

Nursing Home Penalty Cash Fund Expenditure Report State Fiscal Year (SFY) 2023-2024

Submitted to: Governor Polis and Joint Health and Human
Services Committees

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Executive Summary

During the state fiscal year (SFY) 23-24, four Civil Money Penalty (CMP) Reinvestment grant projects were completed, while five are ongoing, collectively serving over 90 nursing homes across Colorado. Over \$945,000 of CMP funds were used to improve the quality of life and quality of care for nursing home residents. Each project was well-received, as they brought connection, meaning, and joy into nursing homes following the COVID-19 pandemic.

In May 2023, the Centers for Medicare and Medicaid Services (CMS) stopped accepting Civil Money Penalty Reinvestment Program (CMRPP) grant applications and announced that they would be making changes to the CMRPP guidelines. Applications resumed in September 2023 with new project requirements. The grant amount was reduced to \$5,000 per project per nursing home, and some previously funded projects were no longer accepted.

In response to these significant changes, CMP staff creatively engaged in outreach through a quarterly newsletter, CMP flyer, and various stakeholder interactions. Nursing Home Innovations Grant Board members continue to promote awareness about CMP funds in efforts to improve the quality of care and quality of life for nursing home residents across Colorado.

Introduction

A Civil Money Penalty (CMP) is a fine imposed on nursing facilities by CMS. Fines are given when a facility is found to be out of compliance with one or more Medicare or Medicaid participation requirements during a survey. A portion of collected CMPs are returned to the state for reinvestment in projects that benefit nursing facility residents.

In Colorado, the Nursing Home Penalty Cash Fund (cash fund) comprises the State's share of CMP funds and the interest earned on those funds. The Colorado Department of Public Health and Environment (CDPHE) is the single state survey agency responsible for conducting facility surveys and imposing CMPs. The Department of Health Care Policy and Financing (HCPF) manages these funds under federal regulations and state statutes.

Spending Authorities

Federal regulations¹ limit the use of these funds to activities that protect or improve the quality of care or quality of life for nursing home residents, including:

- (a) Support and protection of residents of a facility that closes.
- (b) Time-limited expenses incurred in the process of relocating when a facility is closed or downsized.
- (c) Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities.
- (d) Facility improvement initiatives approved by CMS.
- (e) Development and maintenance of temporary management or receivership capabilities.

¹ 42 CFR § 488.433 Civil money penalties: Uses and approval of civil money penalties imposed by CMS

In 2014, Senate Bill 14-151 established the Nursing Home Innovations Grant Board (the Board) to replace the Nursing Facility Culture Change Accountability Board, which was created by House Bill 09-1196 in 2009. The bill set funding limits and extended the funding period for projects to three years.

In 2019, Senate Bill 19-254 lifted the funding maximum in response to the growing balance of the fund and changes in federal guidance. Before the COVID-19 pandemic, CMS had expressed that states should work towards making 50% of the funds available for grants.

In 2021, Senate Bill 21-128 transitioned fund administration from HCPF to CDPHE and adjusted administrative expense caps to improve state and federal alignment as well as grant-making efficiency.

Transfer of Operational Administration to CDPHE

HCPF and CDPHE worked to transfer operations and grant oversight to CDPHE in SFY 2022. All ongoing grants, purchase orders, and contracts previously managed by HCPF were reissued by CDPHE in Summer 2021. The departments continued to share data, processes, and invoicing practices throughout SFY 2022 to accommodate a series of universal grant opportunities. CDPHE is now the primary operational contract for CMP grants and began issuing new project purchase orders and contracts in January 2022.

Nursing Home Innovations Grant Board Activities

Board members had productive meetings including presentations for quarterly, annual, and final reports. These presentations were given by:

1. Colorow Care Center - Colorow Health Care Center and Catching Dreams (Final)
2. Holly Heights Nursing Home, Inc - Daffodils for Dementia (Annual)
3. Edu-Catering, LLP - Validation Training in Four Colorado Nursing Homes and Beyond (Final)
4. AGE-u-cate, LLC - Reading2Connect: A One-of-a-Kind Program to Enhance the Social-Emotional Wellbeing of Long-Stay Residents Through the Power of Age/Dementia-Friendly Books (Annual)
5. Long Term Care Consultants, LLC- SNFclinic (Annual)
6. CWA Colorado - Miles of Smiles Colorado (Final)
7. Evangelical Lutheran Good Samaritan Society - Fort Collins Village - The Java Project: Addressing Social Isolation & Loneliness (Final)

Final reports are published on the Board's website to share innovations with long-term care facilities across the state. CDPHE's Health Facilities and Emergency Medical Services Division (HFEMSD) tracks the number of visits to this webpage.

