



Long-Term Care Regulatory Provider Letter

Number: PL 19-24
Title: Informal Dispute Resolution Process
Provider Types: Day Activity and Health Services (DAHS) Facility
Date Issued: October 30, 2019

1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) is issuing this provider letter (PL) to explain the Informal Dispute Resolution (IDR) process for Day Activity and Health Services (DAHS) facilities. This letter provides guidance on the steps that are required to request an IDR.

2.0 Policy Details & Provider Responsibilities

2.1 Post Survey Process

After HHSC completes a survey, HHSC sends the DAHS facility HHSC's Statement of Licensing Violations, Form 3724, based on the inspection of the DAHS facility. The DAHS facility must submit an acceptable plan of correction to the Health and Human Services Regulatory Services Division's Regional Director for the region in which the facility is located.

HHSC will send a DAHS IDR Request form that explains the process for a DAHS facility to request an IDR if it disputes the 3724, in whole or part.

If a DAHS facility disagrees with the survey findings, it may request an IDR per Section 2.2 below, IDR Request Process. A DAHS facility may contact the regional DAHS program manager prior to submitting a request for an IDR, if needed, to discuss the official written statement of violations received.

2.2 IDR Request Process

An IDR is available for any violation dispute that a provider and the inspector cannot resolve.

To request an IDR, a DAHS facility may request an IDR in one of two ways:

- If the letter sent to the DAHS facility with the Statement of Licensing Violations does not include recommended adverse action, the facility must submit a request for an IDR to the Regional Survey Office (RSO).
- If the letter sent to the DAHS facility with the Statement of Licensing Violations includes recommended adverse action, the facility may either submit the request to the RSO for regional level IDR, or to the Survey and Certification Enforcement (SCE) unit at state office for state office level IDR.

To request an IDR, a DAHS facility must:

- Mail or fax a complete and accurate [Form 3648](#), a rebuttal letter and supporting documentation to the office that will be performing the IDR within 10 calendar days after the date of receipt of the official written notification of the survey findings to either the SCE or RSO, as described in section 2.2 above.
- Mail or fax a complete and accurate [Form 3648](#), the rebuttal letter and supporting documentation to the office that will not be performing the IDR labeled with "For information Only" within 10 calendar days after the date of receipt of the official written notification of the survey findings to either the either the SCE or RSO.

Note: If the due date falls on a Saturday, Sunday or legal holiday, the request is due the following working day.

The rebuttal letter and supporting documentation is the DAHS facility's opportunity to present all of its evidence that one or more violations alleged in the Statement of Licensing Violations did not occur. Address each violation in the rebuttal letter in the same order and by the same number used to cite it on Form 3724, and clearly reference the submitted documentation and document portions that support the

DAHS facility's position stated in the letter. A DAHS facility must ensure the rebuttal letter and supporting documentation includes:

- the disputed violations;
- the evidence and rationale supporting why the violations are disputed;
- the desired outcome for each disputed violation; and
- attachments from client records, applicable policies and procedures, or other supporting documentation or information that directly demonstrates that the cited violations did not occur.

Each attachment from a client record should include the name and identifier of the client. Other attachments, such as policies, should identify the violation it refutes.

A DAHS facility should not submit the following information with the rebuttal letter and supporting documentation:

- the plan of correction
- copies of the DAHS licensing requirements
- de-identified documents
- information dated after the survey exit date or information on actions that the facility took to correct the violation after the survey exit date
- legal arguments or briefs
- complaints about the surveyor or survey process

The RSO or SCE unit will only review violations listed on the Request form. The RSO or the SCE unit will not grant an IDR if the [Form 3648](#) is incomplete or inaccurate.

A DAHS facility must present sufficient evidence to the applicable RSO or SCE unit to support the facility's desired position on each allegation it disputes. A DAHS facility waives its right to request an IDR if the facility fails to submit the required information to the RSO or SCE unit within the required time frame(s).

The RSO or SCE unit will review the 3724, rebuttal letter and supporting documentation. The RSO or SCE unit reviewer may request additional information or clarification from either party (the facility or the surveyor). The DAHS facility must respond within three working days to all requests for additional information. HHSC does not provide a

DAHS facility with an opportunity to refuse or dispute HHSC's request for additional information.

Based on the evidence a DAHS facility submits for IDR, the applicable RSO or SCE unit, on behalf of HHSC, may:

- delete the citation
- delete a portion of the citation
- move the citation to a tag that more appropriately reflects the violation
- maintain the citation as written.

2.3 IDR Decision and Completion Process

The applicable RSO or SCE unit will complete the review and issue a written IDR decision to the DAHS facility by mail or email no later than 30 calendar days after receipt of the completed IDR request and supporting documentation. When the 30th calendar day falls on a weekend or legal holiday, the applicable RSO or SCE unit will issue the IDR decision by the next working day. The entity conducting the IDR will ensure the other entity receives a copy of the IDR.

If the IDR request is submitted by an attorney representing the facility, all correspondence will be sent to the attorney. The facility's attorney will be responsible for notifying the client for HHSC's correspondence.

If the IDR decision results in any changes to the Statement of Violations, the RSO will make the necessary changes to the survey documents send an updated HHSC Form 3724, Statement of Licensing Violations, and a request for a new Plan of Correction to the DAHS facility. In addition, the RSO will place a copy of the updated Statement of Licensing Violations in the DAHS facility's official file.

3.0 Background/History

None

4.0 Resources

None

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at PolicyRulesTraining@hsc.state.tx.us or call (512) 438-3161.