

Long-Term Care Home Capital Development Funding Policy, 2020

Ministry of Long-Term Care

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Long-Term Care Home Capital Development Funding Policy, 2020

This policy provides funding to support the development of a new long-term care (LTC) home or beds or the redevelopment of an existing LTC home or beds.

1.0 Introduction

The Long-Term Care Home Capital Development Funding Policy, 2020 (the policy) is intended to provide funding to eligible operators¹ to support the development of a new long-term care (LTC) home or beds, or redevelopment of an existing LTC home or beds to the current design standards for LTC homes.

2.0 Eligibility for long-term care home development funding

Under the policy, the Ministry of Long-Term Care (the ministry) shall provide capital development funding to an eligible operator if, and only if,

- a) there is a signed Development Agreement (DA) between the ministry and the licensee/operator, and this policy is identified as applicable;
- b) all conditions and requirements of the DA have been met to the satisfaction of the ministry; and
- c) all conditions and requirements of this policy are met.

An operator may be eligible for development funding under this policy for a development or redevelopment² of LTC beds that consists of one or both of the following:

- **new construction** – the construction of a new building outside the existing footprint
- **renovation** – either within or outside of the existing building footprint.

¹ In this Policy, unless the context indicates otherwise, “operator” means a person who operates a LTC home pursuant to a licence under Part VII of the *Long-Term Care Homes Act, 2007* (the *LTCHA* or the “act”) or pursuant to an approval under Part VIII of that act, or a person with whom the ministry contracts to develop and operate a LTC home, subject to applicable requirements.

² Beds associated with structural classification B, C and upgraded D homes as well as “A” structural classification beds in mixed classification long-term care homes may be eligible for redevelopment, subject to application approval and applicable requirements.

This policy does not apply in respect of LTC construction undertaken under DAs under other ministry LTC development or construction funding policies, except where the applicable DA has been amended to expressly provide that this policy will apply, and all applicable conditions under the DA are met. Long-term care construction undertaken under a DA, where the first resident occupancy date was prior to June 30, 2018, will not be eligible for funding under this policy. However, LTC construction undertaken under a DA, where the first resident occupancy date was June 30, 2018, or after, may be eligible for funding under this policy only where the ministry has approved such funding for the construction, and the applicable DA has been amended to expressly provide that this policy will apply and all applicable conditions under the DA are met.

This policy is not intended (and shall not be interpreted) to create any legal obligations on the ministry under any circumstances, except with respect to projects for which there is a DA that identifies this policy as applicable, and any such legal obligations shall be in accordance with and subject to the terms set out in the DA.

The ministry may, from time to time, provide clarification, interpretation bulletins or forms, to be used in connection with this policy.

3.0 Ministry funding

Funding components of the LTC home capital development policy

Development funding provided to eligible operators under this policy includes three funding components:

- a construction funding subsidy per diem (CFS, or CFS per diem)
- a development grant
- a planning grant, available to non-profit homes

3.0.1 Market segments

The CFS and development grant amount for each project varies depending on where the project is constructed. The province has been divided into four market segments^{3,4} for the purposes of this policy as described in general terms below:

³ The four market segments are based on Statistics Canada's concepts of population density and commuting flow. This allows for greater distinction between highly populated, dense cities and less-connected areas of the province.

⁴ Market segments are based on population numbers as reflected in the 2016 Canadian Census, conducted by Statistics Canada.

- **large urban:** upper-tier regional municipalities and census subdivisions with a population greater than 500,000:
 - regional municipalities include Durham, Halton, Peel, York and Waterloo
 - census subdivisions include Ottawa, Toronto and Hamilton
- **urban:** population centres greater than 100,000 not already captured within an upper-tier regional municipality.
- **mid-size:** population centres of at least 10,000 people in its core, up to 100,000. This may include urban and rural areas with a strong integration to a large urban, urban or mid-size centre.
- **rural:** population centres less than 10,000 people or without a strong integration to a large urban, urban or mid-size centre.

The market segment, based on the categories set out above, will be specified in the DA for each project, and funding for the project (subject to all applicable requirements) will be based on what is specified in the DA, which shall be considered definitive and final. In advance of a DA being entered, the ministry can provide information on the market segment for any proposed site.

