits in the general treasury; (state)
- home delivered meals for seniors; (state)
- schools; (state)
- volunteer recruitment and/or general operational support for the long-term care ombudsman program;
- promotion of facility culture change by the ombudsman program;
- grants to the state nursing home association for a program called “My Innerview” to promote and measure quality improvement including clinical measures and family satisfaction;
- training for nursing homes on restraint reduction, Alzheimer’s care, infection control, and resident-centered care planning;
- grants to the state protection and advocacy program and state dental society;
- grants to nursing homes for consultants;

- temporary management of facilities or relocation of residents;
- long-term care nurse scholarships;
- training for nursing home staff and long-term care ombudsmen in continuous process improvement (CPI);
- promotion of best practices and culture change;
- reimbursing residents for personal funds lost during relocation; (state)
- a resident empowerment program which provides grants for quality of life initiatives in nursing homes; (fed/state not specified)
- a study of dining assistants; (fed/state not specified)
- a long-term care consumer guide website; (fed/state not specified) and
- survey agency technical assistance programs (fed/state not specified).

Respondents were also mixed in their opinions about whether CMPs/fine funds are used for good purposes in their states. Results were as follows:

Type of Respondent	Good	Not Good	Don't Know	Mixed	No Answer	Not Applicable	Total
State Ombudsman	16 (41%)	6	13	2	1	1	39
Local Ombudsman	6 (8%)	3	57	0	4	1	71
Citizen Advocate	4 (15%)	4	17	1	0	0	26

### **NCCNHR RECOMMENDATIONS FOR CHANGES IN POLICIES AND PRACTICES**

Based on the findings of the survey, the National Citizens' Coalition for Nursing Home Reform (NCCNHR) offers the following recommendations for promoting the use of CMPs/fines to benefit nursing home residents:

- CMS and states should require that funds be used to benefit nursing home residents.
- State agencies should share CMP/fine information with the public in, at least, the same way deficiency information is shared, and routinely send a listing of facilities with fines levied and what fines have been collected to ombudsmen and citizen advocates. This information should also be included in any state websites that post consumer information about nursing homes, and should be sent to state and local newspapers for publishing.
- States should include ombudsmen and citizen advocates in the decision making process on the use of funds and in the subsequent assessment of resulting programs and projects.
- CMS and state governments should improve collection of data about CMPs.
- CMS and state governments should make policies on the use of funds that are flexible enough so funds can be used to improve resident care.
- CMP funds should be used to support the long-term care ombudsman program to meet the standards recommended by the Institute of Medicine or to carry out other responsibilities (i.e., support for family and resident councils, resident rights education).
- State ombudsmen should include information about the use of CMPs/fines in routine training offered to local ombudsmen, and offer them suggestions about how to inform the public about these enforcement actions.



## ATTACHMENT A

Long Term Care Community Coalition. Excerpted from  
[http://www.ltccc.org/enforcements/documents/enforce\\_002.pdf](http://www.ltccc.org/enforcements/documents/enforce_002.pdf).



### Enforcement Actions Against Nursing Homes<sup>1</sup>

#### FEDERAL ENFORCEMENT ACTIONS AGAINST NURSING HOMES: 9/16/05-11/30/05

##### The Federal Government Imposed Civil Money Penalties (CMPs)<sup>2</sup> On 1 Nursing Home

NAME OF HOME	LOCATION	DATE	AMOUNT
Lemberg Home and Geriatric Center	Brooklyn	11/10/05	\$109,980.00

