

### Overview

Residential Care Services (RCS) is a division of the Aging and Long-Term Support Administration (ALTSA). In addition to regulating facilities licensed and/or certified to provide care to vulnerable adults, RCS also offers an informal and independent review for providers who have been issued citations and/or Enforcement actions. This process is known as **Informal Dispute Resolution (IDR)** and has been offered to all provider types since 2002, when it became enacted into law.

Initially, the IDR process involved a review by the Field Manager (FM) responsible for supervising the RCS staff person who issued the citation or enforcement. In 2007, RCS centralized the process and created an IDR Unit at RCS headquarters (HQ). The administration established policies restricting participation of staff who had been involved in making the original decision to issue a citation and/or enforcement. This current process has been in place since that time.

There are three types of informal dispute resolution processes:

1. **Informal Dispute Resolution (IDR) Process- Traditional.**

Informal Dispute Resolution refers to the review process conducted by the RCS IDR Unit at Headquarters. This process may be desk (document) review, telephone, or Face-to-face (virtual).

2. **Informal Dispute Resolution (IDR) Process- Panel.**

A Panel IDR is offered to Adult Family Homes (AFH), Skilled Nursing Facilities (SNF), and Nursing Homes (NH) as applicable and as requested by facility.

3. **Independent Informal Dispute Resolution (IIDR) process**

Independent Informal Dispute Resolution is available only to skilled nursing facilities (SNF) and Nursing Homes (NH) that meet certain requirements related to civil money penalty (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). The IIDR process is conducted by an 'independent entity' that has contracted with RCS, and approved by CMS, to provide this service.

RCS licenses and certifies LTC settings and services under the following Code of Federal Regulations (CFR), Revised Codes of Washington (RCW) and Washington Administrative Codes (WAC):

- A. All Programs: [CHAPTER 34.05 RCW ADMINISTRATIVE PROCEDURE ACT](#)
- B. Adult Family Homes (AFH): [RCW 70.128.167](#), [RCW 70.128.163](#), [WAC 388-76-10990](#)
- C. Assisted Living Facilities (ALF): [RCW 18.20.195](#), [WAC 388-78A-3210](#)
- D. Certified Community Residential Services and Supports (CCRSS): [CHAPTER 71A.12 RCW](#), [WAC 388-101-4240](#)
- E. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID): [42 CFR§488.331](#), [42 CFR§442.118 - DENIAL OF PAYMENTS FOR NEW ADMISSIONS TO AN ICF/IID](#)
- F. Nursing Homes (NH): [42 CFR§ 488.331](#), [RCW 18.51.060](#), [WAC 388-97-4420](#)

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RCS PROVIDERS SHOULD ALSO REFER TO THEIR GOVERNING RCS STANDARD OPERATION PROCEDURES FOR MORE INFORMATION REGARDING PLAN OF CORRECTIONS AND ATTESTATIONS:

- A. Residential Care Services- [CHAPTER 7 SOP- ENFORCEMENT.](#)
- B. RCS [CHAPTER 12 ADULT FAMILY HOMES.](#)
- C. RCS [CHAPTER 13 ASSISTED LIVING FACILITIES.](#)
- D. RCS [CHAPTER 14 CERTIFIED COMMUNITY RESIDENTIAL SERVICES AND SUPPORTS](#)
- E. RCS [CHAPTER 15 ENHANCED SERVICES FACILITIES](#)
- F. RCS [CHAPTER 16 ICF/IID.](#)
- G. RCS [CHAPTER 17 NURSING HOMES.](#)

These procedures are not covered by [DSHS Administrative Policies](#) as they are specific to Residential Care Services. These procedures will be reviewed for accuracy and compliance at least every 5 years.

### Contacts

- Informal Dispute Resolution General Contact, [RCSIDR@dshs.wa.gov](mailto:RCSIDR@dshs.wa.gov)
- RCS Policy Unit General Contact, [RCSPolicy@dshs.wa.gov](mailto:RCSPolicy@dshs.wa.gov)
- RCS Quality Improvement Unit General Contact, [ImproveRCS@dshs.wa.gov](mailto:ImproveRCS@dshs.wa.gov)

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## Part I: Structure of IDR and IIDR

### Overview

The IDR/ IIDR processes were developed and implemented to give Adult Family Homes (AFH), Assisted Living Facilities (ALF), Certified Community Residential Services and Supports (CCRSS), Enhanced Service Facilities (ESF), Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), and Nursing Home (NH) Providers an informal opportunity to present information to dispute deficiency citations.