3.1 Construction funding subsidy

An eligible operator shall be entitled to receive a CFS by way of a per diem payment, for each day of operation of an eligible LTC bed. An eligible LTC bed (or “bed”) is a LTC bed constructed under a DA under this policy (subject to the terms of the DA). The CFS will be paid by or on behalf of the ministry to the operator on a monthly basis for a period of 25 consecutive years. The CFS is paid only when the operator meets the applicable requirements and conditions set out in this policy and in the DA.

The CFS per diem is calculated as set out below. The CFS per diem amounts are set out in the table in section 3.5 and reflect the following.

- The base CFS per diem ranges from \$20.53 to \$23.78 depending on the market segment.
- For homes with up to, and including, 160 LTC beds, including all regular licensed or approved beds in the home (excluding beds under a temporary licence or temporary emergency licence, and beds in abeyance⁵), the CFS per diem is adjusted by up to \$1.50 in recognition of the cost differentials typical for small- and medium-sized homes.

⁵ For this purpose, beds in abeyance are beds that are unoccupied and unavailable for occupancy for 14 days or more with written permission of the director under s. 104(3) of the act, but do not include beds that are receiving Occupancy Reduction Protection.

3.2 Development grant

The ministry will provide a development grant, per bed, (“development grant”) to cover a portion of eligible project costs. The maximum amount of development grant funding per bed is set according to the market segment of the project as outlined in section 3.5.

Eligible project costs are comprised of any combination of eligible construction costs, eligible land costs, eligible development charges, and eligible signage as set out below (net of any rebate, tax credit, input tax credit or refund):

- (a) Eligible construction costs include the actual direct costs of construction paid by the operator, except for exclusions listed below, to construct the beds in accordance with the DA. Eligible construction costs do not include costs that are an indirect cost of construction, including:
 - I. furniture and equipment
 - II. building permit
 - III. architect fees and other professional fees
 - IV. any costs relating to the acquisition of the land or building, financing, letters of credit, rezoning, audit fees, site survey, insurance, travel and meals, plans and prints, commissioning or bonding, general administrative costs, marketing expenses.
- (b) Eligible land costs are costs which relate to the land being used for the LTC home project only, based on the reasonable and bona fide cost to the Operator to acquire the land, or the current fair market value of the land owned by the operator⁶, (or owned by another person where permitted in the *Cost Eligibility Guide for the Development Grant* applicable to the Project under the Development Agreement for the Project), as substantiated to the satisfaction of the ministry (for example, by way of three independent appraisals of that land by certified appraisers).
- (c) Eligible development charges are development charges under the *Development Charges Act, 1997*, that are paid by the operator.
- (d) Eligible signage costs are costs of signage required to be erected by the operator under the DA.

3.2.1 Planning grant for non-profit home

For operators of non-profit homes only, upon entering into a DA with the ministry under this policy, a one-time planning grant of \$250,000 is provided to assist with planning for

⁶ The fair market value of land donated to the operator for the LTC home may be considered to be an eligible land cost for this purpose. Any cost related to the leasing of land for the LTC home shall not be considered an eligible land cost for this purpose.

development or redevelopment projects, subject to the terms and conditions set out in that DA.⁷ The amount of this planning grant and development grant cannot be greater than the maximum/ceiling for the development grant funding (described above, and as set out in section 3.5) when the development grant is calculated for such an operator. For the purposes of this planning grant, non-profit homes are LTC homes operated by a non-profit entity as defined in Regulation 79/10, section 269.

A planning grant may be provided only where no other grant of this type has previously been provided to the operator in respect of the development or redevelopment of the LTC home, as determined by the ministry.

3.3 Basic transition support

The purpose of basic transition support funding is to support eligible operators with the incidental, non-construction costs that are associated with relocating residents and equipment while redeveloping LTC beds.

Basic transition support funding is only available to operators who have redeveloped their LTC beds, pursuant to an executed DA with the ministry.

Basic transition support funding is not available for new LTC beds that were not previously in operation but have been approved to be added to a redevelopment project, or that are being developed separately.

Beds that were beds in abeyance (as defined above) immediately prior to redevelopment are also not eligible for basic transition support funding.

