

**441—81.33(249A) Factors to be considered in selecting remedies.**

**81.33(1) *Initial assessment.*** In order to select the appropriate remedy, if any, to apply to a facility with deficiencies, the department of inspections and appeals shall determine the seriousness of the deficiencies.

**81.33(2) *Determining seriousness of deficiencies.*** To determine the seriousness of the deficiency, the department of inspections and appeals shall consider at least the following factors:

*a.* Whether a facility's deficiencies constitute:

- (1) No actual harm with a potential for minimal harm.
- (2) No actual harm with a potential for more than minimal harm, but not immediate jeopardy.
- (3) Actual harm that is not immediate jeopardy.
- (4) Immediate jeopardy to resident health or safety.

*b.* Whether the deficiencies:

- (1) Are isolated.
- (2) Constitute a pattern.
- (3) Are widespread.

**81.33(3) *Other factors which may be considered in choosing a remedy within a remedy category.*** Following the initial assessment, the department of inspections and appeals may consider other factors, which may include, but are not limited to, the following:

*a.* The relationship of the one deficiency to other deficiencies resulting in noncompliance.

*b.* The facility's prior history of noncompliance in general and specifically with reference to the cited deficiencies.