
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 and shared
5 with states. Monetary penalties are assessed when facilities
6 are cited for non-compliance with federal certification
7 requirements as found during federal recertification surveys
8 conducted in Hawaii on behalf of the Centers for Medicare and
9 Medicaid Services by the department of health office of health
10 care assurance. Further, the legislature finds that the Centers
11 for Medicare and Medicaid Services has implemented the civil
12 monetary penalty reinvestment program, a three-year effort to
13 reduce adverse events, improve staffing quality, and improve
14 dementia care in nursing homes. The Centers for Medicare and
15 Medicaid Services must approve any initiatives that are aimed to
16 improve the health and well being of residents such as music and
17 memory and education programs. Facilities are not allowed to



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

19 The purpose of this Act is to:



- 1 (1) Amend the civil monetary penalty special fund statute
- 2 to eliminate the spending ceiling to align with the
- 3 civil monetary penalty reinvestment program; and
- 4 (2) Allow the department of health to establish an
- 5 appropriate spending ceiling through the state budget
- 6 process.

7 SECTION 2. Section 321-30.2, Hawaii Revised Statutes, is

8 amended by amending subsection (a) to read as follows:

9 "(a) There is established the civil monetary penalty

10 special fund, to be administered by the department of health.

11 The fund shall consist of moneys collected by the United States

12 Department of Health and Human Services Centers for Medicare and

13 Medicaid Services as federally imposed civil monetary penalty

14 funds when health care facilities or agencies do not meet

15 medicare certification requirements as determined by the

16 department of health when it conducts medicare certification

17 surveys and complaint investigations on health care facilities

18 or agencies in Hawaii in accordance with section 1864 of the

19 Social Security Act. Moneys in the fund shall be expended by

20 the department of health as approved by the Centers for Medicare

21 and Medicaid Services. [~~Not more than \$30,000 of the moneys~~]



1 Moneys in the fund may be used during any fiscal year for the
2 activities carried out by the department of health as approved
3 by the Centers for Medicare and Medicaid Services."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



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 Centers for Medicare and Medicaid Services-approved compliance activities. (SD1)

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