

(2) REPORTING FINDINGS TO THE DEPARTMENT AND THE NURSING HOME.

(D) THE STATE MONITOR MAY NOT BE AN EMPLOYEE OF THE DEPARTMENT.

(E) A NURSING HOME SHALL BE RESPONSIBLE FOR THE COSTS ASSOCIATED WITH THE APPOINTMENT OF A STATE MONITOR TO THE NURSING HOME.

19-1406.

(A) WITHIN 15 DAYS OF THE REQUEST FOR AN APPEAL BY A NURSING HOME, THE NURSING HOME SHALL DEPOSIT THE AMOUNT OF THE CIVIL MONEY PENALTY IN AN INTEREST BEARING ESCROW ACCOUNT, THE NURSING HOME SHALL BEAR ANY COST ASSOCIATED WITH ESTABLISHING THE ESCROW ACCOUNT, AND THE ACCOUNT SHALL BE TITLED IN THE NAME OF THE NURSING HOME AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS JOINT OWNERS.

(B) WHEN THE SECRETARY ISSUES THE FINAL DECISION OF THE DEPARTMENT:

(1) IF THE DECISION UPHOLDS THE IMPOSITION OF THE FULL CIVIL MONEY PENALTY, THE ESCROW FUNDS WILL BE RELEASED TO THE DEPARTMENT WITHIN 15 DAYS FROM THE DATE OF THE DECISION;

(2) IF THE DECISION UPHOLDS THE IMPOSITION OF A CIVIL PENALTY, BUT REDUCES THE AMOUNT OF THE CIVIL PENALTY, THE AMOUNT DUE THE DEPARTMENT WILL BE RELEASED TO THE DEPARTMENT WITH ACCRUED INTEREST WITHIN 15 DAYS OF THE DATE OF THE DECISION AND THE BALANCE WILL BE RELEASED TO THE NURSING HOME WITHIN 15 DAYS OF THE DATE OF THE DECISION; OR

(3) IF THE DECISION REVERSES THE IMPOSITION OF THE CIVIL PENALTY, THE ESCROW FUNDS WILL BE RELEASED TO THE NURSING HOME WITHIN 15 DAYS OF THE DECISION.

(C) (1) A HEARING ON THE APPEAL SHALL BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT, UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) THE SECRETARY SHALL HAVE THE BURDEN OF PROOF WITH RESPECT TO THE IMPOSITION OF CIVIL MONEY PENALTIES UNDER § 19-1404 OF THIS SUBTITLE.