

Long-Term Care Home Capital Development Funding Policy, 2022

Ministry of Long-Term Care

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Long-Term Care Home Capital Development Funding Policy, 2022

This policy governs how we fund the development, or redevelopment, of new or existing long-term care homes and beds.

1.0 Introduction

This *Long-Term Care Home Capital Development Funding Policy, 2022* (the policy) is intended to govern the provision of funding to eligible operators¹ to support and accelerate the development of a new long-term care (LTC) home or beds or the redevelopment of an existing long-term care home or beds to the current design standards for long-term care homes.

2.0 Eligibility for long-term care home development funding

Under the policy, the Ministry of Long-Term Care (the ministry) shall provide² 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 Development Agreement 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 redevelopment³ of long-term care beds that consists of one or both of the following:

¹ In this policy, unless the context indicates otherwise, “operator” means a person who operates a LTC home pursuant to a licence under Part VIII of the *Fixing Long-Term Care Act, 2021* (the *FLTCA* or the “act”) or pursuant to an approval under Part IX of that act, or a person with whom the ministry contracts to develop and operate a LTC home, subject to applicable requirements.

² References in the policy to the provision of funding by the ministry, include both the direct and indirect provision of the funding, all or part of which may be provided through another agency, as set out in the applicable Development Agreement.

³ 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.

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

This policy does not apply in respect of long-term care construction undertaken under Development Agreements under other ministry long-term care development or construction funding policies, except where the applicable Development Agreement has been amended (or replaced) to expressly provide that this policy will apply, and all applicable conditions under the Development Agreement are met.

Long-term care construction under a Development Agreement, where the ministry provided any construction commencement approval for a project (or any project phase) before April 1, 2022, will not be eligible for funding under this policy.

However, long-term care construction undertaken under a Development Agreement, where the ministry provided a first construction commencement approval on or after April 01, 2022, may be eligible for funding under this policy only where:

- The ministry has approved such funding for the construction, and
- The applicable Development Agreement has been amended (or replaced) to expressly provide that this policy will apply and all applicable conditions under the Development Agreement are met.

Disclaimer

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 Development Agreement 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 Development Agreement.

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

3.0 Ministry funding

Funding components of the long-term care 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), which includes:
 - a base CFS for all eligible projects including small- or medium-sized home premiums if applicable
 - a fixed, time-limited CFS top-up, for eligible projects that meet specific criteria, (part of which is convertible to a CFS construction grant for eligible non-profit homes)
- 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^{4,5} for the purposes of this policy as described in general terms below:

- **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 Development Agreement for each project. The funding for the project (subject to all applicable requirements) will be based on what is specified in the Development Agreement, which shall be considered definitive and final. In advance of a Development Agreement 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 long-term care bed. An eligible

⁴ 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.

⁵ Market segments are based on population numbers as reflected in the 2016 Canadian Census, conducted by Statistics Canada.

long-term care bed (or “bed”) is a long-term care bed constructed under a Development Agreement under this policy (subject to the terms of the Development Agreement). 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 Development Agreement.

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 long-term care beds, including all regular licensed or approved beds in the home (excluding beds under a temporary licence or temporary emergency licence, and beds in abeyance⁶), the base CFS per diem is adjusted by up to \$1.50 in recognition of the cost differentials typical for small- and medium-sized homes.
- A CFS top-up for eligible projects that meet specific criteria, (part of which is convertible to a CFS construction grant for eligible non-profit homes) – see below for details.

3.1.1 CFS Top-up

An operator eligible to receive the base⁷ CFS per diem shall also be entitled to receive an increased (additional) CFS per diem amount (“CFS top-up”) of up to \$35 for each eligible bed, regardless of the geographic market segment. An operator is eligible to receive the CFS top-up, if and only if the operator receives its first written ministry approval to start construction of the project (or any construction work on any phase of the project) dated between April 01, 2022 and August 31, 2023, (inclusive of those dates) subject to applicable conditions.

3.1.2 CFS Construction Grant for non-profit home

An operator of a non-profit home that is eligible to receive the CFS top-up (as determined by the ministry) can request to convert up to a maximum of \$15 of the CFS top-up into a “CFS construction grant”. This will be calculated based on the ministry’s determination of the discounted present value of the amount of the CFS top-up (up to \$15), rounded to the nearest \$100.

