

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S4/3/25

A Bill

HOUSE BILL 1784

By: Representative Wardlaw

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO MODIFY THE INFORMAL DISPUTE RESOLUTION
PROCESS FOR LONG-TERM CARE FACILITIES; AND FOR OTHER
PURPOSES.

Subtitle

TO MODIFY THE INFORMAL DISPUTE
RESOLUTION PROCESS FOR LONG-TERM CARE
FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-10-1907 - 20-10-1909 are amended to read
as follows:

20-10-1907. Informal dispute resolution hearing – Conduct.

(a) Unless the long-term care facility chooses another order of
presentation of arguments:

(1)(A) The Department of Human Services shall present the
initial arguments at the hearing.

(B) Initial arguments shall be detailed and not limited to
a recitation of the statement of deficiencies; and

(2) After the ~~Department of Human Services~~ department completes
its arguments, the long-term care facility shall present its arguments.

(b)(1) As a matter of fairness to all parties, the impartial decision
maker shall determine in conjunction with all parties:

(A) The appropriate time needed for each presentation of
information and argument; and

(B) The sequence and appropriate time for each rebuttal



argument.

(2) However, the impartial decision maker may grant each party additional equal time for good cause as determined by the impartial decision maker in conjunction with all parties.

(c)(1) Rules of evidence or procedure shall not apply except as provided in this section.

(2) The impartial decision maker may:

(A) Accept any information that the impartial decision maker deems material to the issue being presented; and

(B) Reject any information that the impartial decision maker deems immaterial to the issue being presented.

(d)(1) The hearing may ~~not~~ be recorded.

(2) ~~However~~ In addition, the impartial decision maker may make written or recorded notes of the arguments.

(e) ~~Only employees~~ Employees of the long-term care facility, attending physicians, other medical care providers of residents of the long-term care facility at the time of the deficiency, pharmacists providing medications to residents of the long-term care facility at the time of the deficiency, ~~and any consultant pharmacists or nurse consultants~~ utilized by the long-term care facility, and ~~or by~~ the medical director of the long-term care facility may appear or participate at the hearing for or on the behalf of the long-term care facility.

(f) Only employees of the ~~Department of Human Services~~ department may appear or participate at the hearing for or on behalf of the ~~Department of Human Services~~ department.

(g) A party may be represented by an attorney.

(h) A person authorized under ~~subsection (e) or subsection (f)~~ subsections (e)-(g) of this section to participate in the hearing may present direct questions to an opposing participant during the rebuttal argument.

~~(h)(1) Within fourteen (14) days of a final decision concerning the issues presented in the hearing and any related matters, the Department of Health shall provide the parties with a report concerning the hearing, all decisions made on the basis of the hearing, and any related matters.~~

~~(2) The report required under subdivision (h)(1) of this section shall include without limitation:~~

~~(A) Information concerning any change to the disputed~~

deficiency; and

~~(B) A listing of each specific item of the deficiency and all changes made to the deficiency.~~

~~(i)(1) The Department of Human Services shall compile and make available to all long-term care facilities subject to this section a quarterly report that shall include without limitation the number of informal dispute resolutions during the previous quarter that were:~~

~~(A) Heard;~~

~~(B) Decided in favor of the state agency; and~~

~~(C) Decided in favor of the long-term care facility.~~

~~(2) The Department of Human Services shall review the reports under subdivision (i)(1) of this section and shall:~~

~~(A) Determine what patterns of sustained and overturned deficiencies exist; and~~

~~(B) Evaluate the training process to address the identified patterns.~~

~~(j) A party shall not be represented by an attorney.~~

20-10-1908. Determination of impartial decision maker and Office of Long-Term Care.

(a)(1) ~~Upon the conclusion of all arguments by the parties, the~~ The impartial decision maker shall issue a written statement of findings that shall be entitled "Determinations" no later than seven (7) calendar days after the informal dispute resolution hearing.

