

7535 - Use of Civil Money Penalty Funds

(Rev. 118, Issued: 06-12-14, Effective: 01-01-12, Implementation: 01-01-12)

Sections 1819(h)(2)(B)(ii)(IV)(ff) and 1919(h)(3)(C)(ii)(IV)(ff) of the Act incorporate specific provisions of the Patient Protection and Affordable Care Act, (the Affordable Care Act pertaining to the collection and uses of CMPs imposed by CMS when nursing homes do not meet requirements for Long Term Care Facilities.

1. The Act provides that collected CMP funds may be used to support activities that benefit residents. These include, but are not limited to:

- a) Assistance to support and protect residents of a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility);
- b) Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities; and
- c) Facility improvement initiatives approved by the Secretary (including joint training of facility staff and surveyors, technical assistance for facilities implementing quality assurance programs, the appointment of temporary management firms, and other activities approved by the Secretary).

2. CMS, States and others are in general agreement about the types of expenditures that should be considered inappropriate for civil money penalty funds. These include, but are not limited to:

- a) Making capital improvements to a facility;
- b) Paying for items or services that are already the responsibility of the nursing home;
- c) Funding projects, items or services that are not related to improving the quality of life and care of nursing home residents;
- d) Projects for which a conflict of interest or the appearance of a conflict of interest exists;
- e) Long term projects (greater than 3 years);
- f) Temporary manager salaries; and
- g) Supplementary funding of federally required services.