

## **Independent IDR**

The Code of Federal Regulations, Title 42 CFR §488.331 and §488.431 requires that Kentucky offer nursing facilities an opportunity to request an Independent Informal Dispute Resolution (IIDR) if the Centers for Medicare and Medicaid (CMS) imposes a Civil Money Penalty (CMP) against the facility and the CMP amounts are subject to being collected and placed in an escrow account. The IIDR must be offered to the facilities at no charge.

CMS Regional Office (RO) will communicate the offer for an IIDR with its initial Notice of Imposition of the Penalty letter to a facility. The notice will provide the SA contact information to request the IIDR. The facility must request the IIDR within ten (10) calendar days of receipt of the Notice of Imposition Penalty letter.

The IIDR does not apply for survey findings already subject to the IDR process, unless the IDR was completed prior to the imposition of the money penalty. If the CMS letter is received by the facility prior to the scheduled IDR, and the facility decides it would rather have an IIDR, send the IDR/IIDR Coordinator a letter to withdraw the request for the IDR and request an IIDR.

Once a facility requests an IIDR, the State must notify the involved resident or resident representative and the State's Long Term Care Ombudsman of the opportunity to submit written comments. The facility's request should also include addresses of the involved resident and resident representative and two copies of case materials. The IIDR must be completed within sixty (60) days of the facility's timely request.

Each State's IIDR process must be approved by CMS. The IIDR process may be conducted by an independent person or entity who has an understanding of specific Medicare and Medicaid program requirements and who has been selected by the State and approved by CMS. Kentucky has contracted with MPRO, Michigan's Quality Improvement Organization to provide the IIDR review. This is a desk review; Kentucky does not offer an IIDR teleconference or face-to-face review.

It is important to note, the independent reviewer provides his or her recommendations of whether to agree with the facility's arguments for the disputed survey findings. The decisions made during the IIDR process are not subject to appeal by the facility. If the SA disagrees with one or more of the recommendations of the IIDR entity, the complete written record will be sent to the applicable CMS RO for review and final decision. CMS retains the ultimate authority for the survey findings and imposition of CMP's.