### Procedure

- A. Through the IDR process, RCS will provide an opportunity for Providers to present information to dispute deficiency citations or applicable enforcement resulting from a survey, licensing inspection, certification evaluation, and/or complaint investigation.
- B. Providers may use the IDR process to dispute documentation of violations where RCS provided consultation.
- C. The IDR Program Manager (PM), or designee, is responsible for facilitation and outcome of IDRs for:
  1. Community Providers, including:
    - a. Adult Family Homes (AFH)
    - b. Certified Community Residential Services and Supports (CCRSS)
    - c. Enhanced Service Facilities (ESF)
    - d. Assisted Living Facilities (ALF)
  2. Federal Providers, including:
    - a. Nursing Homes (NH)
    - b. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)
- D. Timeline of a completed IDR will not delay the effective date of any enforcement action against the provider. A provider may not seek a delay in any enforcement action because the IDR is not complete. With that said, payment of civil fines may be deferred until after completion of the IDR and/or administrative hearing without penalty.
- E. Per **RCS Chapter 7 Enforcement**:
  1. **Adult Family Homes**: must submit attestation statements for all undisputed deficiencies. AFHs do not have to submit the attestation statements for disputed deficiencies (those deficiencies that are part of an informal dispute resolution (IDR) request). After the dispute is completed, and if there are no changes due to the IDR, the AFH must submit the attestation date and letter/documentation to show correction and back in compliance.
  2. **Assisted Living Facilities**: must submit attestation statements for all undisputed deficiencies. ALFs do not have to submit the attestation statements for disputed deficiencies (those deficiencies that are part of an informal dispute resolution (IDR) request). After the dispute is

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completed, and if there are no changes due to the IDR, the ALF must submit the attestation date and letter/documentation to show correction and back in compliance.

- F. For all IDRs, the IDR PM, or designee, will provide an objective, consistent review, and analysis of the disputed citations and/or applicable enforcement.
- G. Providers will receive opportunities for IDR or IIDR rights through letters issued by either RCS or CMS.
- H. IDR and IIDR will be completed within 60 calendar days from time of Provider IDR/IIDR request date to completion date of IDR outcome Letter.
- I. There are three (3) types of IDRs:

#### 1. **Traditional**

- a. Required type if disputing four (4) or more citations or enforcement actions; however, it is an optional type for three (3) or fewer citations.
- b. Conducted by an IDR PM during a 1:1 meeting.
- c. Review options include Face-to-Face (virtual), Telephone, or Records/Documentation review (also known as a Desk Review).
- d. Provider has up to two (2) hours to present relevant information to the IDR PM.
- e. Following the IDR meeting, the IDR PM, or designee will contact the RCS Field Manager (FM), Field staff, Provider and other professional staff as needed for further clarification, including obtaining working papers.
- f. The IDR PM, or designee, will review and analyze all available information and will determine IDR outcome.

#### 2. **Panel- In person (virtual):**

- a. This type is only available if you are disputing three (3) or fewer citations or enforcement actions.
- b. Review options include Face-to-Face (virtual), Telephone, or Records/Documentation review (also known as Desk Review).
- c. IDR Panel Review is scheduled for one hour thirty minutes (1.5 hours) in total.
- d. Consists of Volunteer Panel Participants: one Provider, one Consumer Advocate, one Department staff and an IDR PM, or designee.
- e. There must be a quorum to hold the panel. Quorum of Panel Participants consists at minimum of Volunteer Provider rep, Department staff representative, and IDR PM, or designee. If there is not a quorum, the IDR Panel Review must be rescheduled.
- f. During the IDR Panel Review (Virtual Face-to Face or Telephone):
  - i. Provider will have 30 minutes total to present their disputes (no more than three citations). The Provider will have one presenter.
    - a) NH Panels: The Provider may have one Presenter for each citation.
    - b) AFH Panels: The Provider must have one presenter for all citations being disputed.
  - ii. Following the Provider presentation, the Field will have 20 minutes total for their presentation. The Field may have one presenter per disputed citation.
  - iii. The Provider will have a brief opportunity to respond.

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- iv. Following Provider and Field presentations, the Panel members will have opportunity to ask questions of the Provider and/or Field.
  - v. Following presentations and panel questions, the Provider and Field will exit the virtual meeting. Then the Panel members will deliberate and make recommendations, and vote on the outcome.
  - vi. If the IDR final decision differs from the Panel vote and recommendation, the Program Manager or designee will notify the Unit Manager, Office Chief of Policy, Training, Quality Improvement, and Information Dispute Resolution (PTQI-IDR), and the RCS Director.
  - vii. The goal is for all Provider types to have the option of Panel IDRs by the end of 2024. (As of the completion of this procedure, the Panel process is only available to AFHs and NHs).
- 3. IDR Panel Review (Document Review):**
- a. This type is only available if you are disputing three (3) or fewer citations or enforcement actions.
  - b. The Panel will review the documentation and discuss.
  - c. The Panel members will deliberate, make recommendations, and Vote.
  - d. IDR PM, or designee will take recommendations under consideration, then make final decision on IDR Outcome.
  - e. If the IDR final decision differs from the Panel vote and recommendation, the Program Manager or designee will notify Unit Manager, Office Chief, and Director.
  - f. The goal is for all Provider types to have the option of Panel IDRs by the end of 2024. (As of the completion of this procedure, the Panel process is only available to AFHs and NHs).
- 4. Independent IDR (IIDR) (Nursing Home only).**
- a. Provider will receive the opportunity of requesting an IIDR through CMS Civil Money Penalty (CMP) Letter.
  - b. Records/Documentation review only.
  - c. Contracted Consultant will review IIDR request and make recommendations for outcome of the IIDR.

