

## Frequently Asked Questions (FAQ) Civil Money Penalty (CMP) Reinvestment Applications

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## 1. 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 CMP projects to protect or improve the quality of life or quality of care for long-term care (LTC) facility residents - provided 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. CMP 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
- CMS-certified LTC facilities [Skilled Nursing Facility (SNF), Nursing Facility (NF)]
- Vendors
- State agencies
- Academic institutions

## 2. Can veterans' homes and Indian Health Service (IHS)/tribal LTC facilities apply for CMP funds?

Yes, if the LTC facility/nursing home is CMS-certified and subject to Federal CMPs through the survey and enforcement process, then it is eligible to apply for CMP funding.

## 3. Are non-certified LTC facilities eligible for these funds?

No, CMP funds can only be used to benefit residents in certified LTC facilities/nursing homes. LTC CMP funds cannot be used for settings such as assisted living facilities, hospitals, or adult day health care.

## 4. Can CMP funds be used by facilities that are not in compliance?

CMP funded projects are intended to help facilities maintain compliance, and all certified LTC facilities are eligible to apply for or benefit from the funding, but facilities cannot use CMP funds to bring themselves back into compliance with CMS requirements.

**5. Does a project need to benefit multiple facilities to be approved?**

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

**6. What is the application process and where can I apply?**

The application process for each State may differ. Some States use contract mechanisms and others use grants. All applications must receive approval through the CMS Branch. The Branch will respond to the State Agency (SA) with either approval, denial, or a request for more information. After a determination by the SA and CMS Branch, the applicant will be notified of the funding determination by the State. Applicants may contact the applicable SA with questions regarding their CMP application. CMP applications that are denied may not be resubmitted at a later date. A list of State CMP contacts is available on the CMS [CMPRP webpage](#) under the *Downloads* section.

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

You may want to review the following resources for ideas:

- State CMP Reinvestment Projects on the CMS CMPRP website under the *Downloads* section, in the zip files titled: “**State CMP Reinvestment Projects Funded by Calendar Year**”, “**Examples of CMP Funded Projects and Non-allowable Uses**”; and
- If your State has a CMP webpage, they may also have examples of projects that have been approved in the past.

**8. How long can a CMP project be implemented?**

CMP projects cannot exceed three years (36 months), but there is no minimum requirement.

**9. Can CMP projects be renewed after three years?**

A CMP project cannot exceed three years in the same nursing home or same target population. If after three years, an entity has a project idea that builds from a previously funded project, and has a different focus or will be implemented in different facilities, for example, a CMP reinvestment “extension project”, then a new CMP application is required. The applicant should provide evidence to the corresponding State Agency that will enable the SA to make a determination as to whether the project should be implemented in additional nursing homes.

**10. What is a CMP reinvestment extension project?**

A CMP reinvestment project is considered an “extension project” if it is identical in project details to a project approved after April 1, 2018 (same applicant, same project focus, but to a new nursing home population). Applicants applying for an extension of an approved CMP reinvestment project to new nursing home location(s), do not have to complete the entire application.

**11. What is required by the applicant for a CMP extension project?**

An applicant submitting an extension project must include a letter or email from the original State Agency of the previously approved, CMP-funded project. In the letter or email, the SA needs to articulate whether the previous applicant met project goals and objectives, and whether the SA recommends expanding the project to additional nursing homes.

**12. Do CMP applications have a funding ceiling amount?**

While CMS does not have a funding ceiling amount, States may have set limitations for their CMP applications. The CMP application budget is expected to be consistent with the size and scope of the project.

**13. Is there a limit to the number of facilities that can be supported in an application?**

There is no limit to the number of facilities provided in an application.

**14. Are letters of support required for CMP applications?**

Yes, a non-nursing home applicant should include letter(s) of support from nursing home(s) demonstrating that they are requesting the proposed project and are committed to participating. This letter may also come from a nursing home provider association.

**15. Can CMP funds be used to fund State salaries or the Ombudsman Program?**

Entities cannot be paid by a State or Federal source to perform the same function as the CMP project(s) or use(s). CMP funds may not be used to enlarge or enhance an existing appropriation or statutory purpose that is substantially the same as the intended project(s) or use(s). Therefore, States cannot use CMP funds to support ombudsmen salaries. States can only use CMP funds for personnel to administer and monitor projects using CMP funds. For more information, please see [42 CFR §488.433](#) and [S&C Memo 12-13-NH](#).

**16. Can Continuing Education be requested in CMP Reinvestment Applications?**

Yes, continuing education may be requested. Applications will be reviewed to ensure that the request is not excessive in nature and are applicable to the work to be performed.

**17. Can CMP 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 or allowed to cover or take the place of facility staff salaries.

**18. What should applicants understand about CMP Coronavirus Disease communicative technology (CT) funding requests?**

Communicative technology funding requests (e.g., iPads, electronic tablets, accessories) are prohibited through the standard CMP application while the Coronavirus Disease (COVID-19) Communicative Technology Application is in use. Applicants must request this application through their State CMP contact. Please note that the COVID-19 CT application is a temporary program in use during the Public Health Emergency (PHE). A list of State CMP contacts is available on the CMS [CMPRP webpage](#) under the *Downloads* section.

