

Long-Term Care Survey Alert

Test Yourself: What's Your Informal Dispute Resolution IQ?

True or False?

1. The Centers for Medicare & Medicaid Services doesn't have to accept state-run informal dispute resolution (IDR) rulings.
2. Facilities can use the IDR process to delay formal imposition of remedies.
3. CMS is required to provide a formalized IDR for deficiencies cited during federal look-behind or other federal surveys.

Answers:

1. **True.** In a recent policy memo to state survey agencies, CMS states "for dually participating or Medicare-only facilities, IDR findings are recommendations to CMS and, if CMS has reason to disagree with the findings, it may reject the conclusions from IDR and make its own binding determination of noncompliance."

Read the policy memo (S&C-05-10) at www.cms.hhs.gov/medicaid/surveycert/sc0510.pdf

[The memo represents the first time CMS has publicly said it doesn't consider itself bound by IDR results, as far as attorney Joseph Bianculli can recall. "But that has certainly been CMS' position in individual cases," he adds.](#)

2. **False.** [In addition, "failure of the state to complete IDR timely cannot delay the effective date of any enforcement action against the facility," according to the recent CMS memo.](#)

3. **False.** [Technically, CMS does not have to provide IDR for deficiencies cited during federal look-behind or other federal surveys, says Bianculli. "But in practice, CMS ordinarily will do some review. If the desk officer sets aside a deficiency, that usually is the end of \[the matter\]. But the review process may not be transparent."](#)