If approved by the ministry the CFS construction grant is payable following the start of

⁶ For this purpose, beds in abeyance are licensed or approved long-term care home beds that are not receiving Occupancy Reduction Protection, and which are unoccupied and unavailable for occupancy, pursuant to a written permission of the Director under s. 107(3) of the act.

⁷ Base CFS per diem is as set out in the table in s. 3.5 below.

construction, subject to the operator fulfilling, to the ministry’s satisfaction, all the applicable requirements and obligations stipulated under this policy and the Development Agreement.

The CFS construction grant may be used by the operator only to pay for eligible costs as specified for this purpose under the applicable Development Agreement.

Where the operator receives a CFS construction grant, the corresponding portion of the CFS top-up that was approved by the ministry to be converted to the CFS construction grant will be deducted from the CFS top-up.

The table below provides a summary of how much CFS top-up an eligible non-profit operator would be allowed to convert and receive as a CFS construction grant, based on the discounted present value of a given CFS top-up amount:

Amount converted from CFS Top-up (up to \$15)	Remaining CFS Top-Up	CFS Construction Grant (In Discounted Present Value rounded to nearest \$100)
\$0.00	\$35.00	\$0.00
\$2.50	\$32.50	\$13,500.00
\$5.00	\$30.00	\$27,000.00
\$7.50	\$27.50	\$40,500.00
\$10.00	\$25.00	\$54,000.00
\$12.50	\$22.50	\$67,500.00
\$15.00	\$20.00	\$81,000.00

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 for the purposes of the development grant are comprised of any combination of:

- eligible construction costs,
- eligible land costs,
- eligible development charges, and
- eligible signage

These costs are set out below (net of any rebate, tax credit, input tax credit or refund), and as may be further specified in the Development Agreement:

- (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 Development Agreement. 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 that relate to the land being used for the long-term care home project only. They are 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 operator⁸ (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). The eligible costs must be 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 Development Agreement.

3.2.1 Planning grant for non-profit home

For operators of non-profit homes only, upon entering into a Development Agreement with the ministry under this policy, a one-time planning grant of \$250,000 is provided to assist with planning for development or redevelopment projects, subject to the terms and conditions set out in that Development Agreement.⁹ 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 long-term care homes operated by a non-profit entity as defined in Regulation 246/22, section 317.

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 long-term care home, as determined by the ministry.

⁸ 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.

⁹ 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.

3.3 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 long-term care beds.

Basic transition support funding is only available to operators who have redeveloped their long-term care beds, pursuant to an executed Development Agreement with the ministry.

Basic transition support funding is not available for new long-term care 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), or that were receiving Occupancy Reduction Protection, 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 long-term care bed that is redeveloped to replace a long-term care 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.

3.4 Occupancy reduction protection

Eligible operators that have a Development Agreement with the ministry under this policy are eligible to apply for occupancy reduction protection in respect of beds that are temporarily or permanently closed. The occupancy reduction protection will facilitate construction carried out under the Development Agreement 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.

For more information on the *Long-Term Care Homes Occupancy Reduction Protection Policy*, please contact the ministry.

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 10% to 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 per bed	\$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 top-up ¹⁰ (if eligible)	+35.00	+35.00	+35.00	+35.00
Maximum CFS per diem per bed	\$60.28	\$57.03	\$57.03	\$57.28
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 long-term care development or redevelopment project, the ministry will inform the eligible operator, in writing, of the total expected CFS construction grant amount, development grant amount and CFS per diem, based on the approved plans and cost estimates. Amounts may be adjusted later based on final approved eligible costs, in accordance with the terms of the Development Agreement.

¹⁰ CFS top-up is up to \$35 per diem per bed and will be adjusted if any CFS construction grant is being paid in lieu of a portion of the CFS top-up.

4.0.1 Terms and conditions of the construction funding subsidy

The ministry shall not be obligated to provide the CFS per diem (including CFS top-up, if eligible) 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 Development Agreement, 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 Development Agreement 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 Development Agreement;
- e) The necessary licence(s) or approval(s) to operate the beds constructed under the Development Agreement 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 Development Agreement;
- g) The first resident has been admitted to one of the long-term care beds constructed by the operator under the Development Agreement.

