

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 759

5 By: Senator P. Malone
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE INFORMAL DISPUTE RESOLUTION
9 PROCESS FOR LONG-TERM CARE FACILITIES; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12 AN ACT TO AMEND THE INFORMAL DISPUTE
13 RESOLUTION PROCESS FOR LONG-TERM CARE
14 FACILITIES; AND FOR OTHER PURPOSES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 20-10-1906(a), concerning scheduling
22 informal dispute resolution hearings, is amended to read as follows:

23 (a)(1) Upon receipt of a request for an informal dispute resolution
24 hearing from a facility, the ~~Division of Health of the Department of Health~~
25 ~~and Human Services~~ Department of Health shall assign the matter to an
26 impartial decision maker.

27 (2) If a deficiency in dispute concerns a pharmacy or a
28 pharmacist, the informal decision maker shall:

29 (A) Be a pharmacist if the informal decision maker is a
30 single individual; or

31 (B) Include a pharmacist if the informal decision maker is
32 a group of individuals.
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34 SECTION 2. Arkansas Code § 20-10-1906(e)(2)(A), concerning submission
35 of documentary evidence for an informal dispute resolution record review, is
36 amended to read as follows:



1 (2)(A) If the informal dispute resolution hearing is conducted
2 by record review, the ~~impartial hearing officer~~ impartial decision maker may
3 request, and the parties shall provide, a written statement setting forth the
4 parties' positions for accepting, rejecting, or modifying each deficiency in
5 dispute.

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7 SECTION 3. Arkansas Code § 20-10-1907 is amended to read as follows:
8 20-10-1907. Informal dispute resolution hearing -- Conduct.

9 ~~(a)(1) In all cases except record review, the facility shall present~~
10 ~~the initial arguments.~~

11 ~~(2) The Office of Long Term Care shall then present its~~
12 ~~arguments.~~

13 (a)(1) As a matter of fairness to all parties, the impartial decision
14 maker shall determine:

15 (A) The sequence of presentation of information and
16 arguments;

17 (B) The appropriate time needed for each presentation of
18 information and argument; and

19 (C) The sequence and appropriate time for each rebuttal
20 argument.

21 ~~(b)(1) The hearing shall be limited to no more than two (2) hours in~~
22 ~~length, with each party being permitted one (1) hour to present its~~
23 ~~arguments.~~

24 (2) However, the ~~impartial hearing officer~~ impartial decision
25 maker may grant each party additional equal time for good cause as determined
26 by the impartial decision maker.

27 ~~(e)(1)(b)(1)~~ Rules of evidence or procedure shall not apply except as
28 provided in this section.

29 (2) The impartial decision maker may:

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

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

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

35 (2) However, the impartial decision maker may make written or
36 recorded notes of the arguments.

1 ~~(e)~~(d) Only employees of the facility, attending physicians of
2 residents of the facility at the time of the deficiency, pharmacists
3 providing medications to residents of the facility at the time of the
4 deficiency, and consultant pharmacists or nurse consultants utilized by the
5 facility, or the medical director of the facility may appear or participate
6 at the hearing for or on the behalf of the facility.

7 ~~(f)~~(e) Only employees of the office may appear or participate at the
8 hearing for or on behalf of the office.

9 ~~(g)~~(f) ~~No~~ A party ~~may~~ shall not be represented by an attorney.

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