



National Association of State Long-Term Care Ombudsman Programs

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Dear Ms. Leoni:

Thank you for the opportunity to provide feedback on S&C: 12-08-NH, Interim Advance Guidance on Independent IDR. In general, the Independent IDR process can be strengthened with greater attention given to resident and ombudsman participation. The preamble to the CMP regulation expressed CMS' intent to develop a process in which the interests of facilities and residents are represented and balanced.

7213.3 – Definitions

“Completed” – Instead of “sent” the timeline would be clearer using the date on the letter or date of postmark.

“Involved resident” and “Resident representative” - These definitions should be expanded beyond residents involved in complaints. Residents are identified by number in the Statement of Deficiencies for all types of surveys so the definition should include residents who were the subject of citations resulting in a CMP.

7213.4 - Independent IDR Requirements

The State Agency should be required to review the state's procedures with the State Ombudsman and to provide a copy of the procedures to the State Ombudsman after CMS approval. Long-term care ombudsmen perform a valuable role in educating consumers about regulatory procedures and the resident's role so it is important that we have this information readily available.

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7213.6 - Key elements of Independent IDR

While NASOP acknowledges that CMS guidance is limited by regulation, we encourage CMS to reconsider the prohibition on charging nursing homes a fee for Independent IDR. Because nursing homes already have the opportunity for IDR through the state agency, the opportunity for due process exists at no cost to the facility. States should be allowed to charge a fee for Independent IDR.

With regard to opportunity for comment, it may be difficult for a resident to provide written comment. The guidance should allow for a long-term care ombudsman to assist residents with written comments in addition to comments provided by the ombudsman. Additionally, the notice should include a copy of the Statement of Deficiencies in case the brief description does not provide sufficient information for residents to provide comment.

The written record of the Independent IDR should protect the identities of residents and their representatives unless the residents and their representatives consent to release.

7213.7 - Qualifications of an Independent IDR Entity or Person(s)

Examples of conflict of interest are too narrow. Affiliation with any nursing facility or related corporation or nursing facility membership organization should preclude an entity or person from conducting Independent IDR.

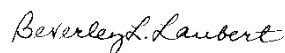
7213.10 - Independent IDR Recommendation and Final Decision

When a 2567 is changed as a result of Independent IDR, the modified 2567 should be disclosed to anyone who provided comment during the Independent IDR process.

The Nursing Home Reform Law requires public availability of the Statement of Deficiencies within 14 days after it is received by the facility. Holding back information that is being disputed interferes with this public disclosure requirement. The provision in the guidance that would delay disclosure should be stricken.

If you have questions about these comments, please contact me at blaubert@age.state.oh.us. We appreciate your time in considering our input.

Sincerely,



Beverley L. Laubert
Federal Policy Committee Chair

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