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NEVADA HEALTH AUTHORITY

HEALTH CARE PURCHASING AND COMPLIANCE DIVISION

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Administrative Review Policy for Medical Facilities

1.0 POLICY

The Bureau of Health Care Quality and Compliance's policy for informal dispute resolution and administrative review is as follows:

The Center for Medicare and Medicaid Services contracts with the State Agency (Nevada Health Authority) to provide certification and recertification processes for State licensed facilities according to the State Operations Manual. Informal Dispute Resolutions must be offered to skilled nursing facilities, intermediate care facilities and home health agencies in the course of the recertification process.

The State Agency may choose to allow an Administrative Review of disputed citations that are State licensure citations that cannot be processed through the IDR portion of ACO.

Terms Used/References:

"Deficiency" as defined in NAC 449.003.

NAC 449.99861 Severity of deficiencies.

NAC 449.9986 Scope of deficiencies.

2.0 PURPOSE

1. The State Operations Manual requires state agencies to offer informal dispute resolutions (IDR) to skilled nursing facilities, intermediate care facilities and home health agencies whenever deficiencies are cited. The State Operations Manual section 7212 describes this process for skilled nursing facilities and intermediate care facilities; section 10009 describes this process for home health agencies. For skilled nursing facilities, intermediate care facilities or home health agencies an IDR must be offered for all deficiencies regardless of the severity and scope scores or condition level deficiencies.

2. An IDR process will not be offered to facility types other than skilled nursing facilities, intermediate care facilities and home health agencies. Other facility types will have an opportunity to request a hearing on appeal for deficiencies identified in a sanction notice and the prehearing will allow opportunity for informal resolution.

3. Nevada Administrative Code 439.346 indicates that a person who wishes to file an appeal with a hearing officer contesting the proposed disciplinary action must exhaust all internal informal procedures

for appeals. The informal procedures discussed in this regulation are not an IDR as described in this policy. The informal procedures pursuant to the appeal of a sanction – include a prehearing meeting, agreements, stipulations and settlements that are made as part of the sanction/appeal process.

4. Another option available to the provider who wishes to have an Administrative Review by the Bureau's Management Team, may be requested by the provider through a letter to the Bureau's Chief.

3.0 SCOPE

This policy will affect skilled nursing facilities, intermediate care facilities and home health agencies that are certified to accept Medicare/Medicaid residents/patients.

Administrative Review requests will be completed on all State licensure facilities that cannot be processed through the IDR portion of ACO.

4.0 PROCEDURE

IDR Requests

5. If a skilled nursing facility, intermediate care facility or home health agency wishes to request an IDR (all state-licensed facilities requesting administrative review), the facility must follow the guidelines below. These guidelines must be included in the letter attached to every Statement of Deficiencies (SOD) for an IDR or a link to the guidelines will be provided electronically for an Administrative Review, in which deficiencies are cited:

- a) Upon receipt of the SOD, the facility must prepare and submit to the Bureau a document which disputes specific findings.
- b) A statement of disagreement, in and of itself, does not constitute an implied request for IDR. An explicit written request for IDR must be submitted.
- c) The IDR (administrative review) document must be separate from the required Plan of Correction (POC) and must be sent within the same ten-day time frame as the required POC.
- d) The IDR document must identify each deficiency by TAG number (if applicable) as found in the SOD.
- e) The IDR document must clearly identify the reason for the dispute and the evidence which identifies why the Bureau's finding was in error. The document must include pertinent evidence to justify the dispute.

6. The facility may not dispute:

- a) Scope and severity assessments of deficiencies with the exception of scope and severity assessments that constitute substandard quality of care, conditions of participation or immediate jeopardy.
- b) Remedies imposed by the Bureau.
- c) The process used by the survey team to investigate the deficiency.
- d) Inconsistency in the citation of deficiencies between facilities.
- e) Inconsistency in the citation of deficiencies from survey to survey.
- f) Inadequacy or inaccuracy of the informal dispute resolution process.

IDR Process

7. The Bureau will review the IDR request to determine if the criteria are met as described in paragraphs 4 and 5 above.

- a) If the request meets all criteria, a review will be completed, and the Bureau will respond as to the outcome of their review.
- b) If the request doesn't meet the criteria, the Bureau will provide a response indicating that a review was not conducted with an explanation of which criteria were not met.

8. All information related to the IDR will be inputted into the ACO system as required by supervisory staff of the Bureau of Health Care Quality and Compliance.

Administrative Review Process

9. The Bureau Management Team will assign the request to personnel. The request must meet the criteria that are listed in paragraphs 5 and 6 above.

- a) If the request meets all criteria, a review will be completed, and the Bureau will respond as to the outcome of their review.
- b) If the request doesn't meet the criteria, the Bureau will provide a response indicating that a review was not conducted with an explanation of which criteria were not met.

10. All information related to the Administrative Review will be documented and scanned into the Scanned Documents File in the shared drive: I, in the folder named Administrative Review as required by supervisory staff of the Bureau of Health Care Quality and Compliance.

Activities after IDR Review/Administrative Review Is Complete

11. Whenever an IDR review/Administrative Review results in modifications to the SOD, a modified SOD will be provided to the facility along with the IDR/Administrative Review response letter. The IDR/Administrative Review response letter will indicate that the facility may resubmit a POC on the modified SOD or has the option of not resubmitting a new POC, provided the facility has already submitted an acceptable POC.

The modified SOD will replace the original SOD for the website posting. The existing POC will be posted as is (no crossing items out), until the facility exercises its option to submit a new POC. A copy of the IDR/Administrative Review response letter will be posted as explanation of the changes to the SOD.

Additional Information

12. Facilities may not use the informal dispute resolution/administrative review process to delay the formal imposition of emergency remedies/sanctions or to challenge any aspect of the survey process.

13. The IDR/administrative review process should be conducted prior to imposition of routine remedies/sanctions but will not delay the effective date of any remedies/sanctions against the facility.

5.0 RELATED DOCUMENTS

State Operations Manual Chapter 7, section 7212.1 – 7212.4

State Operations Manual Chapter 10, section 10009

IDR acknowledgement letter

IDR final letter

State Administrative Review (State IDR) letter

6.0 EFFECTIVE DATE

April 2, 2015

7.0 CATEGORY

Inspection