

## **Home Health Agencies Federally Certified Informal Dispute Resolution Process Overview**

The purpose of this information bulletin is to inform federally certified home health agencies (HHA) in Kansas of the federal informal dispute resolution (IDR) process.

The Kansas Department of Health and Environment (KDHE) has developed an IDR process consistent with the Centers for Medicare and Medicaid Services (CMS) State Operations Manual (SOM) Chapter 10, for federally certified HHA. The IDR process is explained under section 10009 of Chapter 10. **The IDR process will be implemented on January 1, 2016.**

### **What is a Federal HHA IDR?**

A Federal HHA IDR offers a federally certified HHA, upon receipt of the official Form CMS-2567, the option to request an informal opportunity to dispute federal condition-level survey findings warranting a sanction, issued as a result of the following:

- A federal or state survey;
- A complaint investigation; or,
- A follow-up survey/revisit.

A federal HHA IDR, including any face to face meetings, constitutes an informal administrative process that in no way is to be construed as a formal evidentiary hearing.

The Federal HHA IDR process may be used for condition-level deficiencies but may not be used to:

- Delay the formal imposition of sanctions or to challenge any other aspect of the survey process, including:
  - Sanctions imposed by the enforcing agency (i.e. CMS);
  - Alleged failure of the survey team to comply with a requirement of the survey process;
  - Alleged inconsistency of the survey team in citing deficiencies among agencies;
  - Alleged inadequacy or inaccuracy of the IDR process.

### **How to Request an IDR**

HHAs must request an IDR in writing to:

Home Health Informal Dispute Process Coordinator  
Kansas Department of Health and Environment  
Health Facilities Program  
1000 SW Jackson St., Suite 330  
Topeka, KS. 66612

### **Federally Certified HHA Responsibility**

- The written request must include an explanation of the specific condition level deficiencies that are being disputed, a brief explanation of why the deficiency is

considered to be invalid, and why this information was not available at the time of survey or investigation. *A sole statement of disagreement is not sufficient to remove a deficiency.*

- The written request must be made within the same 10- calendar day period the HHA has for submitting an acceptable plan of correction to the surveying entity;
- The federal HHA IDR process can be conducted in writing, by telephone, or in person. Please let us know which method you wish to use.
- Please let us know if your attorney will participate in a face to face meeting or in a telephone conference call. If a face to face meeting is requested, please tell us how many persons will be attending from your facility. Please note that there is a one (1) hour time limit on all IDR meetings.
- *Even though an IDR is requested, the federally certified HHA must still submit an acceptable plan of correction within 10 calendar days.*

### **Responsibilities of KDHE in the IDR Process**

KDHE will:

- Make available to the HHA the written description of the IDR process.
- Inform the HHA of the IDR opportunity at the time the official Form CMS-2567 is issued and include the name and address to be contacted to request an IDR.
- Send a letter confirming receipt of the IDR request and provide the name and telephone number of the person who has been assigned primary responsibility for organizing the IDR.
- Schedule a face to face meeting, if one is requested.
- Notify the HHA in writing of the outcome of the IDR.

### **If the HHA is successful in the IDR process, KDHE will:**

- Mark the deficiency “deleted,” or revised, as appropriate and sign and date the survey report form; AND recommend to CMS that they rescind any enforcement action(s) imposed solely because of that deficiency.
- If requested by the federally certified HHA, KDHE will issue a revised statement of deficiencies within 10 days.

### **Want Additional Information?**

Visit our website at [http://www.kdheks.gov/bhfr/state\\_ach\\_licensure\\_forms.html](http://www.kdheks.gov/bhfr/state_ach_licensure_forms.html)