

(i) 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) The parties shall have the right to present evidence and testimony and to cross-examine that presented by the opposing party.

(k) 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) (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 § 19-1405.

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

(m) 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.

19-1408.

(a) A nursing facility subject to a civil money penalty shall have the right to appeal a decision of the Hearings Office upholding the finding of a deficiency or deficiencies or the imposition of a civil money penalty.

(b) Such appeal shall be filed within 30 days of the action to be appealed.

(c) The appeal under subsection (b) of this section shall be taken directly to the circuit court of the jurisdiction in which the nursing facility is located.

19-1409.

(a) All civil money penalties imposed under this [section] SUBTITLE shall be placed in an interest bearing account during any JUDICIAL appeal under [§ 19-1407 or] § 19-1408.

(b) If the civil money penalty is reversed as a result of an appeal filed by the nursing facility, the amount of the civil money penalty, with interest, shall be returned to the nursing facility within 14 days of the reversal.

(c) If the civil money penalty is not appealed or if it is upheld following an appeal, the amount [collected] OF THE PENALTY IMPOSED, together with [an] ANY accrued interest shall be placed in a fund to be established by the Secretary and shall be applied exclusively for the protection of the health or property of residents of nursing