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**Table 1**

**IDR processes available to Providers (as of 2023).**

<b>Provider Type</b>	<b>Types of IDRs available</b>	<b>Processes for available IDRs available</b>
Adult Family Home (AFH)	Traditional or Panel	Face-to-Face (virtual) Telephone Records/documentation review
Assisted Living Facility (ALF)	Traditional	Face-to-Face (virtual) Telephone Records/documentation review
Certified Community Residential Services and Supports (CCRSS)	Traditional	Face-to-Face (virtual) Telephone Records/documentation review
Enhanced Services Facilities (ESF)	Traditional	Face-to-Face (virtual) Telephone Records/documentation review
Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	Traditional	Face-to-Face (virtual) Telephone Records/documentation review
Nursing Homes (NH)	Traditional, Panel or IIDR (only if NH receives CMP Letter indicating IIDR rights.)	Face-to-Face (virtual) Telephone Records/documentation review (Only option for IIDR)

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### Part II: [Panel Preparation and Coordination](#)

#### Background

In November of 2019, RCS began a six-month pilot in which a Voluntary Panel system was recruited to conduct IDRs. The pilot was successful based on evaluation and feedback from participants and stakeholders, resulting in a permanent change in the AFH IDR process. (Refer to [Dear Provider Letter AFH# 2020-047](#)).

The IDR Program will continue to use the Panel process for AFH IDRs, and it will also provide the option for a Provider to choose the previous Traditional process (meeting one-on-one with an IDR Program Manager).

In August 2022, Residential Care Services (RCS) launched a pilot offering a Panel rather than specialized RCS staff for Nursing Home (NH) IDRs.

Panel Volunteers are Critical to the Project's Success. Recruitment for these appointments is ongoing. If you are interested in being a Volunteer Panel Member, email [RCSIDR@dshs.wa.gov](mailto:RCSIDR@dshs.wa.gov).

#### Procedure

The Volunteer Coordinator is responsible for the organization of the Panels. RCS will follow the [DSHS Human Resources Division \(HRD\) Guidelines for the Use of Volunteers](#). In addition:

1. IDR Volunteer Coordinator will:
  - a. Network and present on opportunities for potential Volunteers.
  - b. Act as Point of contact for Volunteer Panel Participants.
  - c. Schedule primary Volunteer Panel Participants and backups.
  - d. Prior to IDR Panel Review, ensures organization and accessibility of documents for Panel participants.
  - e. Organizes the day of Panel.
2. Volunteer Panel members will:
  - a. Attend IDR training.
  - b. Become familiar with and understand the regulations,
  - c. Commit one day each month for IDR panel review meetings,
  - d. Commit to reviewing confidential materials to prepare for the IDR review meeting,
  - e. Listen to provider and RCS Staff presentations.
  - f. Make impartial recommendations based on information given during written and verbal presentations.
  - g. Submit any notes taken in preparation of or during the IDR to the Volunteer Coordinator within 24 hours of IDR panel.

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### Part III: Responsibilities for Informal Dispute Resolution (IDR)

#### Procedure

- A. **Following RCS survey, full licensing inspections or complaint investigation visits, RCS Field Staff will:**
1. Communicate that the Provider may request an IDR.
  2. Prepare for the Provider a written Letter including Statement of Deficiencies (SOD/Report) that:
    - a. Explains the Provider's right to an IDR.
    - b. Lists options of types and processes for IDR depending on provider type.
    - c. Explains requirement to submit a written request to the HQ IDR Unit within identified time limits of when Provider receives written Letter and SOD/report:
      - i. Within ten (10) working days for Community Providers.
      - ii. Within ten (10) calendar days for NH or ICF/IID.
    - d. Where to send the request:
      - i. **Preferred method- RCS IDR Unit email:** [RCSIDR@dshs.wa.gov](mailto:RCSIDR@dshs.wa.gov)
      - ii. Fax number (360) 725-3225.
      - iii. Mail in option:  
Aging and Long-Term Support Administration  
Residential Care Services  
IDR Unit  
PO Box 45600  
Olympia, WA 98504-5600
- B. The Provider's IDR Request requirements:
1. Must be submitted within the time limit. Failure to meet these timeframes may result in denial of IDR.
    - a. For AFH and NH Providers, an IDR Request Form must be submitted. One IDR Request Form per citation being disputed.
    - b. For the other provider types (ALF, CCRSS, including Group Homes (GH), ESF, and ICF/IID), IDR request will be sent by email to [RCSIDR@dshs.wa.gov](mailto:RCSIDR@dshs.wa.gov).
  2. The IDR Request must include:
    - a. Date requested.
    - b. Facility Name and license #.
    - c. Provider/Administrator Name.
    - d. Email address for Provider/Administrator (this is important).
    - e. Phone number(s).
    - f. Compliance/Cover letter date.
    - g. Compliance Determination (CD) ID # and SOD date.
    - h. IDR type and process being requested.
    - i. Citations being disputed and a brief statement of 'why.'

