
A BILL FOR AN ACT

RELATING TO HEALTH.

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

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PART I

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SECTION 1. The legislature finds that federal civil

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monetary penalties may be assessed on medicare-certified skilled

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nursing facilities by the Department of Health and Human

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Services Centers for Medicare and Medicaid Services and shared

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with states. Monetary penalties are assessed when facilities

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are cited for non-compliance with federal certification

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requirements, as found during federal recertification surveys

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conducted in Hawaii on behalf of the Centers for Medicare and

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Medicaid Services by the department of health office of health

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care assurance. Furthermore, the legislature finds that the

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Centers for Medicare and Medicaid Services has implemented the

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civil monetary penalty reinvestment program, a three-year effort

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to reduce adverse events, improve staffing quality, and improve

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dementia care in nursing homes. The Centers for Medicare and

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Medicaid Services must approve any initiatives that are aimed to

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improve the health and well-being of residents, such as music



1 and memory and education programs. Facilities are not allowed
2 to use funds to pay staff salaries or for construction purposes.
3 The Centers for Medicare and Medicaid Services also asks that
4 states not have statutes limiting the dollar amount of federal
5 civil monetary penalty funds awarded to projects that benefit
6 nursing home residents. The Centers for Medicare and Medicaid
7 Services considers it a reasonable goal for states to award at
8 least fifty per cent of the fund balance to these projects,
9 beyond funds that are held in an emergency reserve fund. The
10 legislature also finds that a civil monetary penalty special
11 fund was created in the department of health into which monetary
12 penalties shared with Hawaii are deposited and expended. The
13 civil monetary penalty special fund currently has a spending
14 ceiling of \$30,000 per year. The ceiling was determined during
15 a time of infrequent and lower amounts of assessed monetary
16 penalties. However, during recent years, the special fund
17 balance has increased significantly and the balance as of June
18 30, 2019, was \$1,051,157 after \$371,324 was deposited during
19 fiscal year 2018-2019.

20 The purpose of this part is to eliminate the spending
21 ceiling of the civil monetary penalty special fund to align with



1 the civil monetary penalty reinvestment program and allow the
2 department of health to establish an appropriate spending
3 ceiling through the state budget process.

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

6 "(a) There is established the civil monetary penalty
7 special fund, to be administered by the department of health.
8 The fund shall consist of moneys collected by the United States
9 Department of Health and Human Services Centers for Medicare and
10 Medicaid Services as federally imposed civil monetary penalty
11 funds when health care facilities or agencies do not meet
12 medicare certification requirements as determined by the
13 department of health when it conducts medicare certification
14 surveys and complaint investigations on health care facilities
15 or agencies in Hawaii in accordance with section 1864 of the
16 Social Security Act. Moneys in the fund shall be expended by
17 the department of health as approved by the Centers for Medicare
18 and Medicaid Services [~~. Not more than \$30,000 of the moneys~~],
19 including for supplemental health care benefits, such as in-home
20 care, adult day care, and other non-medical, in-home items and
21 services. Moneys in the fund may be used during any fiscal year



1 for the activities carried out by the department of health as
2 approved by the Centers for Medicare and Medicaid Services."

3 PART II

4 SECTION 3. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2020-2021 for
7 one permanent full-time equivalent (1.0 FTE) medicare
8 administrator position within the department of health for
9 outreach and support for those transitioning to medicare
10 coverage.

11 The sum appropriated shall be expended by the department of
12 health for the purposes of this Act.

13 PART III

14 SECTION 4. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

DOH; Medicare; Civil Monetary Penalties; Civil Monetary Penalty Special Fund; Medicare Administrator; Appropriation

Description:

Repeals the ceiling for using moneys in the civil monetary penalty special fund by DOH for compliance activities approved by the Centers for Medicare and Medicaid Services. Appropriates funds to DOH for the establishment of a medicare administrator position. Effective 7/1/2050. (HD1)

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