IDR

A provider may request IDR within the ten (10)-day time frame that it has to provide the written plan of correction in response to the Form CMS-2567. Requesting IDR does not, however, relieve the provider of the requirement to provide a plan of correction or to implement corrective action, nor does it delay the effective date of an enforcement action that may result from the survey findings.

The purpose of IDR is to give the provider an opportunity to refute the factual accuracy of cited deficiencies after any survey. Upon timely receipt of the request for the IDR, case material, which should include documentation such as facility policies and procedures, resident medical record information or other information to dispute the survey findings, should accompany the request. The IDR Coordinator establishes the hearing date, time place, time limit and conditions with input from the facility's Administrator. Please note: a five (5) day extension for sending the case material is available upon request for state deficiencies (per 906 KAR1:120) but is not available for federal deficiencies.

Kentucky offers three types of IDRs: Desk, Teleconference and Face to Face Reviews.

If desk review is chosen, the provider must submit two copies of documentation (written request for IDR and case material). With a desk review the IDR coordinator will review the case materials, Form CMS 2567 and regulation and make a recommendation to the Inspector General.

With an IDR teleconference, the provider must also submit two copies of documentation. An IDR teleconference involves the surveyor(s) who wrote the deficiencies, the provider and the IDR coordinator. The provider will be given an opportunity to present their information and the surveyor will be given an opportunity to comment. The IDR coordinator may ask questions of the provider or the surveyor. After the IDR teleconference, the IDR coordinator will make a recommendation to the Inspector General.

A panel review is available for:

- A cited deficiency with a scope and severity assessment of G, H, I, J, K, or L;
- A cited deficiency with a scope and severity assessment that constitutes a substandard quality of care;
- A cited deficiency that results in an enforcement action by the Cabinet for Health Services;
- A federal deficiency cited at the condition level; or
- A disputed deficiency cited in conjunction with a deficiency qualifying for a panel review.

If a Face-to-Face panel review is requested, the provider must submit five copies of case material. The IDR Coordinator will send the supporting documentation submitted by the facility, as well as the CMS 2567 to the panel members for review prior to the panel meeting. The provider must notify the IDR coordinator in advance if they intend to have an attorney present. The attorney is not allowed to speak for the provider. The

panel consists of the following members: The IDR coordinator, who serves as a nonvoting panel moderator, two CMS certified OIG surveyors who were not responsible for citing the deficiency in dispute and an Administrator of a Long Term Care facility with no affiliation or ties to the provider disputing the deficiency.

During the Face-to-Face IDR the provider will be given an opportunity to present their information and the surveyor will be given an opportunity to comment with clarifying/supporting information. The panel members may ask questions of the provider and the surveyor. After the panel review meeting has concluded the surveyor and provider will be excused and the panel members review all documentation or information presented by the facility and the voting members make a recommendation to the Inspector General.

As specified in the regulation 42 CHF 488.331, the IDR process must include the following elements:

- Every Long Term Care facility must be offered an opportunity to request IDR (in the cover letter accompanying the transmission of Form CMS-2567 to the provider) with the entity that conducted the survey. The letter of transmittal must include formal notification of the provider's right to request an IDR, the contact person to whom the request should be made, explain how IDR is accomplished (by writing, telephone or face-to-face meeting) and provide the name or title of the person who will conduct the IDR.
- The provider cannot use the process to dispute anything other than the deficiency(ies) identified. It cannot dispute, in IDR;
    - Scope and Severity (except where there is Substandard Quality of Care)
    - Remedy(ies) imposed
    - Alleged failure of the survey team to follow the survey process
    - Alleged inconsistencies in citing deficiencies across facilities
    - Alleged inadequacy of the IDR process itself.
- A provider must request an IDR in writing, and specify the deficiency (ies) being disputed.
- The provider must be notified in writing if the appeal is unsuccessful.
- If the facility appeal is successful:
    - Form CMS-2567 and the deletions must be signed and dated by an official of the survey agency.
    - Or, if the provider request, a new copy of Form CMS-2567 (one that does not include the deficiency (ies) successfully appealed must be generated.
    - The scope and severity of the deficiency that has been successfully appealed must be marked "deleted on the original.
    - The original Form CMS-2567 must be adjusted, if necessary, to reflect the outcome of the IDR.
    - Any enforcement action based solely on a deleted deficiency must be rescinded.