§ 461-s. Enhancing the quality of adult living program for adult care facilities. 1. (a) The commissioner of health shall establish the enhanced quality of adult living program (referred to in this section as the "EQUAL program" or the "program") for adult care facilities. The program shall be targeted at improving the quality of life for adult care facility residents by means of grants to facilities for the purposes set forth in subparagraphs (i) and (ii) of the paragraph. The department of health, subject to the approval of the director of the budget, shall develop an allocation methodology taking into account the financial status and size of the facility, resident needs and the population of residents who receive supplemental security income, state supplemental payments, Medicaid (with respect to residents in an assisted living program), or safety net assistance. On or before June first of each year, the department shall make available the application for EQUAL program funds. Grants may be used to support the following purposes:

(i) to improve the quality of life for adult care facility residents by funding projects including, but not limited to, clothing allowances, resident training to support independent living skills, improvements in food quality, outdoor leisure projects, and culturally recreational and other leisure events; and resident quality of life, pursuant to this subparagraph, and

(ii) to improve the quality of life for adult care facility residents by financing capital improvement projects that will enhance the physical environment of the facility and promote a higher quality of life for residents. Any capital related expense generated by such capital expenditure must receive approval by the department of health, provided however, that such expenditures shall not be used to supplant the obligations of the facility operator to provide a safe, comfortable environment for residents in a good state of repair and sanitation.

(b) On or before June first of each year, the department shall make available the application for EQUAL program funds to eligible adult care facilities, as set forth in this section.

2. No payment shall be made under the program to a facility that has received official written notice from the department of a proposed revocation, suspension, limitation or denial of the operator's operating

certificate.

3. Prior to applying for EQUAL program funds, a facility shall receive approval of its expenditure plan from the residents' council for the facility. The residents' council shall adopt a process to identify the priorities of the residents for the use of the program funds and document residents' top preferences by means that may include a vote or survey. The plan shall detail how program funds will be used to improve resident quality of life, pursuant to subparagraph (i) of paragraph (a) of subdivision one of this section, and support sustainable enhancements to the physical environment of the facility pursuant to subparagraph (ii) of paragraph (a) of this subdivision. The facility's application for EQUAL program funds shall include a signed attestation from the president or chair-person of the residents' council or, in the absence of a residents' council, at least three residents of the facility, stating that the application reflects the priorities of the residents of the facility. The department shall investigate reports of resident abuse and retaliation related to program applications and expenditures.

4. EQUAL program funds shall not be expended for a facility's daily operating expenses, including employee salaries or benefits, or for expenses incurred retrospectively, except that expenditures may be incurred prior to the approval of the facility's application for such fiscal year, provided that: (a) consistent with subdivision three of this section, the residents' council approves such expenditure prior to the expenditure being incurred, and the facility provides with its application documentation of such approval and the date thereof; and (b) the expenditure meets all applicable requirements pursuant to this section and is subsequently approved by the department. EQUAL program funds may be used for expenditures related to corrective action as required by an inspection report, provided such expenditure is consistent with subdivision three of this section.