#### STATE ENFORCEMENT ACTIONS AGAINST NURSING HOMES: 9/16/05-12/15/05

##### The State Fined 20 Nursing Homes<sup>3</sup>

NAME OF HOME	LOCATION	DATE OF SURVEY	AMOUNT
Arbor Hill Care Center	Rochester	12/20/01	\$2,000.00
Bayview Nursing Home	Island Park	11/16/04	\$7,000.00
Bethel Nursing and Rehabilitation Center	Croton on Hudson	5/19/03	\$10,000.00
Broadlawn Manor Nursing Care Center	Amityville	1/30/04	\$1,000.00
Columbia-Greene LTC	Catskill	9/30/04	\$1,000.00
East Rockaway Care Center	Lynbrook	7/20/01	\$2,000.00
Episcopal Church Home	Rochester	9/10/04	\$2,000.00
Fairport Baptist Home	Fairport	2/11/05, 4/2/04	\$4,000.00
Glen Cove Center for Nursing	Glen Cove	2/15/05	\$1,000.00
Little Falls Hospital HCF	Little Falls	2/4/05	\$2,000.00
Mercy of Northern New York	Watertown	9/23/04	\$3,000.00
Morris Park Nursing Home	Bronx	9/20/04	\$2,000.00
Parkview Nursing Home	Massapequa	3/4/05, 4/2/04	\$3,000.00
Presbyterian Home for Central New York	New Hartford	2/17/05	\$1,000.00
Riverview Manor	Owego	12/1/04	\$1,000.00
Robinson Terrace	Stamford	1/28/05	\$1,000.00
Rosewood Nursing Home	Syracuse	7/3/01, 6/6/03	\$7,000.00
St. Margaret's Center	Albany	8/18/04	\$1,000.00
Terrance Cardinal Cooke	Manhattan	4/20/05	\$4,000.00
Wedgewood Care Center	Great Neck	7/2/02	\$2,000.00

<sup>1</sup> As reported by the Department of Health (DOH) and CMS. These lists will be posted on LTCCC's website every three months, two to three weeks after the end date listed above. If you want to know why a facility was cited and/or fined by DOH, you can get a copy of the Statement of Deficiencies (SOD) from the Department of Health. You will be charged \$.25 a page. Call FOIL Officer at 518-474-8734 or e-mail – [nhinfo@health.state.ny.us](mailto:nhinfo@health.state.ny.us). Ask the Department to let you know how much it will cost to make sure that you can afford the amount. If you cannot, ask if you can look at the SOD in your regional office. If you want to get a copy of the CMS citations, call FOIA Officer at 212-616-2318.

<sup>2</sup> Civil Money Penalties (CMPs) – a federal sanction against nursing homes that fail to comply with quality care requirements.

<sup>3</sup> Under state law nursing homes can be fined up to \$2,000 per deficiency.



## Enforcement Actions Against Nursing Homes

In addition to the actions listed below, the following nursing homes are also subject to a fine. If the nursing home was found, at the time of the survey, to have given substandard quality of care (SQ) and/or to have put residents in immediate jeopardy (IJ), the most serious level of deficiencies, or to have repeated deficiencies that have caused isolated resident harm (G) it is noted in the third column. Double G means the home has received G's in two consecutive surveys.

<b>The State Took Other Action Against 15 Nursing Homes 9/16/05 – 12/15/05</b>					
NAME OF HOME	LOCATION	IJ, SQ or G	SURVEY DATE	CMP <sup>1</sup>	ACTIONS <sup>2</sup>
Arbor Hill Care Center	Rochester	IJ/SQC	10/25/05	X	DOPNA, POC, Inservice, State Monitor
Dumont Masonic Home	New Rochelle	IJ removed	10/25/05	X	
Eastside Nursing Home	Warsaw	IJ removed	10/7/05	X	POC
Eden Park Health Care Center	Utica	GG	11/3/05		DOPNA, POC, Inservice
Highland Nursing Home	Massena	GG	11/16/05		DOPNA, POC, Inservice
The Hurlbut	Rochester	IJ/SQC	9/16/05	X	DOPNA, POC, Inservice, State Monitor
McAuley Manor at Mercy Care	Hornell	IJ removed	9/22/05	X	POC
Mercy Health and Rehab Center, Auburn	Auburn	GG	9/21/05		DOPNA, POC, Inservice
Mercy of Northern New York	Watertown	GG	10/19/05		DOPNA, POC, Inservice
Montgomery Meadows RHCF	Amsterdam	IJ	9/19/05	X	DOPNA, POC, Inservice, State Monitor
North Gate Health Care Facility	North Tonawanda	IJ/SQC	9/30/05	X	POC, Inservice, State Monitor
River View Manor	Owego	IJ	11/21/05	X	DOPNA, POC, Inservice, State Monitor
Split Rock Nursing Home	Bronx	IJ/SQC	12/5/05	X	DOPNA, POC, Inservice, State Monitor
St. Elizabeth Ann's Healthcare and Rehab Center	Staten Island	IJ/SQC	9/29/05	X	DOPNA, POC, Inservice, State Monitor
Workmen's Circle Multicare Center	Bronx	IJ/SQC	10/11/05	X	DOPNA, POC Inservice, State Monitor

