

Informal Dispute Resolution

- **Deborah J. Gottlieb, Director**
- **Program Compliance & Health Care Financing**
- **NJ Department of Health and Senior Services**

Department of Health and Senior Services

Meet the Panelist

Paula Howard

- ❖ **Attorney since 1987**
- ❖ **8 years at DHSS**
- ❖ **CNA due process hearings**
- ❖ **CNA training programs**



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Virginia Fiess

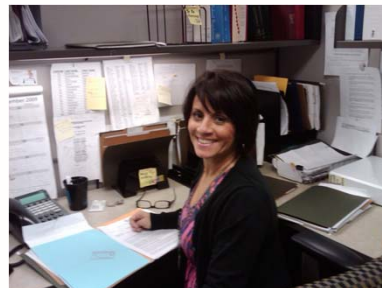
- RN
- 19 years in hospital
- 6 years in LTC
- Director of adult day care 5 years
- SMQT certified
- CNA due process hearings



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Sandra Dill

- RN
- 12 years hospital experience
- 6 years LTC experience
- SMQT certified
- 7 years surveyor experience
- CNA due process hearings



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Meet the Panelist

Lisa King

- Attorney since 1990
- 3.5 years experience in facility licensing
- 12 years experience in regulatory matters, including HMO regulation
- CNA due process hearings



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IDR Scheduling

Christine Shovlin

- Secretarial Assistant
- Manages IDR schedule



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What Should I Expect?

- Meeting with non-survey, 3-person panel and surveyors
- Opportunity to explain your position and answer questions
- Opportunity to hear surveyors explain their positions
- 99.9% possibility to know the outcome before leaving DHSS
- No opportunity to question surveyors directly
- Civilized discussion of the facts – no arguing
- Documents not sent ahead of time not considered





General Rules

- CMS requires all states to have some IDR process
- Independent IDR requirement
- NJ offers panel review by professional staff not involved with survey process
- May request in-person, telephonic or “on the papers” review
- No attorney representation

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Statistics Federal Fiscal Year 2010

- 37 IDRs held
- 65 tags challenged
- 52 tags upheld
- 10 tags deleted
- 3 tags scope and severity reduced
- 2794 tags cited
- 2% of all tags written challenged
- .04% of all tags written modified
- 15% of all tags challenged deleted
- 4% of all tags challenged reduced
- 80% of all tags challenged upheld

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Regulations and Policy

- **42 C.F.R. §488.331 – state required to offer opportunity for IDR; IDR cannot delay enforcement remedies; enforcement imposed as a result of deleted deficiencies is rescinded; written notification to facilities of IDR process is required**

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Regulations and Policy

- **State Operations Manual, §7212C**
 - **Items NOT subject to IDR:**
 - Scope and severity except SQC and IJ
 - Imposed remedies
 - Alleged failure of survey team to comply with survey process requirement
 - Alleged inconsistencies in citing deficiencies
 - Alleged inadequacy or inaccuracy of the IDR process

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Regulations and Policy

“Since CMS has ultimate oversight responsibility relative to a State’s performance, it may be appropriate for CMS to examine specific informal dispute resolution decisions or the overall informal dispute resolution process to determine whether a State is arriving at a correct result. . . .”

State Operations Manual, §7212C(3)

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Contact Information

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