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- C. Upon receipt of the Provider IDR request, the IDR Administrative Assistant 3 (AA3) will:
1. Receive the Provider request and determine if it is eligible for an IDR.
    - a. Review Request Timelines and determine if Request Forms were used for AFH and NH.
    - b. Review IDR specific request of dispute and why.
  2. Contact the Provider within two working days of receiving their request to:
    - a. Verify the IDR type and process the provider is requesting.
    - b. Begin planning and scheduling of the IDR meeting.
    - c. Date and time of IDR will be mutually agreed upon.
    - d. Confirm who from the Provider will participate in the IDR.
    - e. Request the Provider to submit documentation related to the disputed deficient citations before the IDR to allow sufficient time to review the materials.
  3. Send the Provider a Scheduling Letter:
    - a. Confirming the date, time, type, and process of IDR.
    - b. The disputed deficient citations.
    - c. Where and by when to submit documentation related to the disputed deficient citations.
    - d. Traditional IDR: one week prior to scheduled IDR date.
    - e. Panel IDR:
      - i. AFH- 20 **working** days from SOD receipt date.
      - ii. NH- 20 **calendar** days from SOD receipt date.
  4. Send the IDR Scheduling letter to the RCS Field Manager/AA3 and request they submit to the RCS IDR Unit email the following:
    - a. For Nursing Homes – the Resident and Staff lists will be accessed through the ePOC in ASPEN.
    - b. For all other Provider types, the field will send:
      - i. The resident list related to the disputed deficiency citation/s; and
      - ii. The staff list related to the disputed deficiency citation/s.
      - iii. POC in ASPEN.
      - iv. For Panel IDRs, supporting Field documentation is due within the noted time limits of when the IDR Unit forwards the original request form(s) and asks for relevant documentation to be sent:
        - a) within ten **working** days for AFH documentation.
        - b) within ten **calendar** days for NH documentation.
  5. Send electronic copies to the state and regional LTC Ombuds, along with:
    - a. IDR scheduling letter.
    - b. Provider IDR request.
    - c. A copy of the Cover letter and SOD report.
    - d. The resident list related to the disputed deficiency citation/s; and
    - e. The staff list related to the disputed deficient citations.

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6. Document the relevant information in RCS systems by creating an IDR record and entering pertinent information.
  - a. STARS is a system for containing data for Community Providers' information.
  - b. ASPEN is a system for Nursing Homes.
  - c. IDR record system will include:
    - i. The IDR Requested Date.
    - ii. The Scheduled Date.
    - iii. IDR type and process.
    - iv. Indicate which citations are being disputed.
    - v. CD ID number associated with citations/SOD in STARS.
    - vi. The enforcement number associated with the disputed citations in STARS, if applicable.
    - vii. Titles of Facility attendees participating in IDR in ASPEN; and
    - viii. The IDR Program Manager (PM) assigned.

**Note: If IDRs are rescheduled, systems must be updated to reflect changes.**

7. Create an electronic IDR file that includes:
  - a. Communication Log.
  - b. IDR Request letter.
  - c. IDR Scheduling letter.
  - d. One copy of the Cover Letter or Enforcement Notification and the SOD, without Plan of Correction.
    - i. For Community Providers retrieves from STARS system.
    - ii. For Nursing Homes or ICF/IID retrieve from ASPEN (federal) system.
    - iii. Resident and Staff list.
  - e. Provider supporting documentation.
  - f. Field supporting documentation.
- D. Program Manager, or designee, will be assigned as Facilitator, then will:
  1. Read, review, and analyze all available information provided in electronic IDR File prior to IDR Meeting. Consult as needed.
  2. During the IDR meeting, the Program Manager or designee who is Facilitator or chair will:
    - a. Verify participants.
    - b. Provide overview and orientation of the informal nature of the process.
    - c. Review guidelines for all participants.
    - d. Confirm the regulations that are being disputed.
    - e. Invite the Provider to present documentation and verbally explain why the disputed deficiency citation/s should be modified or deleted. Follow structure of IDR meeting type.
      - i. Refer to Panel structure and Traditional structure for more details.
    - f. At the end of the IDR Meeting, the Program Manager, or designee, will review the timelines for notification of the IDR decision.

### Part VI: [Independent Informal Dispute Resolution \(IIDR\)](#)

#### Background

To provide the state agency information and consistent direction for an Independent Informal Dispute Resolution (IIDR) process related to the imposition of federal civil monetary penalties (CMP). In accordance with [§488.431](#), when a civil money penalty subject to being collected and placed in an escrow account is imposed, NH Providers have one opportunity to question cited deficiencies through an Independent Informal Dispute Resolution (IIDR) process. NH Providers may also contest Scope and Severity (S/S) assessments for deficiencies which resulted in a finding of Immediate Jeopardy (IJ) and/or Substandard Quality of Care (QOC).

The IIDR process must be requested within 10 calendar days of the CMS notice imposing a CMP that is subject to being collected and placed in escrow. The IIDR process does not delay the imposition of any remedies.

The Standard Operating Procedure serves as a guide to ensure the IIDR process is performed thoroughly, consistently, and according to 42 Code of Federal Regulations [§488.331](#) and [§ 488.431](#) , along with the State Operations Manual (SOM) [§7213](#).

The IIDR process is independent of the State Survey Agency/RCS. It is a Desk/Document review. The IIDR is not a formal or evidentiary hearing and is not an initial determination that gives rise to appeal rights.

The IIDR process is in writing and is available on the [ALTSA website NH Provider page](#) and IDR page. The Washington State IIDR process has been reviewed and approved by CMS.