<sup>1</sup> Civil Money Penalties (CMPs). In addition to state fines New York State now recommends CMPs to be imposed by CMS. These fines can be as much as \$10,000 per day for deficiencies in care.

<sup>2</sup> Denial of Payments for New Admissions (DoPNA): Facility will not be paid for any new Medicaid or Medicare residents until correction; Directed Plan Of Correction (POC): A plan that is developed by the State or the Federal regional office to require a facility to take action within specified timeframes. In New York State the facility is directed to analyze the reasons for the deficiencies and identify steps to correct the problems and ways to measure whether its efforts are successful; In-Service Training: State directs in-service training for staff; the facility needs to go outside for help; State Monitoring: state sends in a monitor to oversee correction; Termination means the facility can no longer receive reimbursement for Medicaid and Medicare residents.



- welcome
- find a home
- how to choose
- about NHG
- how to use

- [overview](#)
- ▶ [enforcement actions](#)
  - [citations](#)
  - [complaints](#)
  - [deficiencies](#)
  - [fed. actions](#)
- [owners](#)
- [facility staffing](#)
- [financial info](#)
- ▶ [facility info](#)
  - [summary page](#)
  - [next steps](#)

## Applewood Care Center : federal actions

### The Role of the Federal Agency

The Centers for Medicare and Medicaid Services (CMS), formerly the Health Care Financing Administration (HCFA), is the federal agency responsible for overseeing nursing homes that participate in the Medicare and Medicaid (Medi-Cal) programs, for defining conditions of participation and for imposing sanctions against those facilities that fail to meet the requirements. The federal agency contracts with the individual states to perform survey and certification of nursing homes. Note that CMS maintains a website with information on all nursing homes in the United States that are certified to accept Medicaid and/or Medicare.

#### [\(understanding enforcement actions\)](#)

Last change of ownership: 04/01/1986  
 Last Licensing/Certification visit: 02/10/2003  
 Data last updated as of 01/10/2004.

#### description of each federal action

action date	action type	action status
08/14/2003	Decertification Scheduled	Rescinded based on 05/08/03 follow-up
05/17/2003	Denial of Payment for New Admissions	Rescinded based on 05/08/03 follow-up
05/08/2003	Revisit	
04/08/2003	Revisit	
04/08/2003	Civil Money Penalty	Accrual stopped 05/08/03
02/14/2003	Initial Survey Visit	
02/14/2003	Civil Money Penalty	Accrual stopped 4/8/03

Page Last Modified: Tuesday, May 28, 2002 4:52 PM

All of the information on this site has been obtained from public sources or from the nursing homes themselves and has not been independently verified. CANHR does not guarantee the accuracy or completeness of information from these sources.

Copyright, ©2006, [California Advocates for Nursing Home Reform](#),™ Inc. All rights Reserved.  
 Use of [nursinghomeguide.org](#) is subject to the following terms and conditions: [Terms and Conditions](#).

## ATTACHMENT C

Kansas Advocates for Better Care. Excerpted from [http://www.kabc.org/05\\_09n04.htm](http://www.kabc.org/05_09n04.htm), February 2006.

