



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #363

Nursing Home Grant Program Administrator (Health Services -- Elder and Disability Services)

[LFB 2021-23 Budget Summary: Page 293, #8]

CURRENT LAW

The federal Centers for Medicare and Medicaid Services (CMS) collects civil money penalties (CMP) from nursing facilities that have not maintained compliance with Medicare and Medicaid participation requirements and distributes a portion of this revenue to states to support projects to protect the health or property of residents of nursing facilities.

States are required to use their CMP allocations to support activities that benefit nursing home residents, and that protect or improve their quality of care or quality of life. CMS examples of allowable uses for CMP funds include, but are not limited to: (a) assistance to support and protect residents of a facility that closes or is decertified; (b) time-limited expenses incurred in the process of relocating residents to home and community-based settings or another facility when a facility is closed or downsized pursuant to an agreement with the state Medicaid agency; (c) projects that support resident and family councils and other consumer involvement in assuring quality care in facilities; and (d) facility improvement initiatives, such as joint training of facility staff and surveyors, or technical assistance for facilities implementing quality assurance and performance improvement programs.

Under the nursing home grant program, the Division of Quality Assurance (DQA) in the Department of Health Services (DHS) typically approves 15 to 20 applications per year. Due to the COVID-19 pandemic, the most recent and accurate program data is for 2019. In that year DQA managed 14 ongoing projects funded through the program, with total awards ranging from less than \$5,000 to more than \$1,500,000. DHS administers the program by assigning program management responsibilities to several staff in DQA.

DISCUSSION POINTS

1. Currently, to apply for a CMP grant, an eligible organization submits a project proposal to the Quality Assurance and Improvement (QAI) Committee, whose members are appointed by the DHS Secretary. The QAI Committee reviews project proposals during meetings in May or June and November or December each year. On average, the QAI Committee approves 15 to 20 proposals per year. Generally, any organization involved in the promotion of quality of care with licensed Wisconsin nursing homes are considered eligible to submit a project proposal for review.

2. Following approval for a project, DQA staff acquires CMS approval to use CMP funds for the project in question, develops grant agreements and purchase orders, and oversees the project throughout its life cycle, which is limited to a maximum of three years.

3. Examples of previous projects funded through the CMP nursing home grant program include a \$611,000 grant to UW-Madison to design and implement a statewide training program to implement new federal infection control regulations; an \$11,000 grant for a specific nursing home to develop a sensory and aromatherapy treatment program; and \$42,000 to Music & Memory to help train and support new staff in how to provide personalized music to nursing home residents, which reduces agitation, enhances engagement with friends and family, and provides enjoyment to people with dementia.

4. In addition to programs for which specific organizations have applied, CMS launched two nationwide grants for eligible nursing home using the CMP funds during the COVID-19 pandemic. The first such funding opportunity allowed federally certified nursing homes to apply for up to \$3,000 per facility to purchase tents for outdoor visitation and clear dividers (Plexiglas or a similar product) to create a physical barrier to reduce the risk of transmission during in-person visits. Subsequently, CMS expanded the allowable uses to include: outdoor furniture, heating units with appropriate venting; properly grounded lighting or electrical systems; and infrared temperature scanners, as long as such purchases were for the purposes of in-person visitation. In calendar year 2020, DQA issued \$195,000 for these purposes.

5. The second such funding opportunity allowed federally certified nursing homes to apply for up to \$3,000 per facility to purchase electronic devices to enable residents to visit with family and friends in a virtual setting and participate in telehealth visits. CMP funds could be used by nursing homes to purchase tablets, iPads, and similar devices, as well as accessories including headphones and protective covers to help with cleaning between uses. This program was initiated in response to the restrictions placed on visitors in nursing homes to prevent the spread of COVID-19. In calendar year 2020, DQA issued \$767,000 for these purposes.

6. Currently, the responsibility to administer the CMP grant program is divided between three employees within DQA, none of whom are assigned primary responsibility for the program. Instead, the time these employees spend administering the CMP grant reduces time these employees would otherwise have to perform their core responsibilities.

7. In February 2017, CMS started encouraging states to submit "administrative use" proposals, which are proposals to use CMP funding to fund permanent state positions relevant to the

administration of each state’s CMP program. States must apply to CMS to receive approval for these proposals.

8. The Department indicates that CMS typically allows states to use between 1% and 3% of available funds for administrative use proposals. The following table shows revenues, expenditures, and balances for the appropriation which funds the program for state fiscal years 2018-19 and 2019-20.