#### Procedure

- A. Nursing Home Provider may receive a CMP Letter from CMS. The CMS Letter provides information on the Provider's rights to an IIDR and on how to request an Independent Informal Dispute Resolution (IIDR).
- B. The Nursing home Provider may dispute the factual basis of the cited deficiencies. The facility may not challenge other aspects of the survey process, such as:
  1. Scope or severity classifications, except for assessments that constitute substandard quality of care or immediate jeopardy.
  2. Remedies imposed.
  3. Alleged failure of the survey team to comply with a requirement of the survey process.
  4. Alleged inconsistency of the survey team in citing deficiencies among other facilities.
  5. Alleged inadequacy or inaccuracy of the IDR or Independent IDR process.

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- C. Nursing Home Provider wanting to request an IIDR must:
1. Complete Independent Informal Dispute Resolution (IIDR) Request Form, found on [AL TSA website NH Provider page](#).
  2. Send their completed form and written request, including the specific deficiencies being disputed and an explanation of why Provider is disputing those deficiencies.
  3. Include a copy of their CMS CMP Imposition of Remedies Letter.
  4. Send within ten (10) calendar days of receipt of CMS CMP Letter (as stated on letter).
    - a. Email to: [RCSIDR@dshs.wa.gov](mailto:RCSIDR@dshs.wa.gov) (preferred method).
    - b. If mailed, postmark must confirm that it was mailed within that same 10 calendar day timeline.
  5. Provider will need to determine if they want to consider continuing with an IDR that has already been requested to State Agency/RCS IDR Unit and has not been completed.
  6. May not use both Dispute Resolution processes (IDR and IIDR) for the same deficiency citation arising from the same survey, unless the IDR was completed prior to the CMS imposing the civil money penalty.
    - a. If the Provider has a current IDR for the same dispute and it has not been completed, the provider may ask for a withdraw of IDR in order to request the IIDR option.
- D. Upon receipt of Provider's IIDR request, the IDR AA3 will:
1. Receive Provider's IIDR request:
    - a. Send the Provider an email acknowledging receipt of their IIDR Request within two working days.
    - b. Review request and determine if it is eligible for IIDR.
      - i. Confirm request was made timely by reviewing CMP Letter and verifying dates.
      - ii. Determine if they have a recent or closed IDR for the same citation dispute.
      - iii. Review IIDR specific request of what is being disputed and 'why'.
  2. If eligible for an IIDR, send Notification Letter via email to each entity separately within three working days:
    - a. Provider.
    - b. Involved Resident(s) and/or Resident Representative by email or USPS.
    - c. State and Regional long term care Ombudsman.
    - d. RCS Field Staff, or designee, who completed SOD/citation/enforcement being disputed. Include the IIDR Request including the 'why' so Field Staff can provide relevant documentation specific to the IIDR Request.
  3. Ensure the Notification Letter email includes, at a minimum:
    - a. A brief description of the findings of noncompliance for which the facility is requesting Independent IDR, a statement about the CMP imposed based on these findings, and reference to the relevant survey date.
    - b. Contact information for the Independent IDR person or entity responsible for conducting the IIDR.
    - c. A designated contact person in the RCS IDR Unit to answer questions/concerns.

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- d. For residents and/or resident representatives, contact information for the State and Regional long term care Ombudsman.
  - e. Request supporting documentation or working papers to be submitted within 10 calendar days from date on RCS IDR notification and request email.
  4. Create an Electronic File.
  5. Send electronic file to IIDR Contractor to conduct their independent review. Send at minimum after the 10 working days timeframe from the Notification and Request email, to ensure ample time for supporting documents to be received.
  6. Document the dispute in ASPEN (federal) system within 10 calendar days of received IIDR written request.
- E. The IIDR Contractor will:
1. Perform professional and impartial reviews of all disputed deficiencies rebutted by the facility.
  2. Read, Review, and Analyze:
    - a. IIDR Request form for specific deficiencies being disputed.
    - b. Each disputed deficiency contained within the 2567 that is applicable to the dispute.
    - c. All documents provided by the facility and compare to 2567.
    - d. Additional documents provided by Resident or Resident Representative, Ombuds, and RCS Field Staff.
    - e. Applicable CMS Interpretive Guidelines, Survey & Certification Letters, credible resources, and other IDR Department staff or any other applicable regulatory guidance as appropriate.
  3. May seek clarification from Field, Provider, or IDR Unit Manager as needed.
  4. The IIDR Contractor will have 30 calendar days to review and make a recommendation.
  5. After all information has been reviewed, analyzed, and compared, the IIDR contractor will have an additional 10 calendar days to complete and submit their recommendations to the RCS IDR Unit.
  6. The written record from the Independent IDR Contractor will include:
    - a. List of each deficiency or survey finding that was disputed.
    - b. A summary of the Independent IDR recommendation for each deficiency or finding and the justification for recommendation.
  7. IIDR Contractor will submit both the final report with signature and invoice to the RCS IDR Unit email address.
- F. Upon receipt of IIDR Contractor's final recommendation, the RCS IDR Unit Manager, or designee, will:
1. Review the Provider's IIDR request and the IIDR file.
  2. Take the IIDR Contractor's recommendations into consideration to make final decision on outcome of IDR.

