

[(b)](D) In setting the amount of a civil money penalty under this section, 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 degree of risk to the health, life, or safety of the residents of the nursing [facility] HOME caused by the deficiency or deficiencies;
- (3) The efforts made by the nursing [facility] HOME to correct the deficiency or deficiencies;
- (4) CURRENT FEDERAL GUIDELINES FOR MONEY PENALTIES;

[(4)](5) Whether the amount of the proposed civil money penalty will jeopardize the financial ability of the nursing [facility] HOME to continue operating as a nursing [facility] HOME; and

[(5)](6) Such other factors as justice may require.

[19-1406.] 19-1405.

~~(a) The nursing [facility] HOME shall provide written notice to the Department when the deficiency or deficiencies identified in the notice issued pursuant to [§ 19-1403] § 19-1402 are substantially corrected.~~

~~(b) The calculation of the amount of the civil money penalty will stop as of the date the notice in subsection (a) of this section is received by the Department IF THE DEPARTMENT VERIFIES CORRECTIVE ACTION AND SUSTAINED COMPLIANCE.~~

~~(c) The Department shall schedule and conduct a reinspection of the nursing facility within 24 hours of its receipt of the notice pursuant to subsection (a) of this section.~~

~~(d) If, following the reinspection, the Department determines that the deficiency or deficiencies have not been substantially corrected, the facility's notice under subsection (a) of this section shall be invalid and the civil money penalty imposed under § 19-1405(a) shall remain in effect.]~~

[19-1407.] 19-1406.

~~(a) The nursing [facility] HOME shall have the right to appeal from the order within 30 days from the receipt of the order.~~

~~(b) The appeal shall be heard by the Hearings Office of the Department, which shall render the final agency decision for purposes of judicial review.~~

~~(c) Imposition of the civil money penalty shall be stayed until the final decision is issued pursuant to subsection (m) of this section.]~~

[(d)](B) A hearing on the appeal shall be held within 10 working days of the request for hearing.