

**Residential Care Services
Informal Dispute Resolution
Operational Principles and Procedure
for**

Nursing Homes, Assisted Living Homes, and Adult Family Homes

I. Purpose

To make available to Residential Care Services (RCS) guidance and direction to carry out Federal and State statutory requirements in the performance of an informal dispute resolution review (IDR).

To create a standardized process RCS can implement to give providers of licensed and/or certified residential care settings of nursing homes (NH), assisted living homes (ALF), and adult family homes (AFH) an opportunity to informally exchange information to dispute violations and enforcement action issued by RCS.

II. Authority

Adult Family Home	Assisted Living Facility	Nursing Home
RCW 70.128.163	RCW 18.20.195	RCW 18.51.060
RCW 70.128.167	WAC 388-78A-3210	WAC 388-97-4420
WAC 388-76-10990	WAC 388-110-280	42 CFR 488.331
		SOM 7212 1-4

III. Operational Principles

- A. Residential Care Services has a standardized, objective informal dispute resolution process for AFH, ALF, and NH. The process is centralized and implemented at RCS headquarters in Lacey.
- B. Employees who did not participate in analysis and oversee the determination of violations and enforcement remedies will conduct IDRs.
- C. The state is responsible and accountable for IDR decisions.
- D. The IDR process is consistent with federal and State Operational Manual (SOM) requirements for nursing homes.
- E. An IDR is an informal process for providers. If a provider wants an attorney to attend in person or by phone, they must first inform the IDR Program Manager.
- F. Providers may request an IDR review after any federal NH survey and for any licensing or complaint investigation in state licensed ALF and AFH, including enforcement action.

- G. The Division does not routinely conduct an IDR for every violation and enforcement action.
- H. To informally dispute a violation and/or enforcement action, including consultation in ALFs and AFHs, providers must request an IDR.
- I. State and federal law requires all IDR requests must be submitted in writing.
- J. The Division will inform the Long Term Care Ombuds Program (LTCOP) of IDR requests and final outcomes. The LTCOP will facilitate any resident's or resident representative's input on the disputed deficiency citation(s).
- K. Providers may submit information for review. RCS will only review relevant information which is detailed, paginated, and documented per citation. Irrelevant information not linked to the citation may not be reviewed.
- L. Providers must:
- Request an IDR within 10 working days of receipt of the Statement of Deficiency (SOD) report for ALFs and AFHs, and 10 calendar days for NHs.
 - Return their Plan of Correction and/or attestations within 5 days of receipt of amended SOD reports for any IDRs that result in modified or deleted violations.
- M. Providers will have up to two hours to present in an IDR.
- N. The Division will notify providers of final IDR outcomes by letter generally two to three weeks after the IDR. The IDR Program Manager may make courtesy calls to the provider if this timeline has to be extended and/or with the final IDR outcome.
- O. The IDR process will not review:
- Scope and severity assessments of deficiencies with the exception of substandard care and immediate jeopardy in NHs
 - Survey, inspection, complaint investigation, or IDR operational processes
 - Inconsistency in process as perceived by provider
 - The acceptability or authority of state and federal laws and regulations
 - Timelines and outcome of enforcement actions
 - Division concerns other than the disputed violations and/or enforcement
 - Complaints about field staff
- P. The Division will issue an amended copy of SOD reports if violations are modified and/or deleted.
- Q. The Division will issue an amended copy of formal notice letters if enforcement remedies are modified or rescinded.
- R. All IDR files and provider submitted requests and information shall meet state and federal public disclosure and patient confidentiality laws and requirements.
- S. Timelines identified within this OPP may be extended with Division approval, except as otherwise specified in statute or regulation.

- T. Failure to complete an IDR in a timely manner will not delay the effective date of any enforcement action(s).
- U. Providers have one opportunity to IDR with no re-reviews, except as provided in the OPP. Additional IDRs may be requested for revisit violations for continuation of the same violations cited, a new deficiency, or new violations resulting from the IDR.

