

Title 15: Mississippi State Department of Health

Part 16: Health Facilities

Subpart 1: Health Facilities Licensure and Certification

CHAPTER 45 MINIMUM STANDARDS FOR INSTITUTIONS FOR THE AGED OR INFIRM

Subchapter 57 INFORMAL DISPUTE RESOLUTION

Rule 45.57.1 Informal Dispute Resolution.

1. The purpose of the informal dispute resolution (IDR) process is to comply with 42 CFR 488.331 by giving licensed facilities an additional opportunity to refute cited deficiencies/licensure violations after any survey, or after notification of billing issues in situations involving state monitors or temporary managers. The IDR is not intended to be an evidentiary hearing since licensed facilities are afforded such at the federal level. Licensed facilities may not use the IDR to delay the formal imposition of remedies or to challenge any other aspect of the survey process, including:
 - a. The scope and severity assessments of deficiencies with the exception of scope and severity assessments that constitute substandard quality of care or immediate jeopardy;
 - b. Remedies imposed by the licensing agency;
 - c. Alleged failure of the survey team to comply with a requirement of the survey process;
 - d. Alleged inconsistency of the survey team in citing deficiencies among facilities; and
 - e. Alleged inadequacy or inaccuracy of the informal dispute resolution process.
2. All requests for an IDR must follow the procedures set forth herein.
3. All official statements of deficiencies/licensure violations requiring a response from the licensed facility, and billing statements for state monitors or temporary managers, shall be mailed by the licensing agency via certified mail, return receipt requested. Each official statement of deficiencies/licensure violations shall be accompanied by a copy of these Informal Dispute Resolution Procedure Regulations.
4. The licensed facility shall notify the Division Director that it requests an IDR. The request shall be in writing and must be received in the office of the licensing

agency no later than ten (10) calendar days after the licensed facility's receipt of the official statement of deficiencies/licensure violations or billing statement. The request shall specify which deficiencies/licensure violations or charges are disputed. The request shall also specify whether the licensed facility requests that the IDR be (1) in person; (2) via a telephone conference or by other electronic means (i.e., via video teleconference, if such service is available to all parties); or (3) by means of a written response to the official statements of deficiencies/licensure violations. The request must also designate a licensed facility representative for purposes of further communications regarding the IDR.

5. Every IDR shall be conducted by the licensing agency. If the IDR will be conducted in person, it shall be conducted at offices designated by the licensing agency.
6. The licensing agency shall notify the licensed facility representative by telephone or facsimile of the date, time, location, and format of the IDR. The IDR shall be held within ten (10) working days after the receipt by the licensing agency of the request. The IDR shall be conducted by a three (3) person panel, known as the IDR Panel, consisting of a provider representative of the long term care community, a member of the medical community (physician or nurse practitioner/physician assistant), and a member of the Licensure staff who is SMQT qualified and who does not survey nor have supervisory capacity over the district of the related survey. In the event of a position vacancy, an alternate member may serve on the IDR panel as directed by the State Health Officer.
7. At the IDR, the licensed facility representative shall present any additional documentation or statements in support of its contention that a cited deficiency/licensure violation or billing charge may be incorrect. Additional employees of the licensed facility may participate in the IDR, including consultants utilized by the licensed facility as may be required by the regulations (i.e., dietary consultant, social work consultant, and others). Because the IDR is intended to be informal (1) IDR participants should be able to speak freely concerning deficiencies/licensure violations; (2) cross-examination of the IDR participants is not allowed, and (3) legal counsel for the licensed facility is not allowed to participate in the IDR.
8. The Bureau Director shall designate staff members from the survey/licensure visit team which performed the survey/licensure visit in question to attend the IDR and present any additional documentation or statements in support of the cited deficiency/licensure violation. In the case of billing disputes, the staff members who prepared the bill will present the any additional documentation or statements in support of the charges. Any other staff members as required and designated by the Bureau Director may attend the IDR.
9. At the conclusion of the IDR, a written report shall be prepared and forwarded to the Bureau Director, indicating the final determination regarding the validity of any disputed deficiencies/licensure violations. The decision of the IDR Panel

regarding the disputed deficiencies/licensure violations shall be mailed, via certified mail, to the licensed facility representative within ten (10) calendar days of the conclusion of the IDR. Facilities which are licensed but not certified may appeal the decision of the IDR Panel regarding the disputed licensure violations if the violations are at a scope and severity level of G or above and enforcement remedies have been imposed by the licensing agency. The decision of the ICR Panel regarding the disputed deficiencies/licensure violations may be appealed pursuant to the administrative procedures outlined in Rule 45.10.1 of these regulations.

10. If the IDR Panel determines that a deficiency/licensure violation should not have been cited, the following steps shall be taken:
 - a. The official statement of deficiencies/licensure violations shall be marked “deleted,” signed, and dated by the branch manager for the district where the facility is located.
 - b. A revised copy of the official survey/licensure violation form shall be issued to the licensed facility which shows the adjusted scope and severity assessment to reflect the outcome of the IDR.
 - c. Any enforcement action imposed solely on an incorrect deficiency/licensure violation citation shall be rescinded.
11. If the IDR Panel determines that any charges for state monitoring or temporary management are inaccurate or disallowed, a revised copy of the bill will be issued to the licensed facility.

SOURCE: Miss. Code Ann. §43-11-13