*Celebrating 30 years*

*1975 - 2005*

### Survey Results - Recommended Remedies

The Kansas Department on Aging (KDOA) is responsible for regulating all licensed adult care homes. The following information is reproduced from its records, and is the most current made available to KABC from KDOA as of August 11, 2005. Notations such as *payment denial, state monitoring or terminate provider agreement* are **recommended remedies** made to CMS by the Kansas Department on Aging (KDOA). Noted on remedy letters: "Please note that this notice does not constitute formal notice of imposition of alternative remedies or termination of your provider agreement. Should the Centers for Medicare & Medicaid Services determine that termination or any other remedy is warranted, you will be provided with a separate formal notification of that determination." Facilities listed here are having problems with regulatory compliance, and should be scrutinized carefully before making placement decisions. An "Abbreviated Survey" is an investigation resulting from a complaint. If homes have not achieved substantial compliance by the date indicated, the remedies **may** go into effect. All homes may appeal any of these actions, except when they have reached a final settlement agreement with KDOA. Refer to page 9 for abbreviation definitions.

Comments regarding the accuracy of information presented should be addressed to KDOA, 785-296-4986.

#### **Abilene**

*Memorial Hospital - LTCU*  
5/31/05: Revisit of 3/29 LSC survey.

#### **Andover**

*Life Care Center of Andover - NF*  
6/15/05: Abbreviated survey.

#### **Arkansas City**

*Medicalodge Post-Acute & Rehabilitation Center - NF*  
6/8/05: Abbreviated survey.

#### **Baldwin City**

*Baldwin Healthcare & Rehab Ctr - NF*  
6/30/05: Abbreviated survey.

#### **Baxter Springs**

*Quaker Hill Manor - NF/RHCF*  
5/31/05: Revisit of 3/22 LSC survey.  
7/19/05: Abbreviated survey.

#### **Burlington**

*Life Care Center of Burlington - NF*  
5/8/05: LSC survey. Mandatory payment denial for new admissions will be imposed 8/6; recommend terminate provider agreement 11/6.

#### **Canton**

*Shiloh Manor of Canton - NF/RHCF*  
5/25/05: LSC survey. Mandatory payment denial for new admissions will be imposed 9/3; state monitoring 7/25; recommend terminate provider agreement 11/25.

#### **Chanute**

*Chanute Healthcare Center - NF*  
6/23/05: Abbreviated survey.

#### **Chapman**

*Chapman Valley Manor - NF*  
6/21/05: Revisit of 4/21 LSC survey.

#### **Cimarron**

*The Shepherd's Center - NF*  
8/4/05: Survey, immediate jeopardy corrected, actual harm cited.

Recommend \$5,000 CMP; payment denial for new admissions 9/18; terminate provider agreement 2/4/06.

#### **Coffeyville**

*Medicalodge of Coffeyville - NF*  
8/8/05: Survey, actual harm cited, history of noncompliance, no opportunity to correct. Recommend payment denial for new admissions 8/30; terminate provider agreement 2/8/06.

#### **Windsor Place LLC - NF**

7/22/05: Survey, actual harm cited, history of noncompliance, no opportunity to correct. Recommend payment denial for new admissions 8/30; terminate provider agreement 1/22/06;

#### **Colby**

*Lantern Park Manor - NF*  
8/10/05: Survey, immediate jeopardy corrected, actual harm cited, history of noncompliance, no opportunity to correct. Payment denial for new admissions will be imposed 9/2; recommend \$7,000 CMP; terminate provider agreement 2/10/06.

#### **Dodge City**

*Good Samaritan Center - NF*  
7/28/05: Survey, actual harm cited. Recommend payment denial for new admissions 8/31; terminate provider agreement 1/28/06.

#### **Western Plains Regional Hosp-SNF**

7/22/05: Survey, actual harm cited.

Recommend payment denial for new admissions 8/29; terminate provider agreement 1/22/06.

#### **Easton**

*Country Care, Inc. - NF*  
7/19/05: LSC survey, immediate jeopardy corrected. Recommend \$5,000 CMP; payment denial for new admissions 10/19; terminate provider agreement 1/19/06.

#### **El Dorado**

*Lakepoint Nursing & Rehab Ctr-NF*  
6/7/05: Abbreviated survey.  
7/7/05: Revisit of 6/7 abbreviated survey. Recommend payment denial for new admissions 9/7; terminate provider agreement 12/7.