The Board also listened to presentations from applicants, which helped board members better understand the project's intentions and goals. The presentations allowed applicants to illustrate their projects through video demonstrations and testimonials. Presentations were given by:

1. Eperture - Reading and Comprehension
2. AGE-u-cate - Compassionate Touch

In May 2023, CMS paused all applications and announced upcoming changes to CMPRP guidelines. When the pause ended in September 2023, CMS released new guidelines that drastically reduced funding to \$5,000 per project per nursing home and imposed significant restrictions on the types of projects they allowed. These new limits exclude some previously approved CMP projects. CMS outlined four project categories: training to improve quality of care, consumer information, activities to improve quality of life, and support for resident and family councils. The significant decrease in allowable funds and project types under the new CMS guidelines greatly hinders the positive impact CMP funds could have on nursing home residents across Colorado.

Under the new guidelines, five of the six grant applications that were recommended by the Board to CMS for funding in 2023 were deemed ineligible due to the new CMS funding restrictions. The applicants were notified and asked to submit a new application that complied with the new CMS grant requirements. Additionally, three continuation projects – SilverKite Community Arts, LLC - SPARKing Conversation, Connection, and FUN! During COVID-19 and Beyond; Eperture, LLC- RememberStuff; and Long Term Care Consultants, LLC- SNFClinic— had been submitted to CMS before May 2023, but CMS asked them to reapply following the new guidelines.

The Board successfully recruited four new board members to fill the remaining vacancies. The open positions were communicated through CDPHE and HCPF newsletters, and a flyer was posted on the Board’s website. Board members also conducted outreach within their communities. Applicants were invited to attend a Board meeting, providing them an opportunity to learn more about the Board and answer any questions they had. The new members were officially appointed following the September 2023 Board meeting.

The Board completed the annual boards and commission training, and in October 2023, members reviewed the by-laws to ensure all responsibilities complied.

Additionally, the Board reviewed and approved CMS CV-19 Visitation Aid (Air Filtration) grant applications for 18 nursing homes in Colorado. Each nursing home was awarded \$3,000 for the portable room air cleaners, totaling \$54,000.

In May 2024, the Board released a Request for Applications (RFA) and decided to accept applications on a rolling basis with no set deadline to encourage broader participation. The Board is focusing on recruiting applicants with projects that benefit rural communities and low-performing² facilities in Colorado, align with Medicaid Pay 4 Performance goals, and focus on Equity Diversity and Inclusion (EDI), and trauma-informed care. CMP staff developed a quarterly newsletter with information on the grants, CMS guidelines, allowable and non-allowable uses of CMP funds, application resources, and completed applications. Additionally, CMP staff created a flyer to announce the RFA to CDPHE and HCPF portals, interested parties, and stakeholder contact lists, as well as for Board members to share. The Board continues to seek guidance from CMS regarding new guidelines and changes.

² The Board utilizes CMS metrics and recertification survey data to determine low-performing facilities.

Grants Awarded and Funding Expended

The Board continues to receive and review applications from various organizations, including consultants, charitable organizations, nursing home providers, management companies, higher education institutions, government subdivisions, and more. Upon project approval, Board members review the deliverables and assist grantees in coordinating their projects. Board members perform in-person and virtual meetings with the grant recipient organizations. Project results are published on the HCPF website and CDPHE websites. Details of individual grants can be found in Appendix B.

Grant Funds

Cycle 12

Cycle Twelve grants were received and reviewed in September 2019, with an anticipated start date of July 1, 2020. This cycle marked the first without the \$250,000 spending cap in place. The Board received 20 applications and obtained federal approval for 13 projects totaling \$1,064,465.94 over three years. Many project start dates were delayed due to the COVID-19 pandemic, and the Board worked with grantees to revise project timelines. Three projects were completed in 2022, two were moved to Cycle 13 with re-submitted applications, four were completed in 2023, two had to withdraw due to staffing shortages and administrative changes, and two will be completed in 2024.

Cycle 13

The Board implemented new application guidelines and received applications for Cycle 13 grants in August 2021. After reviewing 21 applications, CMS approved funding totaling \$1,199,402.38 for this cycle. A total of nine projects were accepted, but one of those had to withdraw because they needed to update equipment quickly and could not wait for the grant process to be completed. Four projects were completed in 2023, two will be completed in 2024, and the remaining two will be completed in 2025. Additionally, three continuation project applications were submitted to CMS.

Cycle 14

Fifteen applications were submitted in January 2023. The Board reviewed and approved six applications for submission to CMS, totaling \$3,418,774.95. In May 2023, CMS put a hold on reviewing grant applications to re-evaluate CMP processes and procedures. While awaiting CMS's resumption of application reviews the Board ensured that all applications were prepared for submission. One project, the Evangelical Lutheran Good Samaritan Society - Fort Collins Village - The Java Project: Addressing Social Isolation and Loneliness, was approved before the CMS hold, with funding totaling \$15,379.65. This project was completed in 2024.

