Informal Dispute Resolution

- Deborah J. Gottlieb, Director
- Program Compliance & Health Care Financing
- NJ 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
Meet the Panelist

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

Meet the Panelist

Sandra Dill
• RN
• 12 years hospital experience
• 6 years LTC experience
• SMQT certified
• 7 years surveyor experience
• CNA due process hearings
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

IDR Scheduling

Christine Shovlin
- Secretarial Assistant
- Manages IDR schedule
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

Department of Health and Senior Services
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

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
- 0.04% of all tags written modified
- 15% of all tags challenged deleted
- 4% of all tags challenged reduced
- 80% of all tags challenged upheld
• 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opportunity for IDR; IDR cannot delay enforcement remedies; enforcement imposed as a result of deleted deficiencies is rescinded; written notification to facilities of IDR process is required

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
“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)