### Part V: Results and Outcome of IDR and IIDR

#### Procedure

- A. IDR and IIDR consideration for outcomes:
  1. Insufficient evidence to sustain deficiency.
  2. Insufficient evidence to sustain a portion or a finding of deficiency.
  3. Insufficient evidence to sustain the deficiency as cited but there is sufficient evidence to sustain the deficiency at a different citation.
  4. Insufficient evidence to sustain the scope and severity at the Immediate Jeopardy or Substandard Quality of Care Level but that there is sufficient evidence to sustain the deficiency at a reduced (lower) scope and severity.
- B. Potential Outcomes:
  1. No changes. Support citation or enforcement as written.
  2. Changes made:
    - a. Deletion of a deficiency.
    - b. Removal of a specific example or finding.
    - c. Rewording of a specific example or finding.
    - d. Movement of a deficiency to another tag.
    - e. Reduction of the scope and severity for either Immediate Jeopardy or Substandard Quality of Care. Scope and Severity may not be reviewed except in cases of substandard care and Immediate Jeopardy.
- C. **Panel IDRs:** If the Panel voted and made recommendations and the Program Manager, or designee, disagrees with the Panel recommendations, the Program Manager or designee will notify Unit Manager, Office Chief, and Director.
- D. **IIDR outcome:** Unit Manager, or designee, will provide IDR decision outcome by either supporting or disagreeing with the Contractor's recommendations.
  1. The final IIDR decision Letter will contain the result for each deficiency challenged and a summary of the rationale for decision.
  2. In **support** of the IIDR recommendation: The IDR Unit Manager, or designee, will provide the final decision to the facility timely but no later than 10 calendar days from receipt of the written recommendation.
  3. In **disagreement** with the IIDR Consultant's recommendation: The IDR Unit Manager will forward their reason for the disagreement along with all applicable documents CMS.
    - a. CMS will have 10 calendar days to review and return their decision to the State Agency.
    - b. Once CMS returns their decision to the IDR Unit Manager, they will provide the final decision to the facility within 10 calendar days.
    - c. The IIDR decision will contain the result for each deficiency challenged and a summary of the rationale for the decision.

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#### E. Outcome Letters for IDR or IIDR:

1. When the decision is **No changes**, and support original SOD and enforcement. The Program Manager, or designee, will:
  - a. Proceed with the IDR/IIDR Outcome Letter.
  - b. Letter will indicate the SOD/report stands with no amendments.
2. When the decision is to make **Changes**, the changes will be made to either SOD and/or Enforcement Letter:
  - a. Consult with the RCS Compliance Specialist to determine how changes may affect an enforcement remedy, as needed.
  - b. Amend the SOD report and cover letter, as appropriate.
  - c. If there are changes in documentation to violations cited as a consultation (by either amending the “consultation,” or by changing a deficiency citation to a “consultation”), then original cover letter must be amended.
  - d. Sign & date the amended SOD report and cover letter.
  - e. Prepare the letter that identifies the changes.
3. Notify the RCS Field Manager of status and results prior to notifying the Provider.
4. Input the results data and create an outcome Letter to be sent to the Provider.
  - a. ASPEN (NH)
    - i. The result letter will include a recommendation to CMS that any enforcement action(s) imposed solely because of deleted or altered deficiency citations be reviewed, changed, or rescinded as appropriate.
    - ii. Provide an amended 2567 if applicable.
  - b. STARs (AFH, ALF, CCRSS and ESF).
5. Program Manager, or designee, will send the AA3 a copy of the IDR Results Letter for distribution.
6. CMS has the authority to overturn any IDR/IIDR recommendation or decision. CMS retains ultimate authority for the survey findings and imposing CMPs.



### Part VI: Records Maintenance

#### A. The IDR AA3 will:

1. Organize and keep the following electronic records for each IDR:
  - a. Communication Log.
  - b. IDR Scheduling Letter.
  - c. Results Letter
    - i. Original SOD.
    - ii. Amended SOD and/or Enforcement Letter as applicable.
  - d. Original IDR Request from Provider.
  - e. Documentation submitted by Provider.
  - f. Resident and Staff identifier lists.
  - g. Additional IDR submitted documentation from:
    - i. RCS Field staff.
    - ii. Other individuals or entities as provided.
  - h. Panel member notes as applicable.
  - i. Panel documentation (i.e., volunteer members' notes, voting forms).
2. Send the Results Letter (and amended cover letter and SOD/report, if applicable) to the provider, via electronic copies, to:
  - a. IDR Program File.
  - b. State and Regional LTC Ombuds.
  - c. Public Disclosure for Results Letter to be added to Locator and uploaded to DSHS website where public can review redacted documents.
  - d. RCS Field Manager and AA3.
  - e. RCS Regional Administrator and Field Services Administrator.
  - f. Program Compliance Specialist (if enforcement is involved).
  - g. Office of Financial Recovery (if citation includes a civil fine).
  - h. CMS (if enforcement is involved) - Nursing Homes only.
  - i. NATCEP Program Manager - Nursing Homes only.
3. AA3 will track completion of the IDR or IIDR on IDR tracking sheet.
  - a. Tracking will include notification to Provider to ensure timely follow up.
    - i. IIDR: to track completion of request within the 60 calendar days of receipt of the facilities request.
4. AA3 is responsible for following Record Retention practices for all IDR and IIDR files.

### Part VII: [Appendices](#)

#### A. [Glossary of Terms](#)

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**Agency** – State agency

**Attestation** – A witnessed declaration executing an instrument in his or her presence according to the formalities required by law.

