



IDR Delays Expected During Transition to New Panel Review System, LeadingAge Pushes for Mitigation

LeadingAge Washington was recently informed of a letter received by one of our members stating IDRs were not being scheduled due to a restructuring of the IDR process. As we told you in an earlier news brief, Residential Care Services (RCS) will be moving to a new IDR process which will consist of a 3 person panel. The makeup of this panel has yet to be determined and undoubtedly RCS will retain the authority to make the final IDR decision.

Through discussions with the Department, we discovered RCS planned to halt IDRs mid-November while transitioning to the new IDR panel system which they hope will be in place by January 1st. During this anticipated 6-8 week period, RCS believed providers would resolve any disputes through the administrative hearing procedures.

LeadingAge immediately notified RCS that this change was unacceptable. First and foremost, providers cannot be denied a right to IDR; it is a right conferred by rule. (See WAC 388-97-4420 and WAC 388-78A-3210). In many instances, eliminating IDR for any period of time denies providers due process. Absent the imposition of a remedy, IDR is a provider's only right to challenge deficiencies.

A new IDR process will, in all likelihood, not be implemented by the first of the year. This new system is still in development and once RCS has completed its own internal review, it will then be shared with stakeholders sometime in November. Once stakeholders are provided a meaningful opportunity for input, including time needed to solicit input from our respective members, the proposal would then be finalized sometime by December, if all goes smoothly. CMS then needs to review and approve any new IDR process. This could take CMS several weeks to provide approval. Providers could, therefore, be without due process to challenge citations for several months. This is an untenable position.

The letter to providers informing them that the department will not be conducting IDRs after November 15th, is lacking in detail and guidance as to next steps and whether or not the IDR (administrative remedy) is now waived under RCW 34.05, entitling them to directly advance to an administrative hearing, with or without a remedy imposed.

We expressed deep concern that neither the associations nor providers had received meaningful prior notice that the department was going to discontinue scheduling IDRs. This is a major shift in providers' rights to challenge survey findings with which they disagree.

We have asked RCS to rescind any letters curtailing the scheduling of IDR and to maintain the current IDR process while transitioning to the new system. Following receipt of our letter, we were assured by AL TSA Assistant Secretary, Bill Moss, that the department shares our concerns, mitigation strategies to avoid IDR delays will be further discussed. Please contact LeadingAge WA if you are denied the right to IDR.

We will keep you apprised of any new developments as more is learned.