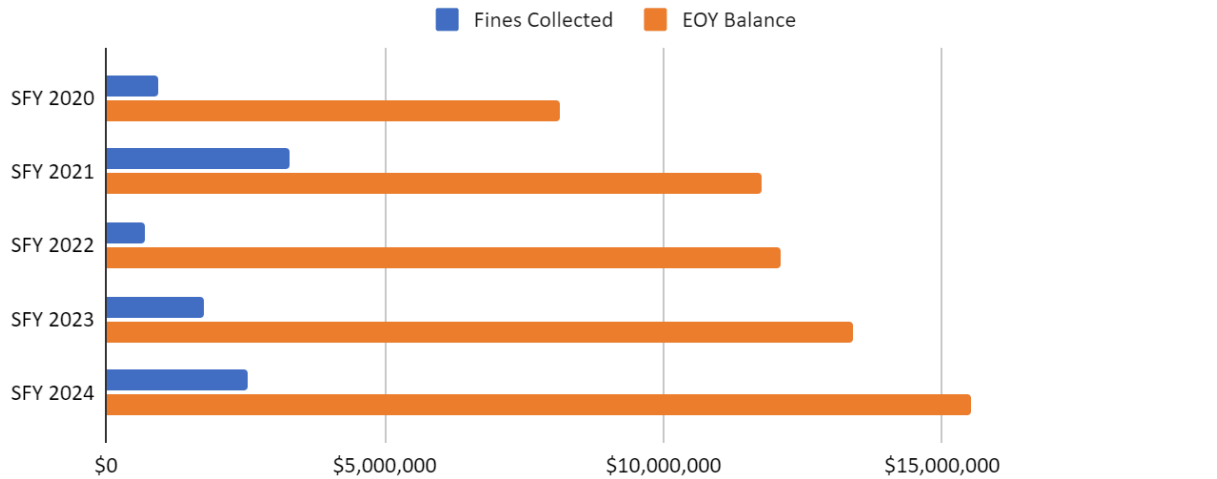
Cycle 15

CMS ended its pause on accepting applications in September 2023. The Board released an RFA in May 2024. One continuation application from SilverKite Community Arts, LLC for \$109,260.12 has been submitted to CMS for approval.

Nursing Home Penalty Cash Fund Finances

Total CMPs imposed in SFY 2024 increased to \$2,546,197.07. Expenditures for the fiscal year totaled \$945,757.14. As of June 2024, the remaining balance was \$15,502,355.19.

CMP Collected and Fund Balance by Year



	CMPs Collected	Recoveries	Interest Income	Expenditures	EOY Balance
SFY 2020	\$919,824		\$188,199	(\$1,113,248) ³	\$8,133,662
SFY 2021	\$3,292,903	\$938,360 ⁴	\$106,410	(\$711,104)	\$11,747,616
SFY 2022	\$702,228		\$133,024	(\$498,158)	\$12,084,714
SFY 2023	\$1,741,091.52		\$289,285.00	(\$705,437.08)	\$13,409,653.26
SFY 2024	\$2,546,197.07		\$492,262.00	(\$945,757.14)	\$15,502,355.19

³ Number includes cash outlays provided for the closure of Union Printers Home.

⁴ Funds recovered related to closure of Union Printers Home.

Going Forward

The Board is working to fill an open position for a disability community representative. To prepare for future vacancies, CMP staff will work with the Board to explore strategies for increasing board membership and raising awareness about the use of CMP funds.

The Board has begun reviewing applications from the new RFA. CMP staff are working on various communication methods to announce the RFA release, including a quarterly newsletter, flyers, targeted stakeholder outreach, portal announcements, and stakeholder meeting updates. CMP grant information is regularly shared at various HCPF and CDPHE stakeholder meetings. The Board aims to increase awareness through these outreach efforts.

APPENDIX A

NURSING HOME INNOVATIONS GRANT BOARD

10 Members (8 Appointed by Governor)

3-year terms

Andrea Garza, Aurora (U) - represents currently employed at a long-term care nursing facility. Replaced Carwile. Serves by appointment.

Stacey Lee Love, Aurora (D) - represents currently employed at a long-term care nursing facility. Serves by reappointment.

Adria Paxton, Sterling (U) - represents currently employed at a long-term care nursing facility. Serves by appointment.

Corrina Hopley, BSN, RN, Fort Collins (D) - represents currently employed at a long-term care nursing facility. Serves by appointment.

Annie Lozano, Denver (D) - represents currently employed at a long-term care nursing facility. Serves by appointment.

Eric Springer, Boulder (R) - represents consumers of long-term care. Serves by appointment.

Lori Nelson, Brighton (D) - represents the business community. Serves by appointment.