Eligible operators may receive \$300 in one-time basic transition support funding for each LTC bed that is redeveloped to replace an LTC bed that was in operation immediately prior to redevelopment.

This funding is intended to:

- help move residents and their belongings and/or the home's equipment
- hire a moving coordinator, extra staffing for the move, and/or professional movers
- supply transportation for the move, for example, non-emergency patient transportation.

Operators do not have to apply separately for basic transition support funding, which will be flowed after the first resident occupancy date has occurred, and once the confirmation of admission of first resident has been received by the ministry from the operator.

⁷ Eligible costs for the planning grant include the costs of retaining professional or consultant services for planning the project, including costs for an architect, engineer, project manager, or similar planning support, subject to the DA.

3.4 Occupancy reduction protection

Eligible operators that have a DA with the ministry under this policy are eligible to apply for occupancy reduction protection in respect of beds that are temporarily or permanently closed to facilitate construction carried out under the DA in accordance with and subject to the Long-Term Care Homes Occupancy Reduction Protection Policy published by the ministry from time to time, and/or such other policy or guidelines that the ministry may identify for this purpose.

3.5 Calculation of the CFS and development grant payments

The table below includes the applicable CFS per diem and maximum development grant amounts for projects in each market segment across the province. The development grant ranges from ten to seventeen percent (10 - 17%) of total eligible project costs, based on the market segment of where the project is constructed, up to the applicable maximum grant amount.

Components of CFS per diem and development grant adjustment by market segment

Components of CFS per diem and development grant	Large urban	Urban	Mid-size	Rural
Base CFS per diem	\$23.78	\$20.53	\$20.53	\$20.78
Small home (up to and including 96 beds)	+\$1.50	+\$1.50	+\$1.50	+\$1.50
Medium home (97 beds up to and including 160 beds)	+\$0.75	+\$0.75	+\$0.75	+\$0.75
Large home (161 beds and over)	+\$0.00	+\$0.00	+\$0.00	+\$0.00
Maximum CFS per diem	\$25.28	\$22.03	\$22.03	\$22.28
Development grant percentage	17%	17%	10%	12%
Maximum development grant per bed	\$51,376	\$47,926	\$24,923	\$29,246

4.0 Terms and conditions for the provision of funding

On approval to begin construction of their LTC development or redevelopment project, the ministry will inform the eligible operator, in writing, of the total expected development grant amount and CFS per diem, based on the approved plans and cost estimates. Amounts may be adjusted later based on final approved costs, in accordance with the terms of the DA.

4.0.1 Terms and conditions of the construction funding subsidy

The ministry shall not be obligated to provide the CFS per diem in respect of a project, or a phase thereof, unless the ministry is satisfied that all of the following terms and conditions have been met:

- a) the project or, where applicable phase, has been constructed in accordance with the applicable design requirements as specified in the DA, except as specifically permitted by the ministry in writing, and in accordance with the plans approved by the ministry;
- b) all terms and conditions set out in the DA have been complied with;
- c) all requirements and conditions set out in this policy have been complied with
- d) the operator has entered into, or amended as required, a funding agreement with the ministry, or an agency providing the CFS per diem on behalf of the ministry, in respect of the eligible beds constructed under the DA;
- e) the necessary licence(s) or approval(s) to operate the beds constructed under the DA has or have been obtained by the operator, and is or are continuously maintained;
- f) a pre-occupancy review has been completed by the ministry and the operator has received approval from the ministry to admit residents to the beds constructed under the DA;
- g) the first resident has been admitted to one of the LTC beds constructed by the operator under the DA.

4.0.2 Terms and conditions for the provision of the development grant

The development grant, based on approved cost estimates (and subject to the final adjustment referred to below in this section), shall be provided to the operator by the ministry following the substantial performance of the construction contracts relating to the beds of the project (or applicable phase thereof), subject to the requirements set out below.

