

~~[(c)] (C) The parties to the hearing shall be the aggrieved nursing facility and the Secretary.~~

~~[(f)] (D) The parties are entitled to be represented by counsel.~~

~~[(g)] (E) The Hearings Office may permit or modify a timely request by the nursing [facility] HOME for prehearing discovery.~~

~~[(h)] (F) The Hearings Office, upon its own motion or upon motion of either party, may subpoena any person or evidence, administer oaths, and take depositions and other testimony.~~

~~[(i)] (G) The Hearings Office shall inquire fully into all of the matters at issue and shall receive into evidence the testimony of witnesses and any documents which are relevant and material to such matters.~~

~~[(j)] (H) The parties shall have the right to present evidence and testimony and to cross-examine that presented by the opposing party.~~

~~[(k)] (I) The purpose of the hearing is to consider and render a decision on the following matters:~~

- ~~(1) The existence of a deficiency or deficiencies; and~~
- ~~(2) The amount of the civil money penalty.~~

~~[(l)] (J) (1) The Secretary has the burden of proof with respect to the basis for imposition of the civil money penalty under § 19-1402 and the amount of the civil money penalty under § 19-1404.~~

~~(2) The Secretary must meet his burden of proof by clear and convincing evidence.~~

~~[(m)] (K) A decision shall be rendered by the Hearings Office within 7 days of the hearing. The decision shall be the final agency decision of the Department, subject to judicial appeal.~~

~~19-1407.~~

(A) WHEN THE DEPARTMENT DETERMINES THAT THERE IS A DEFICIENCY IN A NURSING HOME, THE DEPARTMENT IS AUTHORIZED TO MAY APPOINT AN INDEPENDENT MONITOR TO OVERSEE EFFORTS MADE BY A THE NURSING HOME TO ACHIEVE COMPLIANCE WITH STATE AND FEDERAL REGULATIONS FOR GOVERNING NURSING HOMES THAT PARTICIPATE IN THE MEDICARE AND MEDICAID PROGRAMS.

(B) THE APPOINTMENT OF A STATE MONITOR IS AN INTERMEDIATE SANCTION THAT MAY BE IN ADDITION TO OR IN LIEU OF OTHER SANCTIONS.

(C) THE STATE MONITOR'S DUTIES MAY INCLUDE:

(1) PERIODIC INSPECTIONS OF A NURSING HOME FOR THE PURPOSE OF ASSESSING THE NURSING HOME'S COMPLIANCE WITH STATE AND FEDERAL REGULATIONS; AND