



COMMISSIONER  
Chris Traylor

October 12, 2011

To: Home and Community Support Services Agencies (HCSSAs)

Subject: **Provider Letter 11-15 - Informal Review of Deficiencies (IRoD)**  
**(Replaces PL 07-56 & 05-03)**

Effective: October 12, 2011

The Informal Review of Deficiencies is a process that allows a HCCSA to refute a deficiency or violation cited during a survey. The IRoD process is available to all HCSSAs.

After the Department of Aging and Disability Services (DADS) completes a survey, DADS sends the official, written notification of the survey findings to the HCCSA, including a statement of deficiencies and/or violations and a statement regarding the agency's opportunity for an IRoD. An agency **must submit** a plan of correction in response to an official written notification of survey findings that declares a deficiency or violation even if the agency disagrees with the survey findings.

If an agency disagrees with the survey findings, the agency may request an IRoD and submit additional written information to refute a deficiency or violation to demonstrate compliance in an informal setting. An agency may contact the regional HCCSA program manager prior to submitting a request for an IRoD, if needed, to discuss the official written statement of deficiencies or violations received.

#### **The IRoD process:**

- (1) An IRoD is available for any deficiency or violation cited during a survey.
- (2) To request an IRoD, an agency is required to:
  - A. mail or fax a complete and accurate IRoD request form to the address or fax number listed on the form, which must be postmarked or faxed within **10 calendar days** after the date of receipt of the official written notification of the survey findings. If the 10th calendar day falls on a Saturday, Sunday, or state holiday, the request is due the following working day;
  - B. mail or fax a rebuttal letter and supporting documentation to the address or fax number listed on the IRoD request form and ensure receipt by the Survey and Certification Enforcement unit within **seven calendar days** after the postmark or fax date of the IRoD request form or the following working day if the **seventh calendar day** falls on a Saturday, Sunday, or legal holiday; and
  - C. mail or fax a copy of the IRoD request form, rebuttal letter, and supporting documentation to the designated survey office.

An agency **waives** its right to an IRoD request if the agency fails to submit the required information to the Survey and Certification Enforcement unit within the required time frames.

An agency must ensure the rebuttal letter and supporting documentation include:

- A. the disputed deficiencies or violations;
- B. the reason the deficiencies or violations are disputed;
- C. the desired outcome for each disputed deficiency or violation; and
- D. attachments from client records, applicable policies and procedures, or other supporting documentation or information that directly demonstrates that the deficiencies or violations should not have been cited.

The rebuttal letter and supporting documentation is the agency's opportunity to present convincing evidence that the deficiency or violation is not warranted. The rebuttal letter should address each deficiency or violation in the same order cited on the official written notice of the survey findings on the statement of deficiencies or violations. Each attachment from a client record needs to include the name and identifier of the client. Other attachments, such as policies, need to identify the deficiency or violation it refutes.

An agency **should not** submit the following information with the rebuttal letter and supporting documentation:

- the plan of correction;
- copies of the federal or state standards;
- de-identified documents;
- information dated after the survey exit date or information on actions that took place after the survey exit date;
- legal arguments or briefs; or
- complaints about the surveyor or survey process.

Only those deficiencies or violations listed on the IRoD request form and addressed in the rebuttal letter and supporting documentation will be reviewed. An IRoD **will not** be granted when the IRoD request form is incomplete or inaccurate.

An agency is required to present sufficient information to the Survey and Certification Enforcement unit to support the agency's desired IRoD outcome. An agency is responsible for sending this information directly to the Survey and Certification Enforcement unit with a copy to the agency's designated survey office.

An agency **is required to** submit the completed IRoD request form, [DADS Form 2407](#), rebuttal letter and supporting documentation to the Survey and Certification Enforcement unit at:

Department of Aging and Disability Services  
Regulatory Services  
Survey and Certification Enforcement, Mail Code E-351  
701 West 51st Street  
P.O. Box 149030  
Austin, Texas 78714-9030  
Fax Number (512) 438-4138 or (512) 438-2729

**NOTE:** An agency request for an IRoD does not delay the Centers for Medicare & Medicaid Services' (CMS) mandated time frames for DADS to conduct a follow-up visit during a CMS termination action.

(3) DADS IRoD review process:

The Survey and Certification Enforcement unit will conduct an objective review of the statement of deficiencies or violations, rebuttal letter and supporting documentation. Survey and Certification Enforcement clinical consultants may request additional information or clarification from either party (the agency or the surveyor). The agency's response to DADS' request for additional information must be received **within three working days** after the request is made. DADS does not provide a HCSSA an opportunity to refuse or dispute DADS' request for additional information.

The following are possible outcomes of the IRoD review process:

- the deficiency or violation is deleted;
- a portion of the deficiency or violation is deleted;
- the evidence in the deficiency or violation cited is moved from one tag or TAC reference or both to another; or
- the deficiency or violation is sustained.

(4) DADS IRoD decision and completing the process:

The Survey and Certification Enforcement unit will complete the review and issue a written IRoD decision no later than **30 calendar days** after receipt of the completed IRoD request and mail the decision to the agency. If the 30th calendar day falls on a Saturday, Sunday or legal holiday, the IRoD decision will be issued the following working day. The written decision issued by DADS after completion of its IRoD review is **final**.

If the IRoD decision results in any changes to the official written notification of the statement of deficiencies or violations, the designated survey office will make the necessary changes and send a new official written notification of the survey findings to the agency and to CMS, if applicable. In addition, the designated survey office will place a copy of the IRoD decision in the agency's official file.

**NOTE:** If an agency's attorney is listed on the IRoD request form, the IRoD decision will be mailed to the attorney only. The agency's attorney should **not be listed** on the IRoD request form unless the attorney is submitting the IRoD request.

If you have questions regarding this letter, please contact Sue Anderson, Survey and Certification Enforcement Unit Manager, or Barbara Zaslou, Lead HCSSA Enforcement Consultant, at (512) 438-4425.

Sincerely,

*[signature on file]*

Veronda L. Durden  
Assistant Commissioner  
Regulatory Services

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[Attachment](#)