

## Long-Term Care Survey Alert

### Survey Appeals: INFORMAL DISPUTE RESOLUTION: SELF ASSESSMENT TOOL

Considering informal dispute resolution? Nursing home providers should ask themselves the following questions to determine whether to proceed with IDR, says attorney **Annaliese Impink** with **Bianculli & Impink** in Arlington, VA:

1. Are the facts alleged by surveyors accurate?
2. Do they demonstrate a violation of the cited regulation?
3. Do the facts demonstrate an isolated occurrence or a pattern?
4. If the allegations constitute a pattern, can the facility challenge them related to each resident?
5. Do you have the documentation to support a factual or legal challenge?
6. Did the residents identified actually experience harm, or did the potential for actual harm exist?
7. Was the facility at fault?
8. Is there the potential that significant remedies may be imposed as a result of the deficiency(ies) (i.e., civil money penalties, ban on payment for new admissions, termination)?
9. Is the facility exposing itself to a "no opportunity to correct" determination in the event that it is cited with deficiencies at a level "G" or above on subsequent surveys?
10. Is the facility exposing itself to a termination action if the **Centers for Medicare & Medicaid Services** or the state survey agency rejects corrective action or determines that corrective action has not been completed timely?
11. Is there a danger that unchallenged allegations will be construed as an admission of guilt in the event of a civil or criminal action?
12. Is there a danger that if the allegations are left unchallenged the facility or its staff may be exposed to licensure actions?
13. What effect might the challenge have on the facility's ongoing relationship with the survey agency and other government agencies?