IV. Operational Procedures

IDR Process

Step 1. Notice of IDR Appeal Rights

1. The notice:
 - Explains provider rights to an IDR review;
 - Indicates the method(s) of the IDR process providers may request: direct (face-to-face), telephone, or documentation review;
 - Provides the request submission timelines providers must follow in sending in their request; and
 - Instructs providers to:
 - Make a written request and specify what violations/findings/enforcement action(s) are disputed and why; and
 - Send their requests to the Division IDR Program Manager at the Olympia address.
2. The field and Division gives providers written notice of IDR appeal rights in a:
 - Notice of violations without enforcement letter that the field mails out with the associated statement of deficiency (SOD);
 - Formal notice of violations with enforcement letter the Division mails out with the associated SOD.
3. Providers will submit written IDR requests (as directed in Department letters that accompany the mailed SOD) to IDR Program staff per mail, email, or fax within 10 days of receipt of the SOD report (10 working days for ALFs and AFHs and 10 calendar days for NHs) that:
 - Identify the citation and/or enforcement action(s) that is disputed;
 - Explain why the home is disputing the action; and
 - Indicate the method of dispute resolution process preferred (direct meeting, telephone conference, or documentation review).

Step 2. Request Receipt

1. The field will instruct providers to contact the IDR Program staff regarding IDR request inquiries and reference the SOD report cover letters for IDR instructions.
2. IDR Program staff will:
 - Identify the violation(s), findings, and/or enforcement action(s) in dispute;
 - Process the request; and
 - Open a hard copy temporary holding IDR file that will contain:
 - Written provider IDR request
 - Disputed SOD report, sample resident/staff identifier list, Form 10-207 crosswalk (NH only)
 - Provider submitted information
 - IDR communication log
 - Applicable enforcement formal notices
 - Applicable amended SOD report and enforcement formal notice letters

Step 3. Scheduling

1. IDR Program staff will:
 - Verify the method of IDR provider requested;
 - Clarify what violation(s), findings, and/or enforcement action(s) are disputed;
 - Schedule the IDR time, date, and conference room;
 - Identify who will participate;
 - Identify if the provider is going to submit and/or present additional documentation for review and request it be limited in volume and only relevant to the disputed violation(s);
 - Send the provider a written notice (per letter, email, and/or fax) confirming date, time, and method of IDR, with cc copies (per email/fax) to the LTCOP and field offices;
 - Scan the Field Manager the Provider's IDR request letter identifying what is being disputed and reasons why, if included.
 - Enter scheduling data into application FMS and ASPEN programs' tracking systems; and

(If a scheduling delay is confirmed, IDR Program staff will record on the IDR communication log the reason. If delay request is not ruled reasonable as above, proceed with denial of the IDR).

2. The field will:

- Instruct providers to contact the IDR Program staff regarding any IDR scheduling inquiries or changes and to reference SOD cover letters for IDR instructions.
- File a copy of the provider scheduling letter.
- Scan the working papers related to the disputed violations and/or enforcement.

Step 4. Preparation

1. Providers may submit information to IDR Program staff before the IDR, however it is not required.

2. The field will forward any information the provider submitted for IDR to IDR Program staff, and assist with obtaining any information needed for preparation.

3. IDR Program staff may review the following before the scheduled IDR:

- Method of IDR provider requested;
- Compliance history;
- SOD, findings, and/or enforcement action(s) under dispute;
- IDR temporary holding file contents; and
- Any applicable laws and CFRs, RCWs, WACs, and OPPs.

Step 5. Informal Review

1. Providers present their disputable facts.

2. The field will instruct providers to contact the IDR Program staff regarding IDR informal meetings, and supply to the IDR Program staff any facts they want reviewed in the documentation review.

3. IDR Program staff will:

- Facilitate the informal review meeting, encouraging providers to present their disputed facts;
- See the provider understands the purpose of the review, the dynamics of the meeting, two hour time limits, and when to expect receipt of the final outcome notice letter (in most cases, two to three weeks after the review);
- See that the State and provider each have the opportunity to ask and clarify questions;

- Listen and clarify the disputable facts presented;
- Not determine or discuss final outcomes during meeting;
- Not engage in discussions about provider disagreement related to:
 - Scope and severity assessments of deficiencies with the exception of substandard care and immediate jeopardy in NHs;
 - Survey, inspection, complaint investigation, or IDR process;
 - Process inconsistency;
 - State and federal laws and regulations acceptability or authority;
 - Complaints about field staff
 - Timelines and lifting of enforcement actions; and
 - Division concerns other than the disputed violations and/or enforcement.