**Nursing Home Grant Program Revenues, Expenditures, and Balances
Fiscal Years 2018-19 and 2019-20**

	<u>2018-19</u>	<u>2019-20</u>
Opening Balance	\$11,506,500	\$11,807,700
Revenues	1,827,500	1,409,200
Expenditures	<u>1,526,300</u>	<u>1,371,000</u>
Closing Balance	\$11,807,700	\$11,845,900

9. As recommended by the Governor, the Committee could provide \$65,300 PR in 2021-22 and \$83,700 PR in 2022-23, from the existing balance to fund 1.0 PR position, beginning in 2021-22, to manage the CMP grant program. The 2021-22 funding amount differs slightly from the amount recommended by the Governor, due to a reestimate of supplies and services costs for this position. Under this alternative, funding would fall below the CMS range for administrative use proposals, with the Department estimating the position would, when fully funded for 12 months in 2022-23, be funded using 0.76% of the appropriation cash balance at the end of 2019-20 minus funds already committed.

10. The administration indicates that, if authorized the position would, among other activities: (a) lead the QAI Committee to review nursing home grant program applications; (b) guide approved applications through the DHS and CMS approval processes; (c) develop and process grant agreements and purchase orders between approved applicants and DHS; (d) review, approve, and pay invoices related to approved programs; (e) report annual activity to CMS and maintain fiscal records of approved programs; (f) track progress of approved programs; (g) maintain contact with applicants, DHS bureau of fiscal services, and DHS bureau of procurement and contracting to assure accurate and timely processing of contracts, purchase orders, and payments; and (h) perform outreach and marketing to improve and expand the program.

11. Due to the federal limitations on how CMP funds can be used and the recommendation from CMS that states submit proposals to use CMP funding to secure permanent state positions to administer the state’s CMP program, the Committee may wish to provide funding and position authority for a CMP grant administrator. Additionally, funding a designated position for this purpose would allow the staff currently administering the program to spend more time on their primary work duties, while allowing the administrator to focus solely on CMP grant administration and improvement activities [Alternative 1].

12. Under current law, DHS is authorized to expend all penalty revenues that are credited to

the appropriation for eligible projects and services. The base funding for these projects and services (\$2,700,000) is intended to represent an estimate of annual expenditures that will be made from the appropriation, but does not limit the Department's expenditure authority. Based on the grant amounts that have been authorized during the past several years, as shown in the table in Discussion Point 8, the current (base) estimates of spending from the appropriation far exceeds actual expenditures from the appropriation. Consequently, it could be argued that it is unnecessary to increase estimated base expenditures from the appropriation in the 2021-23 biennium.

13. Instead, if the Committee wished to fund the position recommended by the Governor, it could: (a) reduce estimates of PR spending so that \$2,000,000 PR would be budgeted as an estimate of program expenditures in each year; and (b) authorize 1.0 position, supported from the appropriation, and modify the appropriation language to reference the new position [Alternative 2]. If the Committee chooses not to fund or authorize the position recommended by the Governor, it could still reduce estimates of PR spending annually so that \$2,000,000 PR would be budgeted as an estimate of program expenditures in each year [Alternative 3].

14. On the other hand, the Department indicates hesitancy to reduce the estimates of expenditures from the appropriation as DHS and Department of Administration staff would need to do additional work to increase expenditure authority for the appropriation in case DQA has a higher than normal grant cycle in the coming two years.

ALTERNATIVES

1. Provide \$65,300 PR in 2021-22 and \$83,700 PR in 2022-23, from the existing balance, to fund 1.0 PR position, beginning in 2021-22, to manage the CMP grant program.

ALT 1	Change to Base	
	Funding	Positions
PR	\$149,000	1.00

2. Authorize 1.0 PR position to manage the CMP grant program and modify the current appropriation to reference the new position. In addition, reduce base estimates of PR spending for the program by \$700,000 annually so that \$2,000,000 PR would be budgeted as an estimate of program expenditures in each year.

ALT 2	Change to Base	
	Funding	Positions
PR	-\$1,400,000	1.00

3. Reduce base estimates of PR spending for the program by \$700,000 annually so that \$2,000,000 PR would be budgeted as an estimate of program expenditures in each year.

ALT 3	Change to Base
PR	- \$1,400,000

4. Take no action.

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