New Mexico Health Care Authority (HCA)
Division of Health Improvement (DHI)
Informal Dispute Resolution (IDR): Nursing Homes

Revised 05.23.25

OPERATING RULES

1. In Accordance with 42 C.F.R. §488.331, the Informal Dispute Resolution (IDR) process offers skilled nursing facilities, nursing facilities and dually participating facilities an opportunity to informally dispute regulatory survey findings to the entity that conducted the survey.

2. At the receipt of the official CMS 2567 form (statement of deficiencies), providers are offered the opportunity to dispute any deficiencies cited during the survey within the same 10 calendar day period it has for submitting an acceptable plan of correction (POC). Facilities may not use the informal dispute resolution process to delay the formal imposition of remedies or to challenge any other aspect of the survey process, including the:

- Scope and severity assessments of deficiencies with the exception of scope and severity assessments that constitute substandard quality of care or immediate jeopardy;
- Remedy(ies) imposed by the enforcing agency;
- Alleged failure of the survey team to comply with a requirement of the survey process;
- Alleged inconsistency of the survey team in citing deficiencies among facilities;
- Alleged inadequacy or inaccuracy of the informal dispute resolution process

A facility may request informal dispute resolution for each survey that cites deficiencies. However, if informal dispute resolution is requested for deficiencies cited at a subsequent survey, a facility may not challenge the survey findings of a previous survey for which the facility either received informal dispute resolution or had an opportunity for it.

3. Instructions to request an IDR, include the following:

- The request for IDR must be submitted in writing along with an explanation of the specific deficiencies that are being disputed and all supporting evidence.
- One (1) copy of all supporting documents that have been properly redacted (with coded identifiers replacing actual resident and facility identifiers) and one (1) copy of all supporting documents unredacted.
- Requests must be provided to the Review Office by mail, fax, or email by the tenth (10th) calendar day from receipt of the CMS 2567:

- PO Box H Santa Fe, NM 87504 or
- Fax (505) 505-476-9048
- For the option to submit the IDR via email, facilities can email HFLC.Review@hca.nm.gov and we will send a secure email in which the IDR request and supporting documents can be attached and remain secure.

4. The Chairperson(s) of the IDR Committee will review all requested Informal Reviews request submitted for health or life safety deficiencies cited to ensure the IDR request was submitted timely and with the required supporting documentation. IDR requests not submitted within 10 calendar days will be rejected unless an extension has been previously approved.

5. The Chairperson(s) may refuse to accept the IDR materials submitted, if they are not presented in a manner that is clear to the members. Such materials may be returned to the facility allowing them an opportunity to resubmit the materials in a manner that is acceptable to the Committee within (3) days of the request.

6. When a request for an IDR is made, the Survey Team will be notified by e-mail that a specific deficiency is being reviewed. The Survey Team will be notified of the facility that is requesting an IDR, the date of the facility's survey, and a synopsis on the basis for disputing the deficiency. The survey team, in consultation with their District Office Manager, is able to provide any additional information (copies of records or notes or clarifying interviews conducted during the survey) that support the deficiency. Supplemental information will be scanned and sent out to the IDR members prior to the monthly review.

Note: This opportunity to provide additional information precludes surveyors from going back onsite to gather additional supporting information.

7. IDR reviews will be held monthly (or as needed) via Teams Meeting platform. Thirty days after receipt of all required documentation, the IDR request will be placed for review at the next scheduled Committee meeting. The Committee will review all redacted facility provided evidence submitted and any additional information for consideration provided by the surveyor(s), which will be submitted for review to the IDR Committee members in advance of the scheduled meeting.

8. The Committee will be comprised of District Operations Bureau Chief and/or Quality Assurance Manager as chairperson/facilitators, Survey Reviewers and MDS/OASIS Coordinator (Registered Nurse), theses members are non-voting members and will attend to assist with regulation language, standards of practice, and provide feedback on survey process. The State Agency Survey Reviewers also take notes of the IDR Committee discussion review. The notes will not identify the comments/vote of Committee members by name. The notes will be kept as

record of the IDR Decision Rationale. Department of Health Epidemiologist will attend to clarify Infection Control standards and interpretive guideline, as needed.