Step 6. Analysis

1. IDR Program staff may contact the provider or the field seeking additional clarification.
2. The field will route any information needed to Compliance Program staff for analysis.
3. IDR Program staff will:
 - Review provider statements that may result in amendments of violations and/or enforcement remedies;
 - Discuss with the field facts the provider presented that may result in amendments;
 - Review field working papers and QIS (NH only) if necessary; and
 - Discuss disputed violations, findings, and enforcement remedies with compliance specialists.

Step 7. Decision-making

1. The field will route any information needed to IDR Program staff during decision-making.
2. IDR Program staff will:
 - Discuss with the Assistant Director facts from the analysis that may result in amendments in enforcement action.
 - Make the final decision when there are no changes (including no changes to enforcement action); and
 - Discuss the IDR findings with the field as necessary to clarify findings, determine IDR outcomes and whenever there will be changes made to the SOD.

- Inform the field about the final IDR outcome.
3. The Assistant Director will make the final decision(s) for any changes to enforcement action(s) resulting from an IDR.

Step 8. Outcome Notice

1. The field will instruct providers to contact the IDR Program staff regarding IDR provider inquiry about final IDR outcomes.
2. IDR Program staff will:
 - Coordinate with compliance specialists for joint outcome notice letters if changes are made with enforcement (hybrid form of IDR outcome letter and enforcement formal notice letter);
 - Make the changes to SOD reports in FMS/ASPEN;
 - Amend SOD cover letters for any changes to consultation, or any violations changed to a consultation (ALFs and AFHs only);
 - Send the provider an outcome notice letter that may include:
 - No change to violations;
 - No change to violations and enforcement remedies;
 - Change to violations;
 - Change to violations and enforcement remedies;
 - Send providers a new copy of amended SOD/2567/WAC reports and formal notice letters (hybrid form), including amended Form 10-207 (NH WAC crosswalk);
 - Enter the results of the IDR in FMS and ASPEN;
 - Email the field a copy of the IDR outcome letter for ALFs and AFHs, and where to locate the letter in ASPEN for the NHs; and
 - Email the LTCOP a copy of the IDR outcome notice (notice to CMS as applicable for NH).

Step 9. Closure

1. The field will:
 - File their copy of the IDR outcome letter, any amended SOD/2567/WAC reports and Form 10-207s;
 - Follow-through with provider to see the POC (NH only) and attestation dates (ALFs and AFHs only) are transferred over to any amended SOD reports and amended documents signed; and
 - Refer any provider questions about IDR outcome back to IDR Program staff.

2. IDR Program staff will:

- File the IDR request, schedule letter, IDR outcome notice letters, and any amended SOD reports, cover letters, and amended hybrid enforcement formal notice letters in the central files.

Process Outliers

Withdrawal

1. The field will instruct providers to contact the IDR Program staff regarding notice of withdrawal.

2. IDR Program staff will:

- Process any withdrawal notices including acknowledgement and confirmation with the provider;
- Clarify the withdrawal request to rule out any processing problems;
- Document the withdrawal request on the IDR communication log, if confirmed;
- Notify field, LTCOP, compliance staff, and CMS (if applicable) of the withdrawal;
- Enter withdrawal in program applications (ASPEN and SHAREPOINT); and
- Close out the temporary holding IDR file.

Denial

1. IDR Program staff will:

- Process any denial notices including acknowledgement and clarify request being beyond submission timeframe;
- Check ASPEN, FMS, and postal system for dates to confirm denial timeframe per RCS principle;
- Inform provider by telephone that their request for an IDR has been denied and mail a subsequent denial letter;
- Distribute denial letter to field, LTCOP, central files; and
- Notify CMS (if applicable) of the denial.

2. The field will instruct providers to contact IDR Program staff regarding any denials.

Repeat IDR Request

The field and IDR Program staff will inform providers requesting repeat IDRs on the same violation(s) and/or enforcement action(s) that providers are given one opportunity to dispute.

Tracking

IDR Tracking Logs

IDR Program staff will enter IDR data elements into the tracking log(s) upon closure of the IDR process (FMS database for AFH and ALF IDRs and ASPEN for NH IDRs). IDR data elements from all programs will be entered into the IDR Tracking Tool (SHAREPOINT).


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