

Florida Independent Informal Dispute Resolution Procedure

A facility may challenge cited deficiencies through a process called Independent Informal Dispute Resolution (IIDR).

Purpose: To offer nursing home providers the opportunity to dispute cited deficiencies when a civil money penalty (CMP) is imposed for that deficiency, with an entity independent of the state survey agency.

Procedure:

1. **Availability of IIDR:** If the provider believes that a specific deficiency or any finding within a deficiency cited during a survey is factually inaccurate and would like the opportunity to dispute the specific deficiency and/or finding(s), and if that deficiency is associated with a civil money penalty, the provider will be given one opportunity to do so. IIDR requests must be submitted in writing within 10 calendar days of receipt of the initial Notice of Imposition of a CMP letter to a facility from Centers for Medicare & Medicaid Services (CMS). If the provider exceeds this time frame, the IIDR coordinator will deny the request for IIDR.

The request must be submitted through e-mail, FAX, or overnight mail delivery to the Agency for Health Care Administration, as follows:

Agency for Health Care Administration
Attn: IDR Coordinator
2727 Mahan Drive, MS 9A
Tallahassee, FL 32308

Or E-mail

IDRcoordinator@ahca.myflorida.com

Or FAX

850-414-6946

2. The provider may request an IIDR for any deficiency cited at severity and scope level of D and above that is associated with a civil money penalty. The provider may dispute s/s levels for any deficiency cited at severity and scope of D and above that is associated with a civil money penalty. Scope and severity may be changed.

3. **IIDR format.** The IIDR will be conducted in the North Carolina or South Carolina State Survey Agency. Reviewers will be management staff deemed experts in the survey process and regulation interpretation. When Florida reviews for North Carolina or South Carolina, three panelists will be assigned from the Division of Health Quality Assurance, Bureau of Field Operations. Only experienced Life Safety Code Surveyors will review Life Safety Code IIDRs. A reviewer panelist will not participate when a conflict of interest exists.
4. **Submission of written material.** The facility must submit relevant written information for review to the IIDR coordinator no later than 10 calendar days of receipt of the initial Notice of Imposition of a CMP letter to a facility from CMS. The facility must submit material pertinent to the disputed deficiency(ies). The panel has no obligation to review any documents that are not legible. The facility must also provide the name of the involved resident(s), and the name and contact information of the resident representative no later than 10 calendar days of receipt of the initial Notice of Imposition of a CMP letter to a facility from CMS. The provider will be informed of the IIDR process the day of receipt of the written request and information. The IIDR coordinator will notify the involved resident, the resident representative and the ombudsman of the opportunity to provide written statements pertinent to the deficiency(ies). This notification will be within two working days after the state survey agency receives the written request and information from the facility. These individuals will be given seven calendar days from receipt of the notification to submit information to the IIDR coordinator.
5. **Scheduling IIDRs.** Within two working days of receipt of a written request for IIDR, the IIDR coordinator will verify that the IIDR has been requested in accordance with the provisions of federal regulation. Also within two working days of receipt of the written request, the IIDR coordinator will notify the Reviewing State Survey Agency of the IIDR request and the time frame requirements. The date of completion will be no later than day 30 from the date of the IIDR request. The IIDR coordinator will overnight mail the facility submitted information to the Reviewing State Survey Agency; this mail will be sent within two working days of receipt of the facility submitted written information. The entire survey statement of deficiencies will also be included in the mailing. No later than the tenth calendar day from receipt of the written request, the IIDR coordinator will forward any written statements from the ombudsman, involved resident, and/or resident representative via encrypted e-mail to the Reviewing State Survey agency.
6. **Notification of IIDR.** Upon receipt of the request for IIDR, the IIDR coordinator will update ASPEN Enforcement Manager (AEM) and the federal database and notify the appropriate Health Quality Assurance Field Office Manager. The IIDR coordinator will also notify the CMS enforcement representative and manager. All notifications will be made within two working days of receipt of the written request from the facility.

7. **IIDR panel activity.** Only those deficiencies identified in the facility's request will be reviewed in IIDR. There will be no contact made to the survey team or the provider.
8. **Decision.** The IIDR panel may decide that a deficiency or finding is to be upheld or deleted, or that a deficiency is to be upheld with deletion of a finding(s), or that scope and severity of the deficiency(ies) may be lowered or increased, or that additional tags need to be added to the statement of deficiency, or that the deficiency in question needs to be moved to a different federal tag. The decision will be submitted in writing electronically to the IIDR coordinator no later than day 30.

The written decision will include the result for each deficiency challenged and a brief summary of the rationale for that result. The written decision will reference specific documents submitted by the facility that demonstrate a deficiency should not have been cited or that demonstrates a change in severity and scope. The written decision statement will explain the panel's rationale to support additional tags or a change in the federal tag. The written decision will also reference the statements provided by the involved resident, resident representative and/or ombudsman if those documents influenced the decision. If the State Survey Agency agrees with the decision, the IIDR coordinator will ensure that the facility, the Health Quality Assurance Field Office Manager, the Long Term Care Unit manager, and CMS is notified in writing of the decision no later than the next business day. If the state survey agency does not agree with the decision(s), the complete record will be forwarded to CMS for the final decision.

The complete packet will consist of the facility submitted information, any written statements from the involved resident, the resident representative and/or the ombudsman, the written statement from the panelists, and a written document from the state survey agency clearly explaining the reason for disagreement. The packet will be sent overnight mail within ten calendar days after the state agency receives the decision from the panel. Final decisions are made within 60 days of receipt of the facility request. After receiving a final decision from CMS, the IIDR coordinator will ensure that the process is completed. Completed means that a final decision from the IIDR process has been made, a written report generated, the state survey agency has provided written notice of this decision to the facility, and the federal computer system has been populated. The completion process will occur within two working days after the state survey agency receives a final decision. Final decisions are also shared with the Health Quality Assurance Field Office Manager and the Long Term Care Unit Manager.

9. **Actions generated by IIDR.** When a final decision changes the statement of deficiency, the IIDR coordinator will:

1. Send the facility an amended statement of deficiencies form (CMS-2567) with instructions to input the original plan of correction and return to the state survey agency within a 10-day period;
2. recommend rescinding any enforcement action as applicable; and
3. ensure the Agency website is updated with the final statement of deficiencies.

10. **Invalid use of IIDR.** The facility cannot use the IIDR process to challenge the following:

1. Remedy(ies) imposed by the enforcing agency;
2. Questions or issues from a previous survey;
3. Any deficiency cited when a civil money penalty is not imposed;
4. Survey findings that have already been the subject of an informal dispute resolution (IDR) unless the IDR was completed prior to the imposition of the civil money penalty;
5. Failure of the survey team to comply with a requirement of the survey process;
6. Inconsistency of the survey team in citing deficiencies among facilities;
7. Inadequacy or inaccuracy of the IIDR process; or
8. Surveyor behavior.