

### **Informal Conferences Are the First Step in the Appeals Process**

Des Moines, Iowa (January 24, 2014) – New administrative rules were recently adopted detailing the role of independent reviewers. The Iowa Department of Inspections and Appeals (DIA) would like to take this opportunity to clarify for health care providers the process for appealing a state citation.

An informal conference is the first step in the process by which facilities may contest a citation issued by the Department. Iowa Code section 135C.41(2), requires that facilities initiate an appeal with an informal conference. In the past, DIA permitted facilities challenging citations to bypass the informal process and proceed directly to a contested case proceeding. With the move to independent reviewers and in accordance with chapter 135C, all facilities challenging a citation will be required to go through the informal process before requesting a contested case proceeding.

Facilities may contest a citation or fine issued by the Department through an informal conference, as provided by Iowa Code section 135C.42, as amended by 2013 Iowa Acts Chapter 26. An informal conference allows facilities an opportunity to present information relating to the citation that was not originally available at the time of the survey, investigation or revisit. The conference may occur in person or by telephone. Attorneys need not be involved in the informal conference. At the conclusion of the conference, the independent reviewer may affirm, modify, or dismiss the citation based upon information provided by the facility.

A facility wishing to further contest the state citation following the informal conference must request a formal contested case hearing. The formal contested case hearing is held before an administrative law judge, pursuant to Iowa Code chapter 17A. The Iowa Administrative Procedure Act governs the way in which the hearing is conducted, and outlines the admission of evidence, issuance of subpoenas, discovery, and more. Similar to the informal conference, an administrative law judge may affirm, modify, or dismiss the citation and any corresponding fine. Decisions made by the administrative law judge are subject to director review. A decision by the director is considered the final agency action. Should a facility wish to further contest this final agency action, it may then file a petition for judicial review.

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