Informal Dispute Resolution
For Skilled Nursing Facilities and Nursing Facilities
Provider Information

I. Introduction Federal certification regulation 42 CFR 488.331 requires the State to offer facility representatives an informal opportunity, at their request, to dispute survey findings subsequent to the receipt of the official Statement of Deficiencies. If facility representatives successfully demonstrate deficiencies should not have been cited or findings should be removed or their regulatory authority modified, a revised Statement of Deficiencies (CMS-2587) will be issued.

II. Purpose The purpose of the Informal Dispute Resolution (IDR) process is to give providers an opportunity to refute cited deficiencies after any survey that has new findings.

III. Authority 42 CFR 488.331 and State Operations Manual Section 7212, Informal Dispute Resolution and Section 400.275(4), Florida Statutes (F.S.)

IV. Criteria for Informal Dispute Resolution (IDR) IDR's may be requested for a standard or abbreviated survey.

A facility may request IDR for each survey that cites deficiencies. The following list indicates when IDR may be requested based on the results of a survey, revisit or as a result of the previous IDR outcome.

A. The Facility Staff May Request an IDR for:

1. Cited deficiencies above the Substantial Compliance level ("A", "B", or "C").
2. Severity and scope assessments of deficiencies that constitute Substandard Quality of Care or Immediate Jeopardy.
3. Continuation of same deficiency at revisit.
4. New deficiency (i.e. new or changed facts, new tags) at revisit or as a result of an IDR.
5. New example of deficiency (i.e. new facts, same tag) at revisit or as a result of and IDR.
6. Different tag but same facts at revisit or as a result of an IDR constituting Substandard Quality of Care.

A facility may not request a re-review of a previous IDR decision.

B. Facility Staff May Not Use the Informal Dispute Resolution Process to:

1. Delay the formal imposition of remedies.
2. Challenge alleged inadequacy or inaccuracy of the Informal Dispute Resolution Process.
3. Challenge any aspect of the survey process, including:
   a. Severity and scope assessments of the deficiencies with the exception of Substandard Quality of Care or Immediate Jeopardy.
   b. Alleged failure of the survey team to comply with a requirement of the survey process.
   c. Alleged inconsistency of survey teams in citing deficiencies among facilities.
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Any dispute of an independent state licensure finding will be addressed in accordance with the Disputed Survey Results Protocol and will not be considered during the Informal Dispute Resolution (IDR) process.

C. The IDR is generally accomplished by telephone although a meeting may be arranged upon request. The IDR is an informal administrative process and is not to be construed as a formal evidentiary hearing. If the provider chooses to have legal counsel present, counsel may not address the panel during the presentation. The IDR Coordinator or designee will convene and moderate the IDR process.

1. All participants are directed to refer to residents by numeric identifier rather than name to protect privacy.
2. Facility representatives will present information on a deficiency-by-deficiency basis.
3. Surveyor staff or designee will be given an opportunity to present information supporting that documented in the CMS 2557 and/or respond to the issues presented by the facility representatives.
4. Panel members may ask questions throughout the process. Questions from provider representatives or field office staff must be directed to the panel members.
5. Panel members may request the provision of additional documents, forms, and/or information for review. The provider will be responsible for forwarding one copy to the IDR coordinator and one copy to the Field Office Manager or designee.

At the conclusion of the IDR, the decision will be sent in a letter to the Facility Administrator, Field Office Manager, and Long Term Care Unit Manager within 15 business days.

V. Panel Members Recommendations & Final Outcomes.

A. At the conclusion of the conference call, the IDR Panel members will review the information presented verbally and in writing for each disputed deficiency and recommend one or more of the following outcomes per disputed deficiency:

1. Uphold the deficiency as written.
2. Delete the deficiency.
3. Modify the deficiency through one or a combination of the following:
   a. Delete extraneous or erroneous remarks from the text of the deficiency. No additional information will be added to deficiencies.
   b. Move a finding(s) to a more appropriate regulatory reference/citation existing in the relevant CMS 2567.
   c. Move a finding(s) to a more appropriate regulatory reference (tag), creating a new deficiency, which may result in a determination of Substandard Quality of Care.
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d. Reduce or increase the severity and scope assignment.

After a federal deficiency is deleted or modified by the IDR Panel decision, any associated licensure deficiencies will be reviewed and appropriate changes made.

VI. Facility Staff Responsibilities.
Within 10 days of receipt of the revised CMS 2567, facility staff must prepare, sign, and submit a Plan of Correction. The facility will receive a new copy of the Form CMS-2567 if there are revisions or changes. This will be the releasable copy only when a new Plan of Correction is provided and signed by the facility. The original Form CMS-2567 is disclosable when a new Plan of Correction is not submitted and signed by the facility. Any Form CMS-2567 and/or Plan of Correction that is revised or changed as a result of the IDR process must be disclosed to the Ombudsman in accordance with §7904 of the SOM.

Deficiencies pending IDR should be entered in the Automated Survey Processing Environment (ASPE) but will not be posted to the Nursing Home Compare website until the IDR process has been completed.