

INCLUDING THE NATURE, NUMBER, AND SERIOUSNESS OF THE VIOLATIONS AND THE ABILITY OF THE ASSISTED LIVING PROGRAM TO PAY THE PENALTY.

(B) (1) (I) A PERSON MAY NOT ADVERTISE, REPRESENT, OR IMPLY TO THE PUBLIC THAT AN ASSISTED LIVING PROGRAM IS AUTHORIZED TO PROVIDE A SERVICE THAT THE PROGRAM IS NOT LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY THE DEPARTMENT TO PROVIDE WHEN THE LICENSE, CERTIFICATE, OR AUTHORIZATION IS REQUIRED UNDER THIS SUBTITLE.

(II) A PERSON MAY NOT ADVERTISE AN ASSISTED LIVING PROGRAM IN A MISLEADING OR FRAUDULENT MANNER.

(2) (I) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS SUBJECT TO A CIVIL MONEY PENALTY IMPOSED BY THE SECRETARY NOT EXCEEDING \$10,000 FOR EACH OFFENSE.

(II) IN SETTING THE AMOUNT OF A CIVIL MONEY PENALTY ON THE PROGRAM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SECRETARY SHALL CONSIDER FACTORS INCLUDING THE NATURE, NUMBER, AND SERIOUSNESS OF THE VIOLATIONS AND THE ABILITY OF THE ASSISTED LIVING PROGRAM TO PAY THE PENALTY.

19-1809.

(A) AN ASSISTED LIVING PROGRAM MAY REQUEST AN APPEAL OF A CIVIL MONEY PENALTY IMPOSED UNDER THIS SUBTITLE.

(B) A HEARING ON THE APPEAL SHALL BE HELD IN ACCORDANCE WITH:

(1) THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE; AND

(2) REGULATIONS ADOPTED BY THE SECRETARY.

19-1810.

(A) (1) THERE IS A HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING PROGRAMS ESTABLISHED IN THE DEPARTMENT.

(2) THE ACCOUNT SHALL BE FUNDED BY CIVIL MONEY PENALTIES PAID BY ASSISTED LIVING PROGRAMS AND OTHER PENALTIES THAT THE OFFICE OF HEALTH CARE QUALITY MAY ASSESS.

(3) THE DEPARTMENT SHALL PAY ALL PENALTIES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(4) THE COMPTROLLER SHALL DISTRIBUTE FUNDS COLLECTED UNDER THIS TITLE TO THE HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING PROGRAMS.

(5) THE ACCOUNT IS A CONTINUING, NONLAPSING FUND, NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.