

**Delaware Health and Social Services
Division of Developmental Disabilities Services
Community Services/Adult Special Populations**

Title: Dispute Resolution for Neighborhood Homes

Approved By: 
Division Director

Written/Revised By: DDDS Policy Committee

Date of Origin: December 14, 2006

Date of Implementation: January 15, 2007

I. PURPOSE

The purpose of a dispute resolution process is to provide contracted agencies/individuals the opportunity to challenge deficiency citations resulting from surveys conducted by the Division of Developmental Disabilities Services (DDDS) Office of Quality Management. A fundamental principle embraced by the DDDS Office of Quality Management (OQM) is the fair and equitable application of rules, regulations, standards and policies.

II. POLICY

It shall be the policy of the DDDS that an informal DDDS administrative review body be established to respond to provider's dispute of neighborhood home survey elements.

III. APPLICATION

DDDS Office of Quality Management
Contracted Providers of Neighborhood Homes

IV. DEFINITIONS

A. Dispute Resolution Process (DRP): The DRP is a continuous informal process that includes on-going professional communications between the surveyed provider and the DDDS Office of Quality Management (OQM), from the time the neighborhood home survey begins until the survey report is received electronically by the provider. Efforts are made during the DRP, via the neighborhood home certification exit interview, discussions with the assigned Program Evaluator and written documentation, to resolve any differences of opinions. The culmination of the DRP is the request for a Dispute Resolution Review.

B. Dispute Resolution Review Hearing (DRRH): A review meeting requested by a provider who disputes a formal Neighborhood Home Certification deficiency, with the DDDS Director of the Office of Quality Management (OQM) and at least one (1) Regional OQM Director. The DRRH is an informal due process hearing intended to increase accountability of the DDDS with regards to the fair and consistent application of Neighborhood Group Home regulations.

C. Neighborhood Home Certification Report: A report prepared by the DDDS following a comprehensive survey of Neighborhood Home Regulations 55.301-55.311, 55.312-55.322, 55.401-55.443, 55.601-55.609, 55.701-55.705, 55.708-55.711, 55.801-55.815 and 55.901-55.906, by the Office of Quality Management. The report includes a statement of specific deficiencies as they relate to the provider's compliance with surveyed Neighborhood Home Regulations, as published and adopted in the Delaware Register of Regulations on 10/10/2003. Note: the remaining Neighborhood Home Regulations are surveyed by the Division of Long Term Care Resident Protection and shall be documented in the State Licensure Report.

IV. **DEFINITIONS** (*continued*)

D. State Licensure Report: A report prepared by the Division of Long Term Care Resident Protection (DLTCRP) following their inspection of a neighborhood home. The purpose of the inspection is to determine if the provider meets the minimum acceptable standard set forth in the Delaware Code, Title 16, Chapter 11 and the regulations promulgated therein.

V. **STANDARDS**

- A. The Dispute Resolution Process (DRP) is a continuous process that spans from the time a Neighborhood Home Certification begins until the time that the survey report is received electronically by the provider agency.
- B. The DRP shall involve verbal communications (and documentation, as necessary) between the applicable provider agencies and OQM Program Evaluators. The intent of the DRP is for the surveyed providers and the surveying OQM Program Evaluators to share information that will impact the content of the Neighborhood Home Certification survey.
- C. The provider agency director/designee may request a Dispute Resolution Review Hearing (DRRH), after they receive the Certification Report, to challenge the following:
1. evidentiary sufficiency;
 2. classification of the challenged deficiency(ies) and;
 3. alleged inconsistency of the survey process within the same home (i.e. results from one survey to another) in citing a specific deficiency.
- D. The request for a DRRH shall be faxed to the assigned OQM Program Evaluator no later than the due date for the Plan of Improvement.
- E. A Plan of Improvement shall not be required for a citation while a DRRH is pending, unless:
- the deficiency poses an ongoing threat to the health and/or safety of an individual(s) served
 - the individual(s) served is in immediate danger of being abused, neglected, mistreated, financially exploited or significantly injured (refer to DDDS Abuse policy for details). Deficiencies that meet any of the aforementioned characteristics shall be noted as such on the Certification Report and immediate corrective action required.
- F. The Division of Developmental Disabilities Services shall make the determination if the elements in Standard E above are present.
- G. If the deficiency is upheld after the DRRH, the provider agency shall be required to submit a Plan of Improvement for the citation within 5 working days of the decision.
- H. The burden of proof shall be on the challenging provider, although the DDDS Office of Quality Management shall work cooperatively to reach a resolution.
- I. The DRRH shall be scheduled within ten (10) working days of receipt. It may be conducted in person or via telephone conference/video conference to accommodate all involved and expedite the process.