Other Members

Richard Clark - represents the Executive Director of HCPF or designee

Jo Tansey - represents the Executive Director of CDPHE or designee

Amber Franzel, Fort Collins - represents the state long-term care ombudsman or designee

APPENDIX B
SFY 2022-23 NURSING HOME INNOVATIONS GRANT BOARD
PROJECTS UNDERWAY IN SFY 2020-2023

Colorow Health Care, LLC: \$84,406.97

The Culture Change Revolution- Equipping The Western Slope

The goals of the project are to equip members of Colorow, and members of other healthcare organizations, to bring the inspiration and passion of culture change and person-directed care back to their facilities through Certified Eden Educator Training and Certified Eden Associate Training. This project will be completed in 2024.

Edu-Catering, LLP: \$53,730.48

Validation Training in Four Colorado Nursing Homes & Beyond

The proposed validation training will assist nursing home staff in creating a safer living environment based on understanding and is designed to reduce resident agitation. Additionally, the applicant's plan for creating and disseminating instructional videos to the other long-term care stakeholders is likely to increase the overall number of nursing home residents who will benefit from the project. This project was placed on hold in 2021 due to COVID-19 and extended until 11/30/2023.

Focus Consultation, LLC: \$218,992.00

The Live Oak Project

The Live Oak Project delivers an enhanced resident community development methodology and spiritual component. The delivery system involves a process of training, demonstration, and peer support for community developers and managers. Training will assist in creating a culture change to improve resident-centered care, increasing the well-being of residents, families, staff, and all care partners. This project will be completed in 2024.

APPENDIX C
SFY 2022-23 NURSING HOME INNOVATIONS GRANT BOARD
PROJECTS UNDERWAY IN SFY 2022-2025

Age-u-cate Training Institute: \$299,286.22

Reading 2 Connect: A One-of-a-Kind Program to Enhance the Social-Emotional Wellbeing of Long-Stay Residents Through the Power of Age/Dementia-Friendly Books This program focuses on staff training to improve the quality of care for patients with dementia. The program involves an online course, followed by a hands-on practicum, and a device-friendly training course. The goals of this program are to provide nursing facilities with materials and training to facilitate independent, resident-directed reading through specialized age/dementia-friendly books. This project will be completed in 2024.

Holly Heights Nursing Home, Inc.: \$34,930.51

Holly Heights Daffodils for Dementia

The Daffodils for Dementia program will provide nursing home staff with a deeper understanding of the dementia disease process and specialized training in effective techniques for assessing the needs and behavior of residents to provide appropriate care interventions. The goal is to maintain nursing home resident engagement by providing training, supportive programming, and non-pharmacological interventions. This project will be completed in 2024.

Huerfano County Hospital District & Spanish Peaks Veterans Community Living Center: \$12,494.00

Dementia Capable Care Training

This project will certify two Dementia Capable Care Trainers at the skilled nursing facility. The trainers will be responsible for training the rest of the staff, to improve memory care practices in the facility. Training will focus on reducing the use of psychotropic medicines, improving overall relationships for the resident, helping residents engage in meaningful activities, increasing safety, increasing quality of life, increasing daily function, reducing hospitalizations, and building staff skills and confidence to care for residents. This project was placed on hold in 2022 due to COVID-19. A request to CMS was sent to make budget changes to change the training format from classroom instruction & book to blended learning. Still awaiting a response from CMS.

Long Term Care Consultants, LLC: \$715,000.00

SNFclinic

SNFclinic is designed to address the issue of training current & new hires in an environment of high turnover rates. SNFclinic provides centralized technology-based systems for training, staff management, and resident care resources. The goal is to improve compliance, decrease survey deficiencies, and improve the scope and severity of survey citations. This project will be completed in 2025. The grantee is working on a continuation application to allow additional nursing homes the opportunity to participate in the grant.

CWA Colorado: \$47,937.60

Miles of Smiles Colorado

The trishaw bikes will allow residents of the four participating nursing homes the opportunity to ride outside and experience a sense of freedom, thus improving the mental health of the residents. The scheduled trishaw rides will be provided by volunteers and trained trishaw cyclists. This project was extended through 6/30/2024 due to weather conditions.

APPENDIX D
SFY 2022-23 NURSING HOME INNOVATIONS GRANT BOARD
PROJECTS APPROVED OR INITIATED IN SFY 2023-2025

Evangelical Lutheran Good Samaritan Society- Fort Collins Village: \$15,379.65

The Java Project: Addressing Social Isolation & Loneliness

The Java Project programs are weekly resident peer support & mentoring programs facilitated by staff. The goal of the project is to improve quality of life for nursing home residents by decreasing social isolation and loneliness through the implementation of the Java group programs. This project was the only one approved before the CMS hold. The project started on 7/1/2023 and was completed in 2024.