#### **Emporia**

*Emporia Presby. Manor-NF/ALF*  
7/28/05: Survey, actual harm cited, history of noncompliance, no opportunity to correct. Recommend payment denial for new admissions 8/30; terminate provider agreement 1/28/06.

#### **Emporia Rehab. Center - NF/RHCF**

8/3/05: Survey, actual harm cited, history of noncompliance, no opportunity to correct. Recommend payment denial for new admissions 8/29; terminate provider agreement 2/3/06.

#### **Eudora**

*Eudora Nursing Center - NF*  
5/19/05: Revisit of 3/25 survey. Payment denial imposed 4/24 continues; recommend terminate provider agreement 9/25.



## Case Studies

## Use of Funds In Six States

### TABLE OF CONTENTS

---

INTRODUCTION .....	21
FINDINGS .....	21
DISCUSSION.....	27
LESSONS LEARNED: STEPS STATES SHOULD TAKE TO ENCOURAGE NOTEWORTHY PROJECTS/ACTIVITIES .....	28

---

## INTRODUCTION

---

Six states were selected for detailed analyses of CMPs/fines special fund uses: Kansas, Maryland, Massachusetts, Michigan, New Jersey, and North Carolina. The selection of these six was a convenience sample of the first state officials interviewed for the full study who reported using funds from CMPs/fines for special projects and who were willing to provide detailed data about the use of these funds. In order to get detailed information, four categories of stakeholder groups were identified from each state to be subjects for 15 to 20 minute interviews: (1) the state ombudsmen, (2) the director of the state chapter of the American Health Care Association, (3) the director of the state chapter of the American Association of Homes and Services for the Aging, and (4) the director of nursing home consumer advocacy organization(s). In addition, interviews were conducted with the directors of the state licensure and certification agencies.

Five of the six state ombudsmen participated (New Jersey was the exception), all of the directors of the state chapters of AHCA and the consumer advocate organizations participated (but none were available in New Jersey), five of the six state chapters of AAHSA participated (North Carolina was the exception), and five of the six state survey and certification agencies participated (Maryland was the exception). Overall, 28 stakeholders participated.

---

## FINDINGS

---

### KANSAS

#### **Projects Funded**

- Library materials;
- Resident care project to prevent pressure ulcers;
- Study of nursing home characteristics by Kansas University Medical Center;
- LTC ombudsman project;
- Training for direct care staff; and
- Eight grants to educational organizations for training unlicensed direct care staff.

#### **Information on Availability of Funds**

Information is provided annually by Kansas' Licensure and Certification office (in the KS Dept. on Aging) using notices in the Kansas Register (government newspaper), letters to all nursing homes and annual RFP announcements.

#### **Stakeholder Involvement**

A Nursing Home Advisory Committee to Licensure and Certification (L&C) is operational and includes the following stakeholders: KS Health Care Assn. (KHCA); KS Assn. of Homes and Services (KAHSA); KS Advocates for Better Care (KABC); University of KS; KS Adult Care Executives (KACE); KS Community Colleges; Kansas Dept. of Health and Environment; Kansas Dept. on Aging.

#### **Applicant Eligibility**

There are no limitations on who can apply.

## **Selection Process**

A two step process is used: (1) projects are selected by L&C with advice from the NH Advisory Committee at L&C; and (2) selected projects must be approved by the director of state Medicaid agency in the Department of Social and Rehabilitation Services (SRS).

## **Assessment of the Use of Funds**

Industry stakeholders we spoke to support the current use of funds since L&C expanded the types of projects funded such as CNA training and Workforce Enhancement Grants. Consumer advocates reported that they support the current use of CMP funds for projects such as advocacy efforts and the training of direct care staff (e.g., CNAs) by educational organizations.

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ Culture change projects;
- ▶ Collaboration with quality improvement organizations (QIOs) on employee training; and
- ▶ Promotion of teams, peer mentoring and supervisor training.

Consumer advocates:

- ▶ Initiate 'Silver Hair Legislature' to place 'friendly advocates' in all KS nursing homes;
- ▶ Pilot CNA training to involve CNAs in care planning process;
- ▶ Make available non-office hours complaint intake for the hotline;
- ▶ Distribution of new 'residents rights' booklet to all residents or families in all KS nursing homes;
- ▶ Pilot program for expert training on protocols to mitigate deficient practices in nursing homes with high frequency of deficiencies; and
- ▶ Use funds to reduce state surveyor variations in surveys as identified by a KS Legislative Audit Commission report.

## **MARYLAND**

### **Projects Funded**

- Wellspring project to Beacon Institute;
- NCCNHR family councils;
- Hospice Network handbook project; and
- Pets-on-wheels volunteers.

### **Information on Availability of Funds**

L&C in the Office of Health Care Quality publicizes information on its Website; the ombudsman program announces the availability of annual grants. In 2006, L&C requested proposals ranging from \$5,000-\$10,000 for short-term, one-time projects to improve care.

## **Stakeholder Involvement**

Health Facilities Association of MD (HFAM); MD Association of Non-Profit Homes for the Aging (MANPHA); and the state ombudsman program.

## **Applicant Eligibility**

Eligible applicants include: nursing home facilities; advocacy organizations; nursing home associations; state & local ombudsman; and quality improvement organizations (QIOs).

## **Selection Process**

Decisions are made by L&C (OHCQ) staff using a two step process: (1) the L&C office selects projects and the level of funding for inclusion in its budget; and (2) each project's funding must be approved by the Maryland legislature as part of the L&C budget.

## **Assessment of the Use of Funds**

Industry stakeholders reported that they support funding projects that create learning among nursing homes. Consumer advocates reported support for current procedures and a preference for small grants. They support use of funds for the NCCNHR project on family councils which reached all 257 nursing homes in Maryland. They were skeptical of the Wellspring Project since it reached only 10 nursing homes.

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ More spending is needed on quality certification and training for nurses, physicians, and NH administrators; and
- ▶ More funding is needed for emergency preparedness.

Consumer advocates:

- ▶ Promote the posting of funding criteria on the state L&C website; and
- ▶ Support funding for assisted living facility projects.

## **MASSACHUSETTS**

### **Projects Funded**

Numerous projects in nursing homes were funded such as: computer classes, travel, therapeutic arts, libraries, gardens, bird aviary, life stories, fish tank, after-hours café, Chinese art, memory garden, neighborhood care, volunteer program and yoga.

### **Information on Availability of Funds**

Since 2001, L&C annually issues RFRs (requests for responses) for projects up to \$30,000 which are mailed to all nursing homes. Trade associations inform their members via newsletter about RFRs; the state ombudsman's office informs family and resident councils.



## **Stakeholder Involvement**

The L&C Advisory Committee operates consisting of seven representatives from the MA Dept. of Public Health, LTC Ombudsman Office, MA Extended Care Federation, and MA Aging Services Association.

## **Applicant Eligibility**

All long-term care facilities in MA.

## **Selection Process**

A two-step process is used: (1) The L&C coordinator at the Center For Quality Assurance and Control screens applications for compliance with RFR guidelines circular; and (2) L&C Advisory Committee ranks applications for final selection.

## **Assessment of the Use of Funds**

Industry stakeholders reported support for greater use of CMP funds to increase the number of programs for improving resident care and support the publicizing of more projects among providers. Consumer advocates reported support of funding for culture change projects and CNA training projects.

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ Future funding should focus on resident empowerment programs;
- ▶ The inclusion of more facilities in culture change training projects; and
- ▶ The expansion of funding for capital projects that affect quality of life.

Consumer advocates:

- ▶ Expand publicity effort of availability of CMP funds for culture change projects;
- ▶ Use CMPs funds for CNA training especially for scholarships;
- ▶ Promote the use of volunteers in nursing homes to interact with residents; and
- ▶ Promote the direct funding of advocacy organizations with fiscally sound practices.

## **MICHIGAN**

### **Projects Funded**

- Evaluation of dining assistants research project; and
- Project to transition nursing home residents to home and community-based care (related to an *Olmstead* lawsuit against the state).

### **Information on Availability of Funds**

The availability of CMP funds is not publicized. In order to find information, interested stakeholders must inquire with L&C in the MI Department of Community Health.

## **Stakeholder Involvement**

There is little if any stakeholder involvement in the policies or the selection of projects.

## **Applicant Eligibility**

Stakeholders can propose a project idea to the L&C program in the MI Dept. of Community Health.

## **Selection Process**

L&C, in collaboration with the state Medicaid agency (Medical Services Administration), decides what projects to fund. The funds for CMPs/fines are controlled by the Medicaid program, a bureau of the MI Department of Community Health.

## **Assessment of the Use of Funds**

Industry stakeholders said that they believe that past special projects were not shown to be effective. Consumer advocates felt that past special projects were not effective and the selection process was not democratic. They also felt that there is no evidence of improvement in quality of care and fewer citations.

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ Promote the use of funds for family satisfaction surveys;
- ▶ Use funds for a consumer guide with Michigan nursing home information;
- ▶ Support collaboration with the American Medical Directors Association to produce clinical guidelines to treat various diseases;
- ▶ Use funds for quality improvement projects; and
- ▶ Promote use of funds for capital needs (e.g., fire suppression systems).

Consumer advocates:

- ▶ Use funds for specialized staff training to care for Medicaid populations with specialized-needs (drug and alcohol addiction, dementia);
- ▶ Propose the use of 50 percent of funds to be allocated for home and community-based care alternatives;
- ▶ Hire additional surveyors to improve the quality of surveys and good remediation to avoid nursing home closures; and
- ▶ Promote the use of more receivers to improve resident care and avoid more nursing home closures.

## **NEW JERSEY**

### **Projects Funded**

- Pressure ulcers project;
- Video for CNAs on diabetes;
- Eden Alternative grants;
- Resident satisfaction survey;
- Ventilator bed study; and
- Injury prevention project.

## **Information on Availability of Funds**

Occasionally, providers receive notices from L&C about availability of CMP funds. Otherwise, there is no formal process in place for publicizing funding availability.

## **Stakeholder Involvement**

This varies by project. Typical stakeholders include Rutgers University, NJ Hospital Association, Health Care Association of NJ, and the Association of Non-Profit Homes for the Aging.

## **Applicant Eligibility**

Stakeholders can approach the L&C with their idea, a plan describing how they expect to carry it out, and a statement of potential benefits.

## **Selection Process**

L&C considers projects and makes final decisions internally about project funding. Approved projects are reimbursed after completion by the grantee.

## **Assessment of the Use of Funds**

Industry stakeholders we spoke to reported that they are generally satisfied. They support funding for research and consider the effort as positive, but note varying levels of project success. (No consumer advocacy organizations were available and the ombudsman did not respond to the survey).

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ A more formal application process is needed;
- ▶ Support resident satisfaction surveys;
- ▶ Support best practices projects;
- ▶ Promote collaborative projects such as pressure ulcer projects; and
- ▶ Promote projects that focus on resident care improvement.

## **NORTH CAROLINA**

### **Projects Funded**

- Quality initiatives projects given to the Medical Review of NC (MRNC) focused on medication errors, falls prevention, and preventing wandering/elopement;
- Cecil G. Sheps Center for Health Services Research at the University of NC;
- Medication error reporting; and
- Culture change projects (Eden Alternative) to providers.

## **Information on Availability of Funds**

Open bidding process for quality initiatives project involving Medical Review of NC (MRNC); self-initiated application by the Sheps Center; RFPs for enhancement grants to all Medicaid facilities (Eden Alternative) sent by L&C, and to general public via the L&C website.

## **Stakeholder Involvement**

Varies by project--MRNC projects involved nursing home industry; Sheps for Health Services Research projects involved providers; cultural change projects involved stakeholders including the nursing home industry (NC Health Care Facilities Association, NC Association of Non-Profit Homes for the Aging), consumers, and providers.

## **Applicant Eligibility**

Individual facilities apply via the RFP process; or projects can be self-initiated.

## **Selection Process**

L&C chief and staff make the decisions about fund use. The Medical Review of NC received some funds from L&C to distribute to providers for improvement projects.

## **Assessment of the Use of Funds**

Industry stakeholders said that they consider CMP-funded projects to be appropriate and effective. Consumer advocates reported that they are favorable about how funds have been used thus far, but are concerned that L&C is too provider-oriented and that the results of culture change projects are not clear.

## **Suggestions for Future Use of Funds**

Industry stakeholders:

- ▶ Use funds for the dissemination of evidence-based practices;
- ▶ Use funds for culture change projects; and
- ▶ Use funds for design and architectural research for building changes to accommodate culture change requirements.

Consumer advocates:

- ▶ Use funds for ombudsman programs to have community advisory committees; and
- ▶ Use funds for "residents rights" activities.

---

## **DISCUSSION**

---

Five of the six states focused on in the case studies used funds for culture change projects (all except Michigan). Massachusetts and North Carolina funded many small projects. For example, North Carolina's licensing and certification agency funded health care quality improvement projects in nursing homes. Four of the six states (KS, MA, MD, and NC) had a formal process for informing stakeholders about the availability of funds. In the other two states (Michigan and New Jersey) stakeholders had to inquire about funding availability. Those states with an established process of calling for proposals generally appeared to have had more stakeholder involvement. Three states (KS, MA, NC) had formal involvement of a broad range of provider, consumer, and other stakeholders in their planning and project selection process. Maryland also involved stakeholders in its processes but did not have a formal advisory committee.

In terms of eligibility to apply for projects, five states allowed a broad range of providers, consumers, and other stakeholders to apply for funds. Massachusetts limits availability of funds to long term care facilities. All six states gave the decision-making responsibility for the allocation of funds to the state licensing and certification agency, although Kansas also required approval by the state Medicaid agency and Maryland required approval of spending by the Maryland legislature.

In terms of the stakeholders assessment of how the states had used the funds, most providers and consumer advocates reported that they supported fund allocations in their state. Michigan was the exception: the providers and consumer advocates interviewed did not consider the previously funded projects to be valuable. Stakeholders in the six states had a range of suggestions for the future use of funds from CMPs/fines. Most stakeholders wanted funds to be given for quality improvement projects while a few supported using funds for temporary management and relocation of residents and other such activities. Overall, stakeholders viewed the funds from CMPs/fines as an opportunity for quality improvement and preventing problems in nursing homes.

## **LESSONS LEARNED: STEPS STATES SHOULD TAKE TO ENCOURAGE NOTEWORTHY PROJECTS/ACTIVITIES**

---

### **1. Selection Process**

- Establish a public process including public notice of fund availability with a clear annual timeline for applications for funding of innovative projects and an objective review process.
- Involve a wide range of knowledgeable stakeholders in setting the criteria for and guidelines for the use of funds including residents and family members, ombudsmen, family council members, members of citizen advocacy groups, providers, and individuals with grant-making experience.
- Encourage programs/projects to be jointly developed with academic organizations, consumers (or their representatives) and established experts.
- Select projects/programs/activities that go beyond regulatory requirements and ordinary budget items to improve residents' quality of care and quality of life, encourage person directed care, promote consumer advocacy and involvement and stimulate and support the spread of "culture change."
- Select projects/programs/activities directly related to nursing home residents.

### **2. Types of Projects**

- Encourage the innovative use of funds to stimulate quality in ways that ultimately can be replicated by other facilities/programs.
- Target consumer focused projects such as work with family councils, resident councils, consumer advocacy organizations, and ombudsman projects.

### **3. Allocation and Evaluation**

- Allocate sufficient funds to ensure a substantial, lasting impact and potentially a widespread impact.
- Allocate funds for programs/projects that are practical and can be sustained and/or replicated by others after the funding has ended.
- Establish a formal evaluation process for all projects using outside evaluation experts.