Voting Members are comprised of the following (depending upon availability) representatives:

- Administrators from Nursing Home facilities
- Aging and Long-Term Services Department Ombudsman Program
- New Mexico Health Care Authority (HCA)Medical Assistance Division
- State Agency Complaints Manager
- State Agency Certified Life Safety Code surveyor if life safety code deficiencies are being disputed

When the IDR decision is not unanimous, the MDS/OASIS Coordinator (Registered Nurse) or other non-voting participant will be asked to vote.

Note: The Chairperson(s) reserves the right to revoke IDR Committee membership with failure to attend (3) IDR Committee reviews in which attendance was confirmed.

9. The committee may render the following recommendation/decision:
    - Deletion of deficiency.
    - The scope and severity assessment should be adjusted, if necessary, due to dispute of Substandard Quality of Care or Immediate Jeopardy or to reflect the outcome of informal dispute resolution, e.g., elimination of deficiencies.
    - Deletion of findings,
    - Recommend editorial changes to written findings to clarify or correct typos or grammatical errors.

Note: The State Agency may move findings from one deficiency to another deficiency that is better supported.

10. Although the IDR request and supporting documentation is redacted to not identify the facility or survey in which the IDR request is being made, IDR Committee Members must withdraw from voting or decision making when there is a conflict of interest. Conflict of interest may include having personal involvement in the onsite survey for the facility whose IDR is being considered or membership on a board or financial interest in the facility reviewed, or other self-disclosed conflicts. If a member is affiliated with the facility requesting the IDR, that member will not be invited to attend that IDR review.

11. The focus of decision-making shall be on a review of the evidence provided. Members should refer to regulations to assure deficiencies are cited at the correct regulation and objective opinions based thereon. Members' current or experience with particular facilities should not be offered as a basis for a member's recommendations. Members will not bring personal issues to the reviews.

HEALTH CARE
AUTHORITY

12. The IDR committee members are asked to provide feedback to both the facilities and the survey team to communicate areas of improvement. Facility feedback is provided in writing to the providers in their IDR decision letter. Feedback to the surveyor(s) is provided in email or during scheduled trainings.

13. The review may be attended by a limited number of interested parties with prior approval of the Committee chair. Requests to participate will not be honored for individuals who may have a conflict of interest with the proceedings. Discussion and contributions to the review will be limited to Committee members. Surveyors from the office that conducted the survey being reviewed may not attend the portion of the review that applies to their team. Employees/owners/volunteers or other individuals associated with a facility being reviewed may not attend the portion of the review that applies to their facility.

14. The IDR is not an evidentiary hearing and therefore there are no provision for attendance or oral presentations by facility/facility counsel or surveyor(s)/ representatives for the IDR review.

15. The District Operations (DOB) Bureau Chief receives the IDR Committee recommendation and will review all relevant material. The State Agency makes the final decision.

16. CMS is notified of the outcome of the IDR review. Since CMS has ultimate oversight responsibility relative to the State Agency's performance, it may be appropriate for CMS to examine specific informal dispute resolution decisions or the overall informal dispute resolution process to determine whether the State is arriving at a correct result. For dually participating or Medicare-only facilities, informal dispute findings are in the manner of recommendations to CMS and, if CMS has reason to disagree with those findings, it may reject the conclusions from informal dispute resolution and make its own binding determinations of noncompliance.

17. The facility will be notified, in writing, of the IDR decision within 10 working days of the IDR review or in the case of those IDR decisions sent to CMS for review, within 10 working days of receipt of the decision by CMS. The final disposition sent to the provider shall be maintained as a part of the permanent record with a copy sent to the state long-term care Ombudsman's Office. If changes are made to the CMS 2567, then a revised CMS 2567 will be posted to the facility through the Electronic Plan of Correction (EPOC) system. The facility, within five (5) working days of receipt, must provide an acceptable POC.

Note: Failure of the Department to meet any of the time frames specified herein shall not invalidate the deficiency.



CONTACT INFORMATION:

HFLC Review Email: HFLC.Review@hca.nm.gov

Francine Arguello
Quality Assurance Manager
District Operations Bureau
Email: francine.arguello2@hca.nm.gov
Phone:(505)476-9099