



# In the Literature

## THE COLLECTION AND USE OF FUNDS FROM CIVIL MONEY PENALTIES AND FINES FROM NURSING HOMES

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To stem a sweeping problem of abuse and substandard treatment of residents in the nation's nursing homes, the 1987 Nursing Home Reform Act established quality standards and basic rights for residents. Nursing homes found to be out of compliance with the Act's requirements are subject to monetary fines, among other penalties.

A new Commonwealth Fund-supported study, "[The Collection and Use of Funds from Civil Money Penalties and Fines from Nursing Homes](#)," (*The Gerontologist*, Dec. 2006) examines the amount of fines collected from nursing homes and the ways in which states have used these funds. According to the researchers, out of a total of \$61 million in collected penalties over the 1999–2005 period, 32 states spent \$28 million on projects to relocate residents, train employees, and explore opportunities to promote resident-centered care, among other reforms. Despite the worthiness of these projects, most were short-term efforts, few states reported any outcomes, and most did not undergo any formal evaluation.

To conduct the study, the research team, based at the University of California, San Francisco, and the Long Term Care Community Coalition, collected statistics and interview data from state licensing and certification officials, sending Freedom of Information Act requests to states that did not respond to queries. The team also reviewed state nursing home Web sites and interviewed government officials in six states, as well as directors of nursing home associations and advocacy groups, to learn how penalty funds were used.

### The Collection and Use of Nursing Home Fines

In 2004, states surveyed about 15,000 facilities and issued 139,270 federal deficiencies, collecting a total of \$21 million from more than 3,000 federal and state penalties. Fines averaged \$6,900 each. Between 1999 and 2005, 32 states reported spending \$28 million on projects, from a total balance of \$61 million in collected fines. A few states reported not using any of their funds, ostensibly to maintain reserves for emergencies. However, the researchers determined that five states had more than \$3 million in reserves and another eight had \$2 million—raising questions about how much is actually needed for emergency purposes.

Of the 32 states that spent funds, 15 spent \$18 million (65% of the total spent) on survey and certification activities, like hiring temporary managers, relocating residents, and training and consultations. Twenty-four states used funds to improve nursing home quality, working with such organizations as Eden Alternative, Green House, Pioneer Network, and Wellspring to promote resident-centered care. Monies were also spent for training direct-care staff on minimizing use of restraints, prevention of pressure ulcers, Alzheimer's and dementia care, and safety and psychological issues.

Most of the funding was used for short-term or one-time projects, the researchers found, with very few projects lasting longer than one year. State officials reported that few projects reported outcomes and most did not have any formal evaluations.

## Results from the Case Studies

In a series of case studies, the researchers looked closely at how six states spent funds from nursing home fines. Five of the six (Kansas, Maryland, Massachusetts, New Jersey, and North Carolina) used funds for projects promoting resident-centered care. Specifically, North Carolina implemented a quality improvement project to address medication safety at 60 facilities. After finding an average of 22 errors per 100 beds, the project urged nursing homes to provide training and institute policies and procedures to reduce errors.

## Do States Make Penalty Information Available?

The researchers also reviewed state Web sites to determine if public information was available on nursing home fines. Thirty-eight states provided basic information about nursing homes, 21 had report cards about individual facilities, 18 had information about deficiencies in specific facilities, and seven had a nursing home rating system. Only eight states reported the number or amount of penalties issued against specific facilities.

Most state officials (21 of 26 states) reported no formal procedures to inform stakeholders about the availability of funds for special projects. And most (20 of 26 states) said they did not involve stakeholder groups in the processes for setting priorities or selecting projects. A few states did convene advisory committees or involved stakeholders in other ways.

## Conclusions

The sizable amount of revenue obtained from nursing home fines—\$61 million in 42 states between 1999 and 2005—represents a relatively unrestricted source that has received little attention from policymakers or advocacy groups, say the researchers. States have only vague guidelines and minimal federal oversight directing the use of these funds, and they rarely inform stakeholders about the process. Nor do states use their Web sites to provide public information about penalties.

After reviewing the funded projects, the researchers recommend that the Centers for Medicare and Medicaid Services encourage greater use of funds for quality improvement projects, using the more active states as models. In addition, larger projects implemented over time, they say, may have a greater impact on changing nursing home quality than small, one-time projects. Independent evaluators or outcomes reports for each project can also help maximize the impact of such initiatives.

Although states have funded many valuable projects, the researchers find great potential for improvement. “Public policymakers should give greater attention to policies and practices related to the management and reporting of funds collected by states from penalties and fines,” they conclude.

## Facts and Figures

- In 2004, states surveyed about 15,000 facilities and issued 139,270 federal deficiencies, collecting a total of \$21 million from more than 3,000 federal and state penalties
- Of the 32 states that spent funds during 1999–2005, the average expenditure was \$864,658 over the six years or \$124,000 per year.
- The states that used funds for projects to improve nursing home quality were primarily in the Midwest, the South, or the Mid-Atlantic.
- The [Medicare Nursing Home Compare](#) Web site reports federal deficiencies for nursing homes but does not report on state deficiencies nor on penalties, fines, or other sanctions against nursing homes.