

~~[(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.~~

~~19-1405.~~

(A) WHEN THE DEPARTMENT DETERMINES THAT THERE IS A DEFICIENCY IN A NURSING HOME, THE DEPARTMENT MAY APPOINT AN INDEPENDENT MONITOR TO OVERSEE EFFORTS MADE BY THE NURSING HOME TO ACHIEVE COMPLIANCE WITH STATE AND FEDERAL REGULATIONS 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

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

(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