



## Putting Your Best Forward for IDR Primaris

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## Objectives

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- 🔗 Understand the Informal Dispute Resolution (IDR) process
- 🔗 Review valid reasons to request IDR
- 🔗 Review types of IDR reviews and determinations
- 🔗 Process steps and preparing exhibits for IDR
- 🔗 How to present your best
- 🔗 Identify benefits to the facility & industry
- 🔗 Independent Informal Dispute Resolution (IIDR)



## What is IDR?

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### Informal Dispute Resolution

- Informal administrative process.
- Not a formal evidentiary hearing.
- Used to determine if a cited deficiency should be upheld.
- Gives providers opportunity to refute cited deficiencies after any survey.



## How is the Primaris IDR process different?

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- Reviewer is neither an employee of the facility or Department of Health and Senior Services (DHSS).
- Process was mandated by legislative action in House Bill 385, signed by the governor on August 28, 2009.
- In accordance with statute, DHSS contracted with Primaris to be a neutral, third party reviewer on the basis of their Quality Improvement Organization status.



## How is the Primaris IDR process different?

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- 🔗 Tighter timeframe: 10 days
- 🔗 Transparency of outcomes
- 🔗 Primaris central office can prompt facility and facilitate preparedness



## What are valid reasons for dispute?

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- 🔗 Dispute deficiency on Statement of Deficiencies (SOD):
  - Nursing home disagrees with Scope or Severity for I/J, Substandard Quality Care (SQC) or State Class I violations.
  - Evidence exists that the surveyors did not review.
  - Nursing home disagrees with conclusion or believes the SOD does not include all relevant facts.



## Types of IDR Review

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- 🕒 **Desk review:** SOD and facility exhibits are reviewed. No live participation.
- 🕒 **Telephonic:** DHSS, facility and reviewer on a conference call.
- 🕒 **Face to face:** Facility, DHSS, and reviewer in person.
  - (sometimes DHSS on phone)



## Is there a cost to me or my facility?

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- 🕒 **No fees charged by Primaris or DHSS**
- 🕒 **Cost of time and travel**
  - Preparing exhibits and attending conference
- 🕒 **Legal counsel (expert testimony)**
  - Your decision - charges for their involvement will be your responsibility regardless of the determination.
  - DHSS must be notified of your intent to involve legal counsel and prepare to have their legal counsel present. The cost of their legal counsel is not your responsibility.



## Is there a penalty for disputing tags?

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- ❏ No, regulations provide this opportunity to have disputes reviewed by a third party.
- ❏ DHSS is extremely sensitive to any concern regarding survey(s) objectivity and/or retaliation.



## Why IDR?

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- ❏ Who benefits?
- ❏ Forum for improving understanding.
- ❏ Who should drive?
- ❏ For the interests of the industry



## What are the steps to the process?



## What are the steps to the process?

- 🔗 Facility – Call Primaris - 573-817-8300 x: 213
- 🔗 Primaris will send an IDR request form to the facility for completion and return.
- 🔗 Request must include:
  - Disputed tag #, regulation number, and the reason for the dispute.
    - Scope and/or severity can only be challenged if tag rises to I/J, Class I, or Substandard Quality of Care (SQ).
  - Type of review requested: desk , telephonic, face-to-face.
  - Legal counsel involvement.



## What are the steps to the process?

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- 🌀 Facility must submit exhibits to Primaris.
  - Five working days prior to the IDR conference.
  - Facility can request, as can the reviewer, a one time delay in order to prepare exhibits or obtain additional information.
  - Failure to request a delay or submit the exhibits in a timely manner can result in the reviewer not being able to consider any information submitted.



## What are the steps to the process?

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- 🌀 Conference date is scheduled by Primaris and all parties are notified.
- 🌀 Primaris reviewers will make determinations within 10 working days.



## What can determinations include?

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- Determinations can include:
  - Leaving the SOD intact; upholding the deficiency.
  - Removing the deficiency entirely from the SOD and any resulting scope and severity.
  - Removing examples from the SOD that may or may not change scope and severity.
  - Recommending a reduction of scope and or severity on the tag.



## How does this help my facility?

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- Proactive risk management
- Determinations help you and the industry
- Transparency in process





## How does this help my facility?

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- 🔗 Anything changed or removed may reduce impact on:
  - Five Star Ratings
  - SODs submitted for “Nursing Home Compare”
  - Follow up re-visits to review correction



## How does this help my facility?

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- 🔗 So...(think how this influences your potential future partners)



- 🔗 Five Star Ratings more important now in the world of Accountable Care Organizations (ACOs) and new reimbursement models.
- 🔗 Ratings matter to potential partners.



## How does this help my facility?

- Less exposure to liability for certain claims.
- Individual licenses of the administrator and the facility are better protected.
- Facility will review its procedures for the original citation to determine improvements that might have prevented the original citation.
- Not required to continue with the plan of correction for deficiencies that are removed.



## How does this help my facility?

- Prompted self assessment
- Sometimes we all need a little boost... so how to prepare?



## Preparing Exhibits

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- 🌀 Review the citation(s) and break each down individually.
  - What are the elements of the regulation?
  - What are the elements of the citation?
    - Do they merge or is there conflict?
    - Review guidance to Surveyors, State Operations Manuals and other practice standards to form a basis.



