

42 C.F.R. § 3.534

The hearing.

(a) The ALJ must conduct a hearing on the record in order to determine whether the respondent should be found liable under this part.

(b)

(1) The respondent has the burden of going forward and the burden of persuasion with respect to any challenge to the amount of a proposed penalty pursuant to §§ 3.404 and 3.408, including any factors raised as mitigating factors.

(2) The Secretary has the burden of going forward and the burden of persuasion with respect to all other issues, including issues of liability and the existence of any factors considered as aggravating factors in determining the amount of the proposed penalty.

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