

[(b)](C) In determining whether a civil money penalty is to be imposed, the Secretary shall consider, pursuant to guidelines set forth in regulations promulgated by the Secretary, the following factors:

- (1) The number, nature, and seriousness of the deficiencies;
- (2) The extent to which the deficiency or deficiencies are part of an ongoing pattern during the preceding 24 months;
- (3) The degree of risk to the health, life, or safety of the residents of the nursing [facility] HOME caused by the deficiency or deficiencies;
- (4) The efforts made by, and the ability of, the nursing [facility] HOME to correct the deficiency or deficiencies; and
- (5) ~~Such other factors as justice may require~~ A NURSING HOME'S PRIOR HISTORY OF COMPLIANCE.

[(c)](D) Upon determination by the Department that [an ongoing pattern of serious or life threatening deficiencies exists] A DEFICIENCY OR DEFICIENCIES EXIST, the Department shall notify the nursing [facility] HOME that:

- (1) Unless corrective action taken pursuant to [§ 19-1403] THIS SECTION is substantially completed, a civil money penalty will be imposed; or
- (2) An order imposing a civil money penalty will be issued, pursuant to [§ 19-1404] § 19-1403 which shall include a list of all deficiencies and notice that a civil money penalty may be imposed until the time that the cited deficiencies have been rectified.

[19-1403.

(a) If the Secretary issues a notice pursuant to § 19-1402(c)(1), that notice shall provide:

- (1) The time in which a plan of correction acceptable to the Department is to be submitted;
- (2) The time in which the identified deficiency or deficiencies must be substantially corrected; and
- (3) That failure to submit an acceptable plan of correction pursuant to paragraph (1) of this subsection or to substantially correct the identified deficiency or deficiencies pursuant to paragraph (2) of this subsection may result in an order imposing a civil money penalty pursuant to § 19-1404.

(b) At the expiration of the time set forth in subsection (a)(2) of this section, the Department shall schedule a reinspection of the nursing facility to determine whether the deficiency or deficiencies have been substantially corrected.

(c) Following the reinspection the Department may:

- (1) Extend the time frame in which the deficiency must be corrected; or