**Certification** – The process used by the department to determine if an applicant or service Provider complies with federal health, safety, and program standards and is eligible to provide certified community residential services and support to clients.

**Civil Monetary Penalty (CMP) Letter** – the Centers for Medicare & Medicaid Services (CMS) can impose a CMP on Nursing Homes that do not meet the Federal requirements for nursing homes participating in the Medicare or Medicare and Medicaid Programs. This letter is the formal CMS notification of CMP imposition.

**Complaint** – A report communicated to Residential Care Services' (RCS) Complaint Resolution Unit (CRU) by anyone NOT acting as an administrator or designee for a Provider licensed or certified by RCS. The report alleges abuse, neglect, exploitation, or misappropriation of property for one or more vulnerable adult. The complainant could be a vulnerable adult, a family member, a health care provider, a concerned citizen, other public agencies, or a mandated or permissive reporter. Report sources may be verbal or written.

**Complaint investigation/investigator (CI)** – An onsite visit that resulted from a complaint rather than a routine inspection. An RCS staff assigned to investigate a complaint received by the Department.

**Completed** – means that a final decision from the IDR or IIDR process is determined, a written record generated, and the State survey agency has sent written notice of this decision to the facility; **or** a facility does not request the IDR/IIDR timely; **or** chooses not to participate in the IIDR process.

**Consultation in AFH** – Documentation of a first-time violation of statute or regulation with minimal or no harm to residents identified in an adult family home. Documentation of a consultation includes an entry made on the cover letter that consists of a regulatory reference to the Washington Administrative Code (WAC) requirement and/or Revised Code of Washington (RCW) and a brief (1 – 2 sentences) statement summarizing the deficient practice.

**Consultation in an ALF** – Documentation of a first-time violation of statute or regulation with minimal or no harm to the vulnerable adults residing in the ALF. Consultations are never written for care and services or safety areas that will impact the vulnerable adults living in the ALF. A Consultation is a violation that does not require an attestation. Consultation in an ALF may also occur if the entity corrects the violation and/or the deficient practice meeting the following criteria:

**Consultation in an ESF** – Documentation of a first-time violation of statute or regulation with minimal or no harm to vulnerable adults residing in the ESF. Documentation of a consultation includes an entry made on the cover letter that includes both:

- A regulatory reference to the Washington Administrative Code (WAC) requirement and/or Revised Code of Washington (RCW); and
  - A brief (3 – 4 sentences) statement summarizing the deficient practice.
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**Contracted IIDR Consultant** – The person or persons conducting the IIDR will have at least the qualifications set forth in [SOM §7213](#) and will have no financial or other conflict of interest as described in [SOM §7213](#). The State Survey Agency/RCS and CMS approve the contracted consultant to conduct IIDR reviews.

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**Deficiency citation** – Documentation of a violation of statute or regulation, other than those defined as a consultation. Documentation of a deficiency citation includes an entry made on the Statement of Deficiencies that consists of:

- The alpha prefix and data tag number for federal programs;
- The applicable Code of Federal Regulations (CFR) in federal programs;
- The applicable Washington Administrative Code (WAC) and/or the applicable Revised Code of Washington (RCW);
- The language from that reference which pinpoints the aspect(s) of the requirement with which the entity failed to comply;
- An explicit statement that the requirement was “not met”; and

The evidence to support the decision of noncompliance.

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**Deficient practice** – The action(s), error(s), or lack of action on the part of the Provider/Licensee relative to a requirement and to the extent possible, the resulting outcome.

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**Deficient practice statement (DPS)** – A statement at the beginning of the evidence that sets out why the entity was not in compliance with a regulatory requirement. Also commonly referred to as the “based on” statement.

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**Department** – This term refers to the Washington state Department of Social and Health Services (DSHS).

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**Extent of deficient practice** – The number of deficient cases relative to the total number of sampled cases. This is shown in a numerical format with identifying the number of deficient cases within the universe (1 of 3). Please refer to definitions of scope and severity.

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**Facility/home/provider/entity** – Refers to the following statutes: [RCW 74.34.020\(5\)](#), these terms refer to a residence licensed or certified under [Chapter 18.20 RCW](#) (Assisted Living Facilities); [Chapter 70.97 RCW](#) (Enhanced Services Facilities); [Chapter 18.51 RCW](#) (Nursing Homes); [Chapter 70.128 RCW](#) (Adult Family Homes); [Chapter 72.36 RCW](#) (Soldiers’ Homes); or [Chapter 71A.20 RCW](#) (Residential Habilitation Centers); or any other facility licensed or certified by the Department.

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**Failed facility practice** – Describes the action(s), error(s), or inaction(s) on the part of the licensee relative to statute(s) or regulation(s) and, to the extent possible, the resulting negative outcome(s) to vulnerable adult(s). Term includes deficient practice, which is defined as “lacking an essential quality or element, and inadequate in amount or degree.”

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**Finding** – A term used to describe each item of information found during the regulatory process about Provider practices relative to a specific requirement cited as being not met.

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**IIDR Contractor** – means a qualified individual or entity contracted by the State Agency to conduct IIDR reviews.

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**Inspection** – A generic term used to describe the process by which RCS staff evaluates a licensee’s compliance with statutes and regulations. Complaint/incident investigations are only one type of on-site inspection/survey done to determine the health and safety of vulnerable adults in licensed or certified long-term care residential settings.