The ministry shall not be obligated to provide the development grant in respect of the beds of a project, or a phase thereof, until:

- (a) the operator submits a certificate of substantial performance satisfactory to the ministry, signed by the operator's architect for the project, certifying that all the construction contracts relating to the project (or applicable phase thereof) have been substantially performed;
- (b) the ministry is satisfied that the operator has fulfilled all the requirements applicable at that time, and is performing the appropriate preparations that are reasonably necessary for the operator to be able to open and operate the beds in accordance with the DA; and
- (c) the operator has fulfilled, to the ministry's satisfaction, any other requirements that the ministry specifies to ensure the enforceability of the repayment and other obligations under this policy and the DA in respect of

the development grant (for example, registration on title of the applicable obligations, or similar encumbrances).

The amount of the development grant may be adjusted by the ministry after approval of the operator's submission of final eligible costs, in accordance with the terms of the DA. If the final amount of the development grant payable to the operator is less than the amount the ministry previously provided to the operator, the operator shall reimburse the ministry the difference, as directed by the ministry. However, if the final amount of the development grant payable to the operator is more than what the ministry previously provided to the operator, the ministry shall pay the operator the difference.

4.1 Conditions of development grant

The development grant is provided to the operator in respect of beds on condition that the operator:

- (a) meets all the conditions for receiving CFS per diem funding for the beds within six months of the ministry paying the development grant to the operator in respect of the beds, or within such longer period as the ministry may specify in writing; and
- (b) continues to operate the beds as LTC beds, in accordance with all requirements under the DA, and under applicable law, for 30 years following the date of first LTC resident occupancy in one of the beds.

The ministry may, in writing, require that the operator repay the development grant immediately if either of the above conditions are not met, and the operator shall comply with any such written requirement. If condition (b) is not met, the ministry will not require the operator to repay more than a prorated portion of the development grant, based on the remainder of time left in the 30-year term of the obligation to operate the beds as LTC beds (following the date that the operator ceased to operate⁸ the beds as LTC beds in accordance with all applicable requirements).

4.2 Use of the construction funding subsidy per diem

The CFS per diem shall first be used by the operator to support the agreed scheduled repayment of any loans or other financing arrangements entered into by the operator to pay for the construction of the beds under the DA. If the operator has fully paid any current amounts owing in respect of such repayments at a given time, the operator may use the remaining amounts of CFS per diem that have been received up to that time for other purposes.

⁸ For the purposes of this policy, beds in a home are not considered to be out-of-operation, and are not considered to be closed, if the beds are not available for occupancy with the permission of the director under s. 104(3) but are included in a licence or Part VIII approval in respect of the home.

5.0 Post-opening contingencies that may affect the funding

Where the home, or any of the beds, in respect of which a development grant was paid, or the CFS per diem is being paid is/are closed⁹ for any reason and not replaced, subject to all required approvals, with beds that meet the same standards, payment of the CFS per diem to the operator shall cease, and a prorated part of the development grant must be repaid to the ministry (in accordance with section 4.1) subject to any written agreement to the contrary with the ministry.

If beds are transferred from one operator to another with all required approvals, and the new operator assumes all obligations of the former operator relating to the operation of the LTC home beds constructed under the DA, or replacement beds, subject to all required approvals, that meet the same standards, as determined by the ministry, and assumes the obligations of the prior operator with respect to the repayment of the development grant in accordance with this policy to the satisfaction of the ministry, then the new operator shall be entitled to the same CFS per diem as the prior operator, subject to all applicable conditions and requirements.

A LTC home may be placed under receivership, subject to applicable law and agreements, where an operator is unable to meet its financial obligations. Typically, the receiver in conjunction with a management firm experienced in operating an LTC home continues to operate the home in the name of the existing operator. This is subject to approval under the LTCHA, and may continue until such time as a new operator, also subject to approval under the LTCHA, assumes control of the home. Ministry funding support to the home, including the CFS Per Diem where applicable, continues during the receivership period, as long as the home continues to be operated in the name of the operator and the applicable conditions of funding are satisfied to ensure continuity in the delivery of resident care programs and services.

If a new operator cannot be found and the receiver seeks to dispose of the LTC home, or convert it to other uses, then subject to applicable law, residents may be relocated, for example, to alternative care settings in accordance with their needs, and the LTC home may be closed. In this event, all funding to the home ceases, including the CFS per diem, and the operator may be required by the ministry to repay the development grant in accordance with section 4.1.

The above contingencies, and any others that arise, are subject to applicable law.

⁹ See preceding footnote.