## Preparing Exhibits

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- 🌀 Review guidance to Surveyors, State Operations Manuals and other practice standards to form a basis.
  
- 🌀 \*Research established findings
- 🌀 \*Best practice standards
- 🌀 \*Protocols, guides from expert associations



## Preparing Presentation

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- 🔗 Build presentation and exhibits about basis of dispute.
- 🔗 Only relevant information can be considered.
  - Corrections after citation are not relevant to determining whether or not in fact the citation existed as stated in the SOD on or before the date on the SOD.



## Preparing Presentation

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- 🔗 Label exhibits per each disputed tag on the SOD to which they pertain.
- 🔗 Put a page number on each exhibit for each citation group.
- 🔗 Submit exhibits (1 copy) supporting your dispute at least 5 days prior to the scheduled conference.

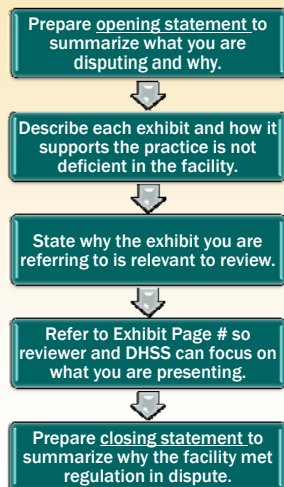


## Building Exhibits

- 🔗 Exhibits should be organized (helps keep Reviewer in order and in context)
  - Contents can be placed in a three-ring binder
  - Use an index divider with tabs to separate each exhibit
  - Page number each exhibit
    - Numbering especially important for exhibits faxed to Primaris for a desk review



## Preparing for the Conference



## Preparing for the Conference

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- 🌀 Tell your side of the story
- 🌀 Verbalize why it's relevant
- 🌀 Be objective, 'matter of fact'
- 🌀 We do want to hear from you!



## Preparing for Phone or Face-to-Face Conference

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### Reviewer will:

- Ask all parties to identify themselves
- Determine legal counsel participation
- Read into the record the citation and the reason for the dispute
- Ask the facility to open with its presentation
- The DHSS will provide their presentation and any changes after review of facility exhibits, etc.
- The reviewer will then ask the facility to provide closing remarks and then DHSS to provide closing remarks.
- The reviewer can ask questions at any time as can DHSS or the facility.



## Conference Process

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- 🌀 Reviewers make every effort to make all parties comfortable.
- 🌀 Maintain objectivity, as well as, professional conduct throughout the process.
- 🌀 The conference is NOT a forum for airing grievances from either the facility or DHSS.
- 🌀 An opportunity to objectively look at the information presented.
- 🌀 **Goal: eliciting relevant information pertinent to disputed citation.**



## IDR Benefits

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- 🌀 Neutral party guiding process.
- 🌀 Improve consistency in citations across regions within the state by communicating decisions.
- 🌀 Data collection and monitoring regarding disputed deficiencies and determinations.
- 🌀 Disclosure of findings, lessons, trends.



## IDR Benefits

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- Customer friendly third party review by reviewers who bring working knowledge and experience of the long term care industry to the review process.



## IIDR

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- **Effective January 1, 2012, Independent Informal Dispute Resolution (IIDR)**
  - Facility may request IIDR if Centers for Medicare and Medicaid Services (CMS) imposes a Civil Monetary Penalty (CMP) against the facility and CMP amounts are subject to being collected
  - **This is a separate process from IDR.** The IIDR must be associated with a CMP imposed and subject to collection and placement in escrow.





## IIDR

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### Independent Informal Dispute Resolution

- “The focus of the IIDR process is the cited deficiency or deficiencies that led to the imposition of the CMP. However, such factors as the scope and severity classification, and the amount of the CMP, are not the subjects of the IIDR.”
- Based on such review, State, or CMS in the case of Federal surveys, will assess whether any changes to Scope/Severity or CMP amount are warranted.



## IIDR Process

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- The opportunity for IIDR is offered within 30 calendar days of the Notice of Imposition of a CMP that will be collected and placed in escrow.
- CMS RO (Regional Office) will communicate the offer for an IIDR, along with Primaris' Contact Information in the Notice of Imposition of a CMP letter to the facility.



## IIDR Process

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- 🕒 Facility must respond within 10 calendar days of receipt of the offer.
- 🕒 Primaris will :
  - Send notice inviting the involved Resident to participate or submit comments.



## IIDR Process

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- 🕒 Primaris will also continue, at DHSS's request, to process IIDRs in the tighter time frame than is provided for in the new CMS guidance.
- 🕒 Reviewers will review copies of the addition of the comment provision by the Ombudsman, affected resident(s), and/or resident(s) representative(s)
- 🕒 Preparing for IIDR would be the same as preparing for IDR.



## Questions or comments

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📞 CONTACT INFORMATION

📞 [www.primaris.org](http://www.primaris.org)

📞 Fax: 573-817-8344

📞 Call: 573-817-8300 press 3 at prompt \_or\_ x:213

📞 Call: 573-817-8300

📞 Or: 800-735-6776

📞 [cwoodward@primaris.org](mailto:cwoodward@primaris.org)

