§ 131E-239. Plan for correction of deficiencies in excess of one thousand dollars ($1,000).

(a) If the temporary manager determines that it is necessary to correct a deficiency or deficiencies in the structure or furnishings reasonably estimated by the temporary manager to cost in excess of one thousand dollars ($1,000), the temporary manager shall submit to the court a written plan that contains the following:

(1) A description of the deficiency or deficiencies that require correction;

(2) A description of the method proposed by the temporary manager for correction of the deficiency or deficiencies; and

(3) An estimate of the cost of the correction or corrections.

(b) A copy of the plan shall be served upon the Department and the respondent on the same day that it is submitted to the court.

(c) If the Department or respondent makes a written request for a hearing within seven days after the submission of the plan to the court, a hearing on the proposed plan of correction shall be held. If a hearing is requested by a party, the hearing shall be held within 14 days of the written request. The Department, respondent, and temporary manager shall have the opportunity to present evidence at the hearing regarding the proposed plan. Upon hearing the evidence, the court may approve the plan, modify the plan, or, if the court determines as a result of the evidence that the alleged deficiency does not require correction, it may reject the plan. If no party requests a hearing on the plan in accordance with this subsection, the court may order the temporary manager to proceed to implement the plan.

(d) In the event of an emergency situation involving the structure or furnishings of the facility the correction of which will cost in excess of one thousand dollars ($1,000) and where failure to correct the situation immediately will likely result in serious physical harm or death to residents, the temporary manager may proceed to correct the situation in the most economical and efficient manner under the circumstances without prior court approval of a plan. If the court later determines pursuant to G.S. 131E-244(b) that the expenditure was not necessary or reasonable under the circumstances, payment for the expenditure or any part determined to be unreasonable or unnecessary by the court, must be paid from the contingency fund described in G.S. 131E-242. If the payment was initially made by the temporary manager from the contingency fund, the respondent shall have no obligation to repay those funds to the contingency fund upon a finding that the expenditure was unreasonable or unnecessary. If the payment was initially made by the temporary manager from operating revenues of the facility, the respondent shall be entitled to repayment of those amounts from the contingency fund. (1993, c. 390, s. 1.)