

JAN 23 2020

A BILL FOR AN ACT

RELATING TO THE MEDICARE CIVIL MONETARY PENALTY SPECIAL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that federal civil
2 monetary penalties may be assessed on Medicare certified skilled
3 nursing facilities by the Department of Health and Human
4 Services Centers for Medicare and Medicaid Services (CMS) and
5 shared with states. Monetary penalties are assessed when
6 facilities are cited for non-compliance with federal
7 certification requirements as found during federal
8 recertification surveys conducted in Hawaii on behalf of CMS by
9 the department of health office of health care assurance.
10 Further, the legislature finds that CMS has implemented the
11 civil monetary penalty reinvestment program (CMPRP), a three-
12 year effort to reduce adverse events, improve staffing quality,
13 and improve dementia care in nursing homes. CMS must approve
14 any initiatives that are aimed to improve the health and well
15 being of residents such as music and memory and education
16 programs. Facilities are not allowed to use funds to pay staff
17 salaries or for construction purposes. Further, CMS asks that
18 states not have statutes limiting the dollar amount of federal

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1 civil monetary penalty funds awarded to projects that benefit
2 nursing home residents, CMS considers it a reasonable goal for
3 states to award at least fifty percent of the fund balance to
4 such projects, beyond funds that are held in an emergency
5 reserve fund. Further, the legislature finds that a civil
6 monetary penalty special fund was created in the department of
7 health into which monetary penalties shared with Hawaii are
8 deposited and expended. The civil monetary penalty special fund
9 currently has a spending ceiling of \$30,000 per year. The
10 ceiling was determined during a time of infrequent and lower
11 amounts of assessed monetary penalties. However, during recent
12 years, the special fund balance has increased significantly and
13 the balance as of June 30, 2019, was \$1,051,157 after depositing
14 \$371,324 during fiscal year 2018-2019.

15 The purpose of this Act is to amend the civil monetary
16 penalty special fund statute to eliminate the spending ceiling
17 to align with the civil monetary penalty reinvestment program
18 and to allow the department of health to establish an
19 appropriate spending ceiling through the state budget process.

20 SECTION 2. Section 321-30.2, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

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1 "(a) There is established the civil monetary penalty
2 special fund, to be administered by the department of health.
3 The fund shall consist of moneys collected by the United States
4 Department of Health and Human Services Centers for Medicare and
5 Medicaid Services as federally imposed civil monetary penalty
6 funds when health care facilities or agencies do not meet
7 Medicare certification requirements as determined by the
8 department of health when it conducts medicare certification
9 surveys and complaint investigations on health care facilities
10 or agencies in Hawaii in accordance with section 1864 of the
11 Social Security Act. Moneys in the fund shall be expended by
12 the department of health as approved by the Centers for Medicare
13 and Medicaid Services. [~~Not more than \$30,000 of the moneys~~]
14 Moneys in the fund may be used during any fiscal year for the
15 activities carried out by the department of health as approved
16 by the Centers for Medicare and Medicaid Services."

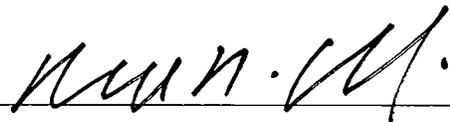
17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____



22

BY REQUEST

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Report Title:

Medicare Civil Monetary Penalties

Description:

Repeals the ceiling for using moneys in the civil monetary penalty special fund for use by the Department of Health for CMS-approved compliance activities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

SB. NO. 2899

DEPARTMENT:

TITLE: A BILL FOR AN ACT RELATING TO CIVIL MONETARY PENALTY SPECIAL FUND.

PURPOSE: To align Hawaii's civil monetary penalty special fund statute with the United States Centers for Medicare and Medicaid Services (CMS) civil monetary penalty reinvestment program.

MEANS: Amend section 321-30.2, Hawaii Revised Statutes.

JUSTIFICATION: The CMS civil monetary penalty reinvestment program is an effort to reduce adverse events, improve staffing quality and improve dementia care in nursing homes. CMS assesses and collects civil monetary penalties when skilled nursing facilities are cited for non-compliance with federal certification requirements as found during federal recertification surveys conducted in Hawaii on behalf of CMS by the Department of Health Office of Health Care Assurance (OHCA). CMS shares collected monetary penalties with the states.

CMS asks that states not have statutes limiting the dollar amount of federal monetary penalties awarded to projects that benefit nursing home residents, and CMS considers it a reasonable goal for states to award at least fifty percent of the fund balance, beyond funds that are held in an emergency reserve fund.

Currently, Section 321-30.2 contains a spending ceiling of \$30,000 annually although Hawaii's fund balance as of June 30, 20-19, was \$1,051,157 after depositing \$371,324 during fiscal year 2019. The fund

balance has grown significantly over the past three years.

Impact on the public: Positive benefits to nursing home residents.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: Civil monetary penalty special fund.

PPBS PROGRAM
DESIGNATION: HTH-720.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.