(2) The statement shall include:

(A) A recitation of the deficiency tag numbers;

(B) A statement of whether a disputed deficiency should remain, be removed, or be modified on the statement of deficiencies; and

(C) The facts and persuasive arguments that support the impartial decision maker's finding for each deficiency tag number.

(b)(1) The determination of the impartial decision maker shall be provided to the parties.

(2)(A) The Office of Long-Term Care shall review the determination and shall issue a written document entitled "State Survey Agency Determination" within seven (7) calendar days after the issuance of the "Determinations" statement required under subsection (a) of this section.

(B) The state survey agency determination shall state:

(i) Whether, for each disputed deficiency mentioned in the impartial decision maker's determination, the finding of the impartial decision maker is accepted, rejected, or accepted as modified by the state survey agency;

(ii) For each deficiency finding by the impartial decision maker that the office does not accept the finding of the impartial decision maker, a statement explaining the reasons that the finding was not accepted along with the facts, circumstances, or reasons for not accepting the finding; and

(iii) For each disputed deficiency finding of the impartial decision maker that the office accepts the finding with modification, a recitation of the modification and the reason or reasons for the modification.

(c) A state survey agency determination is not subject to appeal, reargument, or reconsideration.

(d) The office shall deliver a copy of the state survey agency determination to the long-term care facility and to the impartial decision maker.

(e)(1) In accordance with the state survey agency determination, the office shall issue an amended statement of deficiencies if the state survey agency determination results in modification to any deficiencies cited in the original statement of deficiencies.

(2) If the office determines that amendments to the statement of deficiencies should result in changes to the scope or severity assigned to any deficiency, the amended statement of deficiencies shall reflect the changes to the scope or severity of any cited deficiency.

(f) The amended statement of deficiencies shall be provided to the long-term care facility.

(g) The "Determinations" statement required under subsection (a) of this section and the "State Survey Agency Determination" document required under subdivision (b)(2) of this section shall be provided to the long-term care facility no later than ten (10) days before the deadline for the long-term care facility to request a hearing before an administrative law judge of the United States Department of Health and Human Services Departmental Appeals Board, as outlined in the notice letter issued to the long-term care

facility by the Centers for Medicare & Medicaid Services, after the survey that is the basis for the informal dispute resolution hearing.

(h)(1) The Department of Human Services shall compile and make available to all long-term care facilities subject to this section a quarterly report that shall include without limitation and identify by deficiency, scope, and severity rating the number of informal dispute resolutions during the previous quarter that were:

(A) Heard;

(B) Decided in favor of the state agency; and

(C) Decided in favor of the long-term care facility.

(2) The Department of Human Services shall:

(A) Review the reports under subdivision (h)(1) of this section;

(B) Determine what patterns of sustained and overturned deficiencies exist; and

(C) Evaluate the training process to address the identified patterns.

(3) The Department of Human Services shall use the result from the report under subsection (h) of this section to evaluate employee performance and to determine whether individuals or groups of employees need remedial training.

20-10-1909. Matters not subject to informal dispute resolution.

~~(a)(1) The informal dispute resolution hearing is limited to deficiencies cited on a statement of deficiencies.~~

~~(2) No other issues may be addressed at an informal dispute resolution hearing, including, but not limited to:~~

~~(A) Scope and severity assessments of deficiencies unless the scope and severity assessments allege substandard quality of care or immediate jeopardy;~~

~~(B) Any remedies imposed;~~

~~(C) Any alleged failure of the survey team to comply with a requirement of the survey process;~~

~~(D) Any alleged inconsistency of the survey team in citing deficiencies among long-term care facilities; and~~

~~(E) Any alleged inadequacy or inaccuracy of the informal~~

~~dispute resolution process.~~

(b) If the impartial decision maker finds that matters not subject to informal dispute resolution are presented, the impartial decision maker shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to informal dispute resolution.

(c) The impartial decision maker may not include in the determination any matter not subject to informal dispute resolution.

/s/Wardlaw