

(3) The efforts made by the nursing facility to correct the deficiency or deficiencies;

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

(5) Such other factors as justice may require.

19-1406.

(a) The nursing facility shall provide written notice to the Department when the deficiency or deficiencies identified in the notice issued pursuant to § 19-1404 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.

(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 [Department may impose a separate civil money penalty pursuant to §§ 19-1404 and 19-1405] 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.

(a) The nursing facility 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) A hearing on the appeal shall be held within 10 working days of the request for hearing.

(e) The parties to the hearing shall be the aggrieved nursing facility and the Secretary.

(f) The parties are entitled to be represented by counsel.

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

(h) 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.