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**Involved Resident** – is a resident who was the subject of a complaint, or who filed a complaint that led to a deficiency finding that is the subject of an IIDR.

**Note** – There must be a complaint investigation which led to a deficiency involving the resident who was the subject of the complaint or who filed a complaint, and the content of the deficiency must be related to the content of the complaint.

**Example** – A complaint related to quality of care that leads only to a life safety code deficiency has no involved residents.

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**Legal representative**—A generic term which includes the resident representatives who act on behalf of the resident concerning care and services provided by the facility, home, or provider. This would include power of attorney, surrogate decision-maker, guardian, or any other person authorized by law to act for another person.

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**Licensee or designee** – A generic term to describe individuals/entities/Providers licensed or certified to provide Adult Family Home, Assisted Living Facility and/or Nursing Home care in the state of Washington.

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**Long-term care facility** – As defined in [RCW 70.129.010\(3\)](#), this term refers to a facility licensed or is required to be licensed under [Chapter 18.20 RCW](#) (Assisted Living Facilities), [Chapter 70.97 RCW](#) (Enhanced Services Facilities), [Chapter 72.36 RCW](#) (Soldiers' and Veterans' Homes), or [Chapter 70.128 RCW](#) (Adult Family Homes).

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**Nursing Facility (NF)** – a nursing home, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to Medicaid recipients under [section 1919\(a\) of the federal Social Security Act](#). All beds in a nursing facility are certified to provide Medicaid services, even though one or more of the beds are also certified to provide Medicare skilled nursing facility services.

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**Provider** – a) any individual or entity that provides services to DSHS, OR b) a person, group, or facility that provides services. RCS Providers include Adult Family Homes, Assisted Living Facilities, Certified Supported Living providers, Enhanced Services Facilities, ICF/IID facilities and Nursing Homes.

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**Resident Representative** – means either the resident's legal representative or the individual filing a complaint involving, or on behalf of, a resident.

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**Scope and severity** – The effect of non-compliance on a resident (severity) and the number of residents actually or potentially affected (scope) by the entity's non-compliance. Illustrated in the deficient practice statement and supported in the findings.

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**Statement of deficiencies (SOD)** – The official, publicly-disclosable, written report document from RCS staff that identifies violations of statute(s) and/or regulation(s), failed facility practice(s) and relevant findings found during a complaint/incident investigation conducted at an any setting regulated by RCS. Included in SODs for AFHs, ALFs, and ESFs is an attestation statement the entity signs and dates indicating the projected correction date for the cited deficient practice. The SOD is a legal document available to the public on request.

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**Working days (business days)** – defined as Monday through Friday, excluding federal and state holidays.

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#### B. Acronym List

AA/AA3	Administrative Assistant/Administrative Assistant 3
AAG	Assistant Attorney General
AFH	Adult Family Homes
ALF	Assisted Living Facilities
AL TSA	Aging and Long-Term Support Administration
ASPEN	Automated Survey Processing Environment System
CCRSS	Certified Community Residential Services and Supports
CFR	Code of Federal Regulations
CMP	Civil Monetary Penalty
CMS	Center for Medicare and Medicaid Services
DSHS	Department of Social and Health Services
e-CFR	Electronic Code of Federal Regulation
e-POC	Electronic Plan of Correction
ESF	Enhanced Services Facilities
FM	Field Manager
HQ	Headquarters
HRD	Human Resources Division
ICF/IID	Intermediate Care Facilities for Individuals with Intellectual Disabilities
IDR	Informal Dispute Resolution
IIDR	Independent Informal Dispute Resolution
IJ	Immediate Jeopardy
LSC	Life Safety Code
LTC	Long-Term Care
LTCO	Long-Term Care Ombuds
LTCOP	Long-Term Care Ombuds Program
NATCEP	Nursing Aide Training and Competency Evaluation Program
NH	Nursing Homes
OFR	Office of Financial Recovery
PM	Program Manager
POC	Plan of Correction
RA	Regional Administrator
RCS	Residential Care Services
RCW	Revised Code of Washington
RO	Regional Office
SA	State Agency
SFM	State Fire Marshal
SOD	Statement of Deficiency

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SOM	State Operations Manual
SOP	Standard Operating Procedures
SQC	Substandard Quality of Care
S/S	Scope and Severity
STARS	Secure Tracking and Reporting System
USPS	United States Postal Service
WAC	Washington Administrative Code
WD	Working Day

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#### C. [Forms](#)

1. [AFH IDR Request Form \(DSHS 27-179\)](#)
2. [NH IDR Request Form \(DSHS 27-209\)](#)

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#### D. [Change Log](#)

Eff. Date	Chapter/ Section #	Description of Change	Reason for Change	Communication and Training Plan
11/03/2023	Full Chapter	<ul style="list-style-type: none"><li>Chapter updated to reflect current paperless process.</li><li>Updated formatting</li></ul>	<ul style="list-style-type: none"><li>Reflect current IDR process.</li><li>Provide for easier document navigation</li></ul>	MB <a href="#">R23-094</a>
04/15/2021	Full Chapter	Added ESF and updated terminology	Update to SOP	MB <a href="#">R21-037</a>
04/10/2017	Full Chapter	Creation of new chapter	Separate from enforcement	

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