The amount of the CFS top-up entitlement (including any part of that entitlement that was converted to a CFS construction grant with ministry approval) will be reduced proportionately if applicable eligible costs are less than \$370,000 per bed. The CFS top-up entitlement may be further adjusted by the ministry after approval of the operator's submission of final applicable eligible costs relating to the development or redevelopment of long-term care homes, in accordance with the terms of the Development Agreement. The amount of the CFS construction grant will not be reduced under this paragraph, however, unless the amount of the CFS top-up (apart from the portion converted to the CFS construction grant) is first reduced to zero.

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 the following conditions have been met:

- (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, or provides such other proof of substantial performance as the ministry may in writing specify;
- (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 Development Agreement;
- (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 Development Agreement 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 Development Agreement. 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.

4.0.3 Terms and conditions for the provision of the CFS Construction Grant for non-profit home

Where the ministry has approved the provision to the operator of a CFS construction grant under section 3.1.2 of this policy, then the CFS construction grant shall be provided to the operator, based on approved cost estimates (and subject to the final adjustment), subject to the requirements set out below and subject to the terms of the applicable Development Agreement.

The ministry shall not be obligated to provide the CFS construction grant in respect of the beds of a project, or a phase thereof, until the ministry is satisfied that the following conditions are met:

- (a) The construction of the project, or applicable phase thereof, has commenced;
- (b) 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 Development Agreement in respect of the CFS construction grant (for example, the registration on title of the applicable obligations, or similar encumbrances).

4.1 Conditions of CFS Construction Grant and Development Grant

The CFS construction grant and development grant are provided to the operator in respect of beds on condition that the operator:

- (a) (as a condition applicable to both grants) the Development Agreement for the project is not terminated for any reason before the operator meets all the conditions precedent for receiving the CFS per diem funding for the beds as set out in the applicable Development Agreement;
- (b) (as a condition applicable to both grants) the operator continues to operate the beds as long-term care beds, in accordance with all requirements under the Development Agreement, and under applicable law, for 30 years following the date of first long-term care resident occupancy in one of the beds;
- (c) (as a condition with respect to the development grant only) the operator meets all conditions precedent for receiving CFS per diem funding for the beds as set out in the applicable Development Agreement 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;

The ministry may, in writing, require that the operator repay the CFS construction grant and development grant immediately if any of the above conditions which are applicable to the grant are not met, or if the Development Agreement is terminated for any reason, 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 CFS construction grant or development grant, based on the remainder of time left in the 30-year term of the obligation to operate the beds as long-term care beds (following the date that the operator ceased to operate¹¹ the beds as long-term care beds in accordance with all applicable requirements).

Following the operator's submission(s) with respect to applicable eligible costs with respect to the CFS construction grant and development grant, the ministry may, in writing, require that the operator repay to the ministry any portion of either or both of those grants in respect of which the ministry is not satisfied as having been

¹¹ 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. 107(3) of the act but are included in a licence or Part IX approval in respect of the home.

demonstrated to meet applicable requirements under this policy or the Development Agreement, and the operator shall comply with any such written requirement.

4.2 Use of the construction funding subsidy per diem

The CFS per diem (including any CFS top-up) 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 Development Agreement. 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.

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 or CFS construction grant was paid, or the CFS per diem is being paid is/are closed¹² 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, and CFS construction grant where applicable, must be repaid to the ministry (in accordance with section 4.1) subject to any written agreement to the contrary with the ministry.

Beds transfer to another operator

If beds are transferred from one operator to another with all required approvals, and the new operator assumes all obligations of the former operator, the new operator shall be entitled to the same CFS per diem as the prior operator, subject to all applicable conditions and requirements.

Obligations include the:

- operation of the long-term care home beds constructed under the Development Agreement, or replacement beds, subject to all required approvals, that meet the same standards, as determined by the ministry
- repayment of the development grant, and CFS construction grant, where applicable, in accordance with this policy to the satisfaction of the ministry

¹² See preceding footnote.

An operator cannot meet financial obligations

A long-term care 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 a long-term care home continues to operate the home in the name of the existing operator. This is subject to approval under the act, and may continue until such time as a new operator, also subject to approval under the act, 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.

Long-term care home is converted for another use

If a new operator cannot be found and the receiver seeks to dispose of the long-term care 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 long-term care 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, and CFS construction grant where applicable, in accordance with section 4.1.

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