

INFORMAL DISPUTE RESOLUTION PROCESS

State Law:

K.S.A. 39-947a provides that adult care home administrators can request an opportunity to dispute deficiencies before a three-person independent panel.

PROCEDURES PRIOR TO THE IDR MEETING

Facility Request:

The Informal Dispute Process (IDR) begins with a written request from a facility to dispute deficiencies cited on a survey. The request must come from the administrator within 10 calendar days of receipt of the Statement of Deficiencies. The facility can request a face-to-face meeting. The request shall:

- State the specific deficiencies being disputed.
- Provide a detailed explanation of the basis for the dispute.
- Include any supporting documentation, including any information that was not available at the time of the inspection.

The administrator must provide the Kansas Department on Aging (KDOA) **five** copies of the documentation.

Once KDOA receives the request and documentation, the agency will send an acknowledgement letter to the administrator.

IDR Panel

After receipt of the facility's request for IDR, KDOA arranges a three-person panel to review the deficiencies. State law specifically stipulates the makeup of the panel.

- One member of the panel shall be from the survey unit, but shall not have served on the survey in dispute.
- Two members shall be from outside the survey unit and may be KDOA employees, health care professionals or consumers.

Panel members are sent the documentation received from the administrator for review prior to the IDR meeting.

Before the Meeting

Once the membership of the three-person panel is finalized, the administrator is notified of the date to the IDR and confirms how he/she wishes to dispute the deficiency. Options include face-to-face, telephone conference or a desk review. KDOA staff then reconfirms the meeting date with the facility in writing.

Panel Orientation

Prior to the actual IDR's, KDOA staff provides an orientation to the panel. The orientation:

- Explains the state law and regulations.
- Covers Centers for Medicare and Medicaid Services' (CMS) requirements on the IDR process.
- Has members sign confidentiality agreements.
- Provides each panel member with a post-panel evaluation form.
- Explains the panel that they can elect to choose a chair.
- Reminds panel that there should be no cross-examination between the state agency and the providers. Only panel members are allowed to ask questions.
- Informs panel members that KDOA will notify facilities in writing of the final action.

The panel is also informed that KDOA staff will be available in the room to provide technical or administrative support to the panel. No discussions between staff and the panel are held regarding any specific IDR or deficiency.

The IDR

The panel welcomes the administrator and any other facility staff present or on the telephone. The panel will ask the facility to explain why the deficiency should not have been cited. The facility will be given an opportunity to present their remarks. Based upon the number of reviews that could be conducted by the panel, the panel may limit the time allowed for presentations. Following the facility's remarks, the panel may ask questions. Survey staff responsible for the statement of deficiencies will either be in the room or on a telephone conference call to present information to the panel members. Remember, no new written documents may be presented at this time.

Both the facility and the survey staff will be given the opportunity to provide relevant information to the panel.

The panel then thanks both parties and concludes the hearing.

Immediately after the hearing, the panel reviews all materials and makes their recommendation to the KDOA Secretary. The panel can:

- Uphold the deficiency
- Delete the deficiency
- Change the scope/severity if it is Immediate Jeopardy or Substandard Quality of Care.

The panel's recommendations are then sent to the KDOA Secretary for review. Following the Secretary's review, the decision is mailed to the provider in writing.

HELP SUGGESTIONS AND COMMENTS

- *Talk specifically to the deficiency. Do not talk about irrelevant matters, including:*
 - *past history*
 - *the survey process*
 - *overall operation of the facility*
- *Act professionally*
- *Be concise – longer is not necessarily better*
- *Be prepared to answer tough questions*
- *Do your homework **before** requesting IDR*
 - *get someone to look objectively at the deficiency*
 - *review the regulation and Guidance to Surveyors*
- ***Above all, be prepared to tell the panel how you met the requirement.***