V. STANDARDS (*continued*)

- J. The provider agency director/designee may invite individuals whom he/she determine to be appropriate for this forum.
- K. The provider agency director/designee may request the participation of legal counsel at the DRRH, although such is not necessary as it is not a formal evidentiary hearing.
- L. The provider agency director/designee shall notify the DDDS Regional Director of the OQM if legal counsel will participate. The DDDS shall notify the Deputy Attorney General of the challenging provider agency's intent to be represented by legal counsel at the DRRH.
- M. The outcome of the Dispute Resolution Review Hearing with the DDDS shall be the final decision as it relates to a Neighborhood Home Certification Report. A challenging provider may request further case decision reviews, as provided in the Delaware Code, Title 16, Section 1114, to the results of a State licensure report.
- N. The DDDS may publicly display information regarding the outcome of a DDDS Neighborhood Home Certification after the Plan of Improvement has been received and/or the Dispute Resolution Review Hearing has been conducted.

VI. PROCEDURES

<u>Responsibility</u>	<u>Action</u>
Surveyed provider agency staff and surveying Office of Quality Mgt. Program Evaluator(s)	1. Engages in a continuous Dispute Resolution Process (DRP) throughout the Neighborhood Home Certification process until such time the certification report is prepared.
Provider agency director/designee	2. Submits a request to the assigned DDDS Program Evaluator for a Dispute Resolution Review Hearing (DRRH), to challenge element(s) of the Certification Report (see standard C). Request must be received by due date for the Plan of Improvement.
DDDS Program Evaluator	3. Presents the DRRH request to the Regional Director of the OQM, immediately upon its receipt.
DDDS Regional Director of the OQM	4. Immediately schedules (both verbally & in writing) a DRRH with the provider agency director/designee and the DDDS Director of the Office of Quality Management. 5. Invites the participation of applicable DDDS staff, including the DDDS Program Evaluator(s), as appropriate. 6. Chairs the DRRH

VI. PROCEDURES *(continued)*

Responsibility

Action

- | | |
|-----------------------------------|--|
| Provider agency director/designee | 7. In consultation with the Director of the Office of Quality Management, completes and submits Section II of the Dispute Resolution Review Hearing Request form (exhibit A) to the provider agency director/designee within 5 working days of the DRRH. The DRRH decision shall be sent via U.S. Mail <u>and</u> either faxed or sent electronically. |
| DDDS Program Evaluator | 8. Provides the assigned OQM Program Evaluator and the Division of Long Term Care Resident Protection (DLTCRP) with a copy of the completed Dispute Resolution Review Hearing Request form. |
| DDDS Regional Director of the OQM | 9. Submits a Plan of Improvement for the deficiency (ies) presented at the DRRH, if the decision was upheld. Such shall be submitted to the assigned DDDS Program Evaluator within five (5) working days of the decision. |
| | 10. Submits a revised Certification Report to the provider agency director if the deficiency presented at the DRRH is reversed. |
| | 11. Makes one (1) site visit to verify the completion of the agency's Plan of Improvement. |
| | 12. Offers suggestion to the Division Director relative to recommendation for licensing, probation, termination of contract or other action related to the continuation of the agency's service. Consideration shall be given to the outcome of the DRRH, the agency's Plan of Improvement to the challenged deficiency(s) and their satisfactory implementation of the POI. |

VII. SYNOPSIS

This policy establishes a procedure for provider agencies to resolve or dispute citations received during a Neighborhood Home Certification survey. This procedure does not replace either the informal or formal dispute resolution processes managed by the Division of Long Term Care Resident Protection relative to the state survey report.

VIII. REFERENCES

- A. Delaware Code, Title 16, Section 1114

IX. EXHIBITS

- A. Dispute Resolution Review Hearing Request



**Delaware Health and Social Services
Division of Developmental Disabilities Services**

DISPUTE RESOLUTION REVIEW HEARING REQUEST

Section I - To be completed by the provider agency director/designee:

Date: _____

What NGH regulation(s) citation are you appealing? Please clearly explain your rationale for challenging each disputed deficiency.

Please explain how this dispute was addressed during the Dispute Resolution Process (such as providing new/additional information to the Prog. Eval. during the certification process).

Requested by: _____

Title: _____

Address: _____

Daytime Phone #: _____

Section II - To be completed by the DDDS Regional Director of Quality Management/Designee:

Date hearing request was received by DDDS Program Evaluator: _____

Date of DRRH: _____

Specific Recommendation (to include the regulation # appealed, the outcome of the DRRH for each regulation appealed and the due date for Plan of Improvement, if applicable):

Date

Signature and Title

CC: Rob Smith, DLTCRP

Reviewed and Approved by PARC: 01/04/07
Form # 22/CS/SP