**19. What should applicants understand about CMP Coronavirus Disease visitation aid (VA) funding requests?**

Visitation aid funding requests should not be made through the standard CMP application while the COVID-19 Visitation Application is in use. Applicants must request this application through their State CMP contact. Funding requests may be submitted through the Visitation Aid Application for items such as tents, thermometers, outdoor furniture, portable heating units, and clear dividers that facilitate safer visitation practices during the PHE. Please note that the COVID-19 VA Application is a temporary program in use during the PHE.

## 20. Are there prohibited uses of CMP funds on CMP applications?

CMP funds may not be used for uses prohibited by law, regulation, or CMS policy. Examples include but are not limited to:

- a. Projects disapproved/denied by CMS. Denied applications may not be resubmitted;
- b. Duplicative funding or supplants Federal or State funding. States may not use CMP funds to pay entities to perform functions for which they are already paid by State or Federal sources. CMP funds, for example, may not be used to enlarge an existing appropriation or statutory purpose that is substantially the same as the CMP project. Also, CMP funds may not be used to fund State legislative directives for which no or inadequate State funds have been appropriated. Examples of prohibited funding include State surveyor salaries, survey and certification operations;
- c. Capital expenses or improvements to a facility. These include but are not limited to:
  - Expenses for replacing a boiler;
  - Redesign of a nursing home;
  - Landscaping; and
  - Parking lot or sidewalk construction;
- d. Nursing home services or supplies that are the responsibility of nursing home, include but are not limited to:
  - Required training of staff;
  - Laundry services;
  - Linen;
  - Food;
  - Heating;
  - Staffing costs;
  - Required medical equipment;
  - Medical record software; and
  - Nursing home staff travel and lodging expenses;
- e. Projects with an indirect relationship to improving quality of life and care, include but are not limited to:
  - Projects, items, or services which lack a clear and direct relationship to improving the quality of life and care of nursing home residents or protecting such residents;
  - Projects that do not establish a clear gap or need. For example, the nursing home population is not the main focus of the project. Instead, the nursing home or its staff will be the main beneficiary of the project without corresponding improvement in quality of care or life of the residents (e.g., improvements to a facility that serves as a marketing tool);
  - Projects focused on hospitalized patients or those receiving in-home health care; and
  - Research projects. Research often consists of projects where the benefit to nursing home residents is unknown or concentrated on the research entity, or a large portion of the budget does not directly benefit nursing home residents. Additionally, research often uses a large portion of the project budget for development and testing of an intervention or activity, rather than implementation of the project. Testing/evaluation of a facility's project is appropriate but the breadth and cost must be reasonable if CMP funds are being requested (e.g., it is not reasonable to spend \$50,000 evaluating a \$70,000 project);

- f. Projects with a conflict of interest (COI): projects where a COI or the appearance of a COI exists with the entity(ies) who will benefit from the intended project(s) or use(s);
- g. A project that extends beyond 3 years (36 months);
- h. Temporary manager salaries. A temporary manager's salary must be paid by the facility unless CMS stops or suspends payments to the facility under [42 CFR §489.55](#) during the temporary manager's duty period, and CMS determines that extraordinary action is necessary to protect the residents until relocation efforts are successful; and
- i. Other inappropriate expenses:
  - Incentives: including but not limited to incentives for attending trainings or for completing surveys;
  - Refreshments: this includes expenses for refreshments at conferences, trainings, meetings, etc.; and
  - Excessive or unclear expenses: overall costs appear excessive or unreasonable; travel expenses not broken down or aligned with generally accepted rates such as those of the State or Federal government; budget not itemized.

### **21. Can a CMP application be resubmitted?**

A CMP application that has been withdrawn may be resubmitted. An application previously reviewed and denied may not be resubmitted.

### **22. What are common issues noted on CMP reinvestment applications that require revisions?**

- Lacks quantifiable target goals or objectives to measure the project against. Clear targets are necessary to evaluate the requested use of CMP funds and determine whether the project was successful.
- No evidence that nursing homes are requesting the training/project and are committed to participating, such as letter(s) of support (non-nursing home applicants). Without this evidence, there is no guarantee residents will directly benefit from the requested use of CMP funds.
- Amount of CMP funding requested is unclear. The applicant provides conflicting amounts within the application and the accompanying budget file (Excel).
- Conflicting project timelines. The tabular budget lists the project as one timeframe and the budget narrative indicates a different timeframe.
- Potential duplication of indirect costs and administrative costs. For example, the vendor applicant requests rent, security, and/or utilities. Typically, these expenses are included in general indirect costs. However, the applicant requests an additional administrative cost without further clarification. It is impossible to determine whether the amounts listed are duplicative.
- Funds to promote and disseminate project findings. This includes attending conferences, drafting peer-reviewed articles, or building websites and social media platforms, etc.
- Charging an individual, facility or other entity for services, products, or training funded by CMP reinvestment. For example, an applicant requests funds for a venue, speakers, audio-visual support, and meeting materials and also charges individuals for attendance.
- Certified nursing assistant training. Due to existing Federal funding sources, CMP funds cannot be used to pay for certified nursing assistant (CNA) training, certification testing, test tracking systems, or any other associated expenses. CMP funds may be used to inform potential CNA students of existing reimbursement

options (through the Federal-State match) and/or to train nursing homes on recruitment and retention best practices. Also, training focusing on leadership and how nursing homes can improve the working environment for CNAs can be an acceptable workforce enhancement.

### **23. What is the State's role in the CMP application process?**

The State is required to solicit and review CMP applications thoroughly prior to submitting to CMS. States should not submit CMP applications for review to CMS, if they do not meet State and CMS requirements. During their application review process, States should ensure there are no unallowable uses of CMP reinvestment funds contained in the application. If the State has any concerns with an application, the State shall coordinate revisions with the applicant. States can deny an application without CMS review but cannot approve an application without CMS review.

### **24. Can CMP applications be submitted to CMPRP anytime for review?**

All entities should submit CMP project applications to their State for review. After this initial review, States should submit CMP applications anytime to their respective CMS Branch for CMPRP review. The CMPRP team accepts applications from CMS Branches via the CMP-Info email address: [CMPI-info@cms.hhs.gov](mailto:CMPI-info@cms.hhs.gov).

### **25. Is it mandatory that Branches send their States' CMP applications to the CMPRP team for review?**

No, it is not mandatory, but it is highly recommended. Branches can review applications on their own, although they should cc: the [CMPI-info@cms.hhs.gov](mailto:CMPI-info@cms.hhs.gov) and [QualityAssurance@cms.hhs.gov](mailto:QualityAssurance@cms.hhs.gov) mailboxes on their decision to approve/deny an application.

### **26. What occurs when a State submits an application, but the review team finds deficiencies or missing information?**

The CMPRP team will review all applications submitted by the Branches for completeness and reasonableness as well to ensure that no unallowable expenses have been included. If any deficiencies are identified or it is determined that more information is needed, the CMPRP team will begin the corrective action process and send a notification email to the State point of contact (POC). The corrective action email will contain the CMP application issue(s), which describes the application's deficiencies or missing information needed to complete the review.

With the first corrective action email, the State is required to respond with an updated application within 10 calendar days. If the revised application contains deficiencies that require clarification, or if it is missing information, the CMPRP team will send a second corrective action email to the State POC, and the State will have 10 calendar days to respond.

If the team does not hear back from the State POC within the 10-day period allowed for a corrective action, the team will send a reminder email and the State will have 5 days to respond to the reminder. If there is not a response within these 5 days, the application will be closed by the CMPRP as a final packet with issues and recommended for denial.

**27. When the CMPRP team sends an email to the State requesting clarification or revision of a CMP reinvestment application (e.g., a corrective action email), is it acceptable for the State or the applicant to respond in the body of an email?**

No, responses in the body of the email indicating revised application language and/or budget items, do not constitute a proper response. These should be captured in a revised application and Excel budget file and the documents emailed as attachments. Applicants will have up to two opportunities to correct areas that surface in the review of CMP applications.

**28. How long will the application review process take?**

The CMPRP team will review the application and respond to the Branch within 40 calendar days of original receipt if none or one round of correction is required, or within 60 calendar days if two rounds of correction are required assuming that the State/applicant meets their requested response time.

No Corrective Action Required: If the application does not require a corrective action, the State will generally receive a final approval decision from the Branch within 45 calendar days.

Corrective Action Required:

- CMP applicants have up to two opportunities to correct all issues identified (depending on the severity of the findings). If the initial revision creates a new challenge in the application, the applicant may have one more opportunity for correction depending on the severity of the finding.
- If the application requires corrective action, the CMPRP team will reach out to the State within 15 calendar days of receiving the application to request changes or additional information.
- The State will have 10 calendar days to provide the requested information. Revisions should be made and the updated application and budget should be returned. Responding via email, without attaching a revised application and budget does not constitute a response to the corrective action.

**29. What happens if the State POC does not provide the requested information by the established deadline?**

If the State POC does not respond to the corrective action emails within the given timeframe, the CMPRP team will notify the appropriate Branch that the application has outstanding issues, and the Branch may deny the application.

An application can be placed on hold at the request of CMS or the SA. During this time, additional information is being gathered or there are current policy/guidance discussions occurring. The application review period will be extended by the number of days that the application was on hold.

**30. Who makes the final decision to approve or deny an application to use CMP funds?**

The CMS Branch makes the final decision to approve or deny a CMP application.

**31. Does the CMPRP team monitor CMP projects that have been approved and funded?**

No, the CMPRP team does not monitor CMP projects. Monitoring and oversight (i.e., receiving and evaluating progress reports, monitoring and tracking the use of CMP funds) of CMP projects (including multi-year projects) is the responsibility of the State.