

 **STATE OF NEW YORK**
DEPARTMENT OF HEALTH

161 Delaware Avenue Delmar, NY 12054-1393

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 3, 2006

DQS/DAL #06-17
Re: Revised Informal Dispute Resolution
(IDR) Process

Dear Administrator:

The Department of Health revised its Nursing Home Informal Dispute Resolution (IDR) process in April 2003 to ensure its effectiveness. As part of its commitment to continuous improvement, the Division of Quality and Surveillance for Nursing Homes and ICFs/MR (DQS) has worked with providers and their associations to identify improvement opportunities. This letter notifies providers and other interested parties of modifications to the process to further ensure the timeliness and effectiveness of the IDR activity.

Effective for surveys with exit dates after November 1, 2006, disputes of citations of resident harm, Substandard Quality of Care (SQC), or Immediate Jeopardy (IJ) will be administered through a review of written documentation submitted by the disputing provider. These IDR proceedings will continue to be held by DQS Central Office. Face-to-face and telephone IDR meetings will no longer be held. The goals of the modified IDR process remain the same: to ensure timely, objective, and accurate IDR determinations, and to effectively communicate IDR results to providers.

The parameters of the IDR process are as follows:

- The IDR will include a review of the provider's written dispute and supporting evidence;
- The IDR review will occur no more than 30 calendar days following receipt of the request; and
- The IDR decision will be communicated to the provider within 10 (ten) days after the completion of the IDR review.

IDR Request Submission:

A disputing provider must continue to submit its requests for an IDR at the time it submits its Plan of Correction (POC). The request and the POC must be submitted to the appropriate DOH Regional Office (RO). The IDR request must include two complete sets of the following:

- The CMS-2567 Statement of Deficiencies (SOD);
- The DOH IDR Request Cover Sheet (attached and available through the DOH Health Provider Network (HPN)) and
- All documentation supporting the provider's dispute.

As always, supporting documentation must be related to the disputed citation. Any documentation that is unrelated to the disputed deficiency, such as a description of the provider's previous survey performance, or any actions taken after the deficiency was cited to address the situation, will not be reviewed.

In addition, the IDR considers only the circumstances related to the disputed deficiency. Therefore, any references to other providers' survey, IDR, or CMS appeal events will not be considered.

IDR Review Process:

The DOH Regional Office will have an opportunity to review the providers' submission, and forward comments that address each of the providers' assertions.

A panel comprised of DOH Central Office Program staff, the New York State Board of Examiners of Nursing Home Administrators (BENHA), and the New York State Office of the Aging, Office of Long Term Care Ombudsman Program, will review each case. The volume of IDR requests will determine if more than one panel is convened. The panels will meet twice each month.

Information submitted by the provider is expected to be clear and understandable. Panel members will not communicate with the provider regarding any information within the packet, nor may they discuss the IDR issues with any outside parties.

The panel will review the disputed tag, the providers' written justification for the dispute, and the DOH RO's comments and conclusions. The panel will determine whether it believes that a deficiency exists. The panel may also recommend that the scope and severity of an affirmed deficiency should be reduced or cited in an alternate F tag. The panel will reach a recommendation on each IDR through consensus. If consensus cannot be reached, a majority vote will determine the recommendation. The DOH has final authority for the IDR determination.

Notification of Results:

The Department will make the final IDR recommendation and will notify the Centers for Medicare and Medicaid Services (CMS) Regional Office of its findings. The DQS will then notify the provider of the IDR outcome via letter. The letter will be mailed to the operator with a copy sent to the facility administrator.

These modifications will help improve the overall impact of this aspect of the survey process. Please call my office at (518) 408-1282 if you have any questions. Thank you for your cooperation in ensuring an effective IDR process.

Sincerely,

A handwritten signature in black ink that reads "Keith W. Servis". The signature is written in a cursive style with a large, sweeping "K" and "S".

Keith W. Servis, Director
Division of Quality & Surveillance
for Nursing Homes & ICFs/MR

Attachment

**New York State Department of Health, Office of Health Systems Management
INFORMAL DISPUTE RESOLUTION REQUEST COVER SHEET FORMAL**

Complete one sheet for each F-tag you in which you wish to dispute. Enclose a copy of the CMS-2567 for the F-tag in question, as well as any other documentation which you feel will support your claim. Use additional sheets as needed.

FACILITY NAME: _____

SURVEY EXIT DATE: _____

DATE SUBMITTED: _____

DISPUTED CONCLUSION(S):

F-TAG: _____ **SCOPE AND SEVERITY:** _____

With which conclusion(s) in the CMS-2567 do you disagree? <small>(List each, referencing resident #s as applicable)</small>	Why do you believe the surveyor's conclusions to be incorrect?	What (if any) documents are you Enclosing to support your claim?	
		Attachment #	Document/Rationale for Enclosure

*(Adapted with permission from Liberty Commons Nursing and